The Planning Inspectorate
Yr Arolygiaeth Gynllunio

The Planning Act 2008

M54 to M6 Link Road

Examining Authority's Report
of Findings and Conclusions

and

Recommendation to the Secretary of State for
Transport

Examining Authority

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21 July 2021

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OVERVIEW

File Ref: TR010054

The application, dated 30 January 2020, was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate on 31 January 2020.

The Applicant is Highways England.

The application was accepted for Examination on 28 February 2020.

The Examination of the application began on 21 October 2020 and was completed on 21 April 2021.

The development proposed comprises a link road between the M54 and M6, providing a link between Junction 1 of the M54, M6 North and the A460 to Cannock.

Summary of Recommendation:

The Examining Authority recommends that, subject to the Secretary of State satisfying themselves on the point set out in paragraph 18.4.1, the Secretary of State should make the Order in the form attached.

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The Planning Inspectorate

ERRATA SHEET – M54 to M6 Link Road - Ref TR010054

Examining authority's Report of Findings and Conclusions and Recommendation to the Secretary of State for Transport, dated 21 July 2021

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

Page No.	Paragraph	Error	Correction
3	1.4.5	Incorrect word in penultimate line.	Replace "efficacy" with "efficiency".
15	1.9.2	Incorrect word in final sentence.	Replace "SoS" with "Secretary of State for Transport".
19	2.1.6	Missing word in line 10.	Insert the word "listed" after "Grade II".
21	2.2.11	Missing word in line 9.	Insert the word "and" after the second use of the word "M54".
22	2.2.20	Missing comma in first sentence.	Insert a comma after the word "Avenue".
49	4.6.19	Missing word in line 3.	Insert the word "the" after the word "for".
51	4.8.4	Extra word in line 3.	Remove the second "that".
65	5.5.2	Extra word in line 2	Remove the word "and".
67	5.5.11	Incorrect word in line 2	Replace the word "on" with "in".
68	5.7.1	Missing word in line 5	Insert the word "a" after in.
148	8.3.35	Missing space in line 2	Add space between "and" and "144".
169	9.7.3	Incorrect word in line 2	Replace the word "where" with "were".
169	9.7.4	Missing word in first line.	Insert the word "to" after the second use of the word "was".
187	10.3.33	Missing word in line 5.	Insert the word "would" after the word "slip".
245	12.7.29	Rephrase to aid clarity.	Replace "a to be bypassed service area" with "a service area that is to be bypassed"

1. INTRODUCTION

1.1. INTRODUCTION TO THE EXAMINATION

1.1.1. The application for a link road between the M54 and M6, providing a link between Junction 1 of the M54, M6 North and the A460 to Cannock (the Proposed Development) (TR010054) was submitted by Highways England (the Applicant) to the Planning Inspectorate on 31 January 2020 under section (s) 31 of the Planning Act 2008 (as amended) (PA2008) and accepted for Examination under s55 of the PA 2008 on 28 February 2020 [PD-003].

1.1.2. The Proposed Development comprises:

- Replacement of the existing M54 junction 1 with free flow slip roads between the new link road and the M54 and construction of three new roundabouts to maintain connectivity with the existing local road network.
- Construction of a new dual carriageway between M54 junction 1 and the M6 junction 11. The alignment of the carriageway would be located to the east of the existing A460 and the villages of Featherstone, Hilton and Shareshill and west of Hilton Hall.
- The stopping up of Dark Lane between the final property and the junction with Hilton Lane.
- The realignment of Hilton Lane on a bridge over the mainline of the link road on a similar alignment.
- Provision of an accommodation bridge and access track across the mainline of the link road to retain access to severed land to the east of the link road.
- Enlargement of the M6 junction 11 signalised roundabout to accommodate a connection to the new link road and realign existing connections with the A460 and M6. Two replacement bridges would be required over the M6 to provide an increase in capacity from two lanes to four lanes of traffic on the roundabout. This work would raise the height of the junction by approximately 1.5 metres (m).

1.1.3. The site of the Proposed Development is shown in the Location Plan [AS-006] and Land Plans, final updated versions of which were received at Deadline (D) 6 [REP6-004]. The site as amended (see below) lies mostly within the administrative county of Staffordshire, and the district of South Staffordshire, although a small part is within the unitary authority area of the City of Wolverhampton Council (CWC) and is wholly in England.

1.1.4. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by the Secretary of State (SoS) for the Ministry of Housing, Communities and Local Government (MHCLG) in its decision to accept the application for Examination in accordance with s55 of the PA2008 [PD-003].

1.1.5. On this basis, the Planning Inspectorate agreed with the Applicant's view stated in the application form [APP-003] that the Proposed Development

is an NSIP as it is wholly in England, Highways England (HE), a strategic highways company, will be the highway authority and the area of development is approximately 199.3 hectares[1] (ha) (greater than 12.5ha) and the speed limit for any class of vehicle is 50 miles per hour (mph) or greater and so requires development consent in accordance with s31 of the PA2008. The Proposed Development therefore meets the definition of an NSIP set out in s14(1)(h) and s22(1), (2), and (3) of the PA2008.

1.2. APPOINTMENT OF THE EXAMINING AUTHORITY

1.2.1. On 4 June 2020, Robert Jackson and Kenneth Stone were appointed as the Examining Authority (ExA) for the application under s64 and s65 of the PA2008 [PD-004].

1.3. THE PERSONS INVOLVED IN THE EXAMINATION

1.3.1. The persons involved in the Examination were:

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

1.4. THE EXAMINATION AND PROCEDURAL DECISIONS

1.4.1. The Examination began on 21 October 2020 and concluded on 21 April 2021.

1.4.2. The principal components of and events around the Examination are summarised below. A fuller description, timescales and dates can be found in Appendix A. This is the final version of the timetable as it evolved to take account of events which occurred during the Examination.

Matters prior to the Preliminary Meeting

1.4.3. On 29 May 2020 the Applicant wrote to the Case Team [AS-004] in response to the s51 advice sent out after the application had been accepted [PD-001]. The Applicant indicated that it wished to amend the application by removing two areas of land in the administrative area covered by Shropshire Council and seek to resolve a number of errata and make updates to address consultee concerns. To avoid duplication,

[1] Taken by summing the areas set out in Table 2 of the Agricultural Land Classification and Soil Resources [APP-192].

the evolution of the extent of the Proposed Development is set out in Sections 2.2 and 2.3 of this report.

1.4.4. Due to the COVID-19 pandemic there was a greater than normal period of time between the acceptance of the application and the Preliminary Meeting (PM). The ExA was conscious of the need to try to ensure the Examination was completed as soon as possible, in line with the Secretary of State (SoS) for Ministry of Housing, Communities and Local Government's (MHCLG) Written Ministerial Statement of 13 May 2020.

1.4.5. To this end, on 20 July 2020 the ExA wrote to all IPs and Statutory Parties to ask views as to whether the Examination could be held 'virtually' rather than using a traditional face-to-face format (the 'Progress Note') [PD-005] and set out 'Frequently Asked Questions' [PD-006]. The letter also set out an Initial Assessment of the Principal Issues [PD-007], a preliminary list of Statements of Common Ground (SoCGs) [PD-008] and a list of tasks to assist the efficacy of the Examination [PD-009]

1.4.6. At the same time, the ExA set out its Written Questions and Requests for Information [PD-010] (often referred to as 'First written questions'), although a date for responses was not set as this would need to be discussed at the PM.

1.4.7. On 28 July 2020 the Applicant wrote to the ExA indicating that it wished to make a number of changes to the Proposed Development [AS-043] and asking for the ExA's advice on this matter. The ExA wrote back on 12 August 2020 [PD-011] giving general advice.

The Preliminary Meeting

1.4.8. In light of responses to its letter of 20 July 2020, the ExA concluded that, the PM and, at least initially, hearings could be held on-line via the medium of Microsoft Teams. To that end, on 20 August 2020, the ExA 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 PM [PD-012].

1.4.9. In case any party was unable to readily participate in a 'virtual' PM it was decided that the PM would be held in two parts. Following the Part 1 Meeting, the recording of that would then be posted on the relevant website. This would allow any party to make Written Representations (WR), which the ExA could then take into account in finalising the Examination arrangements, or ask to attend the Part 2 meeting virtually.

1.4.10. The letter outlined:

- the arrangements and agenda for the PM;
- the main issues for the Examination;
- the draft Examination Timetable;
- notification of an Open Floor Hearing (OFH) to be held early in the Examination;
- availability of RRs and application documents; and

- the ExA's Procedural Decisions.

1.4.11. The PM took place in two parts on 1 and 20 October 2020 as virtual events. Video recordings [EV-004, EV-005, and EV-008] and a note of the meeting [EV-010] were published on the Planning Inspectorate National Infrastructure website[2].

1.4.12. The ExA's Procedural Decisions and the Examination Timetable took full account of matters raised at the PM. These were provided in the Rule 8 Letter [PD-014], dated 22 October 2020.

Key Procedural Decisions

1.4.13. The Procedural Decisions set out in the Rule 8 Letter related to matters that were confined to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development. Furthermore, these were generally complied with by the Applicant and relevant IPs. The decisions can be viewed in the Rule 8 Letter [PD-014] and so there is no need to reiterate them here.

1.4.14. As described below, to accommodate amendments put forward by the Applicant and changes based on public health restrictions in light of the COVID-19 pandemic, the ExA made a number of changes to the Examination Timetable following the issuing of the Rule 8 Letter [PD-014]. These are set out in a number of Procedural Decisions [PD-018, PD-020, PD-021, PD-022, and PD-024]. The Final Examination Timetable is set out in Appendix A of this report.

Site Inspections

1.4.15. 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. However, due to the COVID-19 pandemic, it was not possible to hold these fully in line with the previously held convention for NSIPs.

1.4.16. 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 or processes, an Unaccompanied Site Inspection (USI) is held. However, where an inspection must be made on land requiring consent to access, there are safety or other technical considerations and/ or there are requests made to accompany an inspection, an Accompanied Site Inspection (ASI) is held.

1.4.17. The ExA was able to hold an USI in June 2020. Initially, it was proposed to hold an ASI in December 2020, and participants were asked to make suggestions for where they would like the ExA to view the site. However, as the public health situation changed the ASI was initially postponed by a Procedural Decision dated 19 November 2020 [PD-021] to February

[2] https://infrastructure.planninginspectorate.gov.uk/projects/west-midlands/m54-to-m6-link-road

2021. In early 2021, it became clear that an ASI was not going to be possible in a conventional format so the ExA took a Procedural Decision, communicated by letter dated 18 January 2021 [PD-020], to cancel the ASI and look to alternatives.

1.4.18. In the letter of 18 January 2021 [PD-020], while emphasising its desire to visit the site, we considered that contingency arrangements needed to be explored. We suggested both an Unmanned Aerial Vehicle (often referred to as a 'drone') and "360° photography". We also set out the locations that we wished to visit and thus have photographs taken, but asked participants if there were other locations we should visit.

1.4.19. The Applicant explained that an Unmanned Aerial Vehicle was not possible due to safety concerns [REP5A-001] but indicated that 360° photography would be possible. Other representations [REP5A-002] and [REP5A-003] on the use of photography emphasised a preference for physical site inspections, and requested that video photography took place at a particular location.

1.4.20. As the public health situation improved, the ExA concluded that it was able to undertake a Site Inspection, but on the basis of access being facilitated by the landowners, and there would be no interaction.

1.4.21. However, by undertaking the Site Inspection in this format, meant that parties would not have been able to point out particular matters in the same way as they would have been able to at a conventional ASI. Therefore, we decided to retain submission of the 360° and video photography to allow IPs to highlight particular features that they wanted us to note. This was communicated to parties in a Procedural Decision on 23 February 2021 [PD-024].

1.4.22. The video and 360° photography were submitted by the Applicant at D6A and can be viewed at [REP6A-001 and REP6A-002], with the 360° photography seen more effectively through a website https://app.holobuilder.com/app/?p=f9280e39-443f-4521-9b18-7e7ab56d2f61&m=player&s=1615457203663&d=2i50[3]. This website also includes an inset identifying the locations where the photographs were taken.

1.4.23. The ExA held the following USIs:

- USI1, 16 June 2020 [EV-001];
- USI2, 16 March 2021 [EV-024];
- USI3, 17 March 2021 [EV-024].

[3] There was a misunderstanding as to how the 360° photography could be best displayed. Consequently, the ExA explained both via the project website and a Rule 9 letter [PD-028] that comments could be made at D8 as well as previously. Further, it transpired that email circulation of this letter was delayed, so the ExA made a further Procedural Decision to permit any further comments at D9 [PD-029].

A site note providing a procedural record of each USI can be found in the Examination Library (EL) under the above references.

1.4.24. We have had regard to the information and impressions obtained during our site inspections in all relevant sections of this report.

Hearing Processes

1.4.25. Hearings are held in PA2008 Examinations in two main circumstances:

- To respond to specific requests from persons who have a right to be heard - in summary terms:
  - where persons affected by CA and/ or TP proposals object and request to be heard at a Compulsory Acquisition Hearing (CAH); and/ or
  - where IPs request to be heard at an OFH.
- To address matters where the ExA considers that a hearing is necessary to inquire orally into matters under examination, typically because they are complex, there is an element of contention or disagreement, or the application of relevant law or policy is not clear.

1.4.26. We held a number of hearings to ensure the thorough examination of the issues raised by the application. As set out above, all were undertaken virtually through the medium of Microsoft Teams.

1.4.27. Subject matter Issue Specific Hearings (ISH) under s91 of PA2008 were held on:

- ISH1, 8 December 2020, Biodiversity and Cultural Heritage [EV-011]; and
- ISH2, 8 December 2020, Traffic and Transport. [EV-012].

1.4.28. An ISH under s91 of the PA2008 was held on the draft Development Consent Order (dDCO) on:

- ISH3, 9 December 2020, [EV-013]

1.4.29. A CAH was held under s92 of the PA2008 on:

- CAH1, 10 December 2020 [EV-014].

1.4.30. All persons affected by CA and/ or TP proposals were provided with an opportunity to be heard. The ExA also used these hearings to examine the Applicants case for CA and TP in the round.

1.4.31. An OFH was held under s93 of the PA2008 on 21 October 2020 [EV-006]. All IPs were provided with an opportunity to be heard on any important and relevant subject matter that they wished to raise.

1.4.32. The following table sets out a summary of all the hearings, dates they were held and relevant EL references.

Table 1: Hearing References, Date and EL References

Hearing Ref	Date Held	EL Reference
OFH1	21 October 2020	Agenda: [EV-006] Recording: [EV-009]
ISH1	8 December 2020	Agenda: [EV-011] Recordings: [EV-015 and EV-016]
ISH2	8 December 2020	Agenda: [EV-012] Recordings: [EV-017 and EV-018]
ISH3	9 December 2020	Agenda: [EV-013] Recordings: [EV-019 and EV-020]
CAH1	10 December 2020	Agenda: [EV-014] Recordings [EV-021 and EV-022]:

1.4.33. Hearing Action Points were also prepared following each ISH and CAH and were issued as a single document [EV-023].

Written Processes

1.4.34. Examination under the 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 EL (Appendix B of this report) and published online. Individual document references to the EL in this report are enclosed in square brackets [] and hyperlinked to the original document held 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 the ExA's conclusions. The ExA has considered all important and relevant matters arising from them.

1.4.35. During the course of the Examination the Applicant submitted a significant number of revised documents both as 'clean' documents and as 'tracked change' versions showing alterations from the previous version. Unless explicitly referred to otherwise this report will refer to 'clean' versions (and their associated EL references) for simplicity.

1.4.36. Key written sources are set out further below.

Relevant Representations

1.4.37. Forty-three RRs were received by the Planning Inspectorate [RR-001 to RR-043[4]]. This total includes those submitted within a second period to accommodate the error made by the Applicant as to the original notification that the application had been accepted (see paragraphs 1.6.4 and 1.6.5).

1.4.38. All makers of RRs received the Rule 6 Letter and were provided with an opportunity to become involved in the Examination as IPs. All RRs have been fully considered by the ExA. The issues that they raise are considered in Chapters 5 to 17 of this Report.

Written Representations and Other Examination Documents

1.4.39. The Applicant and IPs and Other Persons were provided with opportunities to:

- make WRs (D1);
- comment on WRs made by the Applicant and other IPs (D3, D3A, D4, D5, D6, D7, D8 and D9);
- summarise their oral submissions at hearings in writing (D4);
- make other written submissions requested or accepted by the ExA; and
- comment on documents issued for consultation by the ExA including:
    - A commentary on the dDCO [PD-025] published on 26 February 2021 by D7 and
    - A Report on the Implications for European Sites (RIES) [PD-026] published on 26 February 2021 by D7.

1.4.40. All WRs and other Examination documents have been fully considered by the ExA. The issues that they raise are considered in Chapters 5 to 17 of this Report.

Local Impact Reports

1.4.41. A Local Impact Report (LIR) is a report made by a relevant local authority giving details of the likely impact of the Proposed Development on the authority's area (or any part of that area) that has been invited and submitted to the ExA under s60 of the PA2008.

1.4.42. LIRs have been received by the ExA from the following relevant local authorities:

- Staffordshire County Council (SCC) [REP1-007]; and
- South Staffordshire Council (SSC) [REP1-097].

1.4.43. The LIRs have been taken fully into account by the ExA in all relevant Chapters of this Report.

[4] All the Relevant Representations can be found online at https://infrastructure.planninginspectorate.gov.uk/projects/west-midlands/m54-to-m6-link-road/?ipcsection=relreps

Statements of Common Ground

1.4.44. A SoCG is a statement agreed between the Applicant and one or more IPs, recording matters that are agreed and not agreed between them.

1.4.45. By the end of the Examination, the following bodies had concluded and signed SoCGs with the Applicant:

- SCC [REP7-027];
- SSC [REP7-028];
- CWC [REP7-029];
- Shropshire Council [REP8-010];
- Environment Agency (EA) [REP8-027];
- Natural England (NE) [REP8-028];
- Historic England (given the acronym HBMCE[5]) [REP7-030];
- Hilton, Featherstone & Brinsford and Shareshill Parish Councils (collectively as 'the Parish Councils') [REP7-031];
- Allow Ltd (Allow) [REP8-011];
- Robert Rowe [REP8-013];
- Mark and Tracey Commins [REP7-032];
- Ian Simkin and Adrian Simkin [REP8-017];
- Nurton Developments (Hilton) Limited (Nurton) [REP8-019];
- The National Trust for Places of Historic Interest or Natural Beauty (the National Trust) [REP6-035];
- Zayo [REP4-024];
- M6 Diesel, [REP8-025];
- Four Ashes Limited [REP8-026];
- St Francis Group [REP6-037]; and
- Staffordshire Wildlife Trust (SWT) [REP7-034].

1.4.46. The Applicant also submitted a number of draft SoCGs, the latest versions of which are as set out below. The ExA considers that these documents are of little weight in themselves, but are useful in setting out the Applicant's position in respect of the objections raised.

- William Bibbey [REP8-012];
- Nigel Simkin and Paul Simkin [REP8-014];
- Michael Byard [REP8-015];
- Barry Jones and Valerie Jones [REP8-016];
- Elizabeth Whitehouse and Stella Arblaster [REP8-018];
- Openreach Ltd [REP7-033];
- Cadent Gas Limited (Cadent) [REP8-020];
- Severn Trent Water Limited [REP8-021];
- South Staffordshire Water plc [REP8-022];
- Western Power Distribution [REP8-023]; and
- Vodafone Ltd [REP8-024].

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

1.4.47. The SoCGs (other than unsigned or incomplete ones referred to above) have been taken fully into account by the ExA in all relevant chapters of this report.

Written Questions

1.4.48. The ExA asked three rounds of Written Questions.

- First written questions (ExQ1) [PD-010] were referred to in and published at the same time as the Progress Note letter of 20 July 2020 [PD-005];
- Second written questions (ExQ2) [PD-017] were issued on 4 December 2020; and
- Third written questions (ExQ3) [PD-023] were issued on 29 January 2021.

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

- 20 July 2020 [PD-005] Progress Note (see paragraph 1.4.5);
- 29 October 2020 [PD-015] to ask the Applicant to consider publicity relating to the acceptance of the material change;
- 19 March 2021 [PD-027]:
    - to ask the Applicant, SCC, South Staffordshire Water plc and Cadent questions about potential protective provisions within the dDCO;
    - to write to the Applicant and the National Trust requesting information relating to Whitgreaves[6] Wood; and
    - to write to the Applicant following correspondence [AS-134] relating to a pedestrian route between Cannock Road and the proposed Featherstone West roundabout; and
- 13 April 2021 [PD-030], to ask the Applicant and National Trust to consider submitting a Planning Obligation in relation to Whitgreaves Wood. This is discussed below.

1.4.50. All responses to the ExAs Written Questions have been fully considered and taken into account in all relevant chapters of this report.

Requests to Join and Leave the Examination

1.4.51. The following persons who were not already IPs requested that the ExA should enable them to join the Examination after the PM:

- Pramesh Chandra wrote [AS-122] to express objection with one of the changes that had been accepted into the Examination. In the original

[6] In some of the documentation "Whitgreaves" has been spelt with an apostrophe as "Whitgreave's". The former spelling has been used in this report on the basis that that is used by the National Trust, see [REP1-014], as the landowners of this area. The area is also sometimes referred to as "Oxden Leasow wood". For reasons of simplicity it will be generally referred to as "Whitgreaves Wood" only.

submission the proposal was to re-route the Shareshill 5 footpath alongside Hilton Lane, but this was then removed so that this footpath would continue on its current alignment. Pramesh Chandra objected to this, wishing to see the alignment relocated as originally proposed. This is considered in Chapter 11 below. As Pramesh Chandra's objection was as a result of the Proposed Change the ExA concluded that they should be considered as an 'Other Person'.

1.4.52. During the Examination, as a consequence of discussions between itself and the Applicant, National Grid Electricity Transmission Plc wrote [OD-012] to the ExA to inform it had *"… now reached an agreement with the promoter in relation to the Protective Provisions included on the face of the Order and other commercial arrangements between the parties"* and therefore withdrew its RR [RR-014].

1.5. THE GUIDE TO THE APPLICATION

1.5.1. When the application was submitted the Applicant included a document entitled "Guide to the Documents to be Certified" [APP-005]. This was updated throughout the Pre-Examination and Examination period and was retitled "Guide to the Application" (the Guide).

1.5.2. This document describes its purpose as "… *to help the Examining Authority (ExA) and interested parties understand the documents submitted as part of the application. The Guide identifies the latest version of any document that has been submitted as part of the Examination and indicates those documents which are to be certified. The Guide contains a full record of documents submitted to the Planning Inspectorate by the Applicant, including application documents that are not proposed to be certified and additional documents submitted after acceptance of the application in February 2020"* (paragraph 1.1.2 of [REP8-003]).

1.5.3. After the initial submission the Guide was submitted in both "clean" and "tracked change" versions. There were 13 versions of the Guide submitted up to the close of the Examination. Table 2 sets out the version number, dates of the submission and Examination event, along with the EL numbers of the clean and tracked change versions.

Table 2: History of "The Guide to the Application"

Version	Date	Event	Clean version reference	Tracked change version reference
P02	January 2020	Application	[APP-005]	

Version	Date	Event	Clean version reference	Tracked change version reference
P04	May 2020	DCO Application Revision	[AS-005]	
P05	July 2020	DCO Application Revision	[AS-044]	
P06	October 2020	Update due to the Scheme Changes October 2020	[AS-063]	[AS-064]
P07	November 2020	D1 Update	[REP1-067]	[REP1-061]
P08	November 2020	D2 Update	[REP2-003]	[REP2-002]
P09	November 2020	D3 Update	[REP3-003]	[REP3-002]
P10	December 2020	Update to submit with Land Plan Correction	[AS-132]	[AS-130]
P11	January 2021	Update for D4	[REP4-002]	[REP4-003]
P12	January 2021	Update for D5	[REP5-002]	[REP5-003]
P13	February 2021	Update for D6	[REP6-002]	[REP6-003]
P14	March 2021	Update for D7	[REP7-003]	[REP7-002]
P15	April 2021	Update for D8	[REP8-003]	[REP8-002]

1.6. ENVIRONMENTAL IMPACT ASSESSMENT

1.6.1. The Proposed Development is development for which an Environmental Impact Assessment (EIA) is required (EIA development).

1.6.2. On 11 January 2019, the Planning Inspectorate received on behalf of the SoS a scoping request[7] under Regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (the EIA Regulations) in order to request an opinion about the scope of the ES to be prepared (a Scoping Opinion). The Applicant notified the SoS under Regulation 8(1)(b) of the EIA Regulations that it proposed to provide an ES in respect of the Project.

1.6.3. On 21 February 2019 the Planning Inspectorate provided a Scoping Opinion [APP-160]. Therefore, in accordance with Regulation 6(2)(a) of the EIA Regulations, the Proposed Development was determined to be EIA development. The application was accompanied by an ES [APP-040 to APP-211] and includes a Non-Technical Summary.

1.6.4. The Applicant wrote to the Planning Inspectorate on 2 June 2020 to confirm that certificates confirming that s56 and s59 of PA2008 and Regulation 16 of the EIA Regulations had been complied with [OD-004]. This letter notes:

- due to the COVID-19 pandemic deposit locations where the application documents could have been inspected were closed, and alternative arrangements were undertaken; and
- due to an administrative error, not all those who should have been notified of the acceptance of the application were so notified. Consequently, further notification had to take place.

1.6.5. As a result of this omission, the ExA allowed for a further period for the making of RRs which expired on 6 July 2020.

1.6.6. In light of the s51 letter issued at the time of the acceptance of the application [PD-001], the Applicant wrote to the Case Team on 29 May 2020 [AS-004]. This letter sought to make a number of changes to the application which are discussed in section 2.3 of this report. It also submitted a number of documents to deal with errata which had been identified in the ES as well other matters [AS-024 to AS-034].

1.6.7. In light of changes to the Design Manual for Roads and Bridges (DMRB) which occurred at the end of 2019 the Applicant submitted a number of documents containing revisions to the ES in July 2020 [AS-045 to AS-059].

1.6.8. At the same time as submitting the formal request for scheme changes under cover of its letter dated 9 October 2020 [AS-062], which is also

[7] This has not been given an EL reference but can be found at https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010054/TR010054-000025-54M6-Scoping%20Report.pdf

discussed in section 2.3 of this report, the Applicant amended the ES to take account of these including a revised Non-Technical Summary [AS-082 to AS-109]. Following the Procedural Decision to accept these changes [PD-015], the Applicant undertook further publicity and confirmed that no responses had been received [REP6-001].

1.6.9. Consideration is given to the adequacy of the ES and matters arising from it in Chapters 4 to 13 of this Report.

1.7. HABITATS REGULATIONS ASSESSMENT

1.7.1. The Proposed Development is development for which a Habitats Regulations Assessment (HRA) Report has been provided [APP-216], which was updated [AS-035] following changes to the form of the Application, although the Applicant maintains that the Proposed Development would not have any significant effects.

1.7.2. Consideration is given to the adequacy of the HRA Report, associated information and evidence and the matters arising from it in Chapter 14 of this Report.

1.8. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

1.8.1. By the end of the Examination, the Applicant had entered into a formal agreement with the National Trust (Appendix 2.3.4 of [REP4-033]) relating to land at Whitgreaves Wood. This was appended to a Planning Obligation by way of Unilateral Undertaking under s106 of the Town and Country Planning Act 1990 (as amended) to SSC dated 20 April 2021 which was submitted on that date [OD-011].

1.8.2. This undertaking has been taken fully into account by the ExA in all relevant chapters of this report.

1.9. OTHER CONSENTS

1.9.1. 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.

- Badger Licence (Protection of Badgers Act 1992, s10);
- Protected Species Licences (Wildlife and Countryside Act 1981, s16) for great crested newts and bats;
- Environmental Permits for capture and movement of fish (Keeping and Introduction of Fish (England and River Esk Catchment Area) Regulations 2015);
- Land Drainage consent for works in, under or over, any relevant watercourses (Land Drainage Act 1991, s23);
- Permit(s) from the EA to discharge surface/ground waters (Environmental Permitting (England and Wales) Regulations 2016);
- Water abstraction licence (if there is a need to remove more than 20 cubic metres (m^3) /day) (Water Resources Act 1991 (as amended

by the Water Act 2003), Environment Act 1995, The Water Resources (Abstraction and Impounding) Regulations 2006);
- Diversion of watercourses/ dewatering of ponds (Water Resources Act 1991);
- Exemptions for operations such as U1 (import of waste for use in construction) and T15 (crushing of aerosols to minimise hazardous waste) (if exemption limits can be met) (Pollution Prevention and Control Act 1999, Environmental Permitting (England and Wales) Regulations 2016);
- Mobile plant licences for crushing operations or site permits if not using a subcontractor with their own mobile licences (Pollution Prevention and Control Act 1999, Environmental Permitting (England and Wales) Regulations 2016);
- CL:aire Materials Management Plan (CL:AIRE (2011) Definition of Waste: Development Industry Code of Practice (v.2) (DoWCoP));
- Trade effluent consent (e.g. for welfare facilities) (Water Industry Act 1991);
- Environmental Permit for waste operations (Pollution Prevention and Control Act 1999, Environmental Permitting (England and Wales) Regulations 2016);
- Section 61 consent for noise and vibration during the construction stage if requested by the Local Authority (Control of Pollution Act 1974); and
- Consent/ licence for the felling of trees (The Forestry Act 1967).

1.9.2. In relation to the outstanding consents recorded above, the ExA has considered the available information bearing on these and, without prejudice to the exercise of discretion by future decision-makers, has concluded that there are no apparent impediments to the implementation of the Proposed Development, should the SoS grant the application.

1.9.3. Appendix A of the Consents and Agreements Position Statement [REP6-011] includes the Applicant's latest position on each of these Consents and Agreements.

1.9.4. The Applicant has included three 'letters of no impediment' relating to licences in respect of badgers (dated 13 December 2019), great crested newts (dated 20 January 2020) and bats (dated 14 January 2020) written by NE. These can be found in Appendix B of the Consents and Agreements Position Statement [REP6-011].

1.9.5. The letter of no impediment in respect of great crested newts was issued prior to the further surveys undertaken in 2020 (see Chapter 8 of the ES [AS-083]). Following discussion at ISH1 the Applicant agreed to make a further draft European Protected Species licence application which it did in January 2021. NE issued a further letter of no impediment in respect of this updated draft application on 11 March 2021 and this was submitted at Deadline 9 [REP9-004].

1.10. STRUCTURE OF THIS REPORT

1.10.1. The structure of this report is as follows:

- **Chapter 1** introduces the reader to the application, the processes used to carry out the Examination and make this report.
- **Chapter 2** describes the site and its surrounds, the Proposed Development, its planning history and that of related projects.
- **Chapter 3** records the legal and policy context for the SoS' decision.
- **Chapter 4** sets out the planning issues that arose from the application and during the Examination and introduces the main contentious issues.
- **Chapter 5** considers Air Quality.
- **Chapter 6** considers Biodiversity, Ecology and the Natural Environment.
- **Chapter 7** considers Cultural Heritage, including archaeology.
- **Chapter 8** considers the Green Belt.
- **Chapter 9** considers Landscape and Visual effects.
- **Chapter 10** considers Noise and Vibration.
- **Chapter 11** considers Socio-Economic Effects.
- **Chapter 12** considers Traffic and Transport.
- **Chapter 13** considers the Water Environment.
- **Chapter 14** considers effects on European Sites and HRA.
- **Chapter 15** sets out the balance of planning considerations arising from Chapters 4 to 13, in the light of the factual, legal and policy information in Chapters 1 to 3.
- **Chapter 16** sets out the ExA's examination of CA and TP proposals.
- **Chapter 17** considers the implications of the matters arising from the preceding chapters for the DCO.
- **Chapter 18** summarises all relevant considerations and sets out our recommendation to the SoS.

1.10.2. This report is supported by the following Appendices:

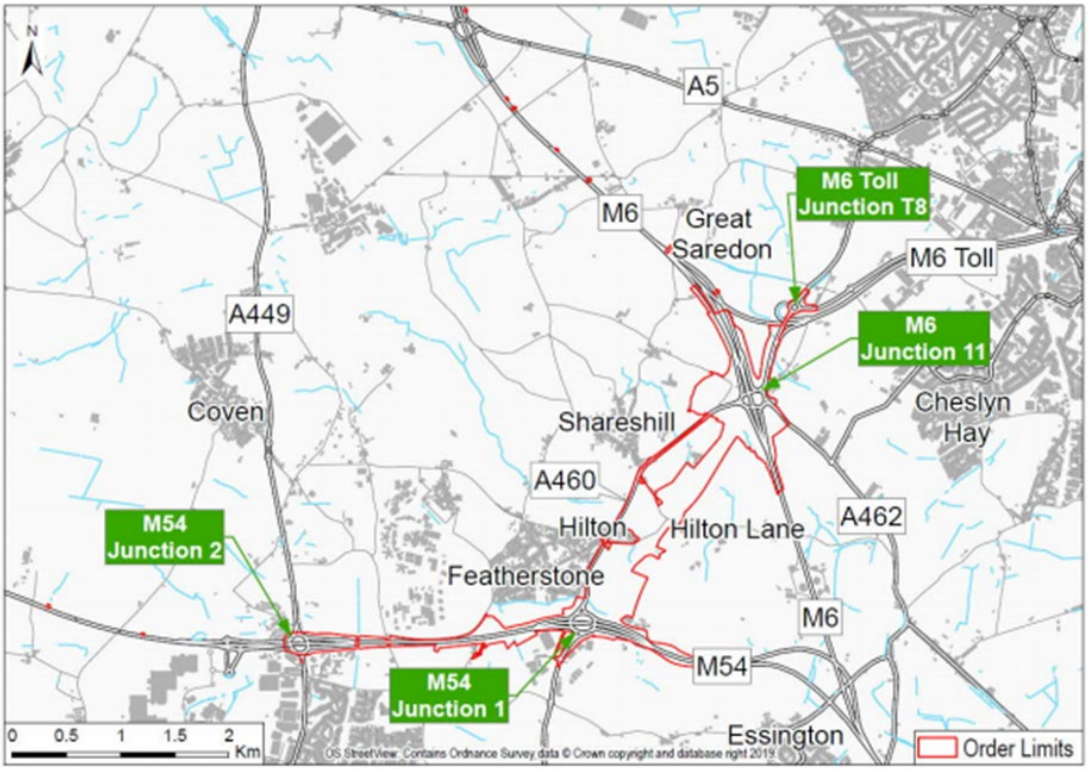
- **Appendix A** – The Examination.
- **Appendix B** – The Examination Library.
- **Appendix C** – List of Abbreviations.
- **Appendix D** – The Recommended DCO

2. THE SITE AND THE PROPOSAL

2.1. THE PROPOSED DEVELOPMENT SITE AND SETTING

2.1.1. The Proposed Development would provide for a new link road between the M54, junction 1, and the M6, junction 11, and would be located to the east of the existing A460. It involves land in the administrative areas of Staffordshire County Council (SCC), South Staffordshire Council (SSC) and City of Wolverhampton Council (CWC). The location of the Proposed Development with the Development Consent Order (DCO) boundaries is shown in Figure 1 below, and the land take is shown in detail in the Land Plans [REP6-004]. Where appropriate this will be referred to as the 'application site'. The site as originally submitted also included part of the M54 up to junction 2 and isolated locations to the east along the M54 and to the North along the M6 to provide for signage works.

Figure 1: Location Plan[8]

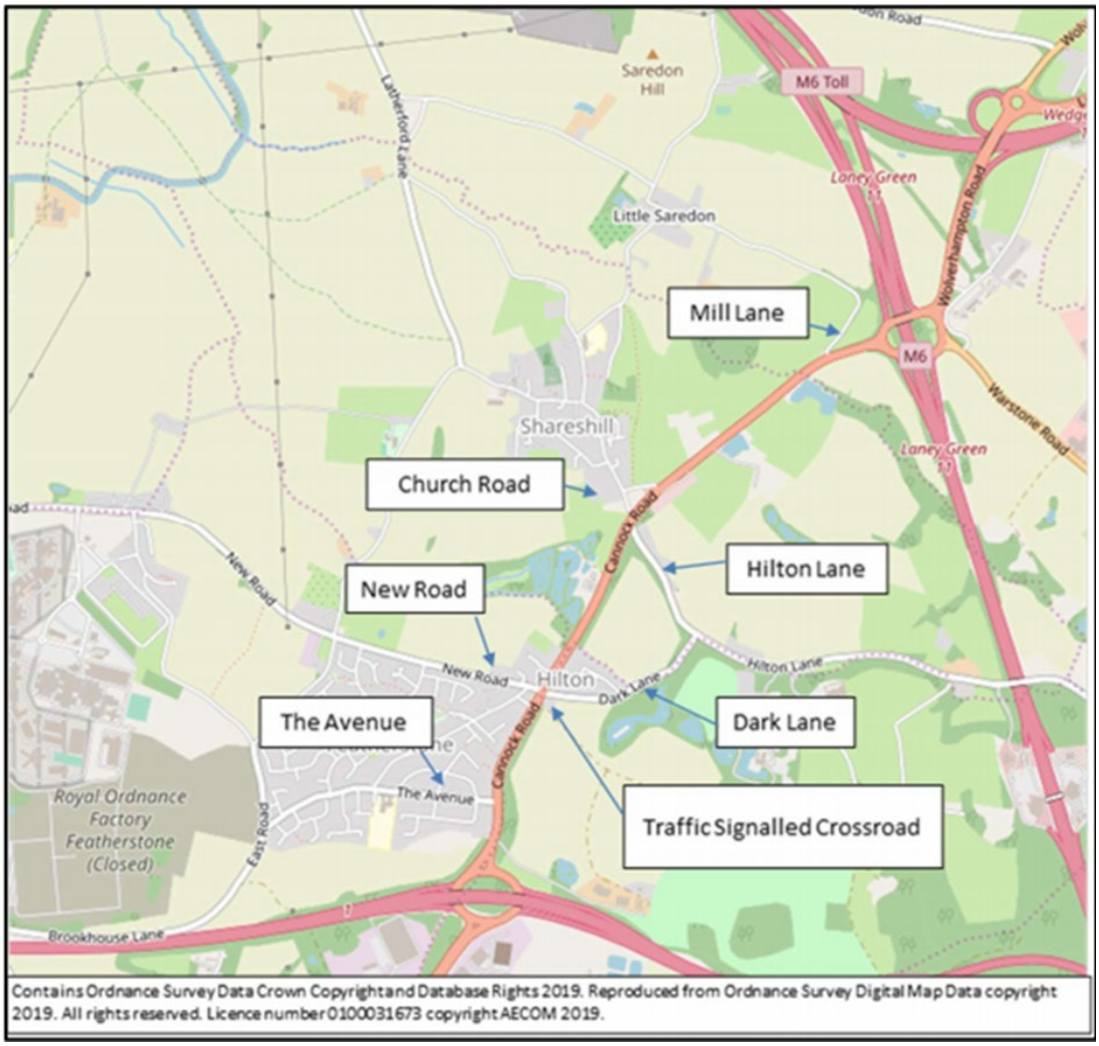


2.1.2. The area is semi-rural in character with a number of small villages set within countryside. These include Featherstone, close to junction 1 of the M54; Hilton and Shareshill, to the west of the A460; and the hamlet of Little Saredon to the northwest, close to junction 11 of the M6. The general landform in the locality is of undulating countryside consisting of agricultural fields and scattered woodland. The site also includes an area of historic parkland, associated with Hilton Hall. The main settlements in the wider area include the city of Wolverhampton, located to the south of the M54, and Cannock, located to the northwest of the site beyond the

[8] Source: Figure 4.1 Statement of Reasons [REP7-015]

M6. Figure 2 sets out a more detailed plan of the area between M54 junction 1 and M6 junction 11. The site is located within the South Staffordshire portion of the West Midlands Green Belt.

Figure 2: Detailed Location Plan[9]



2.1.3. The site area includes the M54 junctions 2 and 1, and the motorway between the junctions. Small areas to the north and south of the M54 are included to be used for ancillary works, including Whitgreaves Wood to allow for environmental improvements to woodland, around junction 2, for new or replacement signage, and around Brookhouse Lane for an attenuation pond.

2.1.4. The first main junction off the A460 in Featherstone is with The Avenue approximately 270 metres (m) to the north of the gyratory. The main development in the settlement of Featherstone is predominantly contained to the western side of the A460 up to its junction with New Road/ Dark Lane, some 450m further to the north. A small residential

[9] Source: Figure 2.4 Transport Assessment Report [REP3-036]

area is located to the eastern side of the A460 between Dark Lane, the A460 and Park Road, a small cul-de-sac accessed off Dark Lane.

2.1.5. From the M54 junction 1 gyratory the main line of the new link road would be aligned on a northeasterly direction for approximately 2.5 kilometres (km) to junction 11 of the M6. This would be through a predominantly rural setting. The main carriageway would be located to the east of the A460. Between the A460 and the new link road alignments there would be open fields, the residential area on Dark Lane and Park Road, some residential properties on Hilton Lane and some commercial enterprises, including M6 Diesel and Brookfields Leisure Centre and Brookfields Farm.

2.1.6. The Proposed Development passes through an area identified in the South Staffordshire Local Plan as an Historic Landscape Area (HLA), but it is not a Registered Park and Garden. The parkland is associated with Hilton Hall and associated buildings. Hilton Hall and the nearby conservatory are each Grade I listed and would be to the east of the Proposed Development. Other designated heritage assets in the vicinity include a listed coach house and stable block, north east of Hilton Hall; Gate Piers, some 200m south of Hilton Hall; and the Portobello Tower, a folly in a poor state of repair located approximately 550m south of the Hall, close to the M54, all of which are Grade II. The HLA also includes a number of veteran trees in isolated locations in open fields; it is a relatively extensive area identified on the proposals map of the Local Plan in a diagrammatic form (identified in the Environmental Statement (ES) in Figure 6.1 [APP-072] and Figure 6.3 [APP-074]) and covers an area up to around Hilton Lane, down to around the M54 and across to the A460 as well as land further to the east.

2.1.7. The main carriageway would cut through an area of woodland referred to as The Shrubbery and which includes the Lower Pool which is locally designated as a Site of Biological Importance (SBI). North of Hilton Lane Brookfields Farm also contains an SBI in an area of wet woodland and part of this is also identified as ancient woodland. From there the Proposed Development would pass across open countryside to where it would join the M6 at a reconstructed junction 11.

2.1.8. M6 Diesel is a local business providing a fuel stop predominantly for commercial heavy goods vehicles. It is located on the east side of the A460 approximately 870m to the southwest of junction 11 of the M6. Brookfields Farm and the surroundings includes a number of activities including ponds for fishing, equestrian activities, keeping of horses and agricultural activities.

2.2. THE APPLICATION AS MADE

2.2.1. The Applicant submitted an application under s37 of the Planning Act 2008 as amended (PA2008) for an Order granting development consent for what was described as the "M54 to M6 Link Road" (the Proposed Development). [APP-001] provides an introduction to the Proposed Development, [APP-002] provides the covering letter and s55 check list

and [APP-003] the application form. The Applicant is appointed and licensed by the Secretary of State for Transport (SoST) as the strategic highway company for England. It is responsible for operating, maintaining and improving England's motorway and trunk road network on behalf of the SoST.

2.2.2. The primary objectives of the Proposed Development are identified by the Applicant in 'The Case for the Scheme' [AS-037] as:

- Relieve traffic congestion on the A460, A449 and A5, to provide more reliable journey times.
- Keep the right traffic on the right roads and improve safety by separating local community traffic from long distance and business traffic.
- Reduce volumes of through-traffic in villages, improving local community access.
- Support local economic growth for Telford, Shrewsbury, Wolverhampton, Cannock and Tamworth by improving traffic flow and enhancing access to east-west and north-south routes.

2.2.3. Chapter 2 of the ES [APP-041] provides a detailed description of the Proposed Development which is summarised below.

2.2.4. The Applicant notes that there is no strategic route from the M54 to the M6 northbound or the M6 Toll. It also notes that there is no strategic route between the M6 southbound and the M54 westbound. Traffic wishing to make these movements has to leave the motorway network and use the regional/local road network including the A449, A5 and A460. The signed route between the M54 westbound and the M6 northbound is via two trunk roads: the A449 and the A5 travelling between the M54 junction 2 and the M6 junction 12. The existing A460 Cannock Road between the M54 junction 1 and the M6 junction 11 is single carriageway.

2.2.5. The Applicant states the A460 was not designed for the amount and type of traffic currently using it, resulting in delays. The Applicant's overarching need is that the existing road network is not adequate to cope with the high volumes of traffic, often consisting of heavy goods vehicles (HGVs). There is therefore a need to deliver a link road to address the current levels of congestion and its impact on local residents and motorists. The Applicant also notes that investment in additional capacity will support local economic growth for Telford, Shrewsbury, Wolverhampton, Cannock and Tamworth by improving traffic flow and enhanced east-west and north-south routes.

2.2.6. In high level terms the Proposed Development comprises:

- Replacement of the existing M54 junction 1 with free flow slip roads between the new link road and the M54 and construction of three new roundabouts to maintain connectivity with the existing local road network.
- Construction of a new dual carriageway between M54 junction 1 and the M6 junction 11. The alignment of the carriageway would be

located to the east of the existing A460 and the villages of Featherstone, Hilton and Shareshill and west of Hilton Hall.
- The stopping up of Dark Lane between the final property heading north and the junction with Hilton Lane.
- The reprovision of Hilton Lane on a bridge over the mainline of the link road on a similar alignment.
- Provision of an accommodation bridge and access track across the mainline of the link road to retain access to severed land to the east of the link road.
- Enlargement of the M6 junction 11 signalised roundabout to accommodate a connection to the new link road and realign existing connections with the A460 and M6. Two replacement bridges would be required over the M6 to provide an increase in capacity from two lanes to four lanes of traffic on the roundabout. This work would raise the height of the junction by approximately 1.5m.

2.2.7. The General Arrangement Scheme Layout Plans [APP-010], Works Plans [APP-009], and Engineering section Drawings [APP-015] identified the key components and features of the Proposed Development as well as further design information as submitted when the application was made.

2.2.8. The following paragraphs describe the road alignment and principal elements of the Proposed Development in greater detail, moving from south to north.

M54 junction 1

2.2.9. The existing eastbound diverge at M54 junction 1 would be upgraded from its current single lane drop arrangement to a ghost island (separation of the slip road and mainline using chevrons) lane drop arrangement. The existing westbound merge slip road at the M54 junction 1 would be upgraded from a single lane gain, to a ghost island merge with two diverging lanes. The slip roads at M54 junction 1 would also be realigned slightly.

2.2.10. The existing M54 junction 1 roundabout would be removed, and the junction rebuilt in a new arrangement. The total footprint of the proposed M54 junction 1 arrangement would be approximately 13 hectares (ha).

2.2.11. The new junction arrangement would provide for free flow links from the eastbound carriageway of the M54 to the northbound carriageway of the link road and from the southbound carriageway of the link road to the M54 westbound. The free flow links would pass underneath the new junction 1 arrangement (Featherstone bridge). The southbound free flow link would then pass underneath the existing M54 (which is on an embankment at this location) at approximately existing ground level to merge with the westbound carriageway of the M54. The free flow links through M54 junction 1 would be an extension of the M54 therefore would be subject to motorway regulations with a speed limit of 70 miles per hour (mph). The motorway regulations end at the point where the slip road from the western roundabout joins the carriageway in the northbound direction and where the slip road to the eastern roundabout leaves the carriageway in the southbound direction. Beyond this point the

Proposed Development would be constructed to a dual carriageway standard.

2.2.12. In order to maintain local connections, the new junction would also consist of three smaller roundabouts, one to the south of the M54 carriageway (southern roundabout) and two to the north of the M54 carriageway in a dumbbell arrangement to the east (eastern roundabout) and west (western roundabout – the smaller of these two) of the new link road. The existing access to the A460 (north) from M54 junction 1 would be closed.

2.2.13. The southern roundabout would provide access to and from the westbound carriageway of the M54 and the A460 (south). The southern roundabout would be at approximately existing ground level.

2.2.14. A new short section of dual carriageway approximately 370m in length would provide a link between the southern roundabout and the eastern roundabout which would cross under the M54.

2.2.15. The eastern roundabout would provide access to the eastbound carriageway of the M54 and would be accessible from the southbound carriageway of the Proposed Development. Two access roads would be provided off the eastern roundabout to maintain access to Tower House Farm and Hilton Park which are approximately 100m and 400m in length respectively. The eastern roundabout would be approximately 3.9m above existing ground level. The new entry slip road to the M54 eastbound would result in the loss of a pond at Tower House Farm.

2.2.16. The eastern roundabout would also be connected to the western roundabout by a short section of dual carriageway approximately 90m in length which would cross over the mainline on Featherstone bridge.

2.2.17. The western roundabout would provide access to and from the existing A460 (north) for local traffic. This roundabout would also provide access to the northbound carriageway of the mainline and would be accessible from the eastbound carriageway of the M54. The western roundabout would be approximately 6.2m above existing ground level.

2.2.18. The speed limit of the connecting dual carriageway links between the roundabouts would be 40mph.

The existing A460 (between M54 junction 1 and M6 junction 11)

2.2.19. The existing A460 would be realigned to connect into the western roundabout of the new M54 junction 1. The realigned A460 would be gradually raised on an embankment to tie into the western roundabout of the M54 junction 1 at approximately 6.2m above existing ground level. A new priority T-junction would be provided between the existing A460 and the realigned A460 to maintain access to the M54 to M6 Link Road

2.2.20. North of the junction with The Avenue two new entry and egress points would be provided for the petrol station and local businesses along the existing A460 affected by the realignment of the road.

2.2.21. The speed limit of the realigned existing A460 at M54 junction 1 would be 30mph.

The mainline

2.2.22. The mainline would be a dual carriageway road approximately 2.5km (1.6 miles) in length, with a direct free flow link to the M54 and entry and exit slip roads to the M54 junction 1. The new road would have a 70mph speed limit.

2.2.23. The mainline would pass through M54 junction 1 in a cutting, passing under Featherstone bridge with a headroom clearance of 5.3m. The mainline would extend northwards from the M54 junction 1 across greenfield land which is located to the east of Featherstone and Hilton. The mainline of the Proposed Development would pass to the west of Hilton Hall through part of Lower Pool (a large ornamental pool) and Lower Pool SBI. The Proposed Development would be roughly at existing ground level as it passes to the east of Dark Lane. The distance between the edge of the new carriageway (back of verge) and the closest property (façade) on Dark Lane is approximately 46m. Dark Lane would be stopped up between just beyond the most northern property along Dark Lane and its existing junction with Hilton Lane. In order to maintain connectivity for walkers and cyclists a new bridleway connection is proposed between the point at which Dark Lane is stopped up and Hilton Lane.

2.2.24. Continuing north, the Proposed Development would cross under the existing Hilton Lane at approximately 6.0m below existing ground level. A section of Hilton Lane would be rebuilt on a new bridge (Hilton Lane overbridge) over the mainline to maintain access. Approximately 500m of Hilton Lane would be reconstructed to build the new bridge on a similar alignment to the existing road (within the limits of deviation). The carriageway of the road would be raised by approximately 1.7m in height at the highest point of the bridge. The speed limit of Hilton Lane would be reduced from the national speed limit to 30mph to address safety issues and limit the amount of land take required with a steeper vertical alignment, reducing tree loss and, according to the Applicant, may provide some reduction in noise impacts.

2.2.25. The mainline of the Proposed Development would then continue to the east of Brookfield Farm resulting in the total loss of one pond and partial loss of a second pond, before continuing north. Due to the undulating nature of the existing ground in this location the mainline transitions from cutting at Hilton Lane, to a short section of embankment to the south of Brookfield Farm with a height of approximately 3.5m then immediately back to cutting to the east of Brookfield Farm with a depth of approximately 5.5m.

2.2.26. An accommodation bridge wide enough to carry a single lane access track for farm vehicles would be provided to the south of Brookfield Farm across the mainline of the Proposed Development. This accommodation bridge is required to retain access to severed land to the east and maintain a Public Right of Way (PRoW) over the Proposed Development.

The accommodation bridge would be approximately up to 4.0m above existing ground level at its highest point.

2.2.27. South of the M6 junction 11 the Proposed Development would start to rise on an embankment to link into the junction, passing over Latherford Brook and through Brookfield Farm SBI. At this point the northbound and southbound carriageway start to diverge away from one another to connect into M6 junction 11. At the highest point the Proposed Development would be approximately 8.5m above existing ground level which is around Latherford Brook.

M6 junction 11

2.2.28. Junction alterations are proposed at M6 junction 11. These improvements would consist of an enlargement of the M6 junction 11 roundabout to provide additional capacity and accommodate a connection to the new link road. Two new structures would be required over the M6 which would increase the capacity of the junction, increasing the number of lanes of traffic from two to four. The structures would be designed to be built off-line to the north and south of the existing structures to avoid undue disruption during the construction period. The existing structures would be demolished once the new junction arrangement is operational. Alterations to Junction 11 of the M6 would raise the roundabout level by approximately 1.5m in height to approximately 5.5m above ground level.

2.2.29. The connection to the existing A460 (south) from the M6 junction 11 would be realigned to the west to accommodate the mainline of the Proposed Development. New entry and exit slip roads to and from the M6 would be constructed offline to maintain access to the junction where possible during construction. The A460 (north) would be widened northbound and southbound. The southbound carriageway would be widened from two to three lanes to connect into the new junction. The northbound carriageway would be widened to three lanes to exit the roundabout, this would taper down to two lanes before passing over the M6 Toll. The A462 would also be aligned locally to tie into the roundabout. Minor alterations to the access and egress to Wolverhampton Road are required as part of the realignment of the existing A460 and A462.

Limits of deviation

2.2.30. The assessments in the ES are based on the design having regard to the maximum area of land anticipated as likely to be required taking account of the proposed limits of deviation (LoD) for the Proposed Development. The environmental conclusions regarding likely significant effects as presented within the ES have also taken the LoD into account.

2.2.31. In general it is stated that the vertical LoD for the Proposed Development is 0.5m and the new carriageway would not deviate horizontally by more than 3.0m. In relation to particular items: surface water outfalls would not deviate by more than 20m; and the Hilton Park access road, Tower House access road and Mill Lane tie-in would not deviate horizontally more than 10m and vertically by 0.5m. It is also noted that noise

barriers as proposed in ES Chapter 11: Noise and Vibration [APP-050] paragraphs 11.8.16 and 11.8.17 ES would not deviate by more than plus or minus 1 m and also sets out limits of deviation for utilities diversions to provide for flexibility.

2.3. THE APPLICATION AS EXAMINED

2.3.1. Prior to the opening of the Examination, in response to the Inspectorate's section (s) 51 advice [PD-001] following acceptance of the application, the Applicant responded [AS-004] to a number of issues raised and requested a change to the application. The change sought was for the removal of a small area of the Order Limits along the M54, included to replace an existing road sign. Following further signage review it was concluded that changes to the sign would no longer be required. The Examining Authority (ExA) confirmed in its letter dated 20 July 2020 [PD-005] that the change was accepted as a non-material change to the application.

October 2020 Proposed Changes

2.3.2. By e-mail, dated 28 July 2020, the Applicant submitted a document entitled 'Notification of proposed scheme changes' [AS-043], in which the Applicant sought the ExA's advice on the procedural implications of proposed changes and the need, scale and nature of consultation to be carried out. The ExA's advice was provided in a letter dated 12 August 2020 [PD-011]. A formal request for a change to the application was made by letter dated 9 October 2020 [AS-062] and which enclosed a number of documents including a document entitled 'Formal request for scheme changes' [AS-117].

2.3.3. The request identified seven changes to the Proposed Development which are summarised below.

Change 1: Realignment of the eastbound slip road from the M54 at Junction 1 towards Featherstone

2.3.4. This change proposed a minor realignment of the eastbound exit slip road from the M54 to Featherstone, reducing the length of the slip road to the dumb-bell junction. This would bring the road closer to the junction and reduce the overall size of the junction.

2.3.5. The Applicant indicated that this change arose as a result of continued design refinement which has identified improvements to the Proposed Development that would reduce environmental impacts.

Change 2: Reduction in the footprint of the link road

2.3.6. This proposed change would reduce the overall width of the link road by reducing the width of the central reserve from 4.5m to 3m along the length of the new link road and reducing the width of the verge area by putting the surface water channel in the verge rather than adjacent to it. There would be no reduction to the width of traffic lanes or hard strips.

2.3.7. This change would reduce the width of the road by 4.2m over its entire length, between 3.2m and 4.4m over a length of approximately 200m for the northbound slip, and between 4.1m and 7.0m over 500m for the southbound slip.

2.3.8. The Applicant indicated that this means that the footprint of the Proposed Development would be reduced, reducing the impact on the private access that runs to the east of Featherstone junction (from the eastern roundabout northwards). In consequence of the change, it was also proposed to move the position of Work No. 21 to tie into the existing track, reducing the impact on the landowner. This change would move the alignment of Work No. 21 outside of the LoD.

2.3.9. This change would also reduce the impact of the Proposed Development on Lower Pool SBI. However, as habitat loss at Lower Pool SBI is increased by other changes, predominantly clearance around utility pipelines (see Change 7), this change would not result in an overall reduction of habitat loss at the SBI compared to the originally submitted application. The Applicant identified that there was an incorrect statement in the consultation documents stating that 1ha less land would be affected at Lower Pool SBI. In the updated ES chapter on Biodiversity [AS-083] submitted with the formal change request, it was confirmed that the Proposed Development would comprise the permanent loss of 2.04ha of woodland and 0.46ha of standing water in the Lower Pool SBI.

Change 3: Amendment of vertical alignment of Link Road approach to M6 junction 11

2.3.10. This change would reduce the height of the approach to M6 junction 11 by approximately 0.7m where the road passes through an area of woodland near Latherford Brook. This change would increase the gradient of the approach to the junction. However, the gradient would be within the recommended design for dual carriageway standard, with a maximum 2% gradient at the stop line to reduce the risk of vehicle roll-back. This also included a minor change to the diversion route of Saredon 8 PRoW as a result of changes to the embankment.

Change 4: M54 junction 1 change to bridge structure

2.3.11. The Applicant explained that to provide free-flow links between the M54 and the new link road, the Proposed Development included construction of a new bridge to carry the roads through the redesigned M54 junction 1. The original Proposed Development would have taken a period of approximately two years to build the bridge in sections at its final location. This would need complex and long-term traffic management for this period on the M54, over several phases, including contraflows, narrow lanes and lane closures as well as several overnight closures with night-time working. The proposed change would utilise a construction solution negating the need for two years of traffic management. It would involve constructing the bridge as two simpler structures in a nearby site compound to the northeast of the junction and moving them into position when ready. To do this safely, the change would require the closure of the M54 over junction 1 and some of the slip roads for up to three

weeks. Building the bridge as two simpler structures would also enable the movement of the road alignment by 20m, which would reduce the size of junction 1.

2.3.12. Whilst the Applicant acknowledged that there would be more disruption from the short-term closure, it would be of significantly shorter duration than previously proposed.

2.3.13. The planned diversion route during the junction closure would involve traffic leaving the M54 at junction 2, travelling north on the A449, then east on the A5 and south along the M6. A plan showing the Applicant's initial view of how the closure might operate and the diversion route was provided on page 8 of the Consultation Brochure (included at Appendix C of document 8.7 Consultation Statement – proposed Changes Appendices Part 1 (B and C) [AS-119]. However, in line with comments received from local highway authorities and Parish Councils, the Applicant would like to retain flexibility over the closure approach so it can be developed in more detail in consultation with key stakeholders. Therefore, the plan of the closure should be treated as indicative at this stage.

2.3.14. Finally, this proposed change would result in construction activities taking place in new locations. In particular, activities associated with the construction of the structures would be within a casting yard to the northeast of M54 junction 1 not previously used for this purpose.

Change 5: Relocation of Hilton Lane Overbridge and change to Public Right of Way

2.3.15. Near Hilton Lane, the new link road would be below existing ground level and Hilton Lane will cross the link road via a new bridge. Following further work to review the construction methods, it is proposed to build the Hilton Lane bridge to the north of its current proposed location. This change would enable the retention of more of the existing route of the PRoW Shareshill 5, across nearby land rather than routing it alongside the link road as was originally proposed in the application.

2.3.16. The original application proposed moving Hilton Lane approximately 2m to the south, so a 2m wide footway could be provided as an alternative route to the PRoW, which would have been cut-off by the new link.

2.3.17. The proposed change would keep the PRoW so it follows more of the existing route; it would then divert south towards Hilton Lane, across the new bridge, then re-route north to tie into its existing alignment to the west of the new link, where users would continue westwards and link into Hilton Lane.

Change 6: Change to Alignment to Reduce the Impact on Tower House Farm

2.3.18. This change proposed to alter the alignment of the slip road between the M54 junction 1 eastern dumbbell roundabout and the M54 eastbound to the west of the position shown in the original application. This change was aimed to address concerns raised by the landowner at Tower House

Farm that the Proposed Development would adversely impact access to that site.

Change 7: Changes to the Environmental Masterplan

2.3.19. The Applicant proposed changes to the Environmental Masterplan for the Proposed Development to:

- Reduce the mitigation required for great crested newts.
- Reduce the size of construction compounds.
- Identify opportunities for further ecological enhancements.
- Increase vegetation clearance around utility corridors.
- Incorporate additional minor amendments to the masterplan.
- Adjust the Environmental Masterplan to account for the cumulative impact of changes 1-6.

2.3.20. The Examination began on the day following the conclusion of the Preliminary Meeting, 21 October 2020. By its letter dated 29 October 2020 [PD-015], the ExA made the Procedural Decision that cumulatively the changes would represent a material change due to the number and extent of the proposed changes, including the changes of significant effects identified in the Environmental Statement (ES) Addendum and the change in construction time. However, it was further concluded that they were not so substantial nor had the Proposed Development been changed in substance from that which was originally applied for. The proposed changes were therefore accepted into the Examination. Albeit non-statutory consultation had been undertaken the ExA also amended the Examination timetable to allow for comments to be received in relation to the changes and for the Applicant to respond. Collectively, where appropriate, this report will refer to these changes as the 'October changes'.

December 2020 Proposed Changes

2.3.21. On 17 December 2020 the Applicant wrote to the ExA [AS-125] to formally request a change to sheet 6 of the Land Plans, in relation to a matter that had been discussed at the Compulsory Acquisition Hearing 1 (CAH1) on 10 December 2020. The amended Land Plans (Ver P04) [AS-127] identified the original plot 6/25 reduced in size and identified for Temporary Possession (TP) and a new plot 6/38 identified for Compulsory Acquisition (CA). This was an inconsistency from previous changes where the Land Plans had not been updated and identified plot 6/25 wholly for TP. The ExA accepted the changes to the Land Plans in a Procedural decision dated 7 January 2021 [PD-019].

2.3.22. The ExA noted that in the original application plot 6/25 was identified for CA and then was amended to TP. In the December 2020 changes the proposal to identify plot 6/38 for CA represented "additional land" and as such engaged the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 as amended (the CA Regulations). The ExA accepted that the Changes to the Land Plans were in effect a correction to align the Land Plans with the other Development Consent Order Plans and that the relevant Affected Persons were aware.

2.3.23. The Applicant confirmed that the additionally affected persons had agreed to the changes and therefore the ExA in its letter dated 18 January 2021 [PD-020] confirmed that there was no requirement to undertake additional procedures under Regulation 4 of the CA Regulations. This change will be referred in this report as the 'December change'.

March 2021 Proposed Changes

2.3.24. Finally, in relation to changes to the Proposed Development, the Applicant sought advice on changes to provide a new short cut pedestrian route between Cannock Road and the Featherstone Junction west roundabout at M54 junction 1 [AS-134], following recommended amendments to the draft Development Consent Order (dDCO) by the ExA [PD-025]. The ExA's advice was included in its letter dated 19 March 2021 [PD-027], where it agreed to the suggested change and requested the Applicant include the change with its Deadline (D) 7 submissions. In the covering letter for the D7 submissions dated 26 March 2021 [REP7-001] the Applicant confirmed the incorporation of the additional footpath link as shown on the Streets Rights of Way and Access Plan [REP7-006], an additional work item added to the Works Plans [REP7-004] and dDCO (Work No. 91).

2.3.25. In its cover letter [REP7-001] the Applicant also identified a number of minor changes that had been made to the Proposed Development to reflect requests from the ExA or third parties. The ExA responded to this identification of changes in its Procedural Decision dated 31 March 2021 [PD-028]. In totality the changes were noted as:

- Proposed Footpath between Cannock Road to Featherstone West roundabout (Work 91).
- Re-design of Cannock Road/The Avenue junction so as to change priority.
- Re-design of area in front of the petrol station and local businesses on Cannock Road (Work 90 to replace former Works 18 and 19).
- Addition of 40mph speed limit on Hilton Lane to east of the existing proposed 30 mph speed limit.
- Formal inclusion of tree removal plans as examination documents in their own right.
- New fence and hedge on south side of Dark Lane (part of Work 80).

2.3.26. The ExA confirmed that the changes would represent minor design changes and that they were accepted as non-material changes to the application. Where appropriate, these changes will be referred to as the 'March changes'.

2.4. RELEVANT PLANNING HISTORY

2.4.1. This is the first formal proposal for a link road between M54 junction 1 and M6 junction 11 which has reached application stage.

2.4.2. Paragraph 5.165 of the National Policy Statement for National Networks (NPSNN) states *"… the applicant should identify existing and proposed*

land uses near the Scheme, any effects of replacing an existing development or use of the site with the proposed project or preventing a development or use on a neighbouring site from continuing". The NPSNN states *"applicants should also assess any effects of precluding a new development or use proposed in the development plan and that the assessment should be proportionate"*.

2.4.3. The Applicant undertook a planning history search of the application site. The details are set out in Section 7 of the 'Case for the Scheme' [AS-037]. As the area is mainly rural, proposals generally are for domestic extensions, agricultural works and there have been a number of applications under S192 of the Town and Country Planning Act 1990 (as amended) for Certificates of lawful development or use relating to sport fishing in pools.

2.4.4. Within the Examination documentation there is reference to various fields being used for car boot sales. The Applicant hypothesizes that, in the absence of any information identified from a planning history search these are carried out under Permitted Development Rights for temporary uses of land under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) which allows for the holding of a market for up to 14 days in any calendar year. We consider that this is a reasonable hypothesis.

3. LEGAL AND POLICY CONTEXT

3.1. THE PLANNING ACT 2008

3.1.1. The development is highway-related development falling within section (s) 22 of the Planning Act 2008 (as amended) (PA2008), consequently the National Policy Statement for National Networks (NPSNN) has effect, and s104 of the PA2008 is engaged.

3.1.2. Section 104(2) of PA2008 sets out the matters to which the Secretary of State (SoS) must have regard in deciding an application to which it relates. In summary, the matters set out, as relevant to this application, include:

- any relevant National Policy Statements (NPSs);
- any Local Impact Report (LIR);
- any matters prescribed in relation to development of the description to which the application relates; and
- any other matters the SoS considers are both important and relevant to the decision.

3.1.3. Section 104(3) of PA2008 requires that the SoS must decide an application for development consent in accordance with any relevant NPS, except to the extent that the SoS is satisfied that:

- doing so would lead to the United Kingdom (UK) being in breach of any of its international obligations;
- doing so would lead to the SoS being in breach of any duty imposed on him by or under any enactment;
- doing so would be unlawful by virtue of or under any enactment;
- the adverse impact of the proposed development would outweigh its benefits; or
- any condition prescribed for deciding an application otherwise than with an NPS is met.

3.2. NATIONAL POLICY STATEMENT

3.2.1. The NPSNN has been designated as the NPS for roads for which the Secretary of State for Transport (SoST) is the highway authority and remains in force. It is relevant to this application because the Proposed Development comprises the construction and alteration of a highway where the speed limit of any class of vehicle is expected to be 50 miles per hour (mph) or greater, the area of development exceeds 12.5 hectares (ha), is wholly within England, and Highways England is the highway authority. The Proposed Development is therefore a Nationally Significant Infrastructure Project (NSIP), and the NPSNN provides the primary basis for decisions by the SoST.

3.2.2. The NPSNN states that the need for development of the national networks, and the Government's policy for addressing that need, must be seen in the context of the Government's wider policies on economic performance, environment, safety, technology, sustainable transport and accessibility, as well as journey reliability and the experience of road/rail

users. The Government has therefore concluded that at a strategic level there is a compelling need for the development of the National Road Network.

3.2.3. 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 by the Examining Authority (ExA) and decisions by the SoST. It covers a range of topics and these matters are addressed in detail in Chapters 5 to 14 of this report

3.3. UK REGULATIONS DERIVING FROM EUROPEAN LAW

3.3.1. The UK left the European Union (EU) as a member state on 31 January 2020 with the transition period concluding on 31 December 2020. EU-derived domestic legislation, as it has effect in domestic law immediately before exit day, continues to have effect in domestic law on and after exit day.

3.3.2. This report has been prepared on the basis of the retained law and references in it to European terms such as 'Habitats' have also generally been retained for consistency with the Examination documents. However, where terminology has changed, for example 'national sites network' rather than 'Natura 2000 network', the amended terminology will be utilised.

3.3.3. Since there may be changes in legislation between the writing of this report and the SoS's decision, it will be for the SoS to satisfy themselves as to the position on retained law and obligations at the point of decision.

The Habitats Regulations

3.3.4. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) transposed the Habitats Directive (Council Directive 92/43/EEC) and Birds Directive (Council Directive 2009/147/EC) into English and Welsh domestic legislation.

3.3.5. The Habitats Regulations are built around two pillars, a network of protected sites (the national sites network) and a system of species protection. This protects over 1000 animals and plant species and over 200 habitats types (for example: species types of forests; meadow; wetland etc) which are of international importance. It requires designation of such areas as Special Areas of Conservation (SACs).

3.3.6. The Habitats Regulations is also a comprehensive scheme of protection for all wild bird species naturally occurring in England and Wales and places great emphasis on the protection of habitats for endangered as well as migratory species. The most suitable territories for these species are classified as Special Protection Areas (SPAs) and along with SACs are an integral part of the national sites network.

3.3.7. The Convention on Wetlands of International Importance (Ramsar Convention) protects wetlands of international importance especially as waterfowl habitat.

3.3.8. The relevance of these Regulations to the Proposed Development is addressed in Chapter 14 of this report.

The Water Environment Regulations

3.3.9. The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (as amended) (The Water Environment Regulations) transposed the Water Framework Directive (Council Directive 2000/60/EC) (the WFD) in to English and Welsh domestic legislation.

3.3.10. The Water Environment Regulations includes objectives such as preventing and reducing pollution, environmental protection, improving aquatic ecosystems and mitigating the effects of floods. It provides for the production of river basin management plans to provide for the sustainable management of rivers.

3.3.11. This is relevant for the Proposed Development in that there are seven watercourses which are associated with the Saredon Brook or River Penk waterbodies of the Humber River Basin District Management Plan. The groundwater in the area is classified as part of the Staffordshire Trent Valley – Permo Triassic Sandstone WFD groundwater body and the Staffordshire Trent Valley – Mercia Mudstone East and Coal Measures WFD groundwater body. This is discussed further in Chapter 13 of this report.

The Air Quality Regulations

3.3.12. The Air Quality Standards Regulations 2010 (as amended) (The Air Quality Regulations) transposed the Ambient Air Quality and Cleaner Air for Europe Directive (Directive 2008/50/EC) into, principally, English domestic legislation, although some provisions have UK extent.

3.3.13. The Air Quality Regulations sets limit values (LVs) for compliance and establishes control actions where the LV are exceeded for ambient air quality with respect to sulphur dioxide (SO_2), nitrogen dioxide (NO_2) and mono-nitrogen oxides (NOx), particulate matter (PM_{10}[10] and $PM_{2.5}$[11]), lead, benzene and carbon monoxide (CO).

The UK Air Quality Strategy

3.3.14. The Air Quality Strategy for England, Scotland, Wales and Northern Ireland (the UK Air Quality Strategy) sets out air quality objectives and policy options to further improve air quality in the UK into the long term. As well as direct benefits to public health, these options are intended to

[10] Where the particulate matter is 10 micrometres or less in diameter
[11] Where the particulate matter is 2.5 micrometres or less in diameter

provide important benefits to quality of life and help to protect the environment.

3.3.15. Individual plans are prepared beneath this framework to 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 and more localised Air Quality Management Areas (AQMAs), where Air Quality Management Plans are prepared by local authorities.

3.3.16. The Clean Air Strategy 2019 was published by the Department for Environment Food and Rural Affairs (Defra). It sets out how all sources of air pollution would be tackled, and action plans undertaken at the local authority areas continue to be produced in accordance with the plan.

3.3.17. There are no AQMAs within the application site. However, there are a number of AQMAs located within 200m of the Affected Road Network[12] (ARN). These are set out in Table 5.5 of Chapter 5 of the Environmental Statement (ES) [APP-044]. This issue will be discussed further in Chapter 5.

3.4. OTHER LEGAL PROVISIONS

United Nations Environmental Programme Convention on Biological Diversity 1992

3.4.1. The UK Government ratified the United Nations Environmental Programme (UNEP) Convention on Biological Diversity 1992 (the Biodiversity Convention) in June 1994. Responsibility for the UK contribution to the convention lies with Defra who promote the integration of biodiversity into policies, projects and programmes within the Government and beyond.

3.4.2. As required by Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010 (as amended) (the Decisions Regulations), the Biodiversity Convention has been taken into account in consideration of the likely impacts of the Proposed Development and appropriate objectives and mechanisms for mitigation and compensation. The UK Environmental Impact Assessment (EIA) and Transboundary Assessment process, which is referred to below, is established to satisfy, with regard to impacts on biodiversity, the Requirements of Article 4 of the Biodiversity Convention (Impact Assessment and Minimising Adverse Impacts).

3.4.3. This is of relevance to the biodiversity and ecological considerations and the landscape and visual impacts which are discussed in Chapters 6 and 7 of this report.

[12] This is defined in Table 12.1 to the 'Introduction to the Application' [APP-001] as *"Parts of the road network which are identified as likely to be affected by changes in air quality as a result of a development project"*.

The Wildlife and Countryside Act 1981

3.4.4. The Wildlife and Countryside Act 1981 (WCA) is the primary legislation which protects animals, plants and certain habitats in the UK. It provides for the notification and confirmation of Sites of Special Scientific Interest (SSSIs). In England the sites are identified for their flora, fauna, geological or physiographical interest by Natural England (NE). The WCA contains measures for the protection and management of SSSIs.

3.4.5. The WCA is relevant to the application in view of the sites and species identified in the ES, principally Chapter 8, Biodiversity [AS-083]. Relevant considerations are discussed in Chapter 6 of this report.

Natural Environment and Rural Communities Act 2006

3.4.6. The Natural Environment and Rural Communities Act 2006 (NERCA) makes provisions for bodies concerned with the natural environment and rural communities in connection with wildlife sites and SSSIs. It includes a duty that every public body must, in exercising its functions, have regard so far as it is consistent with the proper exercise of those functions, to the conservation of biodiversity (the biodiversity duty). In complying with the biodiversity duty regard must be had to the Biodiversity Convention. NERCA also requires that the SoS must publish a list of the living organisms and types of habitat which in the SoS's opinion are of principle importance for conserving biodiversity. The ExA has had regard to the NERCA and biodiversity duty in all relevant sections of this report.

3.4.7. The effects on landscape and visual receptors, as well as the effects on rights of way and the ease of movement for Non Motorised Users (NMUs) are considered in Chapters 7 and 11 of this report.

The Protection of Badgers Act 1992

3.4.8. The Protection of Badgers Act 1992 proscribes offences relating to badgers, including interfering with badger setts, together with exceptions and licences and enforcement and penalties. The implications of the Proposed Development for badgers are provided in ES Chapter 8 [AS-083] and the Confidential Badger Technical Report [APP-224] which has been withheld from publication on the Inspectorate's National Infrastructure website. The implications of the Protection of Badgers Act are discussed in Chapter 6 of this report.

The Hedgerow Regulations 1997

3.4.9. The Hedgerow Regulations 1997 (as amended) protect 'important' hedgerows with licencing and enforcement and penalties. The effect of the Proposed Development on hedgerows is discussed in ES Chapter 8 [AS-083] with a Hedgerow Technical Report being provided [AS-105]. The implications of the Proposed Development on hedgerows is discussed at Chapter 6 of this report.

Human Rights Act 1998

3.4.10. The Compulsory Acquisition (CA) and Temporary Possession (TP) of land can engage various relevant Articles under the Human Rights Act 1998. The implications are considered in Chapter 16 of this report.

The Equalities Act 2010

3.4.11. The Equalities Act 2010 established a duty, the Public Sector Equality Duty (the PSED), to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share the protected characteristics and persons who do not. The PSED is applicable to the Applicant as a public body, the ExA in the conduct of this Examination and reporting, and to the SoST in decision making.

3.4.12. The application was accompanied by an Equality Impact Assessment [REP3-034] and the implications of the Proposed Development for the PSED are considered at Chapter 11 of this report.

Climate Change Act 2008

3.4.13. The Climate Change Act 2008 establishes statutory climate change projections and carbon budgets. Where relevant these have been taken into account in Chapter 5 of this report.

3.4.14. Following the implementation of the Climate Change Act 2008 (2050 Target Amendment) Order 2019 it is the duty of the SoS to ensure that the net UK carbon account for the year 2050 is at least 100% lower than the 1990 baseline.

The Infrastructure Planning (Decisions) Regulations 2010

3.4.15. The Infrastructure Planning (Decisions) Regulations 2010 (the Decision Regulations) prescribe a list of matters to which the SoS under s103 of the PA2008 must have regard to when taking decisions on applications for NSIPs.

3.4.16. Regulation 3 of the Decisions Regulations requires, when deciding an application which affects a listed building or its setting, the decision-maker must have regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.

3.4.17. Regulation 7 of the Decisions Regulations requires the SoS to have regard to the United Nations Environmental Programme Convention on Biodiversity of 1992 when making their decision on an application for development consent.

3.5. MADE DEVELOPMENT CONSENT ORDERS

3.5.1. The Applicant and Cadent Gas Limited (Cadent) made reference to a number of precedents in made Orders and related approvals. References were made in the final version of the Explanatory Memorandum [REP7-013] and in submissions relating to the Protective Provisions in favour of Cadent.

3.5.2. The following made Orders were specifically referred to and have been taken into account:

- A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014;
- A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016;
- M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016;
- A19/A1058 Coast Road (Junction Improvement) Development Consent Order 2016;
- M20 Junction 10a Development Consent Order 2017;
- A19/A184 Testo's Junction Alteration Development Consent Order 2018;
- A585 Windy Harbour to Skippool Highway Development Consent Order 2020;
- M42 Junction 6 Development Consent Order 2020;
- A303 Sparkford to Ilchester Dualling Development Consent Order 2021;
- A1 Birtley to Coal House Development Consent Order 2021; and
- A38 Derby Junctions Development Consent Order 2021[13].

3.5.3. The Applicant has also referred to alterations to drafting as a result of changes contained in the Housing and Planning Act 2016 relating to CA as were used in the High Speed Rail (London – West Midlands) Act 2017.

3.6. TRANSBOUNDARY EFFECTS

3.6.1. A transboundary screening under Regulation 32 of the EIA Regulations as originally enacted was undertaken on behalf of the SoS for the Ministry of Housing, Communities and Local Government (MHCLG) on 26 April 2019 [OD-002]. Rescreening, taking account of any changes since that earlier screening, was undertaken on 27 March 2020 [OD-007]

3.6.2. Following the end of the transition period following the leaving of the EU by the UK, the relevant legislation has changed, but the effect has not materially altered.

3.6.3. The Regulation 32 duty is an ongoing duty, and on that basis, the ExA has considered whether any facts have emerged to change the screening conclusions, up to the point of the closure of the Examination. No

[13] We are aware that the High Court has quashed this decision.

mechanisms whereby any conceivable transboundary effects could occur emerged.

3.6.4. The SoS's duty under Regulation 32 of the 2017 EIA Regulations continues throughout the application process.

3.7. OTHER RELEVANT POLICY STATEMENTS

Noise Policy Statement for England

3.7.1. The Noise Policy Statement for England (NPSE) seeks to clarify the underlying principles and aims in existing policy documents, legislation and guidance that relate to noise. It applies to all forms of noise including environmental noise, neighbour noise and neighbourhood noise.

3.7.2. The Government's Noise Policy Vision is to promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development.

National Infrastructure Strategy

3.7.3. The National Infrastructure Strategy notes that infrastructure underpins the economy. Transport, digital, energy and utility networks are vital for jobs, businesses and economic growth. But they also have a profound impact on people's daily lives. Investment in strategic roads is particularly identified.

Road Investment Strategy 2 (2020 – 2025)

3.7.4. The Road Investment Strategy 2 (RIS2) was published in March 2020, following the lodging of the application. It sets a long-term strategic vision for the strategic road network with the funding needed to plan ahead.

3.7.5. Under RIS2 the M54-M6 Link Road is shown as "Committed for [Road Period] 2" which covers the financial years 2020/21 to 2024/25.

3.8. THE NATIONAL PLANNING POLICY FRAMEWORK AND PLANNING PRACTICE GUIDANCE

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

3.8.2. The NPSNN (paragraphs 1.17 to 1.20) describe the relationship between the Framework and the NPSNN. Together these paragraphs confirm that

the overall strategic aims of the Framework and the NPSNN are consistent, however, the two have differing but equally important roles to play. It states that the Framework is likely to be an important and relevant consideration in decisions on NSIPs, but only to the extent that it is relevant to that project.

3.8.3. The NPSNN was published in December 2014 and was consistent with the Framework 2012. The Framework was revised in July 2018, in February 2019 and July 2021. The NPSNN does not reflect these changes. The last of these changes was published on the day before this report was submitted. This means that we were unable to consider them. Thus if the SoST concludes that any changes in this version are particularly relevant to the determination of this application then it will necessarily be up to the SoST as to how they are considered. Notwithstanding this, where relevant the July 2018 and February 2019 changes have been considered within the relevant Chapters of this Report. Paragraph references to the Framework within this report are to the February 2019 version. In any event, the primary policy statement against which the application is to be judged is the NPSNN.

3.8.4. The PPG provides additional information to assist in the operation of the planning system. Insofar as the categories therein are relevant to the Proposed Development, they will be material. However, they should have less weight than either the NPSNN or the Framework.

3.9. LOCAL IMPACT REPORTS

3.9.1. LIRs have been submitted from the following relevant local authorities:

- Staffordshire County Council (SCC), [REP1-007].
- South Staffordshire Council (SSC), [REP1-097].

3.9.2. Where relevant considerations arising from the LIR are identified they are dealt with in the specific Chapter or Section of this report.

3.10. THE DEVELOPMENT PLAN

3.10.1. The development plan, as identified by the SCC and SSC, are:

- The South Staffordshire Local Plan Core Strategy[14] (Core Strategy);
- Local Plan Site Allocations document (SAD)[15];
- The Staffordshire and Stoke-on-Trent Joint Waste Local Plan (2010 – 2026)[16]; and
- The Minerals Local Plan for Staffordshire (2015 – 2030)[17];

[14] Adopted 11 December 2012
[15] Adopted 11 September 2018
[16] Adopted by Staffordshire County Council on 15 March 2013 and by Stoke-on-Trent City Council on 21 March 2013
[17] Adopted 16 February 2017

3.10.2. In respect of the Joint Waste Local Plan the two authorities resolved in 2019 that there is no need to revise that plan.

3.10.3. The Core Strategy and the SAD are currently being reviewed by SSC and has reached Regulation 18 stage[18]. SSC consulted on Issues and Options in October 2018 and then a Preferred Spatial Strategy in October 2019. According to the SSC's Local Development Scheme[19] it is due to publish its Preferred Options in Summer 2021.

3.11. DESIGN MANUAL FOR ROADS AND BRIDGES

3.11.1. The Design Manual for Roads and Bridges (DMRB) contains information about current standards relating to the design, assessment and operation of motorway and all-purpose trunk roads in the United Kingdom.

[18] Pursuant to the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)

[19] https://www.sstaffs.gov.uk/doc/181628/name/LDS%20June%202020%20Final%20for%20Website.pdf/

4. THE PLANNING ISSUES

4.1. MAIN ISSUES IN THE EXAMINATION

4.1.1. In overall terms, there was substantial local support for the principle of the development. There were objections to the detail of the proposal, particularly as to whether the proposed mitigation was excessive and appropriately located and thus whether Compulsory Acquisition (CA) and Temporary Possession (TP) were justified. There were no over-arching representations suggesting that the Proposed Development was fundamentally inappropriate in policy terms or that development consent should be refused.

4.1.2. The local community did, however, raise objections to the precise line of the link road. Concern was expressed by South Staffordshire Council (SSC) and the Parish Councils that the Preferred Alignment decision was incorrect and that a more easterly alignment would have less of an effect on local communities.

4.1.3. There are two points from this. Firstly, the Environmental Impact Assessment (EIA) should consider appropriate alternative routings, this is considered below in this chapter under the Consideration of Alternatives. Secondly, once an application for development consent has been submitted it is not for the decision-maker to second guess the Applicant's decision as to the route, but rather assess the application as submitted (including any amendments) in line with law, policy and guidance and come to a conclusion. It may be that the submitted approach does not meet those tests and therefore the development consent would be withheld.

4.1.4. Our initial assessment of principal issues for the Examination, as required by section (s) 88 of the Planning Act 2008 as amended (PA2008) and Rule 5 of the Infrastructure Planning (Examination Procedure Rules) 2010 was made within 21 days of the day after receipt of the s58 certificate of compliance [OD-003], [OD-004] and [OD-005] under the PA2008 provided by the Applicant and published as Annex B to the Progress Note [PD-007]. The issues identified in that initial assessment were:

- Air Quality;
- Biodiversity, Ecology and Natural Environment;
- Cultural Heritage;
- Green Belt;
- Landscape and Visual;
- Noise and Vibration;
- Traffic and Transport;
- Water Environment;
- Socio-Economic Effects;
- Draft Development Consent Order (dDCO); and
- CA and/ or TP /Rights over land.

4.1.5. The initial assessment of principal issues included a number of sub-headings setting out areas in more detail. These were discussed at the

Preliminary Meeting (PM) and are set out in the Examining Authority's (ExAs) note of the PM [EV-010]. On the basis that the topics set out above were a general list and not exhaustive the parties at the PM considered it generally appropriate.

4.1.6. We have considered the principal issues that it identified in the Rule 6 letter as well as the additional matters raised by Interested Parties (IPs) in the PM. Our detailed findings and conclusions on all the relevant and important matters are set out in Chapters 5 to 13 of this report, except for matters relating to Habitats Regulations Assessment, CA and the dDCO, which are respectively contained in Chapters 14, 16 and 17. All representations, even if not explicitly mentioned, have been fully considered in reaching the conclusions set out.

4.1.7. A number of issues were raised in Written Representations (WRs), nearly all of which fell within the categories of issues identified in the ExA's initial assessment of principal issues, with traffic and transport (including effect on non-motorised users, and on local communities), effects on heritage assets and their settings and biodiversity being the most frequently mentioned matters.

4.1.8. In his Relevant Representation (RR) Daniel Williams [RR-032] considered that the effects of the application had not been considered widely enough and that to meet the scheme objectives additional measures were needed outside the application site. This issue is principally considered in Chapter 12 of this report dealing with Traffic and Transport.

4.1.9. We have taken into account the matters raised in its consideration of the Applicant's Case for the Scheme as updated following the main changes [AS-037].

4.1.10. Relevant Representations (RRs) and WRs, along with documents submitted throughout the Examination, made clear that various Affected Persons (AP) were of the view that mitigation proposals, particularly for replacement tree planting were excessive, and that they could and should be located alternatively. The Applicant expressed the view that the proposal should be considered as a whole. The Applicant accepted that some mitigation could be located in other locations and might be more effective/have less of an effect on one interest but was of the view that these alternative locations would have greater adverse effects on other interests.

4.1.11. The ExA's approach has been to consider each issue individually and then to draw up a Planning Balance in Chapter 15 of this report. This then feeds into the overall conclusion and whether the CA/TP is justified, and whether the Development Consent Order (DCO) should be made, whether in the form submitted or with alterations.

4.2. ISSUES ARISING IN LOCAL IMPACT REPORTS

4.2.1. Two Local Impact Reports (LIRs) were submitted by Staffordshire County Council (SCC) [REP1-007] and SSC [REP1-097] at Deadline (D) 1.

4.2.2. The principal issues raised in the LIRs coincided with the ExA's initial assessment of principal issues, although expressed in different terms, and are:

- Air Quality;
- Biodiversity and Ecology;
- Flood Risk;
- Green Belt;
- Highways and Transport;
- Historic Environment;
- Landscape and Visual Amenity;
- Minerals and Waste;
- Noise; and
- Public Rights of Way.

4.2.3. We have had full regard to the matters identified in the LIRs and these were further explored and considered during the course of the Examination.

4.2.4. Chapters 5 to 14 of this report comprises our detailed consideration of each of the subject matters identified above in relation to the proposed development. Our findings and conclusions are based on the relevant legal and policy framework, plus consideration of issues arising from the LIRs, written submissions and those made orally at the Hearings, as required by s104 PA2008.

4.2.5. Conformity with the National Policy Statement for National Networks (the NPSNN) and other material policy is assessed in the relevant chapters of this Report.

4.3. DESIGN MANUAL FOR ROADS AND BRIDGES UPDATES

4.3.1. As noted in paragraph 3.11.1 Design Manual for Roads and Bridges (DMRB) is the recognised standard guidance for design, assessment and operation of trunk roads in the United Kingdom. Updated methodologies for the environmental assessment of road schemes as outlined in the DMRB were published between July and November 2019. The Applicant notes in its document 'DMRB Updates and the Impact on the DCO Application' [AS-059] paragraphs 1.2.3 and 1.3.4 that despite the timing of the updated DMRB the majority of the assessments reported in the Environmental Statement (ES) were undertaken using the latest methodology. However due to the complexity of the new DMRB standards for air quality and noise and vibration assessment, which were published on 28 November 2019, the Applicant confirmed in this document it was not possible to update the assessment to take into consideration the latest methodology prior to submission of the DCO

application, without incurring a substantial delay to the Proposed Development.

4.3.2. In order to test whether the results of the air quality and noise and vibration assessment (as reported in the ES) would alter when assessed using the new DMRB standards (LA 105 and LA 111), the Applicant undertook sensitivity tests, and where appropriate further assessment. The Applicant provided a report 'DMRB Updates and the Impact on the DCO Application - Amended following DMRB update' [AS-059] to summarise the results of that work and report where changes to those assessments would result in alterations to other aspects of the ES and DCO application. The ExA accepted this into the Examination along with the relevant updated chapters and these have formed the basis of our reporting, assessment and conclusions.

4.3.3. An update to the DMRB in respect of LA106 Cultural Heritage was published in January 2020. However, that revision updated references only from the original document (Revision 0) being published in September 2019 and on which the methodology and assessment was based. There are therefore no consequences for the assessment in that chapter. We are therefore satisfied that the application has been assessed utilising latest guidance.

4.4. EFFECTS OF COVID-19 PANDEMIC

4.4.1. The application was submitted prior to the COVID-19 pandemic and the associated effects. As all of the surveys, with the exception of some additional ecological and archaeological surveys, and analysis were undertaken without that having any influence on the submission it properly captures the situation at the date of the application.

4.4.2. It would be conjecture as to when traffic levels would return to pre-pandemic levels or what, if any, other implications there may be from the pandemic, such as levels of working from home. No party to the Examination suggested that the pandemic made a material difference to any aspect of the consideration of the Proposed Development.

4.4.3. By omitting any consideration of the pandemic, we consider the Examination provides a reasonable and, more importantly, equitable understanding of the situation.

4.5. ACCURACY OF SUBMISSION

4.5.1. In his representation at Deadline 2 [REP2-014] Daniel Williams queried the use of the "Do not scale" proviso on the Applicant's Plans and the caveat from the Applicant's contractor that the drawings had only been prepared for specific purposes.

4.5.2. The Applicant at D8 [REP8-029] notes:

> *"The PDF drawings provided as part of the Examination are illustrative of the Scheme for the purpose required to convey information to relevant parties and the Examining Authority. If*

printed at the correct scale, measurements can be taken from the drawing which would provide an approximation of the dimension but, as stated previously, should not be used for setting out, construction or quantity take off. The disclaimer is intended that, if a measurement is critical to the application, these will be provided separately, hence why drawings also carry the disclaimer that they should be read in conjunction with all other drawings".

4.5.3. Any drawing will only be accurate to the extent that the base survey information is accurate and how precise is the information supplied on that drawing. At a scale of 1:2500 for example (that of the Works Plans [REP7-004]) a 1 millimetre drawn line would represent 2.5 metres wide on the ground. Any element on the ground would be more precise than that. Article 6 of the preferred DCO [REP8-005] also sets out specific limits of deviation.

4.5.4. Further, through the mechanism of Requirement 3 in the preferred DCO [REP8-005][20] there is a Requirement that, if approved, "the authorised development must be designed in detail" for further approval. Even then normal construction practice allows for "Building Tolerance" as matters are undertaken on the ground. We are therefore satisfied that the proviso and caveat do not preclude the use of the submitted information to allow the proper consideration of the application and, if permitted, the construction of the Proposed Development.

4.5.5. Should the Applicant not construct any permitted development in accordance with the approved details then SSC, as local planning authority, has enforcement powers under the PA2008.

4.6. CONSIDERATION OF ALTERNATIVES

4.6.1. Paragraphs 4.26 and 4.27 of the NPSNN deal with the assessment of alternatives. Paragraph 4.26 states the following: *"The EIA Directive requires projects with significant environmental effects to include an outline of the main alternatives studied by the applicant and an indication of the main reasons for the applicant's choice, taking into account the environmental effects*."

4.6.2. Paragraph 4.27 of the NPSNN states: *"All projects should be subject to an options appraisal ..... Where projects have been subject to full options appraisal in achieving their status within Road or Rail Investment Strategies …, option testing need not be considered by the Examining Authority or the decision maker. For national road and rail schemes, proportionate option consideration of alternatives will have been undertaken as part of the investment decision making process. It is not necessary for the Examining Authority and the decision maker to reconsider this process, but they should be satisfied that this assessment has been undertaken."*

[20] Set out in Schedule 2 of the preferred DCO

The Case for the Applicant on alternatives

4.6.3. Chapter 3 of the ES 'Assessment of Alternatives' [APP-042] sets out the Applicant's description of the main alternatives studied and the Applicant's reasoning for selecting the chosen option.

4.6.4. The history of the Proposed Development and consultation undertaken to support that is set out in various documents submitted with the application. These include:

- Introduction to the Application [APP-001];
- The Consultation Report [APP-024];
- Introduction [APP-040];
- Assessment of Alternatives [APP-042];
- Case for the Scheme and National Policy Statement Accordance Table [AS-037]; and
- The Transport Assessment Report [REP3-036].

4.6.5. The need for a new link road between the M54 and the M6/M6 Toll Road was identified in the West Midlands Area Multi Modal Study in 2001 to provide a strategic network link between the M54 and the M6 northbound. The scheme was supported going forward at various times with conceptual options for the new link presented at public information exhibitions held in July 2006.

4.6.6. Between 2009 and 2014 several options were developed, and the Government confirmed its intention to fund the scheme, subject to finalisation of options and agreement on developer contributions, in both the 2013 spending announcement and the National Infrastructure Plan published in December 2013. In January 2014 the scheme was reviewed and progressed with the intention of identifying a preferred route.

4.6.7. In December 2014 the Government published the first Road Investment Strategy: for the 2015/16 – 2019/20 Road Period (RIS1) and in which it formally committed to the delivery of the scheme. It was identified as a scheme committed subject to other contributions and described as 'M54 to M6/M6 Toll link road – adding a north-facing access between the M54 and the M6 and M6 Toll around junctions 10A and 11'.

4.6.8. Between December 2014 and January 2015 Highways England (HE) undertook non-statutory consultation based on three route options.

- Option A providing a new road between M54 junction 1 and M6 junction 11, covering approximately 1.5 miles (2.5 kilometres (km)).
- Option B providing a new road between M54 junction 1 and the M6 and M6 Toll covering approximately 2.2 miles (3.5km).
- Option C widening the M54 from junction 1 to the M6, providing extra capacity through an additional lane in each direction, with new slip roads constructed at M6 junction 10a to provide links to and from the M6 north.

4.6.9. Options A and B followed similar routes, and both accommodated an eastern and western variant.

4.6.10. The Applicant considers that there was no clear decision made on a preferred route based on the consultation as feedback contrasted with HE's technical appraisals. On this basis Options B and C were shortlisted and further technical work was carried out to improve the designs in terms of their environmental and traffic performance. Three modified options evolved Option B (West) amending the vertical alignment of the scheme and additional mitigation measures in the vicinity of Hilton Hall to reduce the impact on the setting of the Listed Buildings. Broadly in the same corridor as Option C two alternatives were developed to the east of Hilton Hall in the area between the M54 and M6; these were identified as Option C (West) and Option C (East).

4.6.11. These options were considered to have different impacts to the ones previously consulted on and therefore a second non-statutory consultation was undertaken between September and October 2017 to seek views on the modified options.

4.6.12. Following consideration of the consultation responses and further survey and assessment a modified Option B (West) was identified as the preferred route. However, this route had originally contained a link to the M6 Toll junction T8 and which was subject to other developer contributions. The level of contributions was not enough to meet the costs of the free flow link. After the non-statutory consultation, the connection was tested with a direct connection to the M6 junction 11. The resulting solution improved the value for money delivered by the scheme, without additional significant environmental effects. An amended modified Option B (West) was therefore announced as the preferred route by the Secretary of State for Transport (the SoST) on 26 September 2018. The preferred route announced was therefore a direct line of approximately 2.5km (1.6 miles) to the east of Featherstone and Shareshill and to the east of the A460. It would pass to the west of Hilton Hall but it did not however include details of the nature of the junction connections at M54 junction 1 or M6 junction 11 as these were still to be fully developed.

4.6.13. The scheme proposals were further developed following the confirmation of the preferred route and in advance of the statutory consultation. Following further engagement with various relevant parties including local and parish councils and affected landowners.

- the design development and engagement undertaken in the lead-up to statutory consultation led to the following further changes to the design of amended modified Option B (West);
- development of the layout of M6 junction 11 to ensure the existing A460 retains a connection at junction 11;
- realignment of the road as it passes Dark Lane to move it approximately 25 metres (m) to the east taking it further away from residential properties (in response to concerns raised by local residents and parish councils);
- refinement of the design at Hilton Lane to reduce changes to the existing road layout and impacts on woodland (The Shrubbery) which contributes to the historic landscape character of Hilton Park;

- changes to the design of M54 junction 1 to avoid the direct loss of ancient woodland at Whitgreaves Wood (which also provides screening for Moseley Old Hall), the loss of a tree belt which screens Featherstone from the M54 and allows retention of the existing noise barrier;
- a change to the alignment to minimise the loss of land around Brookfield Farm and impact on the fishing ponds; and
- introduction of landscaping to minimise visibility of the scheme.

4.6.14. The statutory consultation was undertaken between 24 May and 5 July 2019. It was based on a scheme that identified a link road of approximately 2.5km (1.6 miles) in length between junction 1 of the M54 and junction 11 of the M6. A new junction arrangement would be developed at junction 1 of the M54 that would provide direct links to and from the M54 and maintain the connections to the local road network. There would be a realignment of the main line between Dark Lane and Hilton Hall and a minor realignment of Hilton Lane over the new link road. Also, a new junction would be provided at junction 11 M6 with junction capacity improvements and changes to Mill Lane.

4.6.15. As a result of the statutory consultation further changes were made to the scheme. These included the retention of the connection between Mill Lane and the A460 which had been proposed to be closed. The A460 between Dark Lane and the M6 junction 11 was included within the Order Limits to allow for its de-classification. Amendments were made to the accommodation bridge near Brookfield Farm to increase the traffic width of the structure and an access track altered to facilitate access by larger agricultural vehicles. Also, changes had been made to the mitigation planting to be more in keeping with the landscape character in the Hilton Park Historic Landscape area.

4.6.16. Two further supplementary non-statutory consultations were undertaken concurrently between November and December 2019 as there were further amendments to the draft Order Limits. As a result of these and further statutory consultations following due diligence assessment and identification of additional parties further minor amendments were made to the scheme. These included:

- relocating the attenuation pond to the northwest of M54 junction 1;
- inclusion of additional land in the Order Limits to enable access to Whitgreaves Wood Ancient Woodland works;
- addition of an access track for Tower House Farm and a reduction in the land take from the farm;
- reduction in the permanent land take associated with access to the Mann and Hummell site south of M54 junction 1;
- a change to the footway and cycle access across M6 junction 11;
- a change to the curvature of the road so less land was needed in the verge to the west of the link between Dark Lane and Featherstone junction west roundabout; and
- additional land was included to facilitate utility diversion in respect of a high pressure gas main.

4.6.17. As noted above the application was submitted on 31 January 2020 and accepted for Examination on 28 February 2020 (see paragraph 1.1.1). Subsequent to these the Government laid the Road Investment Strategy 2: 2020-2025 (RIS2) before Parliament on 11 March 2020. The Proposed Development is identified as a scheme with committed funding for the second Road Period (RP2) (covering the financial years 2020/21 to 2024/25) at C16 and is identified as 'M54-M6 Link Road – adding a north-facing access between the M54 and the M6 around junction 10a and 11'.

Issues arising during the Examination on alternatives

4.6.18. There was little opposition to the principle of the Proposed Development from any participant to the Examination (see Chapter 12 of this report). However, a number of IPs, in particular SSC [REP1-097], the Parish Councils [RR-011] and [REP7-031], Rt Hon Gavin Williamson MP [RR-039] and [REP1-070] and Councillor Robert Cope [RR-025] all queried whether the proposed site of the mainline was in the most appropriate location. All were concerned about the effect on the living conditions of the occupiers of properties in Dark Lane and Park Road, particularly from noise. SSC, the Parish Councils and Councillor Cope considered that the road should be located further to the east; predominantly on a different alignment either closer to or to the east of Hilton Hall.

ExA's Conclusion on alternatives

4.6.19. In accordance with paragraph 4.26 of the NPSNN, the Applicant has included within the ES an outline of the main alternatives studied and provided an indication of the main reasons for choice of the preferred route, taking into account the environmental effects.

4.6.20. In accordance with paragraph 4.27 of the NPSNN, we are satisfied that this project has been subject to a full options appraisal in achieving its status within the Road Investment Strategy, and that proportionate option consideration of alternatives would have been undertaken as part of the investment decision making process.

4.6.21. However, that does not mean that the proposed alignment as expressed in the Proposed Development is necessarily acceptable, taking into account all considerations as set out in s104 of the PA2008. That conclusion can only be reached having assessed all the individual planning issues and coming to a balanced conclusion. That the we do in Chapter 15.

4.7. ENVIRONMENTAL IMPACT ASSESSMENT

4.7.1. As recorded in Section 1.5 of this Report, and for the reasons set out there the Proposed Development is EIA development. The documents which comprise the ES and the various addenda to that are set out in the Examination Library set out at Appendix B of this Report. It also records

the environmental management documents proposed to be used by the Applicant, secured through the DCO, to secure the construction and operation of the Proposed Development within the worst-case parameters (the Rochdale envelope) assessed in the ES.

4.7.2. At the same time as submitting the changes to the application, accepted into the Examination in October 2020 [AS-062], the Applicant submitted a number of documents as amendments and addenda to the originally submitted ES. These principally dealt with changes to the assessment of Biodiversity and Noise and Vibration.

4.7.3. In accepting the Changes into the Examination [PD-015] we asked the Applicant to consider what publicity might be appropriate. In response, the Applicant set out its position [REP2-001]. In summary, it indicated that it had already undertaken publicity in August and September 2020 and the Examination Timetable allowed for comments to be made by Deadline 3A (1 December 2020). However, it additionally published notices in newspapers and on site and allowing for comments to be made. The Applicant confirmed in a letter dated 12 February 2021 [REP6-001] that no responses were received to this later publicity.

4.7.4. The final extent of the EIA as submitted can be identified in the Guide to the Application [OD-009] and, although the decision is for the SoST, the ExA considers that taken as a whole this would provide the SoST with a reasoned conclusion on the significant effects of the Proposed Development (see Regulation 21 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended)).

4.8. HABITATS REGULATIONS ASSESMENT

4.8.1. The application was accompanied by a Report [APP-216] entitled *"Habitats Regulations Assessment – No Significant Effects Report"*. This identified an area of search and identified that the nearest national networks site is the Cannock Extension Canal Special Area of Conservation (SAC) some 5.9km to the east of the application site. The Cannock Chase SAC is approximately 6.5km to the north. The nearest Ramsar site is the Midland Meres & Mosses Phases 1 and 2 which are more than 20km from the application site. Although there were seven SACs within 30km of the application site none of these list bats as a qualifying feature.

4.8.2. The report also considered national network sites which may be affected by nitrogen loads and potential increases in this within proximity of the Affected Road Network (ARN). However, the report considered that as neither site, the Cannock Chase SAC and Cannock Extension Canal SAC, was within 200m of the ARN there would be no anticipated effect on air quality.

4.8.3. The Applicant submitted a draft Statement of Common Ground (SoCG) with Natural England (NE) [APP-221]. While NE was satisfied in respect of all other national network sites, it was not satisfied that there would

be no effects on the Cannock Extension Canal SAC due to hydrological linkages between that site and locations within 200m of the ARN.

4.8.4. A final signed SoCG between the Applicant and NE was submitted at D8 [REP8-028]. The SoCG confirmed that in light of the Applicant's response to NE's RR [RR-037][21] and WR [REP1-012] it was agreed that that the Proposed Development would not result in significant effects on national network sites.

4.8.5. We issued a Report on the Implications for European sites (RIES) [PD-026] on 26 February 2021. This is discussed further in Chapter 14 of this report. Consequently, the consideration and conclusions on Habitats Regulations Assessment (HRA) are dealt with in that Chapter.

[21] Following submission of the RR Natural England noted an error with regard to this document relating to the Cannock Extension Canal SSSI and submitted a revised version; this was accepted at the discretion of the ExA [AS-002].

5. FINDINGS AND CONCLUSIONS IN RELATION TO AIR QUALITY

5.1. INTRODUCTION

5.1.1. This chapter considers the effect of the Proposed Development on air quality matters. In particular it deals with:

- Nitrogen Dioxide (NO_2), Nitrogen Oxide (NOx) and particulate emissions; and
- Construction emissions with a bearing on air quality including dust.

5.1.2. This chapter of the report will also consider carbon emissions on the basis that, while it does not affect air quality of itself, it is appropriate to include that element in this part of the report.

5.2. POLICY

5.2.1. The National Policy Statement for National Networks (NPSNN) paragraphs 5.3 to 5.15 deal with air quality and paragraphs 5.16 to 5.19 deal with carbon emissions. Paragraphs 5.81 to 5.89 deal with dust, odour, artificial light, smoke and steam.

Air Quality

National Policy Statement of National Networks

5.2.2. Paragraph 5.3 of the National Policy Statement of National Networks (the NPSNN) sets out *"increases in pollutants during construction or operation phases can result in the worsening of local air quality"*, and *"increased emissions can contribute to adverse impacts on human health, on protected species and habitats"*.

5.2.3. Paragraph 5.7 of the NPSNN indicates that the Environmental Statement (ES) should describe existing air quality levels, forecasts of air quality at the time of opening, assuming that the Proposed Development 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"*.

5.2.4. For decision making, paragraph 5.10 of the NPSNN indicates that the Secretary of State (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 derived legislation.

5.2.5. Paragraph 5.12 of the NPSNN 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".

National Planning Policy Framework

5.2.6. Paragraph 170 of the National Planning Policy Framework (the Framework) advises *"Planning policies and decisions should contribute to and enhance the natural and local environment by: … e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans"*

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

Local Plan

5.2.8. The South Staffordshire Local Plan Core Strategy (the Core Strategy) contains Core Policy 2, Protecting and Enhancing the Natural and Historic Environment, and Core Policy 11, Sustainable Transport to meet strategic objectives.

5.2.9. Core Policy 2 includes Policies EQ1 to 4. Core Policy 2 amongst other matters indicates that *"development or initiatives will generally be supported which … d) protect and improve water and air quality". Policy EQ1 states "Permission will be granted for development (alone or in combination) which would not cause significant harm to sites and/or habitats of nature conservation, geological or geomorphological value, including ancient woodlands and hedgerows, together with species that are protected or under threat"*. In respect of locally designated sites it further advises that *"Locally important sites are also identified [e.g. Sites of Biological Importance (SBIs), Regionally Important Geological Sites (RIGs), Local Nature Reserves (LNRs)] and will be protected and enhanced"*.

5.2.10. Core Policy 11 includes the advice that *"Development proposals will, either individually or collectively, have to make appropriate provision for … improving air quality and reducing the impact of travel upon the environment, in particular reducing carbon emissions that contribute to climate change".* Core Policy 11 further advises that *"The following national and regional transport infrastructure schemes may be delivered in the plan period: …M54/M6/M6 Toll Link Road"*.

Air Quality Plan

5.2.11. The Air Quality Plan for NO_2 in the United Kingdom (UK) sets out to tackle roadside NO_2 concentrations within statutory limits within the

shortest possible time. South Staffordshire Council (SSC) is not named among those local authorities who are to undertake a limit assessment to consider the best options to achieve compliance with this limit value. However, the Air Quality Plan is relevant in that the Proposed Development should not contradict with its main aim which is to achieve compliance with the NO_2 limit values in the shortest time possible.

Carbon Emissions

NNNPS

5.2.12. The NPSNN notes in paragraph 5.16 that *"the impact of road development on aggregate levels of emissions is likely to be very small"*. The ES should describe an assessment of any likely significant climate factors and, for road projects, should provide evidence of the carbon impact of the project and an assessment against Government carbon budgets.

5.2.13. For decision making paragraph 5.18 of the NPSNN indicates the Government's overarching carbon reduction strategy *"includes a range of non-planning policies which will, subject to a very unlikely event occurring, ensure that any carbon increases from road development do not compromise overall carbon reduction commitments. Therefore, any increase in carbon emissions is not a reason to refuse development consent unless the increase in carbon emissions resulting from the proposed scheme are so significant that it would have a material impact on the ability of the Government to meet its carbon reduction targets"*.

5.2.14. Paragraph 5.19 of the NPSNN notes that evidence of appropriate mitigation measures in both design and construction should be presented. The SoS *"will consider the effectiveness of such measures in order to ensure, in relation to design and construction, the carbon footprint is not unnecessarily high"*.

Carbon Budget

5.2.15. The Climate Change Act 2008 (2050 Target Amendment) Order 2019 has come into effect. This has raised the legally binding framework to cut greenhouse gases from 80% to 100% of the 'net UK carbon account' (the amount of net United Kingdom (UK) emissions of targeted greenhouse gases for a period adjusted by the amount of carbon units credited or debited to the account) for the year 2050. The duty is now to ensure that the net UK carbon account is lower than the '1990 baseline'.

5.2.16. Achieving this will require future greenhouse gas emissions to be aligned with any future new or revised carbon budgets that may be set out by Government to achieve the target of net zero carbon by 2050.

5.2.17. The Government announced its Sixth Carbon Budget (the greenhouse gases emitted over a 5-year period from 2033-2037) towards the very end of the Examination. The Carbon Budget Order 2021 was made on 23 June 2021 and came into force the following day. This set a carbon budget for the 2033-2037 budgetary period is 965,000,000 tonnes of

carbon dioxide equivalent. This requires the cutting emissions by 78% by 2035 compared to 1990 levels, this will bring the UK to more than three-quarters of the way to net zero by 2050. Given the timing of this announcement this budget has not been assessed and considered in this Examination and the SoST may wish to satisfy themself of its implications for the Proposed Development. The Proposed Development has been considered on the basis of the previous Carbon Budget to reduce emissions in 2030 by at least 68% compared to 1990 levels.

5.2.18. Furthermore, the SoST published 'Decarbonising transport: a better, greener Britain' on 14 July 2021 as part of the government response to the Sixth Carbon Budget. As this was after the close of the examination it has not formed part of the reasoning for the recommendation. Consequently, the SoST may wish to consider the impact of the proposals in it.

5.3. THE CASE FOR THE APPLICANT

Air Quality

5.3.1. Chapter 5 of the ES [APP-044] deals with air quality. It is supported by four appendices setting out Methodology [APP-165], Monitoring Data [APP-166], Results Tables [APP-167] and Construction Air Quality Mitigation [APP-168]. There are also four relevant figures identified in the Examination Library (EL).

General Approach

5.3.2. The Applicant states that the assessment follows the guidance set out in the Design Manual for Roads and Bridges (DMRB) and associated Interim Advice Notes (IAN) and includes a construction phase dust assessment and assessment of additional construction traffic, as well as local operational air quality for public exposure and European and nationally designated habitat sites. The assessment also includes a compliance risk assessment, Department for Transport (DfT) Web based Transport Analysis Guidance (WebTAG) plan level assessment and regional assessment of pollutant emissions. The Applicant identified key documents that the assessment has been carried out in accordance with and these include:

- DMRB, Volume 11, Section 3, Part 1 'Air Quality' (HA207/07) (Ref 5.1);
- IANs:
    - IAN170/12: Updated air quality advice on the assessment of future NOx and NO_2 projections for users of DMRB Volume 11, Section 3, Part 1 Air Quality;
    - IAN174/130: Updated advice for evaluating significant local air quality effects for users of DMRB Volume 11, Section 3, Part 1 Air Quality;
    - IAN175/13: Updated advice on risk assessment related to compliance with the European Union (EU) Directive on ambient air quality and on the production of proposed scheme Air Quality

Action Plans for users of DMRB Volume 11, Section 3, Part 1 Air Quality;
    - IAN185/15: Updated traffic, air quality and noise advice on the assessment of link speeds and generation of vehicle data into 'speed-bands' for users of DMRB Volume 11, Section 3, Part 1 Air Quality and Section 3, Part 7 Noise; and
- Defra Local Air Quality Management Technical Guidance LAQM.TG(16).

5.3.3. The assessment is undertaken in respect of the construction and operational phases and addresses NOx, NO_2, dust and particulate matter of 10 or 2.5 micrometres or less in diameter (PM_{10}, and $PM_{2.5}$) particles. The Applicant identifies sensitive receptors which it identifies as locations where members of the public may be exposed to or affected by air quality impacts, predominantly residential properties, but can include schools, and internationally or nationally designated ecosystems.

5.3.4. The Applicant sets out the relevant air quality standards and objectives set by the EU and transposed into UK law by the Air Quality Standards Regulations 2010 and those implementing the UK National Air Quality Strategy (AQS). The air quality objective for the protection of vegetation from NOx is based on the work of the United Nations Economic Commission for Europe and World Health Organisation.

5.3.5. The Applicant stated that the local air quality assessment is focussed on the immediate area along and around the Proposed Development and the wider Affected Road Network (ARN) and that the construction assessment is based on best available information. In terms of construction whilst it is likely the construction will be undertaken in phases, including traffic management interventions, the construction dust assessment assumes a single phase as does the construction vehicle movement emissions based on when movements are most frequent. The road traffic emissions are considered on the basis of the point of full opening where there is a single year of opening.

5.3.6. The study area defined by the Applicant used a 200 metres (m) area around the sections of road likely to be affected by the Proposed Development during construction. The routes the Proposed Development would impact are the ARN identified through changes in traffic data between the Do-Something (DS) and Do-Minimum (DM) positions and the criteria in the DMRB.

5.3.7. The Applicant stated that there are no AQMAs within the application site but identifies eight within 200m of the ARN of which the closest is in Wolverhampton and which is within 400m of the application site. SSC AQMA No.1 is also identified as 'soon to be revoked'. This was clarified in the Applicant's responses to First Written Questions (ExQ1) [REP1-036] where the Applicant confirmed South Staffordshire AQMA No.1 (Woodbank, Penkridge) has now been revoked. South Staffordshire's 2019 Air Quality Annual Status Report (ASR) states that this AQMA was revoked in early 2019 due to *"prolonged data gathering demonstrating levels comfortably below [the] objective"*.

5.3.8. In terms of existing monitoring by local authorities, that data collected shows two exceedances of the annual mean objective value of NO_2 across the listed sites within the study area. The Applicant also notes that monitored concentrations can be considered at risk of exceedance of the annual mean objective value for NO_2, where concentrations are within 10% of the objective value, and it identifies four other locations where this occurs.

5.3.9. The Applicant concludes on this basis that:

- national assessments have demonstrated that there is no risk of carbon monoxide, 1,3-butadiene, benzene, lead and sulphur dioxide concentrations exceeding the relevant UK AQS objectives due to emissions from traffic anywhere in the UK. These pollutants have not been considered further as they are very unlikely to be present at levels which would represent potential significant impacts due to the Proposed Development;
- for particulate matter (PM_{10} and $PM_{2.5}$), none of the local authorities within which there is any of the ARN have identified a current risk of annual or daily exceedances; and
- for the hourly mean NO_2 UK AQS objective, none of the local authorities within which there are any of the ARN have identified a current risk of exceedance, so the hourly mean for this pollutant is not considered as part of the air quality assessment in terms of having potential for significant impacts due to the Proposed Development.

5.3.10. On this basis, changes to the annual mean NO_2 concentrations represent the focus of the air quality assessment for public exposure (i.e. residential properties) whilst predicted changes to the concentrations of PM_{10} and $PM_{2.5}$ are also reported consistent with the Planning Inspectorate's Scoping Opinion. The change in annual mean NOx and NO_2 concentrations and rates of nitrogen deposition affecting sensitive ecosystems are also addressed.

5.3.11. The Applicant also used data from its own diffusion tubes located within 200m of the ARN to represent sensitive receptors close to motorways. Of the 66 collection points the data showed no exceedances or risks of exceedances of the annual mean objective value of NO_2.

5.3.12. In terms of EU LVs 12 of the 128 Defra links present within the ARN are predicted to exceed the LVs based on 2017 roadside concentrations but none are predicted to exceed the LVs based on 2024 (year of opening) concentrations. Background pollutant concentration estimates from Defra are predicted to decrease year on year due in large part to improving vehicle exhaust emission standards over time. The decrease is most notable in the annual mean concentrations of NO_2 reported.

5.3.13. The Applicant identified eight designated ecological sites in the air quality study area which contain features which are sensitive to air pollutants. Site relevant critical loads (CLs), background nitrogen deposition rates and NOx concentrations within these designated sites are presented and indicate that CLs for nitrogen deposition are currently exceeded by the

background contribution alone at designated sites in the air quality study area. However, the critical level for NOx for the protection of vegetation (30microgramme (µg)/ cubic metres (m^3)) is not exceeded at any sites.

5.3.14. The Applicant identifies that the Proposed Development has the potential to affect air quality (positively or negatively), both during construction and operation, in the following ways:

- there could be increased emissions of dust during construction of the Proposed Development from dust-raising activities on site;
- there could be emissions associated with non-road mobile machinery (NRMM) undertaking construction works;
- air quality could be affected by changes in traffic flows during construction, as a result of temporary traffic management measures and/or additional vehicles travelling to and from the construction site transporting materials, plant and labour;
- once operational, by changes in vehicle activity (flows, speeds and composition) as a result of the Proposed Development; and
- air quality could be affected by any changes in the distances between sources of emissions and air quality sensitive receptors.

5.3.15. In terms of mitigation the Applicant stated that the final details of any monitoring will be consulted upon between the contractor and SSC and these details will be outlined in the final Construction Environmental Management Plan (CEMP), with outline information included in the Outline Environmental Management Plan (OEMP) as will be mitigation measures.

Assessment of likely significant effects

5.3.16. In terms of dust during construction the Applicant identifies the specific activities that are most likely to generate dust and which would have receptors within 200m of them as follows:

- earthworks, particularly those associated with lowering of grade, affecting residential properties on Dark Lane, Park Road and Hilton Lane in Hilton and at Brookfield Farm, Shareshill;
- construction work across the length of the Proposed Development, affecting properties on A460 Cannock Road, Featherstone, and Dark Lane, Park Road and Hilton Lane, Hilton;
- haul routes potentially affecting residential properties on Cannock Road, Featherstone, and Dark Lane and Hilton Lane, Hilton; and
- material stockpiles, including those at the two construction compounds, affecting residential properties on A460 Cannock Road and isolated properties near Shareshill and Little Saredon.

<u>Dust Assessment</u>

5.3.17. The Applicant considered that, in addition to standard mitigation measures, site specific mitigation measures may be necessary to avoid significant temporary effects on air quality for these activities and locations. They identify that these measures are outlined in the OEMP and concluded that adoption of such measures would minimise the risk of

significant adverse dust effects, such that no likely significant air quality effects would be expected. This is also considered true of mobile or stationary plant.

Local air quality assessment

5.3.18. In terms of construction the Applicant states that the annual mean concentrations of NO_2 are predicted to be below the 40µg/m^3 annual mean NO_2 objective at all human health receptors within the construction phase study area, in the 2024 DS scenario. The highest concentrations are around 38µg/m^3 at locations adjacent to the A460 Cannock Road, as construction vehicles converge to and from the construction site compounds. Of the sensitive receptors for human health that were modelled to consider construction phase effects, the Applicant notes that most are predicted to experience an imperceptible change in annual mean NO_2 concentrations (±≤0.4µg/m^3). The Applicant identified that there would be a worsening of +0.5µg/m^3 of the NO_2 annual mean concentration experienced at two residential receptors close to the junction of A460, New Road and Dark Lane. As such the Applicant concluded that the construction of the Proposed Development would not perceptibly worsen NO_2 concentrations that are already above the air quality objective, nor does it create any new exceedances. Neither does it perceptibly improve NO_2 concentrations above the air quality objective or remove an existing exceedance of the objective.

5.3.19. In terms of annual mean concentrations of PM_{10} and $PM_{2.5}$ the Applicant predicts these to be below the air quality objective values for all receptors considered in the construction phase study area, in the construction phase DS scenario. PM_{10} concentrations peak at around 17µg/m^3 at locations adjacent to the A460 Cannock Road, and $PM_{2.5}$ peaks at around 11µg/m^3 at locations adjacent to the M6 at Junction 11A. The maximum number of days exceeding the 24-hour PM_{10} objective at any receptor is one day. The Applicant therefore concludes that the construction of the Proposed Development would not perceptibly worsen PM_{10} concentrations that are already above the objective, nor does it create any new exceedances. Neither would the Proposed Development perceptibly improve PM_{10} concentrations above the air quality objective or remove an existing exceedance of the objective.

5.3.20. Moving to operational effects, the Applicant predicts annual mean concentrations of NO_2 to be above the 40µg/m^3 annual mean NO_2 objective at six receptors in the 2024 DS scenario. These receptors are all located within 50m of the M6 - two on Lichfield Road at Willenhall and four on Darlaston Road in Walsall.

5.3.21. Of the sensitive receptors for human health that were modelled and are predicted to be within the 40µg/m^3 annual mean NO_2 objective, the Applicant notes more than half (275 out of 521) are predicted to experience an imperceptible change in annual mean NO_2 concentrations (±≤0.4µg/m^3).

5.3.22. Of the remaining the Applicant identified that there would be an improvement at 137 receptors and a worsening at 112 receptors, and that there would be no worsening of more than 4µg/m^3 of the NO_2 annual mean concentrations at any sensitive receptors.

5.3.23. Of the locations predicted to be at the highest concentration level, although this would be below the air quality objective, the Applicant expects two to experience a worsening as a result of the Proposed Development, due to increasing traffic flow on adjacent roads. These include receptors located close to the A449, on the approach to junction 2 of the M54, which are predicted to experience a medium increase (+2.1µg/m^3). This is due to the increase in traffic flow on the M54 east of junction 2. The Applicant also points out that other receptors where the highest concentrations below the objective have been predicted are to experience an improvement as a result of the Proposed Development in operation, due to a decrease in Heavy Duty Vehicles (HDV) flow or traffic flow on adjacent roads.

5.3.24. The Applicant summarised this position as that the impact of the Proposed Development would be imperceptible on the most sensitive areas of the study area, where annual mean concentrations of NO_2 are elevated in excess of or close to the air quality objective in the Do-Minimum (DM) scenario. At locations where the Proposed Development would have its greatest impacts, the DS concentrations are well below the air quality objective values. As such, the operation of the Proposed Development would not perceptibly worsen NO_2 concentrations that are already above the air quality objective, nor does it create any new exceedances. Neither does it perceptibly improve any NO_2 concentrations above the air quality objective or remove an existing exceedance of the objective.

5.3.25. Turning to PM_{10} and $PM_{2.5}$ concentrations during operation the Applicant predicts the annual mean concentrations of PM_{10} to be below the 40µg/m^3 objective value at all sensitive receptors for human health that were modelled within the study area, both with and without the Proposed Development in the opening year of 2024. The maximum concentration with the Proposed Development in operation is 24.9µg/m^3. Additionally, all receptors within the study area are predicted to be below the objective for the number of days exceedance of the 24-hour PM_{10} objective, both with and without the Proposed Development. For PM_{10}, the vast majority (515 out of 527) of sensitive receptors for human health that were modelled within the study area are predicted to experience an imperceptible change in annual mean concentrations (±≤0.4µg/m^3) with the Proposed Development in operation. This, according to the Applicant, is because PM_{10} is less sensitive to changes in traffic movements and speed than NO_2.

5.3.26. In summary, the Applicant concludes the most sensitive areas of the study area, where annual mean concentrations of PM_{10} are highest, are well below that air quality objective and the impact of the Proposed Development would be imperceptible. At locations where the Proposed Development has its greatest impacts, the DS concentrations would be

well below the air quality objective values. As such, the operation of the Proposed Development would not perceptibly worsen PM_{10} concentrations that are already above the objective, nor does it create any new exceedances. Neither does it perceptibly improve PM_{10} concentrations above the air quality objective or remove an existing exceedance of the objective.

5.3.27. The Applicant noted that the maximum $PM_{2.5}$ background concentration in the opening year of 10.7µg/m^3. The maximum road PM_{10} contribution (of which $PM_{2.5}$ is a fraction) is 9.3µg/m^3 with the Proposed Development in operation. Therefore, total concentrations of $PM_{2.5}$ are also anticipated to be well below the objective value of 25µg/m^3 at all receptors within the study area. Significant air quality effects are therefore not predicted for $PM_{2.5}$.

5.3.28. In terms of local air quality impacts on designated ecosystems the Applicant predicts a maximum increase of +5.3µg/m^3 in annual mean NO_x concentrations at the Stowe Pool and Walk Mill Clay Pit Site of Special Scientific Interest (SSSI) due to the operation of the Proposed Development in 2024, as a result of increased traffic flows on the A460 and the M6 Toll. A smaller increase in annual mean NOx is predicted for some sections of the Chasewater and the Southern Staffordshire Coalfield Heaths SSSI, again due to increased traffic flow on the M6 Toll. An improvement in annual mean NOx is predicted to occur at sections of Four Ashes Pit SSSI, of Station Drive and Belvide Reservoir SSSI, on the A5, west of the A449. Impacts on nutrient nitrogen deposition are predicted to be negligible at all sites.

5.3.29. The significance of the predicted changes in NOx and nitrogen deposition for these designated habitats is considered in Chapter 8 of the ES: Biodiversity [APP-047] and is addressed further in Chapters 6 and 14 below. In summary no likely significant air quality effects are anticipated from the changes in air quality predicted.

5.3.30. The Applicant confirmed a WebTAG appraisal had been carried out in respect of $PM_{2.5}$ and NO_2 exposure.

5.3.31. The results of the WebTAG appraisal for the opening year show that the score for $PM_{2.5}$ is negative, meaning a reduction in overall levels of exposure to that pollutant and, therefore, providing a net benefit. The occupiers of and visitors to 11,662 properties are predicted to experience an improvement in concentrations, 1,583 properties are predicted to experience no change and 8,079 a deterioration. The WebTAG appraisal for the design year (2039) shows that for $PM_{2.5}$ there is again a net benefit (shown by a negative score). The occupiers of and visitors to 14,042 properties are predicted to experience an improvement in concentrations, 1,475 properties are predicted to experience no change and 7,736 a deterioration.

5.3.32. The results of the WebTAG appraisal for the opening year show that the score for NO_2 is negative, meaning a reduction in overall levels of exposure to that pollutant and, therefore, providing a net benefit. A total

of 13,058 properties are predicted to experience an improvement in concentrations, 367 properties are predicted to experience no change and 7,899 a deterioration. The results of the WebTAG appraisal for the design year (2039) show that for NO_2 there is again a net benefit with a negative score. A total of 15,387 properties are predicted to experience an improvement in concentrations, 64 properties are predicted to experience no change and 7,802 a deterioration.

5.3.33. The Applicant's regional assessment outlines the results of the regional air quality assessment for the opening year (2024) and design year (2039) for Carbon Dioxide (CO_2), NOx, PM_{10} and $PM_{2.5}$.

5.3.34. The Applicant stated the results indicate that reduced emissions of NOx, PM_{10} and $PM_{2.5}$ are anticipated between the present or baseline situation and the opening year without the Proposed Development (see Table 5.16 of Chapter 5 of the ES [APP-044]). These reductions are due to projected improvements in vehicle emissions over time. A small increase is predicted in CO_2, as the increase in traffic expected over time is not outweighed by expected improvements in CO_2 emissions.

5.3.35. Increases in emissions of NOx, within the 2024 ARN, and CO_2, within the full traffic data dataset, are anticipated by the Applicant in the opening year in the DS situation compared to the DM situation. This is primarily because of the increased traffic flows predicted with the operation of the Proposed Development and increases in vehicle kilometres travelled. A very small decrease in PM_{10} is anticipated along with no change in $PM_{2.5}$ emissions where the increase in vehicle kilometres travelled is offset by changes in fleet composition, with the average percentage of HDVs across the ARN reducing from 8.5% without the Proposed Development to 7.7% with the Proposed Development.

5.3.36. The Applicant noted that in comparison to national CO_2 emissions targets, increases in CO_2 from the whole of the strategic road building schemes, as noted in the NPSNN, anticipated over the next 10 to 15 years are considered to be small and the increases associated with the Proposed Development are part of that small increase.

5.3.37. The Applicant anticipates increases in emissions of NOx, within the 2039 ARN, and CO_2, within the full traffic dataset, in the design year in the DS situation compared to DM situation. This is primarily due to the increased traffic flows predicted with the operation of the Proposed Development and increases in vehicle kilometres travelled. A very small decrease in PM_{10} is anticipated along with an equally small increase in $PM_{2.5}$ emissions where the increase in vehicle kilometres travelled is offset by changes in fleet composition, with the average percentage of HDVs across the ARN reducing from 7.7% without the Proposed Development to 7.0% with the Proposed Development.

5.3.38. In terms of the significance of effect the Applicant concludes that there are no locations where receptors are predicted to experience a perceptible increase in annual mean NO_2 concentrations that would cause a new exceedance of the NO_2 annual mean air quality objective or

worsen an existing exceedance of the objective. Moreover, no locations are affected by potentially significant changes in PM_{10} or $PM_{2.5}$ and all receptors are predicted to be below the relevant objective values for these pollutants.

5.3.39. Overall, the Applicant concluded, as there are no properties with adverse changes in air quality (small, medium or large) above the objective and there is no adverse effect on air quality for compliance links or European and nationally designated habitat sites, an overall evaluation of 'not significant' has been assigned to the effects of the Proposed Development on traffic emissions in both the construction and operational phases.

Carbon Emissions

5.3.40. ES Chapter 14 Climate in the ES [APP-053] deals with climate impacts associated with the construction and operation of the Proposed Development. This chapter of the report deals with carbon emissions. The assessment within the ES includes consideration of the effect on the climate of greenhouse gas (GHG) emissions arising from the Proposed Development.

5.3.41. The baseline conditions for the GHG impact assessment were determined using modelled volumes of traffic currently on the existing road network, and its predicted future use (accounting for increases in traffic and associated congestion) through to year 2083 (assuming a Proposed Development lifetime of 60 years). The assessment considers the construction and operation of the Proposed Development.

5.3.42. GHG emissions outputs from Highways England's (HE) Carbon Tool have been reported as tonnes of carbon dioxide equivalent (tCO_2e) and have considered the following gases:

- carbon dioxide (CO_2);
- methane (CH_4);
- nitrous oxide (N_2O);
- sulphur hexafluoride (SF_6);
- hydrofluorocarbons (HFCs); and
- perfluorocarbons (PFCs).

5.3.43. GHG calculations performed without the use of the HE Carbon Tool also consider nitrogen trifluoride (NF_3), which was added to the list of six Kyoto Protocol GHGs in 2018.

5.3.44. GHG emissions from the end of life stage (decommissioning) of the Proposed Development have been scoped out of the assessment due to the anticipated operational life of the Proposed Development. The replacement of particular elements of the Proposed Development is included as part of the maintenance lifecycle stage of the GHG assessment.

5.3.45. The study area adopted for the GHG impact assessment covers all direct GHG emissions (those arising from construction and operational activities

undertaken within the application site) and indirect GHG emissions (those associated with construction materials and the transportation of materials and waste). The boundary is based on the traffic model contained in the Transport Assessment Report (TAR).

5.3.46. In terms of potential impacts the Applicant identifies potential likely impacts during construction and operation of the Proposed Development.

5.3.47. A construction emissions benchmark has been created based on various other HE schemes, normalised by road length, which gives a range of 19,090tCO_2e to 35,900tCO_2e per kilometre (km) of road. Construction emissions associated with the Proposed Development fall slightly towards the lower end of the scale, at 23,400tCO_2e per km of road.

5.3.48. In the year of opening, the Applicant predicts GHG emissions would be approximately 13,800tCO_2e higher than the DM scenario, whilst for the design year (2039), GHG emissions with the Proposed Development would be approximately 14,990tCO_2e higher than the DM scenario. The increase in emissions, according to the Applicant, is due to the increase in vehicle kilometres travelled as a result of the Proposed Development.

5.3.49. The operational GHG emissions reported herein are, according to the Applicant, a worst-case scenario and are likely to be mitigated by existing plans and initiatives to decarbonise the grid and electrify road transport.

5.3.50. At the time the application was prepared the UK Government had passed into law the following carbon budgets up to 2032:

- Third Carbon Budget (2018 to 2022) 2,544 metric tonnes of carbon dioxide equivalent (MtCO_2e).
- Fourth Carbon Budget (2023 to 2027) 1,950MtCO_2e.
- Fifth Carbon Budget (2028 to 2032) 1,725MtCO_2e.

5.3.51. The Applicant does not expect that the near-term carbon budgets will be significantly different to those currently published. The Applicant notes construction of the Proposed Development is a short-term activity that runs from 2021 to 2024. Emissions from construction therefore fall within the nearer term third carbon budget. Emissions from the operation of the Proposed Development will fall into the third, fourth, fifth and subsequent future budgets once set through to 2050.

5.3.52. The Applicant states the assessment has established that during the period when carbon emissions from the Proposed Development would be at their highest level (short- and near-term construction activity and the first year of operation), the Proposed Development would only contribute 0.0013% of the UK's carbon budget for the Third Carbon Budget period. The Proposed Development's carbon emissions would equate to 0.0048% of the UK's carbon budget for the Fourth Carbon Budget period and 0.0043% of the UK's carbon budget for the Fifth Carbon Budget period. The Applicant stated these figures are based on a precautionary assessment which does not take into account or rely upon the further

decarbonisation of the UK electricity system or the ongoing move to lower carbon fuels for vehicles.

5.3.53. The Applicant draws attention to the NPSNN which states that it is very unlikely that the impacts of a road project would, in isolation, affect the ability of the government to meet its carbon reduction plans. The Applicant considers emissions arising as a result of the Proposed Development represent less than 0.01% of total emissions in any five-year carbon budget during which they arise. In this context, the Applicant concludes that the GHG impacts of the Proposed Development would not have a material impact on carbon reduction targets as set by the UK government.

5.4. REQUIREMENTS (R)

5.4.1. Draft Development Consent Order (dDCO) Requirement (R) 4 seeks to secure a CEMP in accordance with the OEMP [REP7-025], which must be followed during construction. Following completion, a Handover Environmental Management Plan (HEMP) would be developed to ensure proper maintenance. This includes aspects related to mitigation measures for dust.

5.5. THE POSITION OF THE INTERESTED PARTIES (IPs)

SSC

5.5.1. In the Council's Local Impact Report (LIR) [REP1-097] SSC state that the assessment submitted indicates that air quality standards are unlikely to be breached in Dark Lane, although air quality levels are likely to deteriorate due to the proximity of the proposed road, and for that reason there is concern. The Council goes on to indicate that the Applicant states there would be no significant effect on air quality during the construction and operational stages. While SSC has no comments or evidence to the contrary, SSC would like to see working practices put in place that prevent/ reduce construction noise and dust presented within a CEMP to be consulted on and agreed prior to any commencement of construction.

5.5.2. The Applicant and SSC also entered into a Statement of Common Ground (SoCG) [REP7-028] and in which the parties agree that the ES appropriately assesses the effect of the Proposed Development on air quality and SSC has no objections to the methodology or the findings.

5.5.3. In relation to Dark Lane the parties agree that the assessment presented in the ES shows that the annual mean NO_2 concentrations are far below the air quality objective values. In particular, the DM annual mean NO_2 concentration predicted on Dark Lane at the receptor closest to the Proposed Development is 17.2µg/m^3, with a DS concentration of 19.9µg/m^3; this equates to an impact of +2.7µg/m^3. The objective limit is 40µg/m^3, so the levels are less than half of the objective levels.

5.5.4. The Parties also agree in the SoCG that whilst there is a deterioration (albeit a small one and far below objective levels) close to the Proposed

Development, there are much larger improvements elsewhere on Dark Lane as a result of the reduced traffic along the A460 and the closure of Dark Lane north of the last property. The DM annual mean NO_2 concentration predicted on Dark Lane. at the receptor closest to Cannock Road (A460) is 28.3µg/m^3, with a DS concentration of 19.6µg/m^3; this equates to an impact of -8.7µg/m^3. The parties agree that the air quality assessment is robust and agree with the findings above.

5.5.5. The parties do have one point of disagreement, where SSC state it remains of the view that the alignment should have been placed further east to further reduce the air quality impact at properties where a deterioration would be experienced with the link road in place. The Applicant is of the view that the alignment at Dark Lane is the best alignment for the Proposed Development, with the lowest environmental impacts.

5.5.6. The parties also agreed that dDCO R4 and the CEMP and OEMP would address the issue raised in the LIR regarding working practices and consultation.

Hilton, Featherstone & Brinsford and Shareshill Parish Council

5.5.7. Hilton Parish Council in its Relevant Representation (RR) [RR-011] included a comment that the Proposed Development was very close to existing domestic dwellings leading to noise, air & light pollution and vibration from the volume of traffic. Featherstone & Shareshill Parish Council's representative in their RR [RR-025] included concerns about the noise pollution and air quality levels affecting the nearest properties in proximity which are only a short distance from the link road.

5.5.8. There is a SoCG [REP7-031] signed between the Applicant and the relevant Parish Councils where it is recorded that the proximity of the route houses on Dark Lane is of particular concern albeit the Parish Councils understand the explanation for the preferred route. It is not their preferred route. In respect of air quality and noise it is recorded that the Parish Councils agree the information requested on air quality and noise has been provided to enable understanding of the impacts. However, they remain concerned about the impacts and reserve the right to reassess post-opening.

Public Health England

5.5.9. Public Health England provided a RR [RR-009] at the start of the Examination and in which it stated that on the basis of the documentation as reviewed, notwithstanding our comments, *"we can confirm that we have chosen NOT to register an interest with the Planning Inspectorate on this occasion"*..

5.5.10. In respect of Air Quality issues it stated: *"we are reassured that earlier comments raised by us on 2nd July 2020 relating to air quality and*

hydrogeology have been sufficiently addressed. We have no further comments to make with respect to health and wellbeing."

Natural England

5.5.11. In its RR [RR-037] Natural England (NE) identified a number of issues and areas on which its remit connected with the Proposed Development. In respect of matters related to air quality there were two headline points. Firstly, 'Cannock Extension Canal' Special Area of Conservation (SAC) – further discussion was needed between NE and the Applicant regarding air quality impacts before NE could advise the SoS that the proposal will have no likely significant effects upon this European Site. Secondly, 'Cannock Extension Canal', 'Stowe Pool & Walkmill Claypit' SSSI and 'Chasewater and the Southern Staffordshire Coalfield Heaths' SSSI – NE confirmed it would continue its dialogue with the Applicant to verify the ES conclusions regarding air quality impacts and to establish the potential need for and scope of mitigation. Primarily the issues focused around in-combination effects and the approval of projects that would add further to pollution levels where the relevant European site is already regarded as 'ecologically failing' due to existing ('background') levels of nitrogen related pollution.

5.5.12. Whilst these represented an opening position further discussions between the Applicant and NE continued, and a signed SoCG [REP8-028] recorded the areas of agreement and disagreement between the parties. This resulted in the Applicant's comments on these matters being recorded as agreed. The agreed comments stated:

"With regard to the Stowe Pool & Walk Mill Claypit SSSI, paragraph 8.9.128 of the ES states that "The implementation of the Scheme would result in an increase in Nitrogen deposition of up to 0.3 kg N/ha/yr within the SSSI". The maximum change in Ndep is +0.3 kg N/ha/yr (up to 10 m from the ARN) (+0.2 kg N/ha/yr/ up to 40 m from the ARN).

For freshwater bodies and fresh watercourses there are no robust assessment thresholds for critical loads available on [the Air Pollution Information System] APIS (Ref 8.51) and most freshwater bodies are phosphate-limited (i.e. phosphorus is the naturally scarce nutrient that controls eutrophication, rather than nitrogen which is naturally relatively abundant in most lowland freshwater systems). As the predominant habitat type is listed as standing open water and canals (Ref 8.51), the change has been assessed against the higher end of critical load range for this habitat type (10 kg N/ha/yr) as the lower end of the range is intended for oligotrophic lakes with little agricultural input that are often limited by nitrogen. Up to 40 m from the ARN, the site will be subject to an increase in nitrogen deposition of 2-3%. However, the change in nitrogen deposition is less than 0.4 kg N/ha/yr. The site comprises predominantly open water which is already exposed to traffic emissions. Given the size of the water body, mixing and dilution of the deposited nitrogen would be expected, minimising any effects. Therefore, it is not considered likely that the white-clawed crayfish population would be affected.

Therefore, in summary, no change to the qualifying features of Stowe Pool and Walk Mill Clay Pit SSSI would be anticipated which is an effect of neutral significance.

The Air Pollution Information System (APIS) website states that for the whiteclawed crayfish interest features of Stowe Pool & Walk Mill Claypit SSSI no critical load has been assigned. This is because the majority of lowland open freshwater bodies are phosphorus limited (i.e. phosphorus is the principal nutrient limiting eutrophication) rather than nitrogen limited. Phosphorus does not come from vehicle exhaust emissions. Moreover, in the absence of any appropriate nitrogen critical load, no modelling assessment can be undertaken. As detailed in paragraph 8.9.127 of the ES [AS-025/6.1], an increase in NOx or nitrogen deposition does not necessarily equate to a significant effect that requires mitigating.

With regard to the Chasewater and the Southern Staffordshire Coalfield Heaths SSSI there are six units within 200m of the ARN (Units 7, 8, 9, 13, 14 and 15). There is no change in nitrogen deposition for units 7, 9, 13 and 15 (or a change of less than 0.1kg N/ha/yr). Nitrogen deposition would only increase (i.e. an increase of 0.1 kg N/ha/yr or greater) in two of the Chasewater and the Southern Staffordshire Coalfield Heaths SSSI units (Unit 8 and Unit 14), and this increase is less than 1% of the critical load for dwarf shrub heath and fen, marsh and swamp (respectively). In line with DMRB LA 105, this is not considered to result in a significant effect on the SSSI and therefore no mitigation measures are proposed. Note that the assessment of impacts [on] these statutory ecological sites from nitrogen deposition is inherently cumulative. The traffic data used in the air quality assessment takes into account traffic flows associated with 'reasonably foreseeable' developments."

5.5.13. NE's concerns related to possible air quality impacts on designated sites which are discussed in full in Chapter 14 of this report dealing with Habitats Regulation Assessment (HRA). The conclusion there is that the proposed development, either on its own or in combination with other plans or projects, is unlikely to have a significant effect on those sites.

5.6. PLANNING ISSUES

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

5.7. ExA CONSIDERATIONS

Air Quality

5.7.1. There has been no robust or technical objections or concerns raised in respect of the effect on air quality. The Parish Councils and SSC raise issues related to the alignment of the mainline and the preferred route, expressing concern that its proximity to residential properties around Dark Lane would result in deteriorating environment for local residents

including in respect of air quality. They do not however provide any evidence or data to support these assertions and SSC confirmed that their Environmental Health department did not raise any objections to the Proposed Development.

5.7.2. The Applicant's air quality assessment concludes that there are no properties with adverse changes in air quality (small, medium or large) above the objective and there is no adverse effect on air quality for compliance links. Whilst the assessment does identify locations where the air quality position would be worse than in the DM situation the increase in concentrations of pollutants would be imperceptible or a small change as a result of the Proposed Development and would be below limit values or objectives.

5.7.3. The locations where concentrations of pollutants are highest was identified as around the M6 junction, but the Proposed Development was shown to have an imperceptible increase in the NO_2 levels.

5.7.4. In broad terms the WebTAG assessment shows that in the year of opening the score for NO_2 is negative, meaning a reduction in overall levels of exposure to that pollutant and, therefore, providing a net benefit. A total of 13,058 properties are predicted to experience an improvement in concentrations, 367 properties are predicted to experience no change and 7,899 a deterioration. The results of the WebTAG appraisal for the design year (2039) show that for NO_2 there is again a net benefit with a negative score. A total of 15,387 properties are predicted to experience an improvement in concentrations, 64 properties are predicted to experience no change and 7,802 a deterioration.

5.7.5. The WebTAG appraisal for the opening year also shows that the score for $PM_{2.5}$ is negative, meaning a reduction in overall levels of exposure to that pollutant and, therefore, providing a net benefit. A total of 11,662 properties are predicted to experience an improvement in concentrations, 1,583 properties are predicted to experience no change and 8,079 a deterioration. The WebTAG appraisal for the design year (2039) show that for $PM_{2.5}$ there is again a net benefit (shown by a negative score). A total of 14,042 properties are predicted to experience an improvement in concentrations, 1,475 properties are predicted to experience no change and 7,736 a deterioration.

5.7.6. There are locations such as around Featherstone on the approach to the M54 junction and on the southern section of the A460 and at Shareshill on the approach to the M6 junction on the A460 where pollutant concentrations are reduced by large or small to medium decreases.

5.7.7. Overall, we are satisfied the Proposed Development would not result in significant adverse effects on air quality. Whilst there are areas which would have increases in pollutant levels these would not perceptibly worsen concentrations in those areas already above any objective and would not create any new exceedances. Across the study area there would be a net benefit for air quality for sensitive receptors.

5.7.8. The issue with regard to the effect of NOx concentrations and nitrogen deposition was resolved during the Examination between the Applicant and NE such that it was concluded that the Proposed Development would not have a significant effect on European sites or nationally designated nature conservation sites. This is more fully addressed in the HRA Chapter 14 below.

5.7.9. During construction there would be the potential for dust to affect air quality, with particular impacts on residential receptors in relatively close proximity to the works. However, with the implementation of appropriate management regimes including best practice methods, as outlined in the assessment, which would be secured by the CEMP, which must be in accordance with the OEMP, and dDCO R4, this could be mitigated to an acceptable level. SSC and the Parish Councils sought assurances around consultation and accepted that this was a reasonable position. These are also secured through the OEMP and Register of Environmental Actions and Commitments (REAC).

5.7.10. Air quality was addressed in the ES and no significant issues were raised regarding the assessment; it was addressed in SSC's LIR and was considered during the Examination. On the basis of the evidence before the Examination we are satisfied that the Proposed Development would not result in unacceptable air quality impacts, it would meet the tests in the NPSNN and would not result in a significant effect or deterioration of air quality and would not adversely affect an AQMA or nature conservation site. The Proposed Development would therefore also not conflict with Core Policy 2, Policy EQ1 or Core Policy 11 in the Core Strategy.

Carbon emissions

5.7.11. The NPSNN advises that traffic related emissions are expected to continue to fall, there are therefore only very limited circumstances in which a highway proposal will lead to material adverse change in CO_2 emissions, on a scale that would bear on the achievement of the statutory carbon budget. This Proposed Development is not of sufficient scale to have such an effect. Its immediate carbon impact has been taken into account within the Benefit Cost Ratio and the Proposed Development is considered to be in accordance with the NPSNN.

5.7.12. The Government has set carbon budgets which at the start of the Examination included the Third (2018-2022), Fourth (2023-2027) and Fifth (2028-32). The GHG emissions for the Proposed Development in net terms between the DS and DM scenarios would result in a total increase of 206,860tCO_2e. Splitting these between Construction (81,890tCO_2e) and operation (121,730tCO_2e) and across the relevant Carbon Budget, given that the construction would take place in 2021-2024 and opening would be in 2024, the Proposed Development would contribute to 0.0013% of the UK's carbon budget for the third carbon budget period. The Proposed Development's carbon emissions would equate to 0.0048% of the UK's carbon budget for the fourth carbon budget period and 0.0043% of the UK's carbon budget for the Fifth Carbon Budget period.

5.7.13. The Committee on Climate Change (the CCC) published its Sixth Carbon Budget Report on 9 December 2020, with recommendations for the 2033 to 2037 period. The CCC recommended a net reduction of 78% between 1990 and 2035, therefore the bringing forward of the previous 80% target by nearly 15 years. We asked the Applicant in ExQ3.12.1 [PD-023] if the Applicant could make an assessment of the change in greenhouse gas emissions from the development in respect of the Third, Fourth and Fifth Carbon Budgets, and comment on what effect, if any, that this might have on the Government's ability to meet any revised target set by Parliament. The Applicant responded by stating as the Third, Fourth and Fifth Carbon Budgets have remained the same following publication of the Sixth Carbon Budget, the percentage contribution from the Proposed Development remains the same for these periods despite the Government's more ambitious carbon reduction target. When compared against the Sixth Carbon Budget (1,000 $MtCO_2e$), GHG emissions from the Proposed Development represent 0.0079%, which is higher than for the previous budgets, but still well below the significance threshold of 1% of a given carbon budget. Therefore, the Applicant's conclusion that *"the GHG impact of the Proposed Development would not have a material impact on carbon reduction targets as set by the UK government"* remains applicable following publication of the Sixth Carbon Budget Report in line with the Government's more ambitious carbon reduction targets [REP6-039].

5.7.14. The SoST will be aware that a Sixth Carbon Budget (2033-2037) has recently been announced but this occurred too late in the Examination to enable consideration of its effect. This has now been brought into legal effect through the Carbon Budget Order 2021. The SoST may therefore wish to satisfy themselves as to whether this and/ or 'Decarbonising transport: a better, greener Britain' have any implications for the consideration of the Proposed Development.

5.7.15. There were no substantive issues or concerns raised by any party with regard to the Applicant's assessment of the effects or broader implications in respect of Carbon emissions.

5.7.16. In the context of the effect of the Proposed Development given the Applicant's comments regarding the committee reports advised budget allocations there is unlikely to be a significant effect. But the SoST may wish to consider the impact of the CO_2 equivalent emissions for the operational phase in relation to the relevant carbon budget now that it is available and the cumulative impact of emissions for the NPSNN in the context of the revised net carbon target and other projects and programmes, namely RIS1/RIS2.

5.8. CONCLUSIONS

5.8.1. Taking the relevant documents and policies into account we conclude as follows:

- The construction phase has the potential for adverse effects to arise from dust but these can be appropriately mitigated and the mitigation is secured through dDCO R4 which provides that the CEMP must be substantially in accordance with the OEMP and reflect the mitigation measures set out within the REAC . There are no other significant air quality effects resulting from the construction of the Proposed Development.
- There would be a net benefit of the Proposed Development to air quality receptors within the study area. Whilst there would be some locations where there would be increases in pollutant levels these increases would be imperceptible or small and would not result in concentrations exceeding air quality objective levels.
- The Proposed Development is estimated to cause a net increase (DS-DM) of 206,860tCO_2e which split across the prevailing carbon budgets would contribute to 0.0013% of the Third Carbon Budget period, 0.0048% of the Fourth Carbon Budget period and 0.0043% of The Fifth Carbon Budget period.
- The SoST may wish to satisfy themselves as to the impact of the publication of the Sixth Carbon Budget, which was announced at the end of the Examination period, the Carbon Budget Order 2021 and consider the impact of the CO_2 equivalent emissions for the operational phase in relation to the relevant carbon budget now that it is available and the cumulative impact of emissions for the NPSNN in the context of the revised net carbon target and other projects and programmes, namely RIS1/RIS2.
- The SoST may wish to also consider the impact of 'Decarbonising transport: a better, greener Britain' as part of the government response to the Sixth Carbon Budget.

6. FINDINGS AND CONCLUSIONS IN RELATION TO BIODIVERSITY, ECOLOGY AND THE NATURAL ENVIRONMENT

6.1. INTRODUCTION

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

- International/ national (Sites of Special Scientific Interest (SSSIs)) and local protected habitats, including designated Sites of Biological Importance (SBIs);
- Ancient woodland and protected trees (including veteran trees);
- Protected species; and
- Geological significance

6.1.2. Matters relating to Habitats Regulations Assessment (HRA) are set out in Chapter 14.

6.2. POLICY AND LEGAL CONTEXT

The National Policy Statement for National Networks

6.2.1. The National Policy Statement for National Networks (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"*.

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

6.2.3. Specifically, in relation to ancient woodlands and veteran trees, paragraph 5.32 of the NPSNN states the SoS *"… should not grant development consent for any development that would result in the loss or deterioration of irreplaceable habitats including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the national need for and benefits of the development, in that location, clearly outweigh the loss. … Where such trees would be affected by*

development proposals, the applicant should set out proposals for their conservation or, where their loss is unavoidable, the reasons for this".

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

6.2.5. Paragraph 5.168 of the NPSNN indicates that applicants should ensure that they have considered the risk posed by land contamination and how it is proposed to address this.

The National Planning Policy Framework and Planning Practice Guidance

6.2.6. The National Planning Policy Framework (the Framework) emphasizes (paragraph 170) that sites of ecological or geological value and soils should be protected and enhanced by, amongst other matters, net gains for biodiversity. Paragraph 175 of the Framework notes that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated then planning permission should be refused. Similarly, development outside a SSSI which is likely to have an adverse effect on it should not normally be permitted, unless the benefits of the development in the location clearly outweigh both its likely impact on the features of the site that make it of special scientific interest and any broader impacts on the national network of SSSIs.

6.2.7. Paragraph 175 of the Framework goes on to state that development resulting in the loss of veteran trees should be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists. Footnote 58 gives examples of wholly exceptional circumstances including Nationally Significant Infrastructure Projects (NSIPs) where the public benefit would clearly outweigh the loss or deterioration of habitat.

6.2.8. The Planning Practice Guidance (the PPG) explains[22] biodiversity net gain as delivering measurable improvements by creating or enhancing habitats. The PPG also indicates[23] the Department for Environment, Food and Rural Affairs (Defra) biodiversity metric can be used to demonstrate whether or not biodiversity net gain will be achieved[24]. The PPG also

[22] Reference ID: 8-022-20190721
[23] Reference ID: 8-025-20190721
[24] Natural England (NE) published its Biodiversity Metric 3.0 on 7 July 2021 following the close of the examination. However, we note that the relevant page of NE's website (http://nepubprod.appspot.com/publication/6049804846366720) states *"Users of the previous Biodiversity Metric 2.0 should continue to use that metric (unless requested to do otherwise by their client or consenting body) for the duration of the project it is being used for as they may find that the biodiversity unit values metric 2.0 generates will differ from those generated by Biodiversity Metric 3.0"*. We consider that the use of Biodiversity Metric 2.0 for the consideration of this Proposed Development would be appropriate as NE are satisfied it can continue

states[25] *"… it is good practice to establish a detailed management plan to ensure appropriate management of the habitat in the long term"*.

LOCAL PLAN

6.2.9. The South Staffordshire Local Plan Core Strategy (the Core Strategy) contains policies to protect the natural environment. In particular Policy EQ1 indicates that permission will be granted for development that would not cause significant harm to sites and/or habitats of nature conservation, geological or geomorphological value, including ancient woodlands and hedgerows. This Policy refers to international, national and local sites, including in the last case referencing SBIs, and concludes by stating *that "… wherever possible, development proposals should build in biodiversity by incorporating ecologically sensitive design and features for biodiversity within the development scheme"*.

6.3. THE APPLICANT'S CASE

Introduction

6.3.1. The most relevant elements of the application in relation to biodiversity and ecology are:

- Chapter 8 of the Environmental Statement (ES) Biodiversity [AS-083], - and its associated Appendices and Figures;
- Chapter 9 of the ES Geology and Soils [APP-048],– and its associated Appendices and Figures; and
- Outline Environmental Management Plan (OEMP) [REP7-026].

6.3.2. In each case the assessment of effects follows the methodology set out in the Design Manual for Roads and Bridges (DMRB), and in the case of biodiversity also uses the Guidelines for Ecological Impact Assessment in the United Kingdom (UK) and Ireland (the 'CIEEM guidelines'). The Applicant considers that the baseline is unlikely to change materially between the surveys and either the start or finish of construction.

6.3.3. Because of the potential for effects of pollution on Sites of Biological Importance (SBIs), there has been consideration of air quality effects, which are discussed in more detail in Chapter 5 of this report.

BIODIVERSITY

General Approach

6.3.4. The general approach is set out in the ES. It involves defining the Zone of Influence (ZoI) of the Proposed Development, undertaking desk and field based assessments, determining the nature conservation importance, assessing the effects on those elements of nature

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to be used in existing projects. Should the Secretary of State for Transport consider that the Biodiversity Metric 3.0 should be used then this may require further consultation.

[25] Reference ID: 8-027-20190721

conservation importance, designing avoidance, mitigation and compensatory measures, and identifying opportunities for biodiversity enhancements.

6.3.5. The Applicant acknowledges that the Proposed Development would result in direct habitat loss, and consequent fragmentations of populations and habitats, disturbance, habitat degradation and species mortality during construction. Once operational the Applicant acknowledges that there would be direct impacts on species fragmentation, habitat degradation and disturbance.

6.3.6. The following sets out the Applicant's analysis of the habitats and species present, what the effects would be, and the mitigation proposed. Where appropriate this is described in relation to the individual habitat or species, but when it would be more generic, it is described at the end of the relevant section.

6.3.7. Mitigation and compensation would be secured through the OEMP, and thus the Construction Environmental Management Plan (the CEMP) which would be approved pursuant to Requirement 4 of the draft Development Consent Order (the dDCO).

Habitats

International sites

6.3.8. No statutory international nature conservation designations lie within 2 kilometre (km) of the application site. In addition, none of the sites identified within 30km of the application site are designated for bats, and none are located within 200 metre (m) of the Affected Road Network (the ARN). However, there was a discussion between the Applicant and Natural England (NE) as to whether, due to hydrological connectivity to sites within 200m of the ARN, there was a potential effect on the Cannock Canal Extension Special Area of Conservation (SAC). This SAC is located some 6km to the east of the application site. This is discussed in Chapter 14 of this report.

Nationally designated sites

6.3.9. There are four SSSIs within 2km of the Proposed Development or within 200m of the ARN. Those within 2km of the application site are shown at [APP-112]. The four SSSIs are:

- Stowe Pool and Walk Mill Clay Pit SSSI – some 1.5km northeast of the application Site – designated for its populations of white-clawed crayfish;
- Four Ashes Pit SSSI – approximately 4.1km northwest of the application site, but approximately 7m from the ARN – designated for its geological interest;
- Chasewater and the Southern Staffordshire Coalfield Heaths SSSI – approximately 7.5km northwest of the application site, but approximately 38m from the ARN – designated as wet and dry

lowland heath, with oligotrophic standing open water and support for scarce vascular plant species; and
- Belvide Reservoir SSSI – approximately 9.5km northwest of the application site, but approximately 1m from the ARN – designated as a wintering site for shoveler (*Anas clypeata)* and which also supports other important bird populations.

6.3.10. The Applicant maintains that there would be no change to nationally designated sites resulting from the Proposed Development during construction and consequently the effects on these sites would be of neutral significance.

6.3.11. During operation the only potential adverse effects arise from nitrogen deposition from air pollution. As the Four Ashes Pit SSSI is designated for its geological interest the Applicant maintains the Proposed Development would have no effects on this SSSI. The Applicant considers that the implementation of the Proposed Development would result in a reduction in nitrogen deposition at the Belvide Reservoir SSSI but at imperceptible levels leading to a neutral significance.

6.3.12. In relation to Stowe Pool and Walk Mill Clay Pit SSSI the Applicant maintains that while there would be a small increase in nitrogen deposition due to the nature of the site, including its size leading to mixing, there would be no change to the qualifying features. Consequently, it maintains there would be effects of neutral significance on this habitat.

6.3.13. The habitat of the Chasewater and the Southern Staffordshire Coalfield Heaths SSSI consists of a number of individual units, with different effects anticipated. Overall, the Applicant maintains that the effects would not be significant from NOx concentrations or nitrogen deposition.

Statutory local nature conservation sites

6.3.14. Two Local Nature Reserves (LNRs) have been identified as potentially affected by the Proposed Development. These are shown at [APP-112]:

- Wyrley and Essington Canal LNR– approximately 1.4km east of the application site - designated for a variety of wildlife habitats, including open water, dry canal bed, wet grassland, scrub and woodland which supports bird and invertebrate species, some of which are included on the Staffordshire Biodiversity Action Plan; and
- Rough Wood Chase LNR – located approximately 5km to the southeast of the application site but within 200m of the ARN – designated as the largest oak woodland in Walsall and as it supports protected species.

6.3.15. The Applicant maintains that there would be no change to statutory local nature conservation sites resulting from the Proposed Development, either during construction or in operation, and consequently the effects would be of neutral significance on statutory local nature conservation sites.

Non-statutory nature conservation sites

6.3.16. The Applicant identified two non-statutory nature conservation sites within the application site, and eighteen within 2km of the application site. Full details are set out in Table 8.9 in Chapter 8 of the ES [AS-083]. In addition, 62 locally designated sites have been identified within 200m of the ARN.

6.3.17. The two sites within the application site are:

- Lower Pool SBI and Local Wildlife Site (LWS), designated as a large ornamental pool with both emergent and floating vegetation; and
- Brookfield Farm (northeast of), Shareshill SBI and LWS, designated as an area of wet woodland comprising alder and willow carr that is drying out in some areas of the site. Part of the site has been classified as ancient woodland.

6.3.18. Lower Pool SBI is of county importance and Brookfield Farm SBI is of county importance with the ancient woodland element being of national importance.

6.3.19. For the reasons set out in Table 8.9 in Chapter 8 of the ES [AS-083] the Applicant scoped out the remaining non-statutory nature conservation sites from consideration.

Lower Pool LWS and SBI

6.3.20. The Applicant acknowledged that the Proposed Development would result in the direct, irreversible loss of woodland and standing water. This would represent the permanent loss of 2.04ha of woodland and 0.46ha of standing water comprising some 39.6% of the LWS and SBI boundary.

6.3.21. The Applicant maintains that despite the LWS and SBI designations, the area is characterised as broadleaved/mixed plantation with a variable species-poor ground layer, which is absent in places, and the standing water comprises an ornamental fishing lake shaded by surrounding woodland. The Applicant considers it unsuitable to support great crested newts (GCNs) and no field signs for water vole or otter were recorded. Notwithstanding this, the Applicant acknowledged that it is an important ecological feature, and the loss would have an adverse impact on ecological function and the integrity of habitats.

6.3.22. The Applicant therefore proposes compensation in the form of 6.29 hectare (ha) of habitat, consisting of 4.84 ha of woodland planting and 0.57ha of standing water surrounded by 0.78ha of grassland. These, it is stated (paragraph 8.9.12 of Chapter 8 of the ES [AS-083]), *"… would be connected to the retained LWS and SBI habitats by species rich grassland proposed on the road embankments, tree and hedgerow planting at the base on the embankments and hedgerow planting along Hilton Lane. Furthermore, a diversion of Watercourse 3 under the Scheme and an associated mammal tunnel will provide additional connectivity. This ratio of habitat compensation to loss is considered appropriate given the importance of the LWS and the length of time it takes new woodland*

planting to establish." This compensation habitat would thereafter be managed.

6.3.23. Given the length of time that it would take for the proposed habitats to be established and function well, the Applicant considers that the construction effects of the Proposed Development would be a moderate adverse impact on the LWS (effects of slight significance) in the medium term (10 - 30 years), reducing to an effect of neutral significance in the long term (beyond 30 years) once habitats are established.

6.3.24. Operationally, the Applicant maintained that applications of rock salt to the carriageway for winter maintenance would be at relevant standards and would become diluted. Any spray would be within 5m of the boundary and effects would not be anticipated.

Brookfield Farm, Shareshill LWS and SBI

6.3.25. Approximately 0.71ha of woodland comprising 15% of the LWS would be lost, although following the accepted October changes to the application none would be ancient woodland. However, as works would be within 15m of ancient woodland NE guidance would mean that that it would be considered lost; this would amount to 0.029ha. This is discussed below in paragraphs 6.3.30 to 6.3.42.

6.3.26. As the Proposed Development would cross Latherford Brook with a 10m wide span approximately 30m in length, there would be some 71m of channel affected during construction. Latherford Brook supports both otter and water vole and the effects on those species are considered in paragraphs 6.3.97 to 6.3.102.

6.3.27. To compensate for the loss of woodland habitat, excluding ancient woodland, 2.54ha of additional woodland habitat is proposed surrounding the LWS and SBI to the east and connected to the SBI to the west of the Proposed Development as well as 0.39ha of standing water immediately to the south. The Applicant maintains that as the channel would be retained in the medium to long term and there would be no permanent loss of brook habitat, the majority of the LWS/SBI would be retained, and given the length of time it would take for the proposed habitats to function, the Proposed Development would have a moderate negative adverse impact on the LWS/SBI, resulting in an effect of slight significance in the medium term (10 - 30 years), reducing to an effect of neutral significance in the long term (beyond 30 years), once habitats are fully established.

6.3.28. Given that the LWS/SBI supports habitats that rely on the water supply, through mitigation measures delivered through the OEMP/CEMP, the Applicant maintains that the magnitude of impact of pollution or hydrological change upon all other non-statutory sites would be negligible, resulting in an effect of neutral significance.

6.3.29. In operation the Applicant anticipates the same effects as on the Lower Pool LWS and SBI from salt deposition but acknowledged that there would be effects from nitrogen deposition. In terms of the SBI, excluding

the ancient woodland, the Applicant maintains that through the additional woodland habitat and additional standing water, this would only be likely to result in a minor adverse impact of neutral significance.

Ancient Woodland and Veteran Trees

6.3.30. There are two areas of ancient woodland within the application site, and both are within 200m of the ARN. These are at Whitgreaves Wood (also known as Oxden Leasow) and Brookfields Farm. As Ancient Woodland is an irreplaceable habitat any loss cannot be mitigated.

6.3.31. Whitgreaves Wood is a broadleaved semi-natural woodland supporting nine plant species indicative of ancient woodland. Whitgreaves Wood is in the ownership and management of the National Trust. The National Trust has confirmed [REP1-014] that of the land within its control in the application site shown on the Land Plans [REP6-004] Plot 3/7b (the main car park for Moseley Old Hall) is held inalienably, and Plots 3/7a, 3/7c and 4/2 are currently alienable. Plots 3/7a and 4/2 comprise Whitgreaves Wood (Oxden Leasow Ancient Semi-Natural Woodland) together with a section of woodland planted early in the current century and the eastern edge of a field; Plot 3/7c comprises the overflow car park of Moseley Old Hall.

6.3.32. Brookfields Farm is a broadleaved semi-natural woodland belt with a diverse age structure and well-developed understorey and ground layer. Normal NE guidance is that any development within 15m of ancient woodland would have a detrimental effect; the Applicant has not sought to show any other approach is applicable.

6.3.33. There are six other areas identified as ancient and semi-natural woodland within 2km of the application site and six additional ancient woodland sites were identified as part of the air quality assessment; while all of these latter six are within 200m of the ARN they are further than 2km from the application site.

6.3.34. There would be no direct loss of ancient woodland at Whitgreaves Wood, but construction work would take place within 15m therefore 0.32ha is assumed as lost, from disturbance, including light and noise.

6.3.35. To compensate for the effects at Whitgreaves Wood the Applicant has agreed a mechanism whereby the woodland would be improved. This would be compensated for at a ratio of 7:1, as agreed with NE (see page 21 of the Statement of Common Ground (SoCG) between the Applicant and NE [REP8-028]). The mechanism may include matters such as selective thinning and associated activities, with the National Trust maintaining the land in its improved state. This is secured through a Land Agreement and Planning Obligation [OD-011] which has been completed in counterpart.

6.3.36. In respect of Brookfields Farm, the Proposed Development would be within 15m of an ancient woodland (within Brookfield Farm LWS and SBI). the Applicant has therefore assumed that 0.029ha would be lost due to compaction of tree roots and soil. The location of the land

identified for these compensation measures is illustrated on the Environmental Masterplan on Figures 2.1 to 2.2 [REP7-017] and [REP7-018]. This would be followed up with conservation-led management of both ancient woodlands.

6.3.37. The Applicant acknowledged that ancient woodland with its long history and complexity of habitat cannot be replicated, and certainly not within 15 years. Even if the measures incorporated into the Proposed Development were implemented, taken together, the Applicant accepts the losses of ancient woodland from these two areas at the construction stage would represent a reduction in the overall extent of this irreplaceable habitat. This would result in a major adverse impact, which is an effect of large significance.

6.3.38. During the operational phase, the Applicant noted that ancient woodland within 200m of the ARN may be subject to impacts through increased nitrogen deposition as a result of changes to traffic flows. The Applicant maintains this would not result in loss of the woodland but could lead to changes in species composition within the affected woodland. The Applicant therefore proposes that where this is the case, compensatory replacement woodland habitat would be provided at a ratio of 1:1 by area, but as ancient woodland is irreplaceable this would be a moderate adverse impact resulting in an effect of moderate significance.

6.3.39. Due to the proximity of the mainline to the ancient woodland at Brookfields Farm, once the Proposed Development was operational, there would be effects from nitrogen deposition. This would be compensated for in the replacement planting described above. However, as ancient woodland is irreplaceable this, the Applicant asserts, would result in a moderate adverse impact resulting in an effect of moderate significance.

6.3.40. For the other semi-natural ancient woodlands within 200m of the ARN the Applicant maintains that there would be no operational impact.

6.3.41. There are six veteran trees within the application site (T137, T211, T214, T221, T226 (prominent) and T227) with the locations shown in Appendix 7.1: Arboricultural Impact Assessment [APP-174]. An additional 12 veteran trees were identified within 200m of the ARN but are outside the application site. Further detail on these veteran trees is provided in [AS-059]. As none of these trees would be directly affected the Applicant considers that the construction effects of the Proposed Development would be of neutral significance.

6.3.42. However, in the operational phase, there would be an increase in nitrogen deposition, but this would be only significant for a single veteran tree (T137) and only above neutral for one other (T221). Due to the nature of ancient trees any effects, the Applicant states, would be subtle and thus only have an effect of slight significance.

Hedgerows and Other Trees

6.3.43. An assessment was undertaken of hedgerows to identify those which may be classified as 'ancient hedgerows'; being those which were in

existence before the Enclosure Acts of the eighteenth and nineteenth centuries. These are important as they support the greatest diversity of plants and animals. Based on map analysis the Applicant identified a single hedgerow as potentially ancient. This is on the northeastern side of Latherford Brook. Confirmation from mapping analysis could not be undertaken due to there being no maps which pre-dated 1840.

6.3.44. A second hedgerow was identified as potentially ancient immediately north of Hilton Lane. However, the Applicant concluded that due to the lack of mapping evidence and its poor species profile it was not an ancient hedgerow.

6.3.45. There are numerous other trees within the application site, including trees covered by Tree Preservation Orders. While these trees are of import for biodiversity and ecology, the main effects are considered in Chapter 9 of this report relating to Landscape and Visual Effects.

6.3.46. Protection measures, as set out in British Standard BS5837:2012[26], would be provided for retained trees and hedgerows.

6.3.47. The Proposed Development would result in the loss of approximately 3.4km of hedgerows (not including the ancient hedgerow identified above). This would be replaced by some 7.2km of native, species-rich hedgerow. Given this difference in length the Applicant considers the new provision would be of minor beneficial impact, resulting in an effect of slight significance.

Habitats of Principal Importance (HPIs)

6.3.48. The Applicant identified multiple blocks of woodland as HPIs within the desk study area. These are shown on Figure 8.5 [APP-115] and they are considered to be of local ecological importance. These areas are primarily associated with the statutorily designated sites and roadside vegetation.

Mitigation and compensation measures

6.3.49. Apart from the specific measures identified for ancient woodland and the retained trees and hedgerows as set out above, the Applicant's general approach to mitigation is set out in paragraph 8.8.4 of Chapter 8 of the ES [AS-083]. During the construction phase this would consist of the introduction of pollution prevention control measures, principally related to potential water pollution and construction dust and noise, and through management of invasive species, habitat creation, and enhancements to watercourses, particularly Watercourse 5 (Latherford Brook).

6.3.50. This habitat creation would consist of soft landscaping targeting creation of priority habitats, the replacement of species-poor semi-improved grassland with species-rich grassland, the use of felled trees as ecological

[26] Trees in Relation to design, demolition and construction – Recommendations.

features, and the provision of eight new ecology ponds. These are all shown on the Environmental Masterplan [REP7-016 to REP7-022].

6.3.51. Once operational, the Applicant sees the effects of the Proposed Development being mitigated by the management of operational run-off in accordance with the Road Drainage Strategy [APP-201].

6.3.52. Table 8.18 of Chapter 8 of the ES [AS-083] sets out habitat losses and gains. Of particular note in relation to the objections set out below, is the loss of 16.73ha of broadleaved plantation and mixed plantation woodland. The majority of this is associated with roadside planting along the existing M54, M6[27] and A460 and is less than 30 years old. This loss of this woodland would be mitigated for through the creation of 15.3ha of native woodland within the application site. Overall, the Applicant sees this loss and alternative provision as of neutral significance.

6.3.53. Furthermore, the Proposed Development would result in the loss of 25.45ha of improved and amenity grassland, and 2.50ha of poor semi-improved grassland. This loss of grassland would be mitigated through the creation of 38.20ha of species-rich grassland primarily along the new road verges, within roundabouts and to replace some adjacent arable habitats. Given the species-rich grassland would be subject to management, the Applicant maintains that once established, the new grassland would be of minor beneficial impact which is of slight significance.

6.3.54. The various waterbodies would be replaced by eight ponds and marginal wetland habitat. These are in addition to the drainage proposals. As they would be subject to management, the Applicant maintains that once established the new waterbodies would be of minor beneficial impact which is of slight significance.

6.3.55. In relation to running water habitats, 323m would be lost to culverts to be replaced by 408m of watercourse habitat. Although not a primary function (to drain land) the ditches would provide ecological benefit as a secondary function. Furthermore, the Applicant points out that enhancements to retained watercourses would also be undertaken. Overall, the Applicant considers that once established there would be a negligible impact, which is an effect of neutral significance.

Species

6.3.56. Field studies were undertaken between 2018 and 2020, including after the submission of the application. The details of these are set out in paragraph 8.3.9 of Chapter 8 of the ES [AS-083]. Those relating to badgers and barn owls were submitted on a confidential basis, but notwithstanding this we have taken them into account. The summaries identified in this Report derive from the public versions of the ES.

[27] Paragraph 8.9.33 of Chapter 8 of the ES [AS-083] refers to the M60; we consider this to be a typographic error.

Badgers

6.3.57. Badger surveys did not identify any setts within the application site. But within the study area there were two main setts formed of two separate clans. They were identified as of local ecological importance.

6.3.58. During the construction phase, one outlier sett would need to be removed with impacts on foraging habitat. NE licensing would be required, and NE has issued a letter of no impediment (Annex B to [REP1-012]). The landscape design is stated as to allow for appropriate planting to be incorporated to account for where losses of badger foraging resources have occurred.

6.3.59. Three mammal tunnels and guide fencing under the link road element of the Proposed Development are proposed to allow badgers and other animals to safely cross the road. As a consequence of this, the Applicant considers that residual effects on badgers would be negligible and of neutral significance at both the construction and operational stages.

Barn owl

6.3.60. While records indicate 22 barn owl records within 5km of the application site in the last 10 years, only one was within the application site at the western extremity where the M54 meets the A449 and away from the main body of works.

6.3.61. In addition, studies were undertaken to identify potential habitat features which are broadly suited to barn owls. As identified in paragraphs 8.6.21 to 8.6.23 of Chapter 8 of the ES [AS-083] not all the buildings and trees could be surveyed. However, the Applicant concluded that due to the isolated nature of the Proposed Development, as a result of the surrounding major road network, combined with low quantity of suitable habitat, there is little opportunity for barn owl to utilise the application site for foraging or dispersal. Consequently, barn owl interest was assessed as being of no more than local importance.

6.3.62. The Applicant maintains that to reduce potential collision risks to barn owls during the operational phase fencing and landscaping would be introduced. Overall given the precautions set out, the Applicant considers that residual effects on barn owls during construction are negligible and of neutral significance.

6.3.63. Operationally, the Applicant considers that the planting, fencing and noise barriers (where appropriate) would encourage barn owls to increase their flight height to reduce the risk of road traffic collision. Noise effects of the operational development are not considered to affect roosting birds in the vicinity so, overall, the Proposed Development is considered to have a neutral effect on barn owls.

Bats

6.3.64. Desk studies identified the presence of at least six different bat species. All accessible trees were subject to preliminary bat roost assessment and

208 trees were identified as having low, moderate or high potential to support roosting bats. From this, 128 trees were identified for aerial inspection, but due to lack of access and suitability/safety to climb only 92 were surveyed.

6.3.65. Two roosts were identified within the application site, for noctule bat and a likely *Pipestrelle* sp., both within the Lower Pool SBI site. Notwithstanding this, given the known occurrence of summer bat roosts within trees and the species known in the area, the Applicant took a precautionary approach with the assumption of additional day roosts in tree roosts.

6.3.66. Of the 29 structures identified as requiring assessment for bat roosting potential, access was possible for 17 structures. Roosts were identified in seven buildings, all outside the application site. These were all day roosts of individual or low numbers of individual non-breeding bats and are thus, asserts the Applicant, of no more than local importance.

6.3.67. At a meeting at one of the buildings not formally surveyed some 29m to the east of the application site the surveyors identified an accumulation of droppings on an external windowsill and heard audible socialising by bats. From this it was assumed that the building in question supports a brown long-eared bat *Plecotus auritus* maternity roost. For the reasons set out in paragraphs 8.6.40 to 8.6.41 of Chapter 8 of the ES [AS-083] the Applicant considers this maternity roost to be of local importance.

6.3.68. Transect activity surveys were undertaken and identified a minimum of seven bat species. Activity was centred around woodland edge, aquatic habitat (ponds and lakes and watercourses – particularly Watercourse 5 (Latherford Brook)) and along hedgerow/tree lines, with noctules also recorded utilising open fields.

6.3.69. Static detector location surveys identified a minimum of ten species across the application site. Again, activity was associated with the wet mature woodland at Shareshill SBI in proximity to Watercourse 5 (Latherford Brook) and woodland and aquatic habitat at Lower Pool SBI. Specifically, static locations at Watercourse 5 (Latherford Brook), and within Lower Pool SBI were the areas of highest activity.

6.3.70. Crossing point surveys indicated that none of the points identified significant commuting routes for large numbers of bats. Specific surveys identified no definitive or likely important commuting routes. According to the Applicant this therefore indicated that the area was being used for foraging rather than as a linear feature for movement.

6.3.71. Table 8.14 of Chapter 8 of the ES [AS-083] identifies the community and foraging values as either being of county or local importance. Taking all these factors into account the Applicant identifies that the assemblance of bats utilising the study area as being of local importance.

6.3.72. To compensate for habitat losses during the construction phase, the landscape design includes the creation of habitats of value to foraging and commuting bats, using recommended plant species within Highways

England guidance in LA 118 of the DMRB. Linear habitat features, including hedgerows, would be incorporated into the landscape design (Environmental Masterplan [REP7-016 to REP7-022]) to mitigate for habitats lost and ensure ecological connectivity within and across the application site, and into the wider landscape.

6.3.73. Measures would be implemented during the construction phase to minimise impacts on foraging and commuting bats. This includes keeping lighting to a minimum by limited night-time working and reducing lighting within habitats of value to bats. The site compounds would be occupied at all times for the security of the plant, equipment, and materials within it. As such, the compounds would be lit as required during hours of darkness. Lighting would be directional and positioned to minimise light spill.

6.3.74. Construction would result in the loss of two known bat roosts and additional assumed day roosts and potential hibernation roosts within trees within the application site. Analysis of noise events in proximity to bat roosts has also been undertaken and could be some 19 decibels (dB) above current ambient levels. However the Applicant considers that noise events would be unlikely to result in significant effects such as abandonment of roosts.

6.3.75. Following a 'shadow' licence application to it by the Applicant NE has issued a letter of no impediment (Annex B to [REP1-012]) relying on the application as originally submitted. This includes mitigation for the effects, pre-construction surveys to confirm roost status and installation of bat boxes on retained trees.

6.3.76. The Applicant considers that bat activity in the area is low to moderate, with most activity by common and widespread species, although a range of species is present. Due to the existing fragmentation of habitats in the area the Applicant acknowledges bats are susceptible to further fragmentation.

6.3.77. The Applicant accepted that the Proposed Development would result in the loss of some habitats that have higher levels of bat activity, including woodland and wetland associated with Lower Pool LWS and SBI, woodland edge and riparian habitats associated with Latherford Brook, but considers them localised.

6.3.78. Construction work itself would be likely to be short-lived when in proximity to bat habitats and could be timed to minimise effects.

6.3.79. Bat boxes would be provided at a ratio of 3:1 for roosts lost in line with any NE licence, and therefore the Applicant believes that the conservation status of the local bat population would be maintained.

6.3.80. Further, the Applicant noted that there would be creation of standing water, species rich grassland and woodland habitat. This would be connected around the margins of the Proposed Development and into the wider landscape. With the majority of the new habitat to the west of the link road, there would be, so the Applicant considers, *"… linear habitat to*

encourage crossing of the Scheme across two bridge locations at Hilton Lane and the accommodation bridge to the north. These are in locations where the road is in cutting (the Scheme will pass below Hilton Lane at 6m below current ground level and the new bridge is to be 1.7m above existing ground level giving a difference of 7.7m – the accommodation bridge will be 4m above ground level) therefore avoiding potential collision risk associated with this crossing" (paragraph 9.8.81 of Chapter 8 of the ES [AS-083]). Furthermore, the Applicant maintained that there is potential for connection to the west of the A460 to link to habitats in that location.

6.3.81. At Latherford Brook, the Applicant noted that the Proposed Development *"… rises to 8.5 m above existing ground level on a clearspan bridge located over the brook and as such bats would continue to be able to move between retained and newly created foraging habitats to the west and east of the Scheme associated with the brook"* (paragraph 8.9.81 of Chapter 8 of the ES [AS-083]).

6.3.82. Taking all the above together the Applicant considers that there would be a negligible impact on bats during the construction period.

6.3.83. During the operational phase, the Applicant identifies the main impacts as direct mortality and reduction in habitat quality due to artificial light. The former could occur through the severance of flight lines or where bats may cross the highway when following new linear features.

6.3.84. Different species tend to fly at different heights and the Applicant maintains that the absence of lighting along the main length of the Proposed Development would ensure lesser adverse effects, although the junctions would be lit as at present. The Applicant asserts that careful design of the landscaping at known bat activity hot spots and flyways has been undertaken. The landscaping for the area in question is shown on Sheet 3 of the Environmental Masterplan [REP7-020].

6.3.85. The Applicant considers that as *"a good proportion of the Scheme is in a cutting"* (paragraph 8.9.158 of Chapter 8 of the ES [AS-083]), the risk of accidental mortality would be reduced. The Applicant maintains that crossing point surveys do not indicate significant flight lines would be severed. Two survey locations were undertaken (B and E) and E would not be severed. The majority of activity at location B was by foraging pipistrelles rather than any indication of significant flight lines.

6.3.86. The Applicant maintains that the linear habitat guiding bats to the crossings of the mainline at Hilton Lane and at the Brookfield Farm accommodation bridge would avoid collision risk to the species most commonly recorded. Accidental mortality would be unlikely to adversely impact the conservation status of local bat population so that the magnitude of impact on all bat species would be negligible leading to a minor adverse effect that is not significant.

Breeding birds

6.3.87. Records indicate 86 protected or notable bird species within 2km of the Application site in the last ten years. Paragraph 8.6.53 of Chapter 8 of the ES [AS-083] summarises their importance and full details are set out in Annex A to ES Appendix 8.8 [APP-180].

6.3.88. During surveys undertaken in 2018 and 2019 57 species were recorded, and of these 32 had breeding territories and a further 13 probably or possibly breeding territories. The Applicant maintains that as no species of high priority were found in the survey area and it does not support a breeding assemblage that collectively exceeds the indices of representative habitats the area is of local ecological importance for breeding birds.

6.3.89. Mitigation would consist of avoiding vegetation clearance during the breeding season, but where that was not possible ecological checks would be undertaken. Measures would be put in place to deter breeding before it takes place.

6.3.90. The Applicant accepts that direct loss of breeding habitat used by farmland birds is unavoidable if the Proposed Development were to be constructed. Consequently the breeding territories of one dunnock, five skylark, two song thrush and one lapwing, as notable bird species, would be lost and the losses of farmland, hedgerow and scrub habitat would have an adverse impact on individual species that are present in greater numbers.

6.3.91. The Applicant believes that during construction uncovered topsoil mounds and temporarily fallow areas of farmland within the application site would provide opportunities for nesting and foraging birds, which would reduce the magnitude of the impact of habitat loss upon individual species.

6.3.92. Subject to appropriate timings in the year, and the avoidance of harm/ disturbance to active nests, the Applicant believes that the impact of direct mortality to all breeding bird species during construction would be negligible, resulting in an effect of neutral significance.

6.3.93. Operationally, the Applicant acknowledges that some birds are at a higher risk as they fly at low heights. However, it maintains that with the new hedgerows and shelter belts around the LWS/ SBIs and as a good proportion of the link road would be in cutting, this would reduce the risk of direct mortality. Further, appropriate lighting design would minimise light spill on to adjacent habitats. Consequently, the Applicant considers that operation of the Proposed Development would have a negligible impact resulting in a neutral effect on the breeding assemblages.

Wintering birds

6.3.94. Records indicate 59 bird species in the area, and of these 23 were recorded during the surveys as meeting at least one of a range of criteria

relating to conservation importance. Full details are set out in paragraph 8.6.61 of Chapter 8 of the ES [AS-083].

6.3.95. In light of this the Applicant considers the remaining bird assemblage is considered to be typical for the habitat types present within and adjacent to the study area. It also considers the nature conservation value of the breeding bird assemblage on site to be of no greater than local ecological importance with respect to species associated with scrub, hedgerow, pond and farmland habitats.

6.3.96. The Applicant maintains that in operation there would be similar effects on wintering birds as those on breeding birds and thus the operation of the Proposed Development would also have a neutral effect.

Otter and water vole

6.3.97. Records did not identify the presence of either otter or water vole on the application site. However, the 2019 presence/ absence surveys identified both otter and water vole present within Watercourse 5 (Latherford Brook), together with one potential otter holt. Although this holt is within the application site, it would be over 200m from the footprint of the built development and thus would not be physically affected. Details of the locations are set out in Figure 8.27 [APP-131] to the ES.

6.3.98. Based on these survey findings, and as otters are a common species in the county, the Applicant considers that the otter population which may be affected by the Proposed Development are of county importance.

6.3.99. Similarly, based on survey findings, the Applicant considers that the water vole population which may be affected is of county importance.

6.3.100. Pre-construction surveys would be undertaken and, if necessary, NE licensing procedures followed. Precautionary vegetation clearance would take place and foraging habitat has been incorporated into the Proposed Development.

6.3.101. During the operation of the Proposed Development, the Applicant maintains that the three mammal tunnels and the span of the bridge over Watercourse 5 (Latherford Brook) would ensure otters and other animals would be able to cross the mainline of the Proposed Development.

6.3.102. Should water voles be discovered during construction preparation works, the new ecology pond on the western side of the application site could be used as a receptor area. The temporary loss of habitat suitable for foraging and shelter is unlikely to have a significant impact on otter due to the large home range of the species. Consequently, the Applicant considers that the impacts on otter and water vole would be negligible.

Great crested newt

6.3.103. Records indicate great crested newts (GCN) in nine different locations within 2km of the Application site boundary. Surveys were undertaken in

2019 and 2020, with the latter aiming to fill gaps in former survey data. Notwithstanding the 2020 surveys 13 potential waterbodies remained un-surveyed due to landowner permission issues.

6.3.104. The 2019 survey data identified positive eDNA results in three waterbodies and, utilising the precautionary principle in respect of those waterbodies which could not be surveyed, the Applicant assumed that in total there were seven GCN metapopulations each of medium size. Each of these metapopulations is considered to be of county ecological importance.

6.3.105. A short time into the Examination the Applicant submitted a letter of no impediment from NE in relation to GCN licencing requirements (Annex B of [REP1-012]). The 2020 surveys confirmed absence of GCNs so mitigation for the assumed GCN populations was no longer required, reducing the mitigation the Applicant considered was necessary.

6.3.106. NE originally confirmed that it did not need to issue a revised letter of no impediment but following discussions at Issue Specific Hearing 1 (ISH1), the Applicant agreed to make a revised 'shadow' application for such a letter. NE confirmed in a revised letter dated 11 March 2021 [REP9-004] that on the basis of the amended proposals it sees no impediment to a licence being issued.

6.3.107. The amended proposals would be related to each of the metapopulations, with surveys which would be updated pre-construction. Ecology ponds would be created as would be species-rich grassland, hedgerow and GCN hibernacula. The details of these are set out in the Environmental Masterplan [REP7-016 to REP7-022] and the OEMP [REP7-026].

6.3.108. Table 8.20 of Chapter 8 of the ES [AS-083] sets out the GCN impact assessment based on the seven[28] evidenced or assumed metapopulations. The Applicant explains that if the Development Consent Order (DCO) is granted, then further survey work would be undertaken, particularly to those ponds where access has not been possible to date, before a formal licence application to NE.

6.3.109. As part of the design of the environmental mitigation the Applicant contends that high value GCN habitat, including species rich grassland, woodland habitat, and hedgerows and the seven new ecology ponds would provide a higher proportion of optimal habitats. This could increase the carrying capacity for GCNs and allow for the expansion of existing metapopulations. The Applicant maintains that due to the proximity of the proposed mitigation ponds to the existing populations and lack of barriers to movement, that the populations would not be affected in the operational phase of the Proposed Development.

[28] Paragraphs 8.9.100 and 8.9.101 of Chapter 8 of the ES [AS-083] give different figures for the number of metapopulations (seven and eight respectively). Table 8.20 sets out the details of the metapopulations, of which there are seven. It is therefore concluded that this is the correct number.

6.3.110. In light of all this, including the conditions that would be imposed in any NE licence, the Applicant maintains that the effect on GCNs would be negligible.

Terrestrial invertebrates

6.3.111. There is no record of notable terrestrial invertebrates within 2km of the application site.

6.3.112. Surveys were undertaken at 17 sites which were judged to be the best available potential terrestrial invertebrate habitats, and several rare/ scarce and specialist species were recorded. Given these survey results, which are set out in ES Appendix 8.13 [APP-185], the Applicant concluded that these were of local ecological importance. But to provide mitigation, new woodland, wetland and species-rich grassland habitats, along with retaining and providing dead wood habitats, would be created. In light of this the Applicant considers that the impacts on terrestrial invertebrates during construction would be negligible, resulting in an effect of neutral significance.

6.3.113. Operational effects would be unquantifiable but given the addition of the Proposed Development to the existing road network any additional effects are considered by the Applicant to be negligible.

Aquatic invertebrates, fish and aquatic macrophytes

6.3.114. As well as the five watercourses, there are a number of fishing ponds within the application site which are stocked with coarse fish, at Tower House, Brookfields Farm and Lower Pool. There are socio-economic interests in relation to this which are discussed in Chapter 11 of this report on Socio-Economics.

6.3.115. Surveys indicate that the notable species of brown trout and bullhead are present in Watercourses 2, 3 and 5, and there are also a range of common fish. As a result, these watercourses are considered to be of local importance for fish, with the remaining watercourses and ponds of negligible importance.

6.3.116. In relation to macroinvertebrates, surveys show the varying waterbodies are of varying qualities, including high quality. No evidence of white-clawed crayfish was found in any of the ponds or watercourses. As the waterbodies within the application site have been shown to support common and widespread species of no more than local value, they are considered by the Applicant to be of no more than local importance for aquatic invertebrates.

6.3.117. Turning to aquatic macrophyte, surveys indicated that they were typical for fishing ponds, and the Applicant considers that although the macrophyte assemblage enriches the biodiversity of the ponds and watercourses, it is considered of negligible value in the national context.

6.3.118. The Proposed Development includes a highway drainage system in addition to the ecological ponds[29] referred to as mitigation for the effect on GCN populations. Furthermore, the Applicant is proposing that ditch habitat would be created to compensate for the loss of riparian habitats to culverts and all features would develop into ecological habitats of benefit to aquatic macroinvertebrates. Fish translocation would be undertaken on ponds being lost, where necessary.

6.3.119. The Proposed Development would result in the loss of Tower House Pool (Pond 23), Brookfield Farm Pond 1 (Pond 57), five unnamed ponds (25, 26, 29, 65 and 73) and the partial loss of Lower Pool (Pond 28) and Brookfield Farm Pond 2 (Pond 56), as well as loss of 323m of watercourse (218m of Watercourse 2, 55m of Watercourse 3 and 50m of Watercourse 4) and assumed temporary loss of up to 71m of Watercourse 5 (Latherford Brook).

6.3.120. Construction activities, including the provision of culverts, would require in-channel works and, the Applicant accepts, could lead to direct mortality and loss, and the partial loss of both Lower Pool and Brookfield Farm Pond could lead to a reduction in water quality and increased sediments adversely affecting populations. It, however, contends that habitat loss is localised, and that design mitigations could be introduced, for example the span of the bridge over the Latherford Brook would result in a stream that could flow naturally.

6.3.121. Taking all this together the Applicant considers that the impact upon the local fish, macroinvertebrates and aquatic macrophytes during the construction period would be negligible resulting in an effect of neutral significance. Once operational the Applicant maintains that the proposed drainage system would ensure that any residual effects would be negligible and of neutral significance.

Other Fauna/Flora

6.3.122. Due to the proximity of major roads and scattered development in the area of the application site and its immediate surroundings, the Applicant considers that the area is not of particular importance for brown hare. However, the woodland blocks and hedgerow network do offer suitable habitats for hedgehog. Due to the local roads the Applicant considers any population to be of local importance. The GCN surveys reported both toads and smooth newts in the area.

6.3.123. The Applicant takes the view that provided best practice methods are followed, as secured in the OEMP, the risk to other fauna species would

[29] The last bullet point in paragraph 8.8.5 of Chapter 8 of the ES [AS-083] refers to 12 ecology ponds. This is considered a typographic error, since, following the 2020 GCN surveys as described in paragraph 6.3.103, the number of ecology ponds was reduced in the amended plans submitted in October 2020. The amended number proposed is eight, reduced from 12 when the application was originally submitted, and is assumed that the figure reported in paragraph 8.8.5 should be eight.

be minimised, and consequently any impacts during construction and in operation would be negligible.

Controlled weeds

6.3.124. Japanese knotweed and Himalayan balsam have been identified within the application site, and there is rhododendron in the understorey in the woodland in the Lower Pool SBI and Canadian waterweed in the Lower Pool waterbody. Montbretia was identified in Chubb Pond. Given these species are invasive and non-native the Applicant does not consider them to be of ecological importance.

Biodiversity metric

6.3.125. When the application was originally submitted, the Applicant included a Biodiversity metric using a modification of the method published by Defra in its Biodiversity Offsetting Pilots Technical Paper: the metric for the biodiversity offsetting pilot in England published in 2012 [APP-176].

6.3.126. In the First Written Questions (FWQ), ExQ1.3.8 [PD-010], we asked why the more recent Defra Biodiversity Metric 2.0 had not been used, and a series of questions about the results of the originally submitted version.

6.3.127. The Applicant submitted a study based on the Defra Biodiversity Metric 2.0 which was then revised with the October 2020 application changes [AS-103], where the full details can be found. This indicates that the Proposed Development would result in a Biodiversity Net Gain of 2.21% (17.32 units) of area based habitats, 26.27% (8.20 units) in linear habitats and 2.23% (0.33 units) of river habitats.

6.3.128. As these fall within the range -5 % to +5 % for river and area based habitats (woodland, grassland etc.) the Applicant considers that this can be classed as no net loss in accordance with Table 11.9 of CIRIA C776a Good practice principles for development, and can be classed as achieving a net gain in linear (hedgerow) habitats.

Geology

6.3.129. The British Geological Survey (BGS) mapping indicates that the Chester Formation (Sandstone and Conglomerate Interbedded) of the Sherwood Sandstone Group bedrock geology underlies the majority of the application site. There are no designated sites within the study area (the application site and a buffer of 250m) but it is located within a Nitrate Vulnerable Zone.

6.3.130. Superficial deposits in the form of Devensian Till - Diamicton are shown on BGS mapping. Variations include a strip of alluvium associated with Watercourse 2 which runs north-east to south-west across the A460 and M6. Glacial till was encountered throughout the application site, with the exception of the area near the River Penk tributary.

6.3.131. Made ground is present around M54 junction 1 and is likely to be colliery spoil associated with the former Hilton Colliery. It is also present at M6

junction 11 and, the Applicant maintains, is also likely to be associated with the infilled ponds in the area.

6.3.132. A human health assessment was undertaken [APP-187 to APP-191]. The soil samples did not identify any exceedances of metal or inorganic determinants when compared against the corresponding generic assessment criteria (GAC) for human health value for a commercial and industrial end use. However, single marginal exceedances of the GAC were recorded for Benzo(a)pyrene, Dibenz(a,h)anthracene and Benzo(b)fluoranthene in a sample of made ground obtained at a depth of 3m below ground level in BH29 situated on the M6 junction 11 roundabout. Due to the marginal nature of these exceedances the Applicant considers these soil results indicate that the various strata exhibit a negligible risk to human health.

6.3.133. In respect of groundwater, the Applicant notes that the majority of the application site is not within a Source Protection Zone (SPZ). However, SPZ3 crosses the application site north to south at M54 junction 2. The Inner Protection Zone is approximately 2.8km west of the application site. There are three recorded groundwater abstractions within 500m of the application site. One lies approximately 400m south-east of M6 junction 11, for spray irrigation. The second is approximately 240m south of M54 junction 1 for process water. The third is approximately 425m south of the M54 east of junction 1 for spray irrigation. An unlicensed potable water supply abstraction (Latherford Farm) lies approximately 300m north of the application site.

6.3.134. Groundwater strike data was taken and water levels within borehole installations have been monitored. Controlled Waters and Ground gas risk assessments have been completed, the former concluding that there was very low risk to receptors, but there were some higher risks of the latter.

6.3.135. The OEMP sets out various mitigation measures to enable compliance with relevant standards and legislation; this would be developed into a CEMP. A Materials Management Plan would be implemented, and the disposal of soil waste, contaminated or otherwise, would be minimised.

6.3.136. It should be noted that the Applicant is proposing the use of a borrow pit to assist in the construction. This would be located in plots 5/2 and 5/25 as shown on the Land Plans [REP6-004] and is shown in Figure 2.9 to the ES [AS-093].

6.3.137. The Applicant maintains that no designated important geological exposures have been identified within 250m of the application site. As the sensitivity of the geology is very low the level of impact would be negligible during construction and operation.

6.3.138. In relation to contaminated land, with the measures set out in the OEMP, the Applicant considers that the impact on construction workers would be minor adverse resulting from close contact with soils. Due to the potential for ground gas mitigation measures in the OEMP are required to

minimise the effect on construction workers. During operation, which would mean during maintenance, the same effects would apply, which would be a slight adverse effect.

6.3.139. The effect of contamination on surface water and groundwater is considered in Chapter 13 of this report.

6.4. REQUIREMENTS (R)

6.4.1. R4 of the preferred DCO seeks to secure a CEMP in accordance with the OEMP [REP7-026] which must then be followed throughout the construction phase. Following completion this would be converted into a Handover Environmental Management Plan (HEMP) to ensure proper maintenance thereafter. This specifically requires a biosecurity management plan, a Landscape and Ecology Management Plan (LEMP), a Soil Management Strategy (including a Soil Management Plan and Soil Handling Strategy) and an Asbestos Management Plan.

6.4.2. R7 would require the pre-construction surveys for European and nationally protected species, and appropriate procedures should such species be present or there being a reasonable likelihood of that species being present. These procedures include consultation with NE.

6.5. THE POSITION OF INTERESTED PARTIES (IPs)

Natural England

6.5.1. NE and the Applicant have completed a signed SoCG [REP8-028], which sets out the areas agreed and not agreed and the reasoning thereof. In respect of biodiversity the parties are in agreement.

6.5.2. Furthermore, NE has issued letters of no impediment in respect of licensing requirements which would be necessary if a DCO were to be issued. These relate to badgers, bats and GCNs (Annex B to [REP1-012]). A second letter of no impediment relating to GCNs was issued on 11 March 2021 [REP9-004] on the basis of the amended proposals at the end of the Examination.

6.5.3. Of particular relevance to the points raised by other participants NE is content that the Environmental Statement appropriately assesses the effects of the Proposed Development on protected species, including bats, and that impacts would be managed through adherence to mitigation measures detailed in the OEMP.

6.5.4. NE and the Applicant were not in agreement over the effect on Best and Most Versatile (BMV) land, however as this is primarily a Socio-Economic matter, this is considered in Chapter 11 of this report.

Environment Agency

6.5.5. The EA and the Applicant have completed a signed SoCG [REP8-027] with all matters agreed. The only biodiversity matter relates to the use of

the metric, which was updated during the Examination to the Defra 2.0 Metric.

6.5.6. In respect of geology, the EA was content with the measures proposed in respect of potentially contaminated land.

Staffordshire County Council (SCC)

6.5.7. The SoCG between the Applicant and SCC [REP7-027] records agreement on all biodiversity issues.

6.5.8. The Local Impact Report (LIR) produced by SCC [REP1-007] sets out the Council's position at the time of its preparation. Of particular note is that the Council considers that as many ponds in south Staffordshire are stocked, they are poor in invertebrates, and water quality is often initially poor as watercourses rise in urban areas.

6.5.9. In respect of geology SCC noted that the mineral safeguarding assessment identifies that between 0.4 metric tonnes (Mt) to 1.0Mt of sand and gravel is affected by the Proposed Development and requested that be considered.

South Staffordshire Council (SSC)

6.5.10. The SoCG between the Applicant and SSC [REP7-028] records agreement on all biodiversity issues.

6.5.11. The LIR produced by SSC [REP1-097] noted that it normally commissions *"… the County Councils [sic] Ecologist for comments on planning matters and applications. In this case however given the County Ecologist is commenting on the DCO on behalf of the County, we support their response and ask that section of LIR is noted and as stated earlier read in conjunction"*.

Staffordshire Wildlife Trust (SWT)

6.5.12. The SoCG between the Applicant and SWT [REP7-034] records agreement on all biodiversity issues. There are no areas of disagreement between the parties.

6.5.13. SWT emphasized in its RR [RR-042] its view that there should be no net loss for biodiversity and preferably a net gain, and originally sought the use of the Defra 2.0 Biodiversity metric. This was discussed with the Applicant and, as set out above, this metric was submitted. There was also clarification following discussions between the Applicant and SWT which resolved the matters set out in SWT's RR [RR-042] to SWT's satisfaction.

6.5.14. In its RR, SWT [RR-042] raised a concern that there was a remnant of Whitgreaves Wood on the north side of the M54 which has not been investigated, which because it was within 15m of the ARN could be adversely affected by the Proposed Development.

6.5.15. The Applicant agreed to consult with SWT when a draft version of the LEMP is available so that it could make comments and included that provision within the draft OEMP [REP7-026]; see provisions MW-LAN1 and MW-BIO11 of the Register of Environmental Actions and Commitments (the REAC) in Table 3.3 of the draft OEMP. Through preferred DCO R4 this would then be secured into the CEMP and, eventually, the HEMP.

National Trust

6.5.16. There is a signed SoCG between the Applicant and the National Trust [REP6-035].

6.5.17. In respect of biodiversity, all matters are agreed, and this records the legal agreement by the National Trust for the use of part of Whitgreaves Wood for compensation planting for the effects of the Proposed Development on ancient woodland at the 7:1 ratio proposed by the Applicant. This is also secured in a Planning Obligation [OD-011].

Allow Limited (Allow)

6.5.18. Allow took an active role in the Examination and participated in the Preliminary Meeting (PM) and ISH1 which considered biodiversity. There is a signed SoCG between the Applicant and Allow [REP8-011] that records the areas of agreement and disagreement. This report will concentrate on those areas where there is disagreement. Objections to CA and TP will be dealt with in Chapter 16 of this report, but since some of this flows from areas of disagreement on biodiversity issues those will be considered in this chapter of this report.

6.5.19. The biggest areas of dispute relate to:

- the quantum of *"Other habitats (non-woodland) within 5m of woodland lost"*;
- the location and effectiveness of SBI mitigation for bats;
- the location and effectiveness of SBI mitigation for GCNs; and
- the optimum location for mitigation planting to reduce the impact on Lower Pool SBI from an ecological perspective.

6.5.20. During the Examination process there was considerable discussion between the Applicant and Allow as to the quantum of woodland mitigation required. There were discussions between the parties as to how this should be calculated, particularly the nature of the mapping exercise undertaken. This resulted in the Applicant amending its position.

6.5.21. At the end of the Examination the main dispute on this topic related to whether a 5m 'buffer' should be utilised in a similar way as NE utilises a 15m buffer to ancient woodland. The Applicant utilised this approach to ensure effects do not occur in the woodland itself. The parties agreed that the area in question represents some 2.88ha; see page 23 of the SoCG [REP8-011].

6.5.22. In its Statement of Final Position [REP9-005] Allow indicates that it considers the extent of the environmental mitigation to be excessive. It points out (paragraph 8) that the mitigation proposes 6.28ha to mitigate the loss of 2.57ha at Lower Pool.

6.5.23. In respect of the location and effectiveness of SBI mitigation for bats this relates to the location of the mitigation land. As can be seen in the Environmental Masterplan - Overview [REP7-016], the majority of the habitat mitigation is to the west of the mainline of the Proposed Development while the habitats and species are currently located to the east. This, Allow asserts, would increase fragmentation, and result in increases in mortality from the crossing of the mainline, particularly by bats.

6.5.24. Allow put forward that the Applicant did not sufficiently consider appropriate options (paragraph 1.12 of Allow's Written Representation (WR) [REP1-091]), and suggested to better mitigate against the effects identified, that mitigation should be provided on land within Allow's control to the east of the mainline but outside the application site. This is shown in the four options set out on page 9 of the Applicant's 'Assessment of Alternative Locations for Mitigation in Plot 5/2' [REP4-036] and also in a more nuanced approach in the last page of [REP4-045]. This principally relates to the field outside the Application site to the north of Hilton Hall, between it and Hilton Lane where there are two veteran trees. Allow maintains that this would be an ecologically more suitable site since it would better link to the Lower Pool SBI where the principal habitat for bats is located.

6.5.25. In respect of GCNs Allow were initially of the view that the Applicant's proposals over-provided for GCN mitigation as the Applicant had assumed GCN populations where the surveys had not been undertaken. By the end of the Examination this matter had been effectively resolved through consideration of the results of the GCN surveys undertaken in 2020.

Nurton Developments (Hilton) Ltd (Nurton)

6.5.26. There is a signed SoCG between the Applicant and Nurton [REP8-019] which records the areas of agreement and disagreement between the parties. The land in which Nurton has a Category 2 interest is shown at Appendix A of this document. This records two topics of disagreement in respect of this issue relating to:

- the GCN survey methodology and results; and
- information relating to the location and design of ponds.

6.5.27. The RR from Nurton [RR-038] and a clarification Additional Submission [AS-003] were submitted prior to the October application changes. This criticised the survey methodology, particularly in relation to the use of assumed populations when surveys had not taken place. They also criticised the location of the proposed mitigation ponds as the ponds would result in a future constraint on development which Nurton wished to promote.

6.5.28. The 2020 GCN surveys reduced the need for ecological ponds, but notwithstanding this, this did not change the number of ponds on the land in which Nurton has an interest.

6.5.29. In relation to the location and design of the ponds Nurton is of the view that the design uses generic designs rather than bespoke, and that properly designed alternatives should have been considered.

I and A Simkin

6.5.30. There is a signed SoCG between the Applicant and Messrs Simkin [REP8-017] which records the areas of agreement between the parties.

6.5.31. In relation to ecological mitigation the objections of I and A Simkin set out in their RR [RR-033] and WR [REP1-020] were mostly resolved by the October application changes. There continues a dispute set out in the WR that plots 6/29 and 6/30 as shown on the Land Plans [REP6-004] are not necessary for mitigation as they are some distance from the main works, being located to the east of the section of the A460 between M6 junction 11 and M6 (Toll) junction T8.

R E Rowe

6.5.32. There is a signed SoCG between the Applicant and R E Rowe [REP8-013] which records the areas of agreement and disagreement between the parties.

6.5.33. From an ecological perspective R E Rowe offered land to the east of the application site (in the area around Tower House Farm) for ecological mitigation. The Applicant rejected this on the basis that the offer was made after the design of the Proposed Development had been fixed and lay outside the application site.

N and P Simkin

6.5.34. There is an unsigned SoCG between the Applicant and N and P Simkin [REP8-013], which predominantly represents the Applicant's response to the Messrs Simkin's RR [RR-033]. In ecological terms, this RR considers that the Applicant has utilised excessive ecological mitigation affecting the land ownership.

B and V Jones

6.5.35. There is an unsigned SoCG between the Applicant and B and V Jones [REP8-016], which predominantly represents the Applicant's response to the RRs [RR-020, RR-021 and RR-035].

6.5.36. The principal ecological objection is whether the land at Brookfields Farm should properly be considered to be ancient woodland, as it has not been designated as such by NE. They also object to the quantum of land taken for ecological mitigation.

E Whitehouse and S Arblaster

6.5.37. There is an unsigned SoCG between the Applicant and E Whitehouse and S Arblaster [REP8-018], which predominantly represents the Applicant's response to the RR [RR-016 and RR-036].

6.5.38. The principal ecological objection is whether the quantum of land taken for ecological mitigation is justified, particularly as a 500m distance for GCN surveys was used when normally only 250m is utilised. They are also concerned as to whether the ancient woodland at Brookfields Farm should be classified as such.

6.6. PLANNING ISSUES

6.6.1. The above section sets out the biodiversity and geological issues raised by IPs during the Examination particularly in RRs and WRs, which were discussed in the relevant ISH1. In summary the main issues in dispute are:

- whether the effects of the Proposed Development have been appropriately assessed;
- the extent of the effects on ancient woodland and the compensation secured;
- whether there would be greater effects on bats than those assessed;
- whether the quantum of environmental mitigation is appropriate; and
- whether the location of the environmental mitigation is satisfactory and appropriate.

6.7. ExA CONSIDERATIONS

General Approach and analysis

6.7.1. Having reviewed the ES, we are satisfied that the Applicant has undertaken a thorough and rigorous characterisation of the natural environment and geological assets affected by the Proposed Development, both directly and indirectly. The significance of those assets and the significance of effects upon them have been consistently assessed and mitigation measures designed where necessary, although we do have some specific comments which are set out below such that we consider that the Applicant has underestimated some effects.

Habitats sites

6.7.2. The effect on internationally designated sites is dealt with in Chapter 14 of this report.

6.7.3. In the absence of any evidence to the contrary it is considered that there would be no significant adverse effects, either direct or indirect, on Stowe Pool and Walk Mill Clay Pit SSSI, Four Ashes Pit SSSI, Chasewater and the Southern Staffordshire Coalfield Heaths SSSI and Belvide Reservoir SSSI, or on the Wyrley and Essington Canal LNR and Rough Wood Chase LNR.

6.7.4. It is not in dispute that there would be adverse effects on both the Lower Pool SBI/LWS and the Brookfield Farm, Shareshill LWS and SBI. These are local designations. These would be direct and indirect effects from the physical loss of habitat and from on-going operational effects. Because of the location, excluding consideration of ancient woodland, these effects could not be mitigated for and therefore would need to be compensated for. It should also be noted that as paragraph 5.31 of the NPSNN makes clear such a local designation of itself should not be used to refuse development consent.

6.7.5. The direct effects on these local sites would also have an adverse effect on protected species. Paragraph 5.35 of the NPSNN makes clear that consent should be refused where harm to habitats or species and their habitats would result, unless the benefits of the Proposed Development (including need) clearly outweigh that harm. In respect of its effects on biodiversity the Proposed Development would be contrary to Policy EQ1 of the Core Strategy.

Ancient Woodland

6.7.6. In respect of ancient woodland, it is clear that NE's inventory of ancient woodland only includes that over 2ha in size. In any event, that an area of woodland has not been identified by NE does not preclude it being appropriately identified as such if there is sufficient evidence to that effect.

6.7.7. The area of purported ancient woodland at Brookfields Farm is less than 2ha in size, and there is evidence from historic mapping and survey data that this area is ancient woodland by age (see paragraph 5.1.8 of ES Appendix 8.4 Designated Sites and Habitats [APP-178]). NE agrees with this analysis. There is no evidence to show that the woodland in question has not been in existence continually since the earliest mapping. We are therefore satisfied that this area does represent ancient woodland.

6.7.8. As set out above, paragraph 5.32 of the NPSNN states that the loss of ancient woodland should not be permitted unless the national need for and benefits of the development, in that location, clearly outweigh the loss. Through the October application changes there would no longer be direct loss, but as some of the physical development would be within 15m of the ancient woodland it is reasonable to assume that this ancient woodland would effectively be lost through effects on the rooting systems and increases in air pollution.

6.7.9. As an irreplaceable resource the loss of ancient woodland cannot be mitigated. However, the Applicant has sought to provide compensation near to the two locations, Brookfields Farm and Whitgreaves Wood, in a ratio of 7:1 (provided to lost in terms of area) agreed with NE.

6.7.10. That land provided at Brookfields Farm would be the subject of CA and thus would allow for the long-term management of the compensation habitat to be secured.

6.7.11. That at Whitgreaves Wood is only subject to TP while the works are undertaken. This land is owned by the National Trust. Thereafter, the Applicant and the National Trust have entered into a land agreement that the National Trust will maintain the enhanced land.

6.7.12. We queried whether this would be sufficient to reduce the risk that the existing woodland would not be enhanced as the objectives of the National Trust are only to preserve (see ExQ3.3.1 [PD-023]) and only one of the four parcels is held inalienably. The Applicant, in its response [REP6-039] noted that the National Trust would properly maintain the land.

6.7.13. We wrote on 19 March 2021 [PD-027] to the Applicant and the National Trust:

> *"While the ExA notes that the National Trust intends to put the remaining land forward so that it would be held on an inalienable basis this is currently not the case. Therefore, there is a risk that that all the works to enhance the woodland would not be secured in perpetuity.*
>
> *"It is for an Applicant to decide in what form it puts forward an application and accompanying documents, but the ExA must advise that without a Planning Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) that the risk exists and that this would have to be reported to the Secretary of State."*

6.7.14. In response to this, the Applicant and National Trust submitted a draft Planning Obligation by way of Unilateral Undertaking to SSC at Deadline 8 [REP8-030] and a final version, completed on 20 April 2021, was submitted before the Examination closed [OD-011].

6.7.15. The Planning Obligation requires the National Trust to ensure the land is maintained until the three parcels are declared to be inalienable. Once declared inalienable, special arrangements are required before it could be used otherwise. In light of this we are satisfied that this ensures the proper maintenance of Whitgreaves Wood for an appropriate period.

6.7.16. A map regression exercise was undertaken in respect of the land to the north side of the M54 opposite Moseley Old Hall [REP4-037] which confirmed that this area should be considered to be ancient woodland. Approximately 0.1ha of this would be affected by nitrogen deposition as it would be within 15m of the ARN. The Applicant considered that the measures secured with the National Trust would be sufficient to compensate any effects.

6.7.17. In the SoCG with the SWT [REP7-034], the Applicant notes (page 29) that the landowner of this remnant is not supportive of the Proposed Development and has been unwilling to engage with the Applicant. The Applicant therefore considers that it is very unlikely that the landowner will enter into a voluntary agreement over the management of this area.

The Applicant does indicate it will approach the landowner to see if works could be undertaken outside the application process.

6.7.18. The formal management of this remnant would clearly be beneficial. However, there are no works secured within this process and consequently it should be considered that part of the ancient woodland would be 'lost' through the effects of development in proximity. Notwithstanding this, the compensation works already secured on the woodland to the south of the M54 would be sufficient to deal with this matter.

Woodland mitigation

6.7.19. Turning to the quantum of mitigation, the dispute relates to whether it is appropriate to allow for a nominal loss of existing woodland where development is within 5m of the woodland. It was agreed at ISH1 that this was a novel approach but the ecologist from Allow accepted that it was not unreasonable.

6.7.20. Whether there is construction or additional traffic within proximity to an existing woodland, it is reasonable to assume that there would be an effect. While some root areas may be constrained by existing built development, utilising a precautionary approach is considered appropriate since there will conversely be locations where root systems may extend further, and in any event the air pollution effects are likely to be within this area.

6.7.21. The nature of this type of mitigation is that whilst it is based on experience, it can only be a best estimate of what is necessary. The precautionary principle requires, if anything, more mitigation than may be absolutely necessary in order to avoid unmitigated effects.

6.7.22. The SoCG between the Applicant and SCC records (page 78 of [REP7-027]):

> *"SCC and HE consider provision of woodland mitigation as shown in the Environmental Masterplan [AS-086 to AS-092/6.2] to be the minimum required to mitigate the impacts of the Scheme. Further reduction would not sufficiently mitigate the impacts of the scheme on woodland habitats and SCC would object to the removal of further areas of mitigation planting from the Scheme."*

6.7.23. Taking the above together, we consider the quantity of woodland mitigation to be the minimum to ensure the effects of the Proposed Development are mitigated.

Bats

6.7.24. Dealing with the question of the location of the compensatory habitat, the Applicant maintains that there would be no significant effect on bats from the location of the mitigation habitat on the west side of the mainline. This is because it states that a significant proportion of the link road would be in a cutting and thus bats would be unlikely to suffer from

collision mortality as they would be above vehicles. However, at Lower Pool the mainline would be slightly above the existing ground level. This is shown in Section B-B of the engineering sections [REP4-004] and can also be seen on the longitudinal section for the mainline between chainages 2+070 and 2+510. The gap between the two cuttings is a distance of over 400m and thus is of a significant length.

6.7.25. The Lower Pool area is an area of medium to high bat activity (see sheet 1 of ES Figure 8.18: Bat Baseline - Transect Activity Survey Results (2018 and 2019) [APP-122]), and there is low tree roosting potential (see page 1 of ES Figure 8.17: Bat Baseline - Confirmed Bat Roosts and Arial Tree Inspection Survey Results (2018 and 2019) [APP-121]). Consequently it is described as a 'core area of habitat of most importance to foraging bats' (paragraph 6.2.1, Appendix 8.7 to the ES [APP-179]).

6.7.26. Plate 5.8 and Table 5.8 of Appendix 8.7 of the ES [APP-179] set out the height of passes at each crossing point, with the locations of the crossing points shown at Figure 8.15 of the ES [APP-119]. Crossing point D is the most pertinent in this regard with Crossing point C also relevant. Crossing point D indicates that 78% of passes were at 5m or above (although on a small survey). This would be sufficient to avoid collisions with the vast majority of vehicles on the mainline.

6.7.27. The Applicant's approach is that bats would travel from their roosts in the Lower Pool SBI area up the west side of the proposed mitigation planting to the east of the mainline, 'hop over' the mainline in the vicinity of the Hilton Lane bridge, and then travel into the mitigation habitat to the west side of the mainline, and undertake the same journey in reverse.

6.7.28. We consider that the Applicant's assessment of the effects on bats is overly optimistic. If the mitigation were to be on the west side of the mainline, we consider that bats, having found the habitat, are more likely to cross through a direct route across the mainline of the link road, rather than flying around via the Hilton Lane bridge. The Hilton Lane bridge is set within species rich grassland on either side to the south rather than woodland to provide a linkage and would not constitute a 'green bridge'. There would thus be a considerable distance for bats to fly in the open at the bridge. For those species flying at lower levels flights across the mainline is likely to result in an increased risk of mortality.

6.7.29. We therefore conclude that the significance of the adverse effects would be greater than that put forward by the Applicant. In assessing the degree of this harm, we have noted the importance of bats as a protected species and that Lower Pool is a core area of activity in this locality.

6.7.30. Utilising the Applicant's own level of impact descriptive criteria as set out in Table 8.3 of Chapter 8 of the ES [AS-083,] we therefore conclude that the proposal would result in permanent irreversible damage to a biodiversity resource but the extent, magnitude, frequency, and/ or timing of the impact would not affect the integrity or key characteristics of the resource. This would therefore be a minor adverse level of impact/

change. Moving to Table 8.4, as bats are protected at the international level, this would result in an effect of moderate or large significance. Because there would continue to be existing woodland to the east of the mainline, we take the view that this would be of moderate significance.

6.7.31. In simple terms, if the mitigation habitat were to be located to the east of the mainline of the link road it would be likely to be more effective than to the west as bats would not need to cross the mainline. This alternative was not fully considered in the original application or the amended ES following the October changes. However, this was considered by the Applicant in its 'Assessment of Alternative Locations for Mitigation in Plot 5/2' [REP4-036] and Allow commented on this [REP5-008]. While we have differed in the conclusions drawn, we are satisfied that this analysis was appropriately undertaken.

6.7.32. Consideration and balancing of the effects of potential mitigation for bats, as a protected species, against the need to protect the openness of the area to the east of the mainline which contributes to the significance of the setting of Hilton Hall and the Conservatory and the Historic Park (as set out in chapter 7 below) will be undertaken in chapter 15.

GCNs

6.7.33. At an early stage in the Examination a number of IPs raised objection on the basis that they considered that the 500m zone around the application site for consideration of the effects on GCNs was too widely drawn, and the 250m normally recommended by NE was appropriate. Because of the precautionary approach which had been followed, it was asserted by objectors, this had led to there being more mitigation than was necessary, particularly in the number of ecological ponds.

6.7.34. This was discussed at ISH1, but at the same time the October application changes included a more robust assessment of GCN populations that may be affected as they included the results of the 2020 surveys. Although the 500m margin represents an abundance of caution, given the 2020 surveys, we are satisfied that the effect on GCN populations have been adequately addressed, particularly taking into account the letter of no impediment [REP9-004] from NE issued in the light of the 2020 surveys. We consider we are able to give considerable weight to the advice of NE as the government's relevant advisor.

6.7.35. As regards the location of the mitigation ponds, we consider that they would be appropriate from an ecological perspective. The effects on this on future development will be considered in Chapter 11 of this report.

Other habitats and species and associated consents

6.7.36. As set out above in Chapter 6, paragraph 6.5.2 of this report NE has issued 'Letters of No Impediment' in respect of three necessary licences that would be required should the DCO be granted. These relate to badgers, bats and GCNs. In light of this we are satisfied that there is a reasonable prospect of the necessary licences being granted.

6.7.37. Paragraph 1.9.1 of this report sets out the other consents that would be required. A number of these relate to the Water Environment which is considered in more detail in Chapter 13. These consents would ensure that any changes in the water environment and thus effects on biodiversity, particularly species such as otters and water voles, would be such that they would not have an adverse effect.

6.7.38. We are also satisfied that through the provisions of the REAC set out in the OEMP [REP7-026], secured through R4 of the DCO [REP8-005], would ensure that effects on other habitats and species would be acceptable. Consequently, in line with paragraph 5.35 of the NPSNN the effects on other habitats and species beyond those specifically discussed in this chapter would not represent an impediment to the grant of a DCO.

Biodiversity metric

6.7.39. Following completion of the Proposed Development there would be a significant positive effect as a result of the development on biodiversity as a whole as evidenced by the offsetting matrix. We have had regard to the advice on Metric 3.0, as referenced in the footnote to 6.2.8 above, that Metric 2.0 is still valid for existing projects, in reaching this conclusion. This would accord with the latest guidance in the PPG. It is noted that SSC is satisfied with the approach and results. Taken overall we consider the effect would be beneficial and should be given moderate weight.

6.7.40. In light of this the Proposed Development would accord with the United Nations Environmental Programme Convention on Biological Diversity of 1992 and thus also accord with Regulation 7 of the Decisions Regulations.

Geology

6.7.41. Given the distance to any sites of geological conservation importance there would be no effects on such sites.

6.7.42. The Applicant has set out the use of part of the site as a borrow pit during the construction period. We queried (ExQ1.9.7 of [PD-010]) the suitability of this given that paragraph 13.9.37 of Chapter 13 of the ES [APP-052] indicates that no ground investigation had been carried out. There was thus no information as whether this land was suitable and was not contaminated.

6.7.43. The Applicant in response [REP1-036] considered that it was likely to be of the same composition as soils in the surrounding area, and thus likely to be suitable for the intended purpose. Further, due to its recent use (agricultural/car boot sales) it was unlikely to be contaminated. We have no evidence to dispute these conclusions. Allow's concerns over CA and TP are dealt with in Chapter 16 of this report.

6.8. CONCLUSIONS

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

- There would be no significant adverse effects on nationally designated sites (SSSIs).
- There would be indirect effects on ancient woodland that could not be avoided, therefore development consent should not be granted unless the need for and benefits of the Proposed Development, in that location, clearly outweighs the loss. This balance will be considered in Chapter 15 of this report.
- There would be direct and indirect loss of locally designated wildlife sites, which would be compensated for within the Proposed Development to an appropriate level.
- There would be effects of moderate adverse significance on bats. Again, development consent should be refused unless the benefits of the development (including need) clearly outweigh the harm. This balance will be considered in Chapter 15.
- An appropriate precautionary approach has been taken by the Applicant as regards GCNs, with appropriate mitigation provided.
- Moderate weight should be given to the net gains for biodiversity as evidenced in the Biodiversity matrix.
- There would be no unacceptable effects on other habitats and protected species.
- There would be no significant geological effects.

7. FINDINGS AND CONCLUSIONS IN RELATION TO CULTURAL HERITAGE, INCLUDING ARCHAEOLOGY

7.1. INTRODUCTION

7.1.1. This chapter considers the effect of the Proposed Development on cultural heritage, archaeology and includes issues related to paleoenvironmental matters. In particular it deals with:

- Designated heritage assets including listed buildings;
- Non designated heritage assets, including local plan designated landscapes;
- Archaeological remains; and
- Paleoenvironmental remains, and in particular Kettle Holes.

7.2. POLICY

National Policy Statement for National Networks

7.2.1. Paragraph 5.121 in the National Policy Statement for National Networks (the NPSNN) states that *"The historic environment includes all aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and landscaped and planted or managed flora."*

7.2.2. Paragraph 5.122 goes on to state *that "Heritage assets may be buildings, monuments, sites, places, areas or landscapes. The sum of the heritage interests that a heritage asset holds is referred to as its significance. Significance derives not only from a heritage asset's physical presence, but also from its setting"*. Footnote 96 relates to setting and notes *"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 which make a positive or negative contribution to the significance of an asset may affect the ability to appreciate that significance or may be neutral."*

7.2.3. Paragraphs 5.126 and 5.127 provide advice on the Applicant's assessment, with the later paragraph noting that the level of detail should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on the asset's significance. It goes on to state *"… where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, the applicant should include an appropriate desk-based assessment and, where necessary, a field evaluation."*

7.2.4. NPSNN paragraphs 5.128 to 5.142 identify the historic environment decision-making considerations to be taken into account by the Secretary of State (SoS) and advice on recording of assets.

7.2.5. 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"*.

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

7.2.7. 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"*.

7.2.8. 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"*.

7.2.9. Paragraph 5.142 states "*… where there is a high probability that a development site may include as yet undiscovered heritage assets with archaeological interest, the Secretary of State should consider requirements to ensure that appropriate procedures are in place for the identification and treatment of such assets discovered during construction."*

National Planning Policy Framework and Planning Practice Guidance

7.2.10. As noted above (section 3.8), the National Planning Policy Framework (the Framework) is likely to be an important and relevant consideration in decisions on Nationally Significant Infrastructure Projects (NSIPs), but only to the extent that they are relevant to that project. The accompanying PPG provides advice on the application of the Framework and will also therefore be material, albeit not with the same weight as the policy set out in the Framework.

7.2.11. The Framework sets out broadly similar policies, to the NPSNN, for the conservation of the historic environment in section 16 'Conserving and enhancing the historic environment'. Paragraph 184 advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so they can be enjoyed for their contribution to the quality of life of existing and future generations.

7.2.12. The Framework also deals with non-designated heritage assets, at paragraph 197, and states *"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."*

7.2.13. The Glossary to the Framework defines significance for heritage policy as *"The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting"*.

7.2.14. The Planning Practice Guidance (the PPG) states[30] *"Whether a proposal causes substantial harm will be a judgment for the decision taker, having regard to the circumstances of the case and the policy in the … Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest."*

7.2.15. As these matters relate to the consideration on significance, the Examining Authority (ExA) considers that these are an appropriate way in which to consider the heritage aspects of the Proposed Development.

Local Plan

7.2.16. The South Staffordshire Local Plan Core Strategy (the Core Strategy) includes a number of policies at different levels that seek to protect environmental quality. These include, within the overarching strategic

[30] Reference ID: 18a-018-20190723

objectives, Strategic Objective 5 which seeks to protect, conserve and enhance the historic environment and heritage assets and ensure that the character and appearance of the District's Conservation Areas are sustained and enhanced through management plans and high quality design.

7.2.17. Within the strategic objectives for environmental quality is Core Policy 2, entitled 'Protecting and Enhancing the Natural and Historic Environment'. This policy advises, amongst other matters, that the council will support development that protects, conserves or enhances the districts heritage assets, with particular support given to improving the historic environment where it is identified as at risk. The policy further advises that proposals should be consistent with the Framework and supplementary planning documents.

7.2.18. Policies EQ3 and EQ4 are of particular relevance. Policy EQ3 deals with the conservation, preservation and protection of heritage assets. It sets out various means by which this will be achieved including maintaining records of known heritage assets, encouraging measures to secure the maintenance management and reuse of heritage assets, ensuring applications have a proportionate assessment of the significance of the asset and the Council will consider the significance and setting of all proposed works to heritage assets and that the Council may require historical research and archaeological recording to be undertaken. The policy notes that heritage assets include Listed Buildings (and those on a local list), Registered Parks and Gardens (and other historic landscapes), Conservation areas, and Scheduled Monuments identified on the Policies Map.

7.2.19. Policy EQ4 is entitled 'Protecting and enhancing the Character and Appearance of the Landscape'. The relevant paragraph within the policy states *"Proposals should retain and strengthen the components of landscape character and local distinctiveness, with particular attention to the detailing of any proposal and its relationship with existing buildings, features and vegetation. Proposals within the Historic Landscape Areas (HLA) defined on the Policies Map should have special regard to the desirability of conserving and enhancing the historic landscape character, important landscape features and the setting of the HLA. The County Council's Landscape Character Assessment and Historic Landscape Characterisation will provide an informed framework for the decision making process."*

7.3. THE CASE FOR THE APPLICANT

7.3.1. Chapter 6 of the Environmental Statement (ES) [APP-045], including the associated figures and appendices, assesses the potential cultural heritage impacts of the Proposed Development using the methodology set out in Design Manual for Roads and Bridges (DMRB) Volume 11,

Section 3, Part 2 Cultural Heritage (LA 106)[31]. During the examination additional documentation was submitted in respect of matters raised by Interested Parties (IPs) or to fulfill requirements within the existing process of evaluation. These included a Written Scheme of Investigation for Archaeological Trial Trenching Evaluation [REP4-032], an Assessment of Alternative Locations for Mitigation in Plot 5/2 [REP4-036] and a Report on Archaeological Trial Trenching Evaluation [REP7-035]. The final version of the Outline Environmental Management Plan (the OEMP) [REP7-026] also includes relevant matters.

7.3.2. The general approach is set out in Chapter 6 of the ES and includes the consideration of the potential for the Proposed Development to impact on Monuments, groups of buildings and sites as defined in DMRB LA 106 Cultural Heritage Assessment. These include elements or structures of an archaeological nature, groups of separate or connected buildings and material remains resulting from the works of humans or the combined works of nature and humans, including archaeological sites.

7.3.3. A study area of 1 kilometre (km) was identified and agreed with the County Archaeologist at Staffordshire County Council (SCC), which includes all land to be temporarily and permanently acquired within the Order Limits. (See paragraph 6.5.3 in Chapter 6 of the ES [APP-065]).

7.3.4. A list of designated and non-designated heritage assets is provided in Appendix 6.1 of the ES [APP-169] with section 6.6 of the ES Chapter setting out a detailed description of each of the assets. The Applicant's desk-based review identified some 59 non-designated archaeological assets, a total of two Grade I, three Grade II*, and 21 Grade II listed buildings and 13 historic buildings and structures, including seven locally listed buildings or structures. No World Heritage Sites, Scheduled Monuments, Registered Battlefields, Registered Parks and Gardens or Conservation Areas were identified by the Applicant within the study area.

7.3.5. The Applicant identifies the potential impacts resulting from the Proposed Development in terms of construction, both temporary and permanent, and operational. The construction impacts include activity associated with construction plant and equipment, siting of construction compounds (including associated noise and lighting), increased volumes of traffic on the local road network. In terms of permanent construction impacts these would involve physical impacts on known archaeological assets, physical impacts on historic landscapes, disturbance of previously unrecorded archaeological deposits and impacts on archaeological remains, historic buildings and historic landscapes associated with the introduction of physical form affecting the setting of the assets.

[31] DMRB LA106 Cultural heritage assessment was updated in January 2020 the revision updated references only with the original document (Revision 0) being published in September 2019 and on which the methodology is based. There are therefore no consequences for the assessment.

7.3.6. Operational impacts identified by the Applicant include changes to traffic movements, changes to road noise and the operation of road lighting at junctions. All of these may affect the setting of the heritage assets.

7.3.7. Having identified the known heritage assets within the study area, the ES considers the likely significant effects resultant from the Proposed Development in respect of archaeology, historic buildings and the historic landscape in terms of both construction and operational effects.

Archaeology

7.3.8. The Applicant considers that there would be no construction impacts on designated archaeological sites, but potential effects would occur on some non-designated archaeological sites.

7.3.9. The line of the Streetway and Wordsley Green Turnpike Road is a postmedieval highway first recorded in 1761. The road is now known as the A460 Cannock Road. The applicant identifies its archaeological and historic significance in its ability to provide information on the connections between places in this landscape. The Applicant considered it to be of no more than negligible value as any buried remains relating to it will likely have been lost during later modernisation. As the Proposed Development would result in only some limited physical impact, the significance of effect on the asset would, according to the Applicant, be slight adverse at most.

7.3.10. The Applicant identifies a number of crop marks recorded from aerial photographs at two locations (Northeast of junction 11 of the M6, (see Figure 6.1 Known Heritage Assets [APP-072] A22 and A23) interpretated as field boundaries and well defined ditch enclosures. They have archaeological and historic significance as they provide information on agricultural process and land management and potential early settlement. The Applicant considers the assets value to be negligible but given that they are located within the application site construction would have a major adverse effect on them leading to an overall slight adverse significance of effect.

7.3.11. A further cropmark complex containing pits and other features of unknown date in a field immediately west of the M6 to the north of junction 11 (see Figure 6.1 A36 [APP-072]). The value of the asset is identified as information regarding historic land use and potential early settlement and industrial processes. The Applicant ascribes a value of no more than negligible which may be destroyed as the southern half of the site falls within the application site. Overall, the Applicant concludes the significance of effect would therefore be slight adverse at most.

7.3.12. In terms of unrecorded archaeology the ES assessment identified a potential for archaeological deposits to be present particularly dating from the prehistoric and Roman periods. The Applicant, whilst concluding the value or nature of such deposits is unknown, considered that it is likely they would be of low or medium value as they would contribute to current understanding. Further works were undertaken in line with a

Written Scheme of Investigation for trial trenching which was submitted into the Examination [REP4-032]. A report on the Archaeological Trial Trenching Evaluation [REP7-035] was also provided. The conclusions of this report were that no archaeological remains were discovered in the 139 trenches that were excavated. The report concluded that the trial trenching did not reveal any archaeological remains within the application site, therefore demonstrating a lack of archaeological evidence for activity other than post-medieval and modern agricultural practices. The report concluded by recommending no further work.

7.3.13. In terms of operational impacts the Applicant considers that any assets directly affected by the Proposed Development would have been removed and that therefore there would be no physical impacts or impacts to the setting of such assets arising from the operation of the Proposed Development.

Historic Buildings

7.3.14. The Applicant sets out a list of those historic buildings that are potentially affected by the Proposed Development identifying the significance of the asset and the likely effects that could result from the Proposed Development. These are summarised in the following paragraphs.

Hilton Hall

7.3.15. Hilton Hall has historic interest as an early 18th century country house for a prominent family. It illustrates aspects of social and economic life in the 18th and 19th centuries and has associative value with the Vernon family and the architect Richard Trubshaw. Architectural and artistic interest derives from the appreciation of the Baroque style of the Hall, its materials, design and architectural features.

7.3.16. Hilton Hall is Grade I listed and is therefore of high value. The setting of Hilton Hall is defined by its location within a landscape park, Hilton Park, which evolved from open parkland and a deer park. The park includes water features, woodland, belts of trees, individual trees and grassland as well as number of subsidiary buildings that were built to complement Hilton Hall. These are also located within the parkland and include the Coach house and stable block (Grade II); the Conservatory (Grade I); the Gatepiers (Grade II); and the Portobello Tower (Grade II). These buildings and the surrounding parkland contribute to the setting of Hilton Hall and illustrate the historic development of the estate. The park is important due to its associations with Repton and it continues to contribute to the significance of Hilton Hall and associated buildings and structures.

7.3.17. The Applicant states the Proposed Development would introduce an additional modern infrastructure element in the setting of Hilton Hall, but it would be mostly screened from the Hall with only a few glimpses during the winter months. The retained, extant woodland around the Lower Pool, as well as proposed trees and hedges, would continue to provide screening to the Proposed Development in views from the Hall. There is no lighting on the mainline of the road but some lighting around

junction 1 of the M54 would potentially be visible from the second floor of the Hall. The Proposed Development and lighting and signage would not in the Applicant's assessment be visible in any views from the ground and first floors of the Hall.

7.3.18. The Proposed Development would result in noticeable changes to the setting of the Hall which the Applicant categorises as a minor adverse magnitude of impact. Given the high value of the asset this would translate to a slight adverse significance of effect as the historic and architectural interest would still be appreciated. The Applicant notes in Framework terms this would represent less than substantial harm.

7.3.19. The Applicant also identifies some temporary adverse effects are anticipated associated with construction including the presence and movement of construction traffic, an area of soil storage, construction noise etc. There would be some temporary impact on the ability to understand and appreciate the asset during the construction activities and these effects are assessed as less than substantial harm to the significance of this asset. These temporary impacts would cease to exist once the Proposed Development is completed.

The Conservatory

7.3.20. The Conservatory is Grade I listed and of high value, The Applicant identifies it has historic significance as an early 19th century conservatory with a domed roof. One of the most significant developments in the design of conservatories was the invention of the glazed roof. The Conservatory at Hilton illustrates the early use of the glass roof in conservatories; therefore, it is of high historic interest. The Applicant also notes that architectural interest is derived from the appreciation of its Regency style and its unusual ornamental design.

7.3.21. According to the Applicant, Hilton Park defines the setting of the Conservatory, and the Conservatory contributes to the setting of Hilton Hall and the Proposed Development would not affect the relationship of the Conservatory with Hilton Hall. The Conservatory would be screened from the Proposed Development by existing trees and planting around it. However, the Proposed Development would result in change to the setting of the Conservatory through the introduction of a modern infrastructure element within its parkland setting. Construction effects resulting from increase in noise levels and the movement of construction equipment and other construction works could temporarily detract from the setting of the asset.

7.3.22. The Applicant considers construction would have a negligible adverse magnitude of impact on this asset of high value which would result in a significance of effect of slight adverse. The setting would change in a way that would hardly affect the ability to appreciate the asset according to the Applicant so that construction of the Proposed Development would result in less than substantial harm to the significance of this asset.

Gatepiers

7.3.23. The Applicant assessed the Gatepiers to have historic interest as they illustrate the early phase of development of the Hall and the Park and they have architectural and artistic interest derived from their design and materials. Their setting is within Hilton Park, they mark the historic entrance to the Park and a road leading to the Hall and have group value with Hilton Hall and other buildings in the Park. They are Grade II listed. The relationship with the Hall would not be affected by the Proposed Development therefore the Applicant considers there would be no change to the significance of the asset.

Portobello Tower

7.3.24. The Applicant considers the tower has historic interest as a commemorative tower of an important historic event. Historic interest is also derived from the association of the tower with the Vernon family and the architect, Richard Trubshaw. Architectural interest derives from the design of the tower and its positioning within the park to act as a folly and contribute to views from both the Hall and within the park. The setting of the tower is defined by its location within the park and its relationship with Hilton Hall. It is Grade II listed.

7.3.25. The Applicant notes the tower is currently derelict, in a poor condition and inaccessible. Therefore, the upper storeys of the tower could not be accessed in order to inform this assessment. However, the Applicant assumes that some panoramic views from the asset would be affected. The Portobello Tower would continue to contribute to views from within the Park and views of the Park, mainly from the south.

7.3.26. The historic interest of the tower would not be affected by the construction of the Proposed Development and it would continue to act as a folly and contribute to views within and towards the Park. The impacts would be limited and no more than negligible with a neutral significance of effect given the medium value of the Asset. This, according to the Applicant, would result in less than substantial harm to the significance of the Portobello tower.

Coach House and Stable block

7.3.27. The Coach House and stable block have historic interest as early 19th century farm buildings that were constructed to support the main house (Hilton Hall). Architectural and artistic interest is derived from the appreciation of the formal layout of the buildings and their style and materials. Architectural features and details, such as the clock tower and cupola, and the rusticated entrance contribute to the architectural interest of this group. They are Grade II listed.

7.3.28. The Proposed Development would not change the relationship with the Hall but would introduce a feature into the setting of the asset. The Applicant concludes that as the Coach House and stable block would continue to be experienced and appreciated within the remaining area of the park, and their significance would not be permanently affected by

construction of the Proposed Development, the significance of effect would be neutral. As some harm arises, it is considered in Framework terms this would be less than substantial.

Moseley Old Hall

7.3.29. Moseley Old Hall has historic interest as it illustrates a late 16th century house of a wealthy individual that was refaced in brick in the 19th century to reflect the changing fashion of buildings at the time. The Old Hall is Grade II* listed and therefore of high value. Architectural interest derives from the appreciation of the Georgian remodelling of the exterior of the building with earlier elements including the tall chimneys that could survive from the original phase of the building or the 18th century when a renovation was undertaken. The Old Hall has historic interest that derives from its association with Charles II as it provided a hiding place for the future king, following his defeat at the Battle of Worcester in 1651.

7.3.30. Moseley Old Hall is located within extensive grounds, including an ancient woodland parcel (Whitgreaves Wood also known as Oxdon Leasow wood) to the northeast of the Hall. The Old Hall and grounds are owned and managed by the National Trust. The construction of the M54 to the north has eroded this extensive rural setting.

7.3.31. The Proposed Development would be located to the northeast of the Hall. A small part of Whitgreaves Wood, to the south of the existing M54 and west of the A460 would be subject to temporary works to enable biodiversity enhancements as part of the Proposed Development, no other works would be undertaken within the boundary of the woodland.

7.3.32. The Applicant considers that the majority of the construction works, including signage and lighting, in proximity to Moseley Old Hall and the associated ancient woodland, would be concentrated on the existing road network and would mostly consist of replacing existing infrastructure. Due to the location of the Proposed Development adjacent to and including the existing infrastructure, the Applicant considers the Proposed Development would result in no change to the significance of this asset.

Moseley Old Hall Cottage

7.3.33. The Cottage has historic interest as a 16th century cottage that was substantially altered in the 18th century. It is also associated with the Moseley Old Hall and the Whitgreave family. Architectural interest derives from the surviving timber frame construction as well as the 19th century alterations. The Applicant considers there would be no impact on this asset as a result of the Proposed Development as it would not affect the setting of this asset, which coincides with the setting of Moseley Old Hall.

Moseley Hall and associated buildings

7.3.34. Moseley Hall has historic interest as an early 18th century house, associated with the Whitgreave family. Architectural and artistic interest derives from the appreciation of the early Georgian style and surviving architectural details. The listed buildings that surround the Hall also have

historic interest as they illustrate early 18th century buildings and structures that were built to support the Hall. Their significance is defined by their relationship with Moseley Hall. The Applicant considers the Proposed Development would not affect the setting of this asset nor its significance.

7.3.35. In terms of operational effects none of the designated built heritage assets are anticipated to experience a change in traffic noise of 3 decibels (dB) or more with the highest increase experienced at Hilton Hall and the Conservatory, at around 2dB. The Applicant considers the increase in traffic noise level associated with the operation of the Proposed Development would not be significant. The main line of the link road would not be lit but there would be lighting on the junctions and slip roads at either end. The Applicant considers that lighting overspill would be reduced from the current levels by the use of light emitting diodes (LEDs) and that the proposed lighting strategy would not affect the significance of the heritage assets within the study area, during the operation of the Proposed Development. Vehicles using the Proposed Development would not be visible from buildings within the Park, with the exception of the Portobello Tower which already experiences views towards existing motorways and roads. Other built heritage assets, which would experience views of activity on the Proposed Development, already experience views of roads and are located in built up areas so that their significance would therefore not be affected by any such effects.

Historic Landscape

Hilton Park

7.3.36. The Applicant describes the significance of the park as a landscape park thought to be established in the mid-late 18th century around the early 18th century Hilton Hall, a Grade I listed country house. Hilton Park is not designated as a Registered Park and Garden but is locally designated by SSC in their Core Strategy and encompasses five listed buildings, as described above. It has historic interest as it illustrates a mid to late 18th century parkland that was designed to form the setting of a country house. It is associated with prominent families in the area, including the Vernon family and the renowned landscape gardener, Humphry Repton. The Park has archaeological interest that derives from early activity on the site and a medieval manor that was surrounded by a moat, the remains of which are still extant. Architectural interest derives from the design of the park, including planted trees and woodland that survive as well as the ornamental pools to the west of the Hall, especially the Lower Pool and the one to the north of the Conservatory. Portobello Tower contributes to views within the Park, from Hilton Hall and across the parkland, as, apart from its commemorative value, it was also constructed as a folly. The Conservatory was constructed as an ornamental feature within the Park and in order to accommodate exotic plants but also to contribute to views from the hall. Although parts of the designed landscape have been altered or lost, especially in the area around the Hall, the surviving trees and plantations illustrate Repton's original landscape designs. The Park was designed as part of the

Picturesque movement, characterised by informal plantations and picturesque views.

7.3.37. The Applicant acknowledges that the Proposed Development would have a direct impact on Hilton Park and describes it in the following terms. *"The Scheme would start at the M54 junction 1 to the south and would continue until it meets Hilton Lane to the north, through the western part of the park. The Scheme would affect the western boundary of this asset, which would be severed from the rest of the park to the east. As the Scheme runs northwards through the park, it would be located close to the alignment of Dark Lane, running parallel along the western boundary of the park. This would include the Severn Trent diversion that would run along the eastern edge of the proposed carriageway. As a result, key elements of the park, including the Lower Belt, The Shrubbery, the Lower Pool and surrounding woodland would be affected. This would affect the understanding and appreciation of the development of Hilton Hall and associated parkland. These are elements that illustrate the historic development of the park. However, although they would be affected by the Scheme, they would not be lost completely. The remaining woodland around the Lower Pool would be retained along with the open parkland between the Hall and the Shrubbery. The remaining trees would continue to provide screening to the Scheme from the eastern part of the park, as well as from Hilton Hall and its associated buildings and structures."* (See [REP7-016] which puts the scheme in context including environmental mitigation.)

7.3.38. The Applicant categorises the impact as moderate adverse as key elements of the landscape would be lost and the parkland modified. As the remaining part of the parkland would continue to be understood and appreciated it would continue to provide an attractive setting for Hilton Hall and the other listed buildings. Overall, the Applicant identifies the significance of effect as moderate adverse. The Applicant refers to the Framework and considers the harm to be less than substantial for the asset's significance.

7.3.39. Again, the Applicant identifies temporary adverse effects during construction associated with the presence and movement of plant and equipment, and the erection of a site compound, as well as construction noise. These effects would be slight adverse and less than substantial in Framework terms and be temporary during the construction phase only.

7.3.40. In terms of operational effects on the landscape any impacts during its operation would be limited by the extent to which road noise, lighting or visible traffic movements would influence the character and perception of the historic landscape. The Applicant concludes that while the change in traffic noise level would vary across Hilton Park the change in noise level would not be significant for the majority of the Park, including the listed buildings for which the park provides the setting. The magnitude of change varies with distance from the Proposed Development; with the areas of the park directly adjacent to the Proposed Development experiencing an increase in traffic noise greater than +5dB and the area to the east of Hilton Hall, adjacent to the M6, predicted to experience no

change. The areas that would experience the greatest increase in noise levels are covered in thick woodland that currently forms part of The Shrubbery and are not publicly accessible.

7.3.41. In response to issues raised by Allow Limited (Allow) the Applicant also undertook further work to assess alternative locations for mitigation works proposed on plot 5/2[32], west of the mainline of the carriageway. A report was submitted [REP4-036] which considered various alternative strategies and locations for woodland planting around the Lower Pool area. The Applicant concluded that the proposed woodland mitigation on plot 5/2 was the most appropriate location. This would ensure any harm to the heritage assets was minimised and, whilst the mitigation may have an effect which would be less than substantial harm on the significance of Hilton Park and the setting of Hilton Hall and other listed buildings, this was, in effect, the least worst option and had the least harmful heritage effect when balanced with other considerations.

7.3.42. In terms of lighting, lighting at the M54 junction 1 would have a similar or lesser effect, at night than at present, from within the park due to the column heights not increasing and use of LED lamps, and would not affect the significance of this asset. Heavy Goods Vehicles (HGVs) and cars that use the Proposed Development would not be visible from within Hilton Park, with the exception of the areas in very close proximity to the new M54 junction 1 where some visual intrusion might be experienced as a result of glimpses through trees and vegetation in winter. Due to the Proposed Development resulting in some limited effect on the appreciation of the significance of the asset, the significance of effect on the asset is considered, by the Applicant to be slight adverse.

7.3.43. The following two tables summarise the predicted effects in terms of construction and operational effects.

Table 3: Summary of construction effects on cultural heritage assets[33]

Asset ID	Description	Heritage Value	Magnitude of impact	Significance of residual effect
A59	Wordsley Green Turnpike Road	Negligible	Minor Adverse	Slight adverse (not significant)
A22	Cropmarks	Negligible	Major adverse	Slight adverse (not significant)
A23	Cropmark	Negligible	Major adverse	Slight adverse (not significant)
A36	Cropmark complex	Negligible	Moderate adverse	Slight adverse (not significant)
B2	Hilton Hall	High	Minor Adverse	Slight adverse (not significant)
B4	The Conservatory	High	Negligible adverse	Slight adverse (not significant)

[32] As shown on the Land Plans [REP6-004]
[33] Table 6.4: Summary of construction effects on cultural heritage assets pg 6-40 ES [APP-045]

Asset ID	Description	Heritage Value	Magnitude of impact	Significance of residual effect
B3	Gatepiers	Medium	No change	Neutral (not significant)
B23	Portobello Tower	Medium	Minor Adverse	Slight adverse (not significant)
B22	Coach house and stable block	Medium	Negligible adverse	Neutral (not significant)
B1	Moseley Old Hall	High	No change	Neutral (not significant)
B14	Moseley Old Hall cottage	Medium	No change	Neutral (not significant)
B15-B19	Moseley Hall and associated buildings	Medium	No change	Neutral (not significant)
A40	Hilton Park	Medium	Moderate adverse	Moderate adverse (significant)

Table 4: Summary of operation effects on cultural heritage assets[34]

Asset ID	Description	Heritage Value	Magnitude of impact	Significance of residual effect
B2	Hilton Hall	High	No change	Neutral (not significant)
B4	The Conservatory	High	No change	Neutral (not significant)
B3	Gatepiers	Medium	No change	Neutral (not significant)
B23	Portobello Tower	Medium	No change	Neutral (not significant)
B22	Coach house and stable block	Medium	No change	Neutral (not significant)
B1	Moseley Old Hall	High	No change	Neutral (not significant)
B14	Moseley Old Hall cottage	Medium	No change	Neutral (not significant)
B15-19	Moseley hall and associated buildings	Medium	No change	Neutral (not significant)
A40	Hilton Park	Medium	No change	Slight adverse (not significant)

7.4. REQUIREMENTS (R)

7.4.1. R4 of the draft Development Consent Order (dDCO) seeks to secure a Construction Environmental Management Plan (CEMP) in accordance with the OEMP [REP7-026] which must then be followed throughout the

[34] Table 6.5 Summary of operation effects on cultural heritage assets pages 6 - 43 ES [APP-045] The table include asset ID's for Moseley Old Hall Cottage as B1 and Moseley Hall and Associated buildings as B14. These are incorrect and the corrected asset ID has been inserted in the table in the report to avoid confusion.

construction phase. Following completion this would be converted into a Handover Environmental Management Plan (HEMP) to ensure proper maintenance thereafter. This specifically requires an Archaeological Management Plan and an Archaeological Mitigation Strategy.

7.4.2. R9 requires the submission of a Written Scheme of Investigation of areas of archaeological interest and requires the development to be carried out in accordance with any such scheme. It further requires the reporting, publication and deposition of any reports. The Requirement also includes provisions to address actions if any remains not previously identified are revealed when carrying out the development.

7.4.3. The Requirements also make reference to the Register of Environmental Actions and Commitments (REAC) which includes actions or commitments in respect of various environmental matters which include cultural heritage matters.

7.5. THE POSITION OF THE IPs

Historic England (Historic Buildings and Monuments Commission for England) (HBMCE)

7.5.1. HBCME and the Applicant have completed a signed Statement of Common Ground (SoCG) [REP7-030], which sets out the areas agreed and not agreed and the reasoning thereof. In respect of areas of disagreement these related to enhancement measures which related to Portobello Tower, and the level of harm ascribed to the effects on the Conservatory and Hilton Hall, albeit it is agreed that these would be less than substantial.

7.5.2. HBCME in its responses to questions in the ExA's Third Written Questions (ExQ3) [REP6-045] also provides separate advice and consideration of the alternative mitigation planting to that on Plot 5/2 for planting to the east of the main line of the new road.

Staffordshire County Council (SCC)

7.5.3. There is a signed completed SoCG between SCC and the Applicant [REP7-027] which records agreement on all Cultural Heritage issues including methodology and assumptions, baseline conditions, mitigation (including in respect of archaeology) and impacts and effects. The SoCG was signed in advance of the receipt of the Applicant's Report on Archaeological Trial Trenching Evaluation [REP7-035].

7.5.4. The Local Impact Report (LIR) produced by SCC [REP1-007] sets out the Council's position addressing archaeological remains, historic landscape and the built environment. In summary the County Archaeologist noted that there would be impacts to buried remains within the application site, both to known sites recorded on the Staffordshire Historic Environment Record/ identified as part of pre-DCO application assessment, or to previously unrecorded remains identified during the construction process. The County Archaeologist notes that it should be recognised that, given

the geology of the application site there is some potential for archaeoenvironmental deposits to be encountered. The County Archaeologist further concludes that, the northern part of the site and the surrounding landscape is largely agricultural in nature, whilst the southern part forms part of Hilton Park, the landscape garden surrounding Hilton Hall. The Proposed Development would alter the character of the western portion of Hilton Park, including some loss to key landscape features. However, this would not constitute an appreciable loss to the character of wider historic landscape. In respect of the built environment the LIR notes that SCC defer to SSC and HBMCE on these matters.

South Staffordshire Council (SSC)

7.5.5. The signed and completed SoCG between the Applicant and SSC [REP7-028] records that there is agreement between the parties on all Cultural Heritage issues. The effects on designated heritage assets is agreed and it notes that the County Archaeologist leads on matters to do with archaeology and therefore SSC makes no comments. It also addresses matters related to the Portobello Tower, Mile Wall and Plot 5/2.

7.5.6. The LIR produced by SSC [REP1-097] sets out the Council's position on the Historic built environment and concludes no conservation objections are raised to the Proposed Development and confirms that with regards to archaeological matters, *"the County's Archaeologist leads on this matter and we therefore have no comments to make"*.

Hilton, Featherstone & Brinsford and Shareshill Parish Councils

7.5.7. A completed SoCG [REP7-031] between the Applicant and the Parish Councils of Hilton, Featherstone & Brinsford and Shareshill sets out the position of these Parish Councils in respect of various matters. Agreed matters include the re-use of materials from Mile Wall and not agreed matters include issues related to Portobello Tower, the Councils suggesting the Tower could be appropriate for Designated Funds[35].

National Trust

7.5.8. A signed and completed SoCG between the Applicant and the National Trust [REP6-035] confirms the parties agree on the Baseline conditions for the Cultural Heritage Assessment and that the National Trust is content with the assessment of impacts on Moseley Old Hall and the associated buildings, this includes the effects on setting.

[35] Designated Funds' are managed Highways England ring-fenced funding that cover four funding areas: users and communities, environment and well-being, innovation and modernisation, and safety and congestion. Applications can be made by Highways England Teams and external organisations.

Allow

7.5.9. Allow took an active role in the Examination and participated in the Issue Specific Hearing 1 (ISH1) which considered Cultural Heritage. There is a signed SoCG between the Applicant and Allow [REP8-011] which records the areas of agreement and disagreement between the parties. In support of its position in respect of the effect of the Proposed Development on the Historic parkland and additional listed buildings within the parkland and any archaeological interests Allow submitted a document entitled 'Review of Land acquisition at Hilton Park' [REP1-092] which further sets out their position. At the end of the Examination Allow maintained its objections which are summarised in its Statement of Final Position [REP9-005]. Allow's objections include matters in relation to Compulsory Acquisition (CA) and Temporary Possession (TP), these are addressed in Chapter 16; this Chapter however does consider matters of disagreement in respect of Cultural Heritage issues the conclusion of which may then have a bearing on the conclusions in respect of CA and TP.

7.5.10. Allow's concerns relate to the quantum and location of the mitigation required. This is also addressed in Chapter 6 in respect of Biodiversity as there is some degree of cross over between the points raised. Allow is concerned that the Applicant did not sufficiently engage with and consider alternative mitigation locations, or whether the quantum of mitigation proposed was excessive. Allow has proposed that the mitigation would be better placed east of the main line of the link road rather than to the west of it as currently proposed and requiring the CA of Plot 5/2. The Applicant's Assessment of Alternative Locations for Mitigation in Plot 5/2 [REP4-036] was produced in response to these issues and which puts forward four alternative locations. Allow responded and critiqued this assessment in [REP5-007]. Allow has put forward an alternative option which it considers would better meet the balance between the impact on the historic landscape (which it notes would be less than substantial) and the effects on biodiversity and is provided in its response to the ExA's third written questions [REP6-048].

D Williams

7.5.11. Mr Williams has engaged with the Examination through written representations. He submitted Relevant Representations (RRs) [RR-032] at the start of the Examination which raised issues related to traffic matters and the effects that flow therefrom. Mr Williams made a number of submissions at various deadlines throughout the Examination, including [REP2-014], [REP5-013] and [REP7-040], and his final comments are included in his Deadline (D) 9 submissions [REP9-007] wherein he sets out his previous questions raised with the Applicant, their response and his response to those comments. This provides a reasonable summary of the issues he has raised. In respect of Cultural Heritage matters, Mr Williams raises concerns in relation to Kettle Holes[36]

[36] A Kettle Hole is a depression or hole in an outwash plain formed by retreating glaciers where a detached mass of glacial ice became wholly or partially buried.

and Holocene[37] deposits and is concerned that the Applicant has not fully explored the sediment/paleo proxy sequences within and adjacent to the Order Lands. Mr Williams view is that there is circumstantial evidence that Kettle Holes exist within or immediately adjacent to the Application site is overwhelming and the Applicant's response is woefully inadequate.

7.6. PLANNING ISSUES

7.6.1. The outstanding areas of dispute in respect of Cultural Heritage issues are used to identify the main issues which we have considered, and which are:

- the effects of the Proposed Development on the Historic landscape at Hilton Park, including the effect resultant from any scheme mitigation.
- the effects of the Proposed Development on designated built heritage assets, including the effect resultant from any scheme mitigation.
- whether the Applicant has adequately and appropriately assessed the impacts of the Proposed Development on any archaeological interests.
- whether the Applicant has adequately and appropriately assessed the impacts of the Proposed Development on any Kettle Holes.
- the impact of the Proposed Development on non-designated built heritage assets.

7.7. ExA CONSIDERATIONS

General approach and analysis

7.7.1. The baseline conditions and identification of heritage assets within the study area are set out in the ES. The Applicant identified a list of designated and non-designated heritage assets in Appendix 6.1 of the ES [APP-169] with the ES Chapter setting out a detailed description of each of the assets, including its significance. The Applicant's desk-based review identified some 59 non-designated archaeological assets, a total of two Grade I, three Grade II*, and 21 Grade II listed buildings and 13 historic buildings and structures, including seven locally listed buildings or structures. No World Heritage Sites, Scheduled Monuments, Registered Battlefields, Registered Parks and Gardens or Conservation Areas were identified by the Applicant within the study area. There were no concerns raised by IPs that any heritage assets had not been identified and SSC in response to First Written Questions ExQ1.6.3 [REP1-098] confirmed that they were satisfied that this represented a comprehensive list of all heritage assets. The ExA is satisfied that the Applicant has therefore undertaken an assessment based on the relevant heritage assets potentially affected by the Proposed Development.

7.7.2. The significance of those assets is set out within the ES. There were no substantial areas of dispute raised in respect of the description of significance with the exception of matters in relation to Hilton Park and

[37] The Holocene is the name given to the last 11,700 years of the Earth's history — the time since the end of the last major glacial epoch, or "ice age." In general, the Holocene has been a relatively warm period in between ice ages.

the associated contribution to significance of it in terms of setting in respect of certain Listed Buildings which is discussed below. Other than where specifically commented on below we accept the Applicant's assessment of significance and this is therefore used in considering the impact of the proposed development in accordance with paragraphs 5.127, 5.128 and 5.129 of the NPSNN.

7.7.3. Other than those heritage assets that are addressed below the we are satisfied with the Applicant's assessment and conclude that the Proposed Development would not result in harm to the significance of those other heritage assets identified within the study area given the nature of the asset, its stated significance, the separation from and relationship with the Proposed Development and the nature of the surroundings within which they are located.

7.7.4. Whilst not the heritage asset of greatest value, the area of greatest dispute related to Hilton Park, in terms of its assessed significance, the impact of the Proposed Development and the potential effects of alternative mitigation proposals. Conclusions drawn in respect of these matters and in terms of Hilton Park overall flow into matters related to the significance and effect of the Proposed Development on certain designated built heritage assets. These designated built heritage assets are located within the Park and it forms their setting and the conclusions in respect of Hilton Park therefore have implications in terms of those heritage assets' significance and the effect of the Proposed Development thereon; it is therefore dealt with first.

Historic Landscape Hilton Park

7.7.5. Hilton Park is not a Registered Park and Garden, it is not therefore a designated heritage asset in the context of paragraph 5.123 of the NPSNN. Hilton Park is identified in the Core Strategy as an Historic Landscape Area as identified in Policy EQ4 and identified on the proposals map. Policy EQ3 also defines heritage assets to include 'Registered Parks and Gardens (and other historic landscapes)' and therefore Hilton Park could be argued to fall within that definition. Given the Council's definition it is reasonable to conclude that Hilton Park can be considered to be a non-designated heritage asset in the context of paragraph 5.125 of the NPSNN. Similarly so in the context of paragraph 197 of the Framework.

7.7.6. All parties acknowledge that Hilton Park is a parkland that was designed to form the setting of a country house, Hilton Hall. The Applicant acknowledges an association with the renowned late 18th century landscape gardener Humphry Repton. But this association is insufficiently researched according to Allow and its report entitled 'Review of Land Acquisition at Hilton Park' [REP1-092]. This leads to concerns that insufficient weight has been given to the association with Repton and therefore the potential significance of the Park. Allow provides additional mapping, including an 1816 map by Robert Dawson, which is provided at figure 1 of the report [REP1-086], which illustrates the Park with

significant features including various tree belts woodland planting ornamental lakes and individual parkland trees set in open parkland.

7.7.7. The map illustrates a significant progression from the estate map of 1796 [APP-078] and would suggest that the Park was laid out in the period between 1796 and 1816, including many of its important features including Lower Pool. This would be somewhat earlier than suggested by the Applicant, who refer to the tithe map of 1842 [APP-079] as the first time the Lower Pool is depicted. Of particular concern are the northern and western boundaries of the Park; to the west there are perimeter tree belts and shelter tree belts. At the northwest corner a shelter belt referred to as The Shrubbery is located adjacent to Park Road and Hilton Lane. The 1816 map also shows the first alignment of what is now Park Road suggesting it was part of the Park redesign.

7.7.8. The importance of the dating relates to Repton (1752 – 1818) and the time when he would have been active. The Allow report [REP1-092] also notes that in 'Peacock's Polite Repository or Pocket Companion' of 1796 there is an image of Hilton Hall, and that the illustrations were by Repton indicating that he would have visited it in or around that time to produce the image.

7.7.9. Certainly, many of the features within the Park layout are features and elements that would be associated with Repton's approach to landscape and there is no real dispute that there is an association. As the Applicant points out, there is no documentary evidence to provide illustrations or proposals for the layout, such as in the form of a Repton Red Book, but the changes to the Park did appear to take place around the time of Repton's association with the Vernon family, who owned Hilton Hall, and he appears to have visited in an appropriate time frame. On this basis there is a reasonable prospect of his influence and that does influence the significance attributable to the Park. However, the Applicant does not dispute the association and has had regard to it.

7.7.10. The Park is not unaffected by previous development. There has been significant disruption to the form layout and features resultant from the M54 motorway and the winning of minerals to the south. There has been further development to the east with the M6 severing parts of the Park and the Hilton Services being developed in the Park. As such, the Park already has had development which has affected its significance, and this must be considered in the understanding of its current significance.

7.7.11. We are of the view that as Hilton Park is not a Registered Park or Garden it is not a designated heritage asset; it is a locally designated historic landscape, and it is a historic landscape developed along the picturesque landscape principals with an association to a renowned landscape gardener. It therefore has significance as an illustration of a late 18th century parkland that was designed to form the setting of a country house and that significance is increased by the likely association with Repton.

7.7.12. The Applicant ascribes a medium value to the value of the Park, but this is questioned by Allow due to the association with Repton. However, whilst that has importance in the consideration of its significance, no clear documentary designs or sketches provide unequivocal evidence of his involvement in the evolution and laying out of the Park. Also, other factors including the current condition of the Park and the effects of previous development, as referred to above, must be taken into account. Overall, we are satisfied that the Applicant has ascribed a reasonable value to the asset on the basis of the current information and condition of the Park, its designations and historic associations.

7.7.13. The Proposed Development would run from the M54 junction 1 northwards parallel with the western boundary of the Park, basically demarked by the A460, up to the junction 11 of the M6. This would take the main line of the road through The Shrubbery and the Lower Pool and across Hilton Lane, the northern boundary of the Park. The Proposed Development would result in the introduction of further development within the historic park and severance of elements of the Park. In particular, the new arrangement at junction 1 would intrude into undeveloped fields at the south of the Park. The mainline of the road would traverse through the Park, cross the line of the original entrance to the Hall and would cut through and result in the removal of part of The Shrubbery and part of Lower Pool, both historic and important features of this section of the Park. The Proposed Development would sever the perimeter tree belt on the eastern side of the A460 from the Park and would result in the stopping up of and removal of part of Park Road, part of the historic layout of the Park. In this regard we acknowledge that the Proposed Development would result in the removal, alteration and severance of important elements that contribute to the significance of the historic park.

7.7.14. Added to the direct impacts associated with the construction of the Proposed Development Allow further contends that the Applicant has failed to properly consider the additional impact of their proposed mitigation works. In particular they point to environmental mitigation works proposed for plots 5/2 and 4/20c where the Applicant is proposing woodland planting and additional ponds and grassland planting. Allow contends that the planting on the west side of the mainline in the vicinity of The Shrubbery and perimeter tree belts would integrate these features in a larger woodland block and reduce the perception of the original design. Allow were concerned that insufficient consideration had been given to the effects on important parkland features.

7.7.15. The Applicant has considered potential alternative planting in this location in its document 'Assessment of Alternative Locations for Mitigation in Plot 5/2' [REP4-036]. The Applicant considered four alternative mitigation proposals in the context of Allow's suggestion that the mitigation should be located to the east of the mainline of the road. In part this was to address ecological matters and that is addressed in Chapter 6 and there is a balance to be struck between ecological and heritage issues (and also landscape and visual effects) and that is addressed in the overall planning balance in Chapter 15. Here the main

consideration is the effect on the significance of the heritage assets. Allow also put forward its own suggestion [REP6-048] in response to the ExA's set of ExQ3.

7.7.16. Overall the conclusion drawn by the Applicant was that option 1, which was that proposed on the west side, had the least harmful effect on the historic landscape and its importance to the significance of the Grade I listed Hilton Hall and Grade I listed Conservatory (see further discussion below). The other options provided progressively greater planting in the open parkland between Hilton Hall and the Shrubbery and thereby reduced the open setting for the Hall and Conservatory. Allow's proposal sought to split the planting and reduce some of the encroachment towards the Hall. The SoCG between the Applicant and HBCME [REP7-030] and further comments from HBCME [REP6-045] in response to ExQ3 provided HBCME's considered position in respect of the woodland planting. The SoCG makes it clear that HBCME would see that planting to the east of the mainline would be significantly more harmful than planting to the west of the mainline. The loss of and reduction in open parkland within the immediate setting of Hilton Hall would be particularly harmful. It would result in the loss of the episodic and choreographed views between Lower Pool and the Hall and sever The Shrubbery and Lower Pool from the parkland and Hall to the east. Whilst HBCME accepts that there would be harm resultant from the Proposed Development, including from the additional planting, the proposed planting to the west of the mainline was the least intrusive on the historic parkland setting. In response to Allow's suggestion, whilst HBCME accepted this was less intrusive and harmful than some of the alternatives put forward by the Applicant, in its assessment of alternatives, it was still more harmful than the proposed mitigation planting west of the mainline which forms the application proposal.

7.7.17. HBCME also in the SoCG retracted its use of the phrase *"locally substantial"* in the context of harm to the Lower Pool and The Shrubbery as it acknowledged this could cause confusion with the phraseology in the NPSNN and the Framework. Allow had sought to suggest that this phraseology was important in that context. In effect HBCME clarified that there were different impacts on different features and elements within the park resultant from the development and that the areas of the Lower Pool and The Shrubbery would be one of the most affected. Overall HBCME concludes that the overall effect on the historic landscape of Hilton park would be less than substantial.

7.7.18. We are strongly guided by the advice of HBCME and its expert opinion. It is accepted that the Proposed Development would result in harm to this heritage asset. It is accepted that this harm would be less than substantial harm. It is accepted that the harm would vary to different features within the Park and that the Lower Pool and The Shrubbery would be among the most affected and that these are important features in the Park. However, it is also accepted that the Park already has been affected by previous development and that the level of value of significance to the Park is reasonably concluded to be medium value. Overall, therefore, we conclude that the effect on the Park would in ES

terms be a moderate level of significance and that this would translate into a less than substantial harm in planning terms. Given these conclusions the proposal would also conflict with the Local Plan, in particular with the aims of Core Strategy Policies EQ3 and EQ4.

Designated Heritage Assets

Hilton Hall

7.7.19. Hilton Hall is Grade I listed and is therefore an asset of the highest significance. This is recognised by the Applicant who ascribes a high value in its assessment. The significance derives from its historic value as an illustration of social and economic life in the 18th century. The Hall is attributed to Richard Trubshaw and therefore has associative value with a leading Architect and was the house of the Vernon family again providing associative value. Architectural and artistic interest derives from the baroque style of the Hall, its materials, design and architectural features. Later extensions have been added which respect the main building and which provide evidence of the development of the property. None of these aspects of the main significance of the asset are challenged by any of the IPs and indeed none of the fabric or structure of the building would be directly impacted by the Proposed Development.

7.7.20. The setting of the Hall, however, also contributes to its significance and the setting is defined by the historic landscape park, Hilton Park, discussed above. The Park also includes a number of other listed buildings which given their relationship to and location add to the significance of the Hall. These include the Conservatory, a Grade I listed building set to the west of the Hall; the Coach House and stable block, a Grade II group of buildings to the west of the Hall; a pair of Gatepiers, Grade II listed, to the south of the Hall; and a folly, the Portobello Tower, a Grade II listed building, again to the south of the Hall, beyond the Gatepiers.

7.7.21. These buildings set within the historic parkland contribute to the setting of Hilton Hall, illustrating the estate development and reflective of the economic and social standing of the Vernon family. They contribute to the significance of Hilton Hall. As discussed above the Proposed Development will result in harm to Hilton Park, there will therefore be harm to the significance of Hilton Hall. The harm to the Park would affect features close to the Hall including the Lower Pool and The Shrubbery which are designed features to be seen from the Hall. The Proposed Development would have construction impacts resultant from noise and activity, albeit this would be for limited periods and would not persist beyond the completion of the scheme. This is considered in Chapter 10 of this report. There would also be some impact resultant from soil storage areas. Overall, however, the greatest impact would result in the harms to the Park described above in the context of severance and destruction of features and elements of the Park. There is some dispute as to whether the road would be visible from the Hall but there are no lighting columns or elevated structures along this section of the road and, if views where available, these would be limited and glimpsed at worst. These, however, are concluded to be less than substantial and as they are only a

contributor to the significance of the Hall they would be no more than a less than substantial harm to the significance of the Hall. Whilst the Hall is an asset of the highest value as a Grade I listed building, its principal elements of its significance would not be harmed and the overall significance of the effect ascribed by the Applicant as slight adverse is considered reasonable. Translated to NPSNN and Framework terms this would be less than substantial harm.

The Conservatory

7.7.22. The Conservatory is a Grade I listed building and therefore a designated heritage asset of the highest value. This is acknowledged by the Applicant. Its significance is described by the Applicant as deriving from its ornamental architectural design and use of a glass roof. It illustrates the early use of the glass roof in conservatories and therefore has historic interest. The significance of the conservatory also derives from its relationship with the Hall and its setting within the parkland setting.

7.7.23. The Proposed Development would not directly affect the structure of the Conservatory or its relationship with the Hall. These important elements of the significance would therefore not be affected. The Conservatory is set within a wooded area and therefore there would be limited direct views available from it towards the mainline of the road. The Proposed Development however does introduce a modern infrastructure element within the parkland setting which results in a change to its setting. There are some minor construction noise level increases and movement of construction traffic and equipment which would temporarily detract from the setting. Overall, the Applicant's slight adverse significance of effect is concluded to be reasonable. In NPSNN and Framework terms this would equate to less than substantial harm.

Gatepiers

7.7.24. The Gatepiers are Grade II listed buildings they illustrate the development of the estate and demark an original entrance route. They have architectural and artistic value in their design and materials. They have group value with the Hall and other assets within the parkland setting which forms part of their setting and contributes to their significance. The relationship with the Hall is not affected by the alignment of the Proposed Development and the significance of the piers is therefore not directly affected, which therefore has a neutral effect on their significance.

Portobello Tower

7.7.25. The Portobello Tower is a commemorative tower of an important historical event with associations with the Vernon family. The Tower also has architectural interest from its design and positioning within the Park as a folly contributing to views from the Hall and within the Park. Its setting is defined by the Park and its relationship with the Hall. Portobello Tower is set in open parkland and would be seen in views from within the Park and from the south. The Proposed Development would reduce the open nature of the parkland to the south and therefore reduce the open

aspect within which the Tower is viewed. The more developed and higher junction 1 of the M54 would intrude into the landscape within which the Tower is visible and within which it is appreciated. The Tower is in a poor state of repair and the public does not have access to it but views of it would remain. Overall, the significance of the Tower would still be appreciated in the context of the historic park and the relationship with the Hall. For these reasons overall, the significance of the effect on the Tower would be slight adverse. This would represent less than substantial harm in the context of the NPSNN and Framework.

7.7.26. In the context of the Portobello Tower there were requests from the Parish Councils and from SSC regarding the potential for works to repair or maintain the Tower. The Applicant noted that the Tower was outside the application site and therefore was not within the works programme. It was suggested by the Parish Councils and others that the Tower could be appropriate for 'designated funds'. The Applicant confirmed they, as a Highways England Team, had made a bid to the Designated Fund to undertake a condition survey and produce a heritage appraisal. Unfortunately, this was unsuccessful as there was no owner contribution, no public access to the Tower and the public benefits of the restoration of the Tower would have limited public benefits. The Tower is outside the Order Limits, the effect of the Proposed Development on the setting of the heritage asset has been taken into account in our consideration but the Proposed Development would have no direct impact on the asset and direct works to it would not be a necessary requirement.

Coach House and Stable Block

7.7.27. The Coach House and Stable block are Grade II listed buildings. Their significance derives from their historic interest as 19th century farm buildings constructed to support the Hall. They have architectural and artistic value resultant from the layout style and materials. Again, their setting is defined by their location within Hilton Park and their proximity to and relationship with Hilton Hall.

7.7.28. The Proposed Development would be to the west side of the Hall towards the western boundary of the Park. These assets are located on the east side of the Hall. The Proposed Development would not affect the fabric of the buildings or their layout or their relationship with Hilton Hall, the principal contributors to their significance. However, the Park would be affected and therefore there would be a change to their wider setting within which they would be experienced and therefore there would be an effect on their significance. This would be limited as the buildings would be screened and any construction effects of limited effect and duration. On this basis we conclude that the neutral significance of effect attributed to these assets by the Applicant whilst reasonable does not fully account for the setting which would be harmed and therefore even if limited there would still be harm to their significance. This would equate to a less than substantial harm in NPSNN and Framework terms.

Moseley Old Hall, Moseley Old Hall Cottage and Moseley Hall and associated buildings

7.7.29. The Applicant undertook an assessment of these heritage assets identifying their significance, including the contribution of their setting and the effects of the Proposed Development. There were no substantive issues raised by IPs with regard to this assessment or the conclusions reached by the Applicant. In this regard the Applicant concluded that the Proposed Development would not affect the buildings or the setting of Moseley Old Hall, Mosely Old Hall Cottage and Moseley Hall and associated buildings and, consequently, there would be a neutral significance of effect on each of these assets. The ExA has received no evidence on which to dispute these findings and therefore concludes that the findings and assessment are reasonable. The buildings and their settings would therefore be preserved.

Archaeology

7.7.30. Chapter 6 of the ES [APP-045] includes an assessment of Archaeology including an assessment of baseline conditions, an identification of the potential for remains and an assessment of the potential effects. The Applicant concluded in the ES that there would be no impacts on designated archaeological sites as a result of construction but identified some non-designated assets that could be affected. These related to the alignment of the Streetway and Wordsely Green Turnpike Road, now known as the A460 Cannock Road. However, given more recent modernisations its value in terms of buried remains is negligible. Moreover, the Proposed Development would only have a limited effect; the effect would at most be slight adverse, according to the Applicant. The Applicant also identified a number of crop mark and ditch evidence but, again, these are seen as having negligible value with slight adverse effects.

7.7.31. There was little challenge to these conclusions and SCC in its LIR and responses to Examining Authority's First Written Question (ExQ1) was reasonably content with the approach of the Applicant.

7.7.32. The greatest concerns were raised by Allow with regard to the investigation regarding unknown buried remains and in particular the lack of Trial Trenching. The ES had suggested that further works would be undertaken during the detailed design of the scheme and that it was not required for the submission of the application, but that further work would be undertaken early in the process. The Applicant submitted a Written Scheme of Investigation for archaeological trial trenching evaluation (WSI) [REP4-032] at D4 and this was agreed with the County archaeologist. At D7 the Applicant submitted a signed SoCG with SCC which accepted the approach and confirmed there was not an expectation for significant finds. As a separate submission but also accepted at D7 the Applicant submitted a report on Trial Trenching [REP7-035]. This confirmed that some 139 trial trenches were excavated across the site. The report reported that the trenching did not reveal any archaeological remains within the site. It concluded this demonstrated a

lack of archaeological evidence for activity other than post-medieval and modern agricultural practices and no further work was recommended.

7.7.33. The report confirmed the expectations of the experts. There were two Deadlines subsequent to the submission of this report and none of the IPs took the opportunity to raise any further issues on the matter. On this basis we conclude that the Applicant has complied with the advice in NPSNN paragraph 5.127 on the Applicant's assessment and that there is sufficient evidence for the Secretary of State for Transport (SoST) to conclude on archaeological remains as set out in paragraphs 5.128 and 5.129. We are satisfied that the evidence demonstrates that there would be no significant effect on archaeological remains with the only effects being those identified above in respect of non-designated assets and would be of limited or negligible effect.

7.7.34. R9 includes a requirement to undertake investigations in accordance with a written scheme of investigation and to undertake certain actions dependant on the outcome. These parts of that Requirement are, given the submission of these later documents, overtaken by events and no longer required. Given the wider locality and the potential for archaeology it is concluded it would be reasonable to retain those parts of R9 which deal with remains that are found during construction in case any such finds do occur. R4 also requires various matters and there is reference to the OEMP and REAC there are elements within these which provide mitigation for archaeological and heritage matters that are still necessary and so these matters should be retained.

Other matters

Kettle Holes

7.7.35. During the Examination Mr Williams raised concerns that the Applicant had not properly considered and investigated the potential for Kettle Hole and Holocene deposits. His D9 submissions [REP9-007] repeated his responses to the Applicant's responses to previous questions he had raised and concluded that the circumstantial evidence that Kettle Holes exist within or immediately adjacent to the application site is overwhelming. Mr Williams takes the view that the robustness of the Applicant's due diligence in explaining what each potential Kettle Hole feature is and what it may or may not contain is woefully inadequate.

7.7.36. The Applicant is firmly of the view that there is no evidence that Kettle Holes exist across the site. There is no documented evidence to support such a claim and no previous records of any such features in the vicinity of the site. They identify Historic Mapping records and previous geotechnical borehole records to support those conclusions.

7.7.37. Potential paleo-environmental records would be appropriately considered as archaeological records and potentially therefore heritage assets. The NPSNN advises that the Applicant should describe the significance of any heritage asset affected. The level of detail should be proportionate to the assets importance and no more than is sufficient to understand the potential impact on their significance (paragraph 5.127). It is further

stated that where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, the applicant should include an appropriate desk-based assessment, and where necessary, a field evaluation.

7.7.38. The Proposed Development within the application site is a relatively narrow corridor running from junction 1 of the M54 to junction 11 of the M6. Around the junctions of the motorway network significant ground works will previously have been undertaken such that it is highly unlikely any significant archaeological interest would remain. The southern section of the mainline of the road up to Hilton Lane is part of an Historic Landscape. Much of this landscape and features within it have been created for landscape effect, being ornamental pools, shelter belts small areas of woodland, etc. Many of these are the features that are identified as potential Kettle Holes. Given the evidence available from the analysis of historical maps and previous mineral workings in the area it is our view that the balance of probabilities lies with these features not being Kettle Holes but man-made features. There is no strong scientific documentary evidence to conflict with this conclusion and whilst Mr Williams robustly advocates that strong circumstantial evidence supports his contention that there are potential Kettle Holes, it is precisely that, circumstantial. Mr Williams does not identify specific features which are Kettle Holes but identifies an area and a series of potential features suggesting it is incumbent on the Applicant to discount every feature in the area. This is not a proportionate response to the issue given the lack of supporting evidence and the fact much of the concerns are based on assertion.

7.7.39. In the area north of Hilton Lane towards the M6 junction 11 there are a number of man-made fishing lakes; again, this can be seen from analysis of the historic maps. The Applicant identifies some alluvial deposits in the alignment of Latherford Brook to the north, but, again, there is no evidence of Kettle Hole or other environments where paleo-environmental deposits may be located.

7.7.40. The Applicant refers to geotechnical ground investigations, boreholes and other samples that have been considered in reaching its conclusions and identified the source material. Mr Williams is concerned that this is assertion and the detailed analysis is not before the Examination on which to arrive at such conclusions.

7.7.41. Overall, we are satisfied with the level of information before us in respect of these issues, including the assurances of the Applicant, the historic mapping, aerial photographs, archaeological investigations, including the Trial Trenching, to arrive at its conclusions. We are satisfied that there are no documented cases of Kettle Holes in the vicinity of the Proposed Development and application site, there is little supported evidence to identify Kettle Holes within the application site and on the alignment of the Proposed Development. On the balance of probability we conclude that there are no Kettle Holes within the application site and that the potential features are likely to be man-made ornamental lakes, mineral workings or other such features.

7.7.42. In any case the majority of the features identified by Mr Williams as potential Kettle Holes are outside the application site and would not be directly impacted or disturbed by the Proposed Development. Given the advice in terms of a proportionate response to investigations it is considered the Applicant has sufficiently addressed the issue and no significant effects would arise.

Mile Wall

7.7.43. The Parish Councils identified Mile Wall as a feature of local interest and requested the Applicant seek to retain and re-use the material from the wall after demolition. In the SoCG with the Parish Councils it is recorded that the Applicant recognises the importance of Mile Wall to the Parish Councils and that the Applicant will work with the Parish Councils to examine options. The Applicant included at Appendix B of the SoCG [REP7-031] a draft reinstatement proposal and committed to continuing discussions. The SoCG records that the Parish Councils agree that the reinstatement the Applicant as proposed is acceptable. The OEMP [REP7-026] secures the reconstruction of the Mile Wall at table 3.4, D-L5 which states *"The stone wall adjacent to the southbound carriageway of the existing A460, 'Mile Wall', will be dismantled and reconstructed along the realigned section of the existing A460."*

7.7.44. Hilton Park is a non-designated heritage asset. The NPSNN advises (paragraph 5.125) 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. The Framework, paragraph 197, also advises that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, the Framework advises that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

7.7.45. In terms of the designated heritage assets where harm has been identified the harm has been categorised as less than substantial. The NPSNN at paragraph 5.134 and the Framework at Paragraph 196 require that 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. Similarly, Regulation 3 of the Decision Regulations requires the decision-maker to have regard to the desirability of preserving a listed building or its setting where its setting is affected by an application.

7.7.46. The conclusions on the effect on heritage assets in terms of overall decision making is addressed in the overall planning balance in Chapter 15 where, as part of those conclusions, these heritage balances are addressed.

7.8. CONCLUSIONS

7.8.1. We have considered the effect of the Proposed Development on designated and non-designated heritage assets including archaeology and paleo-environmental issues as well as considering other local features of interest. We have concluded that there would be less than substantial harm to a number of designated heritage assets and to non-designated heritage assets and that these conclusions will feed into the overall assessment and planning conclusions at Chapter 15 of this report. This will include consideration and balance of the need to protect the openness of the area to the east of the mainline which contributes to the significance of the setting of Hilton Hall and the Conservatory and the Historic Park against the effects of potential mitigation for bats, as a protected species, and on which our conclusions are set out in Chapter 6 above.

7.8.2. Great weight should be given to any heritage asset's conservation, with the more important the asset the greater the weight, in accordance with paragraph 5.131 of the NPSNN and paragraph 193 of the Framework, and great weight and importance should be given to any harm to a heritage asset in the overall balance in line with Regulation 3 of the Decisions Regulations and this is done in Chapter 15 below. In the context of this Chapter and the issues related to cultural heritage, taking all relevant documents and policies into account, we conclude as follows:

- The Proposed Development would result in less than substantial harm to the following designated heritage assets: Hilton Hall (Grade I), The Conservatory (Grade I), The Coach House and Stable Block (Grade II), The Gate Piers (Grade II) and the Portobello Tower (Grade II) through harm to Hilton Park which contributes to their setting and therefore their significance.
- The Proposed Development would result in less than substantial harm to Hilton Park, a historic landscape that is a non-designated heritage asset.
- The Proposed Development would result in some limited damage to undesignated archaeological assets including crop marks, ditches and other features but overall, the effect would be limited and not significant.
- There is no substantial evidence to conclude that the Proposed Development would result in damage or destruction of Kettle Holes within the Order Limits.
- The Proposed Development would provide for the re-use of materials salvaged from the Mile Wall, a feature of local interest.

8. FINDINGS AND CONCLUSIONS IN RELATION TO THE GREEN BELT

8.1. INTRODUCTION

8.1.1. It is not in dispute that the Proposed Development and Order Limits are located within the Green Belt. This Chapter therefore deals with the effects of the Proposed Development on the Green Belt. In particular it deals with:

- Whether the Proposed Development is Inappropriate Development in the Green Belt.
- The effect of the Proposed Development on the Openness of the Green Belt.
- Whether the Proposed Development conflicts with the five purposes[38] of the Green Belt.
- Whether the Proposed Development conflicts with the fundamental aim of Green Belt policy and their essential characteristics of openness and permanence[39].

8.2. POLICY

National Policy Statement for National Networks

8.2.1. Paragraph 5.164 of the National Policy Statement for National Networks (the NPSNN) identifies the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to identify the essential characteristics of Green Belts are their openness and their permanence. The paragraph also identifies that further information on the purposes and protection of Green belt is in the Framework.

8.2.2. Paragraph 5.170 of the NPSNN, dealing with the Applicant's Assessment, notes there is a general presumption against inappropriate development in the Green Belt and that such development should not be approved except in very special circumstances. It advises that Applicants should therefore determine whether their proposal, or any part of it, is within established Green belt and, if so, whether their proposal may be considered inappropriate development within the meaning of Green Belt policy.

8.2.3. Paragraph 5.171 of the NPSNN notes that linear infrastructure, linking an area near a Green Belt with other locations will often have to pass through Green Belt land. The identification of a policy need for linear infrastructure will take account of the fact that there will be an impact on the Green Belt and as far as possible, of the need to contribute to the achievement of the objectives for the use of land in Green Belts.

[38] As referenced in paragraph 5.164 of the NPSNN and set out in paragraph 134 of the Framework.
[39] As identified in paragraphs 5.164 of the NPSNN and 133 of the Framework.

8.2.4. In advising on decision making the NPSNN at paragraph 5.178 states that when located in the Green Belt national network infrastructure projects may comprise inappropriate development. It notes that inappropriate development, which is referenced to the Framework, is by definition harmful to the Green Belt and there is a presumption against it except in very special circumstances. It further advises the Secretary of State (SoS) will need to assess whether there are very special circumstances to justify inappropriate development and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In considering any application for such development it advises that the SoS will give substantial weight to the harm to the Green Belt, in view of the presumption against inappropriate development.

National Planning Policy Framework

8.2.5. Section 13 of the National Planning Policy Framework (the Framework) sets out government policy on protecting Green Belt land. Paragraph 133 identifies the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. Paragraph 134 sets out the five purposes Green Belt serves:

a. To check the unrestricted sprawl of large built up areas;
b. To prevent neighbouring towns merging into one another;
c. To assist in safeguarding the countryside from encroachment;
d. To preserve the setting and special character of historic towns; and
e. To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

8.2.6. Paragraphs 143 to 147 deal with proposals affecting the Green Belt with paragraph 143 advising that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

8.2.7. Paragraph 144 advises that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

8.2.8. Paragraph 145 advises that new buildings are inappropriate in the Green Belt and provides a list of exceptions to this but given that the Proposed Development does not involve new buildings this is not relevant in this case. Paragraph 146 does advise that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

a. mineral extraction;
b. engineering operations;

c. local transport infrastructure which can demonstrate a requirement for a Green Belt location;
d. the re-use of buildings provided that the buildings are of a permanent and substantial construction;
e. material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds and;
f. development brought forward under a Community Right to Build Order or Neighbourhood Development Order.

8.2.9. Paragraph 147 deals with renewable energy projects which is not relevant to this case.

Local Plan

8.2.10. The South Staffordshire Local Plan Core Strategy (the Core Strategy) includes a spatial strategy which contains two strategic objectives. Firstly, Strategic Objective 1 is to protect and maintain the Green Belt and open countryside in order to sustain the distinctive character of South Staffordshire. And secondly Strategic Objective 2 is to retain and reinforce the current pattern of villages across South Staffordshire and in particular protect and retain the important strategic gaps between existing settlements in order to prevent the coalescence of settlements. It is highlighted that 80% of South Staffordshire lies within the West Midlands Green Belt boundary with the remaining defined as open countryside.

8.2.11. Contributing to the wider Spatial Strategy are National Policy 1: The presumption in favour of sustainable development; Core Policy 1: The Spatial Strategy and Policy GB1: Development in the Green Belt. National Policy 1 reflects the presumption in favour of sustainable development as originally identified in the 2012 Framework with which the Core Strategy was consistent. Core Policy 1 sets out the detail of the Spatial Strategy and in respect of the Green Belt and open countryside it states: The South Staffordshire portion of the West Midlands Green Belt as defined on the Policies Map, will be protected from inappropriate development and proposals will be considered in the light of other local planning policies and the policy restrictions relating to Green Belt in the Framework, however the Council will consider favourably sustainable development which accords with the Spatial Strategy.

8.2.12. It goes on to state: *"The general extent of the Green Belt and the area defined as Open Countryside will be protected and maintained for the Plan period but some land will need to be released from the Green Belt and Open Countryside in some locations at the Main and Local Service Villages to deliver the proposed development strategy and enable the sustainable growth of these villages. A partial review of Green Belt boundaries and a review of Major Developed Sites in the Green Belt will be carried out through the Site Allocations DPD"*.

8.2.13. The Local Plan Site Allocations Document (SAD) at Chapter 10 notes that the Core Strategy is clear that protecting the Green Belt is a high priority for the Council. It confirms that a partial review of South Staffordshire's

Green Belt has been carried out looking at land surrounding villages and at the four freestanding Strategic Employment Sites. The SAD establishes new development boundaries and removes two previous Major Development Sites from the Green Belt. Policy SAD6: Green Belt, open countryside and development boundary amendments sets out areas that are removed from the Green Belt or open countryside or alterations made to development boundaries. These changes were reflected in the Site Allocations Policies Maps

8.3. THE CASE FOR THE APPLICANT

8.3.1. The Applicant's case is set out in the Case for the Scheme and NPSNN Accordance Table [APP-220] and the responses to the Examining Authority's (ExA's) Written Questions EXQ1.1.1 - 1.1.5 [REP1-036], EXQ2.1.1 [REP4-033] and EXQ3.1.1 [REP6-039].

Green Belt Policy

8.3.2. The Applicant highlights that the Proposed Development is located within the West Midlands Green Belt and goes on to reference paragraphs 5.164, 5.171 and 5.178 of the NPSNN with regard to the fundamental aim and essential characteristics and advice regarding national networks in the Green Belt.

8.3.3. The Applicant states that the Proposed Development has therefore been evaluated against NPSNN paragraphs 5.164 and 5.178, with reference to the Framework where appropriate. This assessment considers:

- whether the Proposed Development conflicts with the essential characteristics and purposes of the Green Belt and the extent of harm to the Green Belt;
- whether the Proposed Development constitutes inappropriate development in the Green Belt;
- whether there are Very Special Circumstances (VSC) that support development within a Green Belt location; and
- whether the VSC outweigh any potential harm to the Green Belt after substantial weight has been attributed to that harm.

8.3.4. The Applicant quotes SSCS Core Policy 1 as set out above. The Applicant states this policy echoes the Framework in terms of protecting the Green Belt from inappropriate development and sets the context for Green Belt releases necessary for SSC to deliver their employment and housing targets.

8.3.5. SSCS Policy GB1 'Development in the Green Belt' is also noted and states that development in the Green Belt that is acceptable within the terms of national planning policy set out in the Framework will normally be permitted where the proposed development is for one of four types of purpose, including "… *the carrying out of engineering or other operations, or the making of a material change of use of land, where the works or use proposed would have no material effect on the openness of the Green Belt, or the fulfilment of its purposes.*"

8.3.6. The Applicant notes the policy is silent on developments that do not fall into these categories and when considered alongside Core Policy 1, suggests the implication is that development would be restricted outside these categories. In suggesting that development within the Green Belt would need to meet the Framework policy and fall into one of the above categories, the Applicant's view is that the policy would be more restrictive than the Framework. This allows for developments to have an impact on openness and still gain consent in VSC. The Applicant contends that given the policy predates both the NPSNN and the Framework and provides a policy that could be interpreted as more restrictive than either, it considers that it should have limited weight in decision making on this Development Consent Order (DCO) application (and is not a relevant and important matter).

Harm to the Green Belt

8.3.7. The Applicant states harm to the Green Belt is caused where there is a conflict with the essential characteristics of the Green Belt or the purposes of including land in the Green Belt.

Essential Characteristics: Openness and Permanence

8.3.8. The Applicant notes the Framework defines the essential characteristics of the Green Belt as being its openness and permanence, that the meaning of the term 'openness' is not formally defined in policy and is in large part a matter for planning judgement and that openness has a visual and a spatial dimension.

8.3.9. The Applicant goes on to assess the impact of the Proposed Development on openness and considers the area of the Proposed Development between junctions 2 and 1 of the M54 will have no material impact on the openness of the Green Belt given that the majority of works are within the existing highway boundary or comprise development of an attenuation pond, which is low lying, and comprises a pond and access to the pond. At M54 junction 1 there will be works to enlarge the junction resulting in 'loss' of the Green Belt, but these areas are small and heavily influenced by the convergence of the two motorways, limiting any additional impact on openness caused by the Proposed Development. The Applicant refers to the different options for the layout of junction 1 as described in Chapter 3 of the Environmental Statement (ES) [APP-042]. The Applicant contends the options presented show that there were no options considered that provided free-flow links at junction 1 with a lesser impact on the Green Belt. This is because the location is limited by the location of the existing junction and there are limited opportunities for junctions with a lesser land take. The areas to the northeast and northwest of the junction are in the Green Belt and the areas to the southeast and southwest are only outside the Green Belt because they are allocated for employment uses. Therefore, the Applicant concludes, slight movements of the junction would also not reduce its impact on the Green Belt.

8.3.10. The new link road section of the Proposed Development between the M54 junction 1 and the M6 junction 11 passes through largely open countryside in the Green Belt. This, according to the Applicant, is the case for all possible options and alignments for the Proposed Development given the location of the existing junctions.

8.3.11. The Applicant sets out that the visual impact on openness has been reduced in the design by:

- placing the link in cutting where possible, including under Hilton Lane to the east of Brookfield Farm, limiting the visibility of the Proposed Development from the surrounding area;
- moving the alignment further to the east compared to the Preferred Route Alignment to route the new link through the woodland and Lower Pool, where the road and the noise barrier will be largely screened from both sides by existing and replanted woodland;
- not installing lighting columns on the majority of the link to minimise the impact of vertical lighting columns and light pollution; and
- limiting the height of new junctions where possible.

8.3.12. Therefore, according to the Applicant, whilst the Proposed Development would have an effect on the visual dimension of openness, the harm has been limited wherever possible within the confines of the Proposed Development's objectives. Proposed woodland planting would also affect the openness of the Green Belt and landscaping has been carefully designed with this in mind. No woodland planting is proposed on the eastern side of Lower Pool to retain the openness of the historic parkland area of the Green Belt. Instead, landscaping has been designed in the optimum locations to promote screening, enhance landscape character and deliver biodiversity mitigation. Where woodland planting is proposed, it is considered that the environmental benefits of the planting outweigh the impact to the openness of the Green Belt in that location.

8.3.13. In terms of the spatial dimension of the Green Belt, the Applicant contends the area covered by the new link itself will be 'lost' in that it will no longer be open countryside. The 'harm' to the spatial dimension of openness is limited by the selection of a route that minimises the distance between the two junctions and by the fact that much of the development is very low lying, so has limited impact on three-dimensional space. In particular, the area of Green Belt lost for construction of the new link road is less than more convoluted routes following the existing M6 motorway corridor.

8.3.14. On permanence, the Applicant accepts the Proposed Development would result in the permanent loss of Green Belt where the new highway infrastructure is constructed, but notes it incorporates plans to return all land used for temporary purposes to its previous condition or incorporate changes that improve its performance for biodiversity or landscape purposes.

Purposes of the Green Belt

8.3.15. The Applicant quotes Framework paragraph 134 and sets out the five purposes of the Green Belt.

8.3.16. The Applicant considers that the Proposed Development would not enable or encourage the sprawl of large built up areas, does not include new built development such as housing, employment or industrial land uses and does not provide any new access points directly into sites in the Green Belt to facilitate new built development. The Applicant also notes the Proposed Development would not remove any sites from the Green Belt so would not change the policy context for any future development in close proximity to the link, which would still be judged against the requirements of Green Belt policy.

8.3.17. The Proposed Development would not encourage towns to merge into each other, according to the Applicant, as it presents a linear development largely through the countryside, rather than new built form reducing the gap between settlements. The Applicant, however, does accept there would be encroachment into the countryside insofar as it would be development within it, but contends it would not result in the outward spread of development into the countryside, but rather be a new linear corridor, providing a connection between two motorways.

8.3.18. The Applicant states the Proposed Development would also not have an effect on historic towns as it is not located in the vicinity of any historic towns and would not affect any Conservation Areas.

8.3.19. The Applicant also contends the Proposed Development would not conflict with the purpose of urban regeneration and encouraging recycling of brownfield land as there is no alternative location for this development that would be on brownfield sites. It is noted however that it could support recycling of brownfield land at Royal Ordnance Factory (ROF) Featherstone and potentially encourage urban regeneration by improving the attractiveness of sites in neighbouring urban areas through improved transport links.

8.3.20. Overall, the Applicant's view is that the Proposed Development would not conflict with four of the defined purposes of Green Belt; but would conflict with purpose c) (to assist in safeguarding the countryside by encroachment) by virtue of the majority of the development being in open countryside in the Green Belt.

Inappropriate Development

8.3.21. The Applicant notes the NPSNN refers the reader to the Framework for the definition of inappropriate development and that paragraph 146 of the Framework sets out six categories of development that are not inappropriate in the Green Belt. The Framework states:

"Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it… b) engineering operations; c)

local transport infrastructure which can demonstrate a requirement for a Green Belt location…".

8.3.22. The Applicant states that highway schemes are generally considered to be engineering operations and the impact on openness and the purposes of the Green Belt have been minimised wherever possible. However, the construction of the new link road across the Green Belt and the traffic along that route would not fully 'preserve its openness' so would not fall into this category. Moreover, given that the Proposed Development comprises a new link road on the Strategic Highway Network and is, by definition, an NSIP, it is the Applicant's position that it would also not be considered 'local transport infrastructure', although it would have significant local benefits.

8.3.23. Therefore, the Applicant considers that the Proposed Development is likely to be considered as 'inappropriate development' in the Green Belt as defined in the Framework. As recognised in NPSNN paragraphs 5.171 and 5.178, it is often necessary for linear national networks projects to require a Green Belt location and for projects to be considered inappropriate development.

8.3.24. The ExA sought clarification in respect of the interpretation of whether the Proposed Development fell into paragraph 146 of the Framework and the extent of works that may affect openness. Responses to these can be found in the Applicant's responses to the ExQ1, ExQ2 and ExQ3 as referenced above.

8.3.25. In Response to ExQ1.1.1 [REP4-036] the Applicant considers that the Proposed Development would represent inappropriate development in the Green Belt, as stated in the Case for the Scheme (CftS) [AS-037] paragraph 9.1.12 which states: *"The Scheme would be inappropriate development as it would affect the openness of the Green Belt"*. The Applicant continues: *"The NPSNN refers the reader to the Framework for the definition of inappropriate development. The Framework paragraph 146 sets out six categories of development that are not inappropriate in the Green Belt* 'provided they preserve its openness and do not conflict with the purposes of including land within it.' *Regardless of the applicability of these exceptions, the Scheme would not preserve the openness of the Green Belt so none of the exceptions apply. As recognised in paragraph 8.6.22 of the CftS, the Scheme would also conflict with purpose c) of the Green Belt 'to assist in safeguarding the countryside from encroachment'. Given that none of the exceptions apply to the proposed development, the Applicant considers the Scheme to be 'inappropriate' in the Green Belt."*

8.3.26. The Applicant's case is further supplemented by its response to Allow Limited's (Allow's) response to ExQ1.1.4 [REP2-009].

8.3.27. The Applicant argues environmental mitigation is essential to the delivery of the Proposed Development and an integral part of the project. The very special circumstances set out for the project as a whole in paragraphs 8.6.26 to 8.6.28 of the CftS [AS-037]therefore apply to the essential mitigation as part of the Proposed Development.

8.3.28. The Applicant continues:

"Considering the compliance of the environmental mitigation with Green Belt policy in isolation from the rest of the development is an unusual approach, but has nevertheless been explored here to respond to the point raised.

"The location, amount and design of environmental mitigation is set out in [REP1-057]. The Applicant notes this document explains why ecological mitigation is best located in close proximity to the habitats/ species being affected. Given that the wider area is in the Green Belt, any proximal location to the link road would also need to be in the Green Belt and a Green Belt location is therefore required for the environmental mitigation.

"Whilst woodland planting to the south of Hilton Lane and the west of the new link road would obstruct views and affect the 'open' quality of the landscape, the Applicant considers that any conflict between the mitigation planting and Green Belt policy would be extremely limited.

"The [Framework] (paragraph 133) states that 'The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open'. The applicants view is that Woodland planting is not urban sprawl and the permanent provision of planting in this area could safeguard this area of the Green Belt from urban sprawl in the future. The planting is therefore considered to support the fundamental aim of the Green Belt rather than conflict with it.

"The [Framework] goes on to state that the 'essential characteristics of Green Belts are their openness and their permanence'. And openness in this context is generally taken to mean the absence of built development. The Applicant refers to R (Lee Valley Regional Park Authority) v Epping Forest District Council *[2016] EWCA Civ 404; [2016] Env LR 30 Lindblom LJ said 'The concept of 'openness' here means the state of being free from built development, the absence of buildings - as distinct from the absence of visual impact'. Woodland planting would not constitute built development and as discussed above, may protect the permanence of the Green Belt rather than conflict with it. The mitigation planting would also not conflict with any of the five purposes of the Green Belt as set out in paragraph 134 of the NPPF. The planting itself is not considered to conflict with Green Belt policy or cause harm to the Green Belt.*

"Finally, the woodland planting would not be 'inappropriate development'. Therefore, there would be no need to demonstrate that 'very special circumstances' apply for this element of the Scheme if considered in isolation.

8.3.29. In summary, the Applicant's position is that:

- Whilst woodland planting would be less visually open than an open field, this does not mean that the planting would 'harm' the openness of the Green Belt.
- The woodland planting would not adversely affect the permanence of the Green Belt.

- The planting would not conflict with any of the five purposes of the Green Belt.

8.3.30. Overall, the planting would not 'harm' the Green Belt and the Applicant therefore disagrees that it should be 'provided outside the Green Belt if possible'.

8.3.31. The Applicant is of the view there is no need to demonstrate VSC for the woodland planting given that it is not inappropriate development. However, even if it were required, the very special circumstances are set out in the CftS [AS-037] and the need for mitigation in the Environmental Mitigation Approach document [REP1-057].

8.3.32. In terms of the current use, the Applicant agrees that the land owned by Allow is not damaged or derelict and the Applicant has not taken that position. The impact of car boot sales on the openness of the Green Belt will be limited by their temporary nature. However, the presence of vehicles on the site, stalls and movement of vehicles around the site would not have a positive effect on the Green Belt. The Applicant disagrees that the mitigation planting would lead to more harm to openness of the Green Belt as a whole than the current use.

8.3.33. Further clarification was provided in relation to paragraph 146 in response to ExQ3.1.1 [REP6-039]. Here, the Applicant is of the view that the project is not covered by this exception. The Applicant indicates that paragraph 145 c) uses the term 'local' transport infrastructure so suggesting that there are forms of 'non-local' transport infrastructure that would not be included in the definition. The question therefore is to what extent the Proposed Development could be defined as 'local'. The M54 to M6 link road will be part of the strategic highway network being delivered and maintained by Highways England (HE).

"The project is therefore not part of the defined 'local' highway network or being developed by a 'local' highways authority.

"The link will provide a strategic link between the M54 junction 1 and the M6 junction 11, which are two motorways, designed to carry long distance, strategic traffic. Two of the Scheme objectives are to relieve traffic congestion of the A460, A449 and A5 and keep the right traffic on the right roads by separating local community traffic from long distance and business traffic. The Scheme is therefore designed primarily to cater for long-distance traffic. The Scheme is therefore also not aiming to cater for vehicles making local journeys.

"The Scheme will lead to local benefits, including economic benefits to the area, relieving traffic on the local network and facilitating delivery of local projects, however, in our view this is not sufficient to argue that the project constitutes local transport infrastructure."

8.3.34. In respect of clarification of Signage the Applicant in its responses to ExQ2.1.1 [REP4-033] confirmed the size scale and height of the intended signage.

Very Special Circumstances (VSC)

8.3.35. The Applicant draws attention to NPSNN paragraph 5.78 and the Framework paragraphs 143 and144 which state that inappropriate development is by definition harmful to the Green Belt and there is a presumption against it except in VSC. The same paragraphs go on to state that VSC will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

8.3.36. The Applicant states the VSC for the Proposed Development which outweigh any harm to the Green Belt include:

- the need for the new link road: The NPSNN (paragraph 2.2) is clear that there is a critical need to improve national networks to address road congestion and provide safe, expeditious and resilient networks that better supports social and economic activity. The need for the M54 to M6 Link Road project is set out in numerous national and local policies and plans, including the RIS1, Highways England Strategic Business Plan (HESBP), Highways England Delivery Plan (HEDP), West Midlands Area Multi Modal Study, Midland Connect's Our Routes to Growth, The West Midlands Strategic Transport Plan 2026, West Midlands Freight Strategy, South Staffordshire District Integrated Transport Strategy (ITS) and the South Staffordshire Core Strategy and Site Allocations Document;
- the benefits of the Proposed Development: the Proposed Development would support the integration and improvement of part of the Strategic Road Network (SRN), whilst supporting economic growth in and around Staffordshire. It would support delivery and efficient operation of employment sites along the M54 corridor and surrounding areas such as i54, ROF Featherstone, Hilton Cross and Hilton Main. The Proposed Development would deliver significant benefits in respect of relieving of traffic congestion on local routes including the A449, A5 and A460; and
- the lack of alternatives with a lesser impact on the Green Belt: the Green Belt designation covers a wide area to the north, east, south and west of the Scheme. The purpose of the Proposed Development is to provide a link for strategic traffic travelling between the M54 junction 1 and the M6 junction 11. The location of the Proposed Development is therefore dictated by the location of these junctions and all possible routes for the new link road would pass through the Green Belt. The need to reduce the impact on the Green Belt has been considered throughout optioneering and Scheme design, resulting in a Proposed Development that minimises harm to the Green Belt where possible.

8.3.37. Given the location of the M54 junction 1 and M6 junction 11, the Applicant contends it would not be possible to deliver a new link using land that is outside of the Green Belt. There are no alternative options to deliver the Proposed Development in a non-Green Belt location and there is a demonstrable need for the Proposed Development. The need for the

Proposed Development and lack of alternatives represent VSC strongly in favour of the Scheme.

Other Harm

8.3.38. The Applicant is of the view the Proposed Development has been developed iteratively in consultation with local people and key stakeholders and has been informed by the Environmental Impact Assessment (EIA) process. As a result, 'other harm' has been limited as far as possible with measures to reduce the impacts and mitigate and compensate for impacts that cannot be designed out. Further detail on environmental effects and mitigation measures incorporated to reduce them is provided throughout the CftS.

Planning Balance

8.3.39. Overall, the Applicant's position is that whilst the Proposed Development would affect the key essential characteristics of the Green Belt and one of its purposes, this would be the case for any scheme providing a new link between the M54 and the M6, and impacts have been limited wherever possible in the design. Whilst there is an impact on openness and permanence, and it would entail encroachment into the Green Belt by virtue of being within it, the harm is limited by:

- the low lying nature of the Proposed Development including minimising lighting and using cuttings;
- a sensitive landscaping design;
- the route of the Proposed Development; and
- the fact that by the nature of the development, it will not encourage further development in the Green Belt. Indeed, the Proposed Development may encourage urban regeneration and use of brownfield land, for example at ROF Featherstone.

8.3.40. The Applicant concludes the VSC presented in the Case for the Scheme are significant and clearly outweigh the harm to the Green Belt, when this harm is attributed substantial weight, and all other harm. Therefore, according to the Applicant, the Proposed Development complies with policy on the Green Belt presented in the NPSNN and the Framework.

8.4. THE POSITION OF INTERESTED PARTIES (IPs)

South Staffordshire Council (SSC)

8.4.1. SSC draw attention to the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. SSC also highlight that paragraph 146 of the Framework states local transport infrastructure which can demonstrate a requirement for Green Belt location is not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.

Loss of Green Belt openness

8.4.2. SSC identifies the Green Belt serves five purposes, which they list, and note that it is important to consider which of these purposes (set out in

Framework Chapter 13 paragraph 134) are engaged by the Proposed Development.

8.4.3. SSC consider that the Proposed Development area is not located on the built-up edge of the West Midlands conurbation; and neither, by being a linear highway route is it the type of development that would typically merge built up areas together. SSC notes the road would lie north of Wolverhampton, about 0.5 mile east of Featherstone and about one mile south of the village of Shareshill. The application site would occupy agricultural land for the majority of its length between the long established transport routes being the A460 and M6; the site is contained within strategic roads boundaries that comprise the M6 Motorway and A460/M6 Toll Junction 8 Roundabout (to the north), the A460 (to the west), the M6 (to the east) and the M54 (to the south). Other associated works would site immediately adjacent to existing slip roads.

8.4.4. SSC considers the Proposed Development would create some encroachment into the countryside and therefore this Green Belt purpose is without doubt fully engaged in the consideration of the Proposed Development. That said, SSC also consider that there are no historic towns within the local environs of M54/M6 Link Road site therefore this Green Belt purpose is clearly not engaged. Neither would the proposal assist in Urban Regeneration. SSC conclude that the Proposed Development therefore conflicts with purpose c) safeguarding of the countryside from encroachment and is therefore deemed as inappropriate development.

8.4.5. SSC notes that paragraph 133 of the Framework confirms that the essential characteristics of Green Belts are their openness and permanence. SSC comment that advice published by the Ministry of Housing, Communities and Local Government (MHCLG) in July 2019[40] states that the following factors should be taken into account when considering the potential impact of development on the openness of the Green Belt:

- openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;
- the duration of the development, and its remendability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
- the degree of activity likely to be generated, such as traffic generation.

8.4.6. SSC is of the view that whilst the Proposed Development would involve wide scale excavation/construction works along with traffic movements across hectares of agricultural land that is currently open and (in essence) free of built development, the road itself would remain low level (albeit associated infrastructure such as lighting, gantries and barriers,

[40] Although SSC does not reference the source, this is from Reference ID: 64-001-20190722 of the Planning Practice Guidance (PPG).

etc.) and would therefore retain some feeling of openness between the nearby areas and existing roads. SSC notes that whilst there would be some closer proximity visual impacts, planned biodiversity off setting and new planting is proposed to soften and reduce such impacts. Furthermore SSC confirmed in response to ExQ1.1.4 [REP1-098] that, over time when established, where woodland planting is proposed, the environmental benefits of the planting outweigh the impact to the openness of the Green Belt in that location, as argued by the Applicant. However, for the above reasons, SSC concluded having assessed its limited spatial and visual effects the proposal would still represent inappropriate development in the Green Belt and should not be approved except in very special circumstances (Framework 2019 paragraph 143).

8.4.7. SSC notes that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations (Framework 2019 paragraph 144 and NPSNN paragraph 5.178).

Harm to Green Belt

8.4.8. SSC concludes harm to Green Belt interests arises from inappropriateness, some loss of openness, and harm to individual Green Belt purposes. The specific purpose that suffers harm in the case of the Proposed Development is that of safeguarding the countryside from encroachment. Each of these components of Green Belt harm – inappropriateness, loss of openness and encroachment – attracts substantial weight in the 'planning balance' of this planning decision.

Allow Limited

8.4.9. Allow's case in respect of the impact on the Green Belt is set out in its Written Representation [REP1-091], response to ExQ1.1.4 [REP1-090] and its Final SoCG [REP8-011].

8.4.10. Allow's land interests fall within the Green Belt. Allow contend there has been no proper assessment of the impact of: (a) the Proposed Development on the Green Belt; and (b) the laying out of proposed woodland planting on plots 5/2 and 4/20c as set out in the Land Plans [REP6-004] and in particular the impact of the visual openness to the Green Belt.

Green Belt

8.4.11. Allow contends the Applicant is required to demonstrate the very special circumstances applying to the Proposed Development which outweigh the loss of openness and therefore the significant harm to the Green Belt. It is Allow's case that the special circumstances which could apply to the new road do not also automatically apply to the environmental mitigation land, which should be provided outside the Green Belt if possible.

8.4.12. Allow maintains *"The Applicant does not demonstrate the case for 'Very Special Circumstances'. The fundamental aim of Green Belt policy is to keep the Green Belt permanently open given that the essential characteristics of Green Belts are their openness and their permanence. Instead of retaining a Green Belt that already provides beneficial uses for outdoor recreation (car boots and fishing) and does not need visual enhancement, the Applicant seeks to decimate this existing Green Belt that is well managed and maintained by Allow and has been for over 65 years. The land is not damaged or derelict. Further the changes to the Green Belt are not required for the purposes of the Applicant's scheme they are required (by way of compulsory purchase) entirely in respect mitigation in circumstances where the Applicant's analysis of its proposed mitigation is entirely flawed resulting in the Applicant applying for compulsory purchase powers excessively."*

8.4.13. Allow are of the view *"… the extent of the proposed woodland mitigation planting will significantly impact upon the openness of the Green Belt across the area of the scheme due to the area being significantly greater than that area actually taken by the scheme"*.

8.4.14. Allow's case in respect of the impact on the Green Belt is further expanded in their response to ExQ1.1.4 [REP1-090]

8.4.15. Allow acknowledges there would be ecological benefits associated with new woodland planting. However, Allow considers it is likely to be many years until these are realised. In addition, *"… the benefits associated with new woodland planting need to be maximised by ensuring the most appropriate locations are identified for planting. Given that some of the woodland planting would appear to be isolated from other areas of retained woodland, this should be reviewed in order to optimise ecological benefits. The scheme is taking areas of long establish woodland with mixed habitats which, in parts, are situated alongside pools; these cannot be replaced by new planting in a location which is disjointed and divided from the remaining habitats by the road scheme*.

"A total of 3.26ha (as updated 21.08.20) of Allow Ltd.'s land is proposed to be taken by the scheme works and a further 8.24ha (as updated 21.08.20) of additional land for environmental mitigation, the majority of which is for new planting".

8.4.16. Allow considers that this is excessive in terms of replacing those trees lost in the locality, being several times the area taken.

8.4.17. Allow are of the view that a disproportionate area of the replacement planting is proposed to be on Allow's land compared to other parts of the Proposed Development.

8.4.18. It is Allow's opinion *"… the assessment of woodland taken for works across the scheme has been incorrectly assessed and therefore the area required for mitigation is flawed and overstated. Plans provided by the Applicant to Allow Ltd, which informed the mitigation requirement calculations, illustrate excessive estimates which are clearly not currently*

woodland on the ground. These include significant areas of mown grass verges, gorse scrub and brambles. Following our own mapping exercise, it is our assessment that a figure of approximately half the suggested area is a more accurate assessment of the woodland present on the ground. … The extent of the proposed woodland planting will therefore significantly impact upon the openness of the Green Belt across the area of the scheme due to the area being significantly greater than that area actually taken by the scheme.

"Widespread planting is not beneficial for the landscape and the proposals will significantly impact upon and change the character of the landscape. An open grassland field of 10.69 ha, (26.42 ac) surrounded by a tree belt which formed part of the original Hilton Park design is proposed to be taken for blanket tree planting. The area of mitigation planting has been reduced by approximately 3.87ha in the revision in August 2020, where the North West corner has been removed from the proposal. The amended proposal will still reduce the openness of the landscape around the Dark Lane, Hilton Lane and A460 junction. But more importantly the historical tree belt, which forms one of many of the original tree belts which were landscaped around the perimeter of the Hilton Park Estate will be lost forever as it becomes obscured in the proposed adjoining new planting – a significant detriment to the local landscape. The rectangle now removed from the proposal does little to reduce the impact upon the historic landscape".

Nurton Developments (Hilton) Limited (Nurton)

8.4.19. Nurton is of the view that the Proposed Development will impact upon the openness of the Green Belt and this will not be mitigated fully by the proposed landscape proposals.

8.5. PLANNING ISSUES

8.5.1. Given that there is no dispute that the application site lies within the Green Belt the main issues in respect of this matter relate to Green Belt policy. The Applicant also accepts that the Proposed Development would be inappropriate development, albeit it is argued it is justified by very special circumstances.

8.5.2. There remains some dispute around the level of effect and on what basis the Proposed Development represents inappropriate development. The first point to confirm is therefore whether the Proposed Development represents inappropriate development in the Green Belt. In this case given the nature of the development the impact of the Proposed Development on the openness of the Green Belt is an important factor in the consideration of whether it represents inappropriate development; as are whether it conflicts with the five purposes of the Green Belt and whether it conflicts with the fundamental aim of Green Belt policy and their essential characteristics of openness and permanence.

8.5.3. The following section considers whether and what Green Belt harm results from the Proposed Development and the weight to be ascribed to

that. It does not deal with the 'Green Belt balance' where any harm to the Green Belt by reason of inappropriateness, and any other harm, is considered against other considerations to conclude whether they clearly outweigh that harm and whether very special circumstances exist. That balance is struck in the overall planning balance Chapter 15 where conclusions on all the other chapters and effects can be drawn together to identify those other harms, where they arise, and the other considerations.

8.6. ExA CONSIDERATIONS

8.6.1. The NPSNN confirms that for further information on the purposes and protection of the Green Belt reference should be made to the Framework (paragraph 5.164). The Framework is therefore an important consideration. The Applicant has identified the site lies within the West Midlands Green Belt and this is confirmed by SSC and is identified in the Core Strategy. The Applicant has also accepted that the Proposed Development would be inappropriate development within the meaning of Green Belt policy. This is consistent with the advice in paragraph 5.170 of the NPSNN.

8.6.2. Paragraph 5.178 of the NPSNN notes that national network projects located in the Green Belt may be inappropriate development and that inappropriate development is by definition harmful to the Green Belt and that there is a presumption against it except in very special circumstances. By way of a footnote inappropriate development is defined by reference to the definition in the Framework. It also advises that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, the 'Green Belt balance'. It is also advised that substantial weight will be attached to the harm to the Green Belt.

8.6.3. The Framework at paragraphs 145 and 146 by identification of certain forms of development and the identification of exceptions. Paragraph 145 advises that the construction of new buildings should be regarded as inappropriate with a list of exceptions. As the Proposed Development does not involve the erection of new buildings these are not relevant in this case.

8.6.4. Paragraph 146 of the Framework advises that other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Five forms of development are listed but only b) engineering operations and c) local transport infrastructure which can demonstrate a requirement for a Green Belt location are relevant in this case.

8.6.5. The Proposed Development is for a road scheme that could be described as transport infrastructure. However, the scheme as promoted is to upgrade part of the motorway network, improving linkages and seeking to get the right traffic on the right roads. In this case that means

primarily traffic moving from the M54 to the M6 and vice versa. This has an overall goal of improving the strategic road network. The Proposed Development has been accepted as a Nationally Significant Infrastructure Project, hence the current application. The Applicant accepts these points and also concludes that the exception made for "local transport infrastructure" would not apply to this scheme. For these reasons we are satisfied that the Proposed Development would not fall within this exception.

8.6.6. The Proposed Development would be an engineering operation. However, to fall within the other forms of development exceptions set out in paragraph 146 of the Framework the development needs to preserve the openness of the Green Belt and not conflict with the purposes of including land within it.

Effect on Openness

8.6.7. The Court of Appeal in *Turner*[41]confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect. The Supreme Court[42] endorsed *Turner* to the effect that the word openness is open textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. The Supreme Court also highlighted that openness was the counterpart of urban sprawl and that it does not imply freedom from any form of development. Furthermore, it confirmed that matters relevant to openness in any particular case are a matter of planning judgement, not planning law.

8.6.8. The Proposed Development would provide for an amended junction 1 of the M54. This junction would increase the area of coverage of the junction providing for three linked roundabouts to provide access to the local road network and free flow lanes between the main carriageway of the main line to the M54. The increased area of coverage would be into fields and open spaces adjacent to the existing junction. The new junction would result in substantial engineering works including embankments, bridges, balancing ponds as well as new carriageway. Between junction 1 of the M54 and junction 11 of the M6 the mainline of the new link road would involve new carriage way, engineered cutting and embankments, bridges to accommodate Hilton Lane, an accommodation bridge and realigned access track amongst other features and a new bridge to cross Latherford Brook. At junction 11 of the M6 the junction would be enlarged with the carriageway works being on new embankments, new bridges created to accommodate the larger junction. The Applicant has also confirmed the likely size and dimensions of signage and gantries that would be required. All of the works are located within the Green Belt, all would be development and have an effect.

[41] *Turner v SSCLG & East Dorset Council* [2016] EWCA Civ 466
[42] *R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council* (Appellant) [2020] UKSC 3

8.6.9. In the context of the effect on openness from a spatial perspective the Proposed Development would result in development in the Green Belt. Areas of the Green Belt would be permanently lost under the engineered structures, road surfaces etc. There would be development and not an absence of development and as such we conclude there would be significant harm to the spatial qualities of the openness of the Green Belt.

8.6.10. In terms of the visual aspect of openness there would be numerous features which resulted in enclosure and the appearance of development in the Green Belt. Much of the Proposed Development would be low lying but much of it is also to be constructed on embanked features, there are bridges, gantries and other structures all that would be visible and detract from the openness of the Green Belt. The question of the effect on the appearance and visual amenity of the locality is a separate consideration and this is addressed in the Landscape and visual effects in Chapter 9. On this basis we conclude there would be moderate harm to the visual aspects of openness.

8.6.11. The proposals include mitigation in the form of woodland planting. This will reduce the visibility and assist in integrating the development in the landscape but a full assessment of the effects of this is undertaken in Chapter 9. It is raised here as Allow were concerned that the proposed mitigation and woodland planting in particular had a further impact on the openness of the Green Belt and that such harm should be taken into consideration. However, openness relates to the absence of development. Woodland planting is not development and its location does not conflict with the openness of the Green Belt. Openness in Green Belt policy is about development, or its absence. Whilst this has a visual and spatial component this does not necessarily mean that anything that obstructs views in the Green Belt conflicts with its openness. That is more a matter for consideration in the context of landscape character and visual effects.

8.6.12. We conclude that the Proposed Development would result in harm to the openness of the Green Belt in both visual and spatial terms.

Purposes of including land in the Green Belt

8.6.13. The Framework at paragraph 134 sets out the five purposes that the Green Belt serves. These are set out in paragraph 8.2.5.

8.6.14. The Proposed Development does not result in built development but is a linear infrastructure link. It does not result in the addition of new buildings and other elements that would contribute to the unrestricted sprawl of a large built-up area. It does not result in the increase of any of the towns and villages in the locality such that they would be closer to each other and narrow any significant gap that may otherwise assist in preventing towns merging into one another. As such we are satisfied that it does not conflict with the first two purposes of Green Belt.

8.6.15. The Proposed Development is primarily through open countryside, agricultural fields between two existing motorways. As such it would

result in the encroachment of development into the countryside. Therefore, we conclude that it conflicts with the third Green Belt purpose of safeguarding the countryside from encroachment.

8.6.16. There are no historic towns in the locality of the Proposed Development. Cultural heritage is addressed in Chapter 7 but, for these purposes, there is no conflict with the fourth purpose of the Green Belt.

8.6.17. The fifth and final purpose of Green Belts is to seek to assist urban regeneration, by encouraging the recycling of derelict and other urban land. This is achieved through constraining development opportunities in edge of urban locations to seek to encourage the development of brownfield land within the confines of the urban area. The Proposed Development does not facilitate the development of sites outside the urban area and does not seek to identify new development opportunities. The Applicant suggests that by fulfilling the schemes objectives and improving travel times, reducing inconvenience and improving linkages this could have consequences for the redevelopment of existing urban sites. However this is not a direct consequence of the Proposed Development and any benefit would be indirect. What is evident to us, however, is that the Proposed Development would not conflict with this purpose of the Green Belt.

8.6.18. We conclude that the Proposed Development would conflict with one of the purposes of including land within the Green Belt, namely assisting in safeguarding the countryside from encroachment.

Inappropriate development

8.6.19. The Proposed Development is an engineering operation potentially falling within paragraph 146c of the Framework. However, paragraph 8.6.4 above sets out that to be considered not inappropriate such development would need to preserve the openness of the Green Belt and not conflict with the purposes of including land within it. In the preceding paragraphs it has been concluded that the proposal would harm both the spatial and visual qualities of the openness of the Green belt and that it would conflict with one of the five purposes of including land within it. On this basis the Proposed Development would not fall within any of the exceptions in paragraph 146.

8.6.20. The Proposed Development would amount to development in the Green Belt and would not be covered by any of the exceptions that are set out in paragraphs 145 and 146 of the Framework. As such it is concluded that the Proposed Development is inappropriate development in the Green Belt.

8.6.21. Given the advice in the NPSNN at paragraph 5.178 and the Framework at paragraph 143 inappropriate development is by definition harmful to the Green Belt. We have also concluded that there is harm to the openness of the Green Belt, in terms of both its spatial and visual qualities, and that there is conflict with one of the five purposes for including land within it. Furthermore, paragraph 5.178 of the NPSNN and paragraph

144 of the Framework make clear that substantial weight must be afforded to any harm to the Green Belt.

8.6.22. Inappropriate development should not be approved except in very special circumstances and those circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. This balance is undertaken in the Planning Balance in Chapter 15 below.

8.7. CONCLUSIONS

8.7.1. In terms of Green Belt policy the Proposed Development would be inappropriate development and result in harm to the Green Belt. Inappropriate development in the Green Belt should not be approved except in very special circumstances. The harm to the Green Belt should be given substantial weight when undertaking the Green Belt balance and the necessary very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. That balance is undertaken in Chapter 15 below.

8.7.2. The conclusions in terms of Green Belt and the harm that needs to be taken into account, and given substantial weight, in that balance are:

- The Proposed Development represents inappropriate development in the Green Belt and is not covered by any of the exceptions in paragraphs 145 and 146 of the Framework.
- The Proposed Development would result in significant harm to the spatial and moderate harm to the visual qualities of the openness of the Green Belt.
- The Proposed Development would conflict with one of the five purposes of including land within the Green Belt, namely to assist in safeguarding the countryside from encroachment.
- The Proposed Development would therefore conflict with the fundamental aim of Green Belt Policy to prevent urban sprawl by keeping land permanently open; and their essential characteristics which are openness and permanence.

9. FINDINGS AND CONCLUSIONS IN RELATION TO LANDSCAPE AND VISUAL EFFECTS

9.1. INTRODUCTION

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

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

9.2. POLICY

National Policy Statement for National Networks

9.2.1. Paragraphs 5.143 to 5.161 of the National Policy Statement for the National Networks (the NPSNN) identify the landscape and visual impacts decision-making considerations for the Secretary of State (SoS) to take into account.

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

9.2.3. The application site lies outside any nationally designated landscapes and is sufficiently distant not to have any effect on such. Similarly, there was nothing in front of the Examination to indicate that this landscape was highly valued locally or protected by a local designation. Except insofar as Hilton Park is identified as an Historic Landscape Area in the Core Strategy. This is primarily dealt with in the Cultural Heritage Chapter 7 above, but is noted here. The NPSNN advises at paragraph 5.156 *"Where a local development document in England has policies based on landscape character assessment, these should be given particular consideration. However, local landscape designations should not be used in themselves as reasons to refuse consent, as this may unduly restrict acceptable development."*

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

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

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

9.2.7. Further, as paragraph 1.60 of the NPSNN states *"adverse landscape and visual effects may be minimised through appropriate siting of infrastructure, design (including choice of materials), and landscaping schemes, depending on the size and type of the proposed project. Materials and designs for infrastructure should always be given careful consideration"*.

National Planning Policy Framework

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

Local Plan

9.2.9. The South Staffordshire Local Plan Core Strategy (the Core Strategy) includes Policy EQ4: 'Protecting and enhancing the character and appearance of the landscape'. The policy requires that the intrinsic rural character and local distinctiveness of the South Staffordshire landscape should be maintained and where possible enhanced. Amongst other matters it advises new development should take account of the characteristics and sensitivity of the landscape and its surroundings; Proposals within the Historic Landscape Areas (HLA) defined on the Policies Map *"… should have special regard to the desirability of conserving and enhancing the historic landscape character"*. It also refers to the County Council's Landscape Character Assessment and Historic Landscape Characterisation to provide an informed framework for the decision-making process.

9.3. THE CASE FOR THE APPLICANT

9.3.1. Chapter 7 of the Environmental statement (ES) [APP-046] assesses the potential landscape and visual impacts associated with the construction and operation of the Proposed Development. According to the ES it has been produced in accordance with the Design Manual for Roads and Bridges (DMRB) LA 107 Landscape and Visual and the Landscape Institute/ the Institute of Environmental Management and Assessment (IEMA). The assessment has also had regard to the Guidelines for Landscape and Visual Impact Assessment (Third Edition) (GLVIA3).

General approach

9.3.2. A study area was identified, and baseline conditions established through desktop studies, the creation of a Zone of Theoretical Visibility (ZTV) and fieldwork, including on site verification. The Applicant reviewed Natural England's (NE's) National Character Areas (NCAs) for the locality and local landscape character assessments including Planning for Change Supplementary Planning Guidance (SPG) (1996-2011) published by Staffordshire County Council (SCC) to provide guidance on landscape character type within the county.

9.3.3. The Applicant identifies that the study area encompasses NCA 67: Cannock Chase and Cank Wood and NCA 66: Mid Severn Sandstone Plateau. The Applicant considers it is unlikely that the Proposed Development would have any significant effects on the character of these NCAs. This is because the key characteristics are regional, and localised highway development would be unlikely to result in a significant effect over the entire NCA. The Applicant provides a high-level overview but concludes there would be no significant effect and does not consider the matter further.

9.3.4. At the local level the landscape of Staffordshire has been refined into 22 Landscape Character Types (LCTs) and the Applicant identifies the Proposed Development is located within two LCTs: Settled Plateau Farmland Slopes and Settled Heathlands, which are shown on Figure 7.3 of the ES [APP-086].

9.3.5. The sensitivity of the landscape and visual assets are considered. The Landscape value is assessed having regard to the GLVIA3 factors and susceptibility to change is used to measure the ability of the landscape to accommodate the Proposed Development without undue consequences for the maintenance of the baseline conditions. The combination of these factors leads to a conclusion on the landscapes sensitivity to change. Similarly, in respect of views, value is assessed as is the susceptibility of visual receptors to changes in the view and visual amenity in the context of the activity they are engaged.

9.3.6. The ES sets out the basis on which these assessments are made and the magnitude of the impact and the significance of effect with regard to descriptors

9.3.7. The study area is created from a notional buffer of 1 kilometre (km) and the ZTV to create a proportionate study area boundary. This has taken account of various elements included within the development including lighting columns vehicle types that would use the Proposed Development and signage.

9.3.8. The Applicant provides a general description of the site context and landscape characteristics at paragraphs 7.6.13 to 7.6.20 of Chapter 7 of the ES [APP-046] before moving on to consider the value of the Landscape.

9.3.9. The Applicant notes that there are no international or national designations of landscape quality or value within the study area. The Applicant refers to Hilton Park, within the south of the study area, which constitutes a HLA as designated by South Staffordshire Council (SSC) and is subject to additional protection through the Adopted Core Strategy. There are no other local landscape designations within the study area. The Applicant also notes that much of the study area is designated as Green Belt but notes this has value related primarily to openness between settlements rather than an indication of landscape quality.

9.3.10. Overall, the Applicant concludes that the land within the application site is generally representative of the surrounding land use, largely comprising agricultural land, with parkland and highways infrastructure also present. Based on the factors contributing to landscape value, the Applicant is of the view the land within the application site is assessed as being of low landscape value through the lack of scenic quality, rarity, conservation interest and perceptual aspects. The Applicant goes on to conclude that the study area itself is assessed as being of overall low landscape value. The character is typical of the modified and human-influenced landscape of the Black Country, with few rare elements or conservational interests, and the presence of multiple detractors.

9.3.11. In terms of visual baseline conditions the ZTV indicated visibility was relatively extensive to the north and west but is relatively contained to the south and east. The Applicant concludes the Proposed Development would be visible from residential locations with close range views expected from properties in Dark Lane, Park Road, Hilton Lane, Brookfield Farm and Tower House Farm. The Applicant also identifies a number of Public Rights of Way (PRoWs) from where the Proposed Development would be visible, mostly in Shareshill and Sarendon, and these are shown on Figure 7.4 of the ES [APP-087]. The Applicant also identifies that the Proposed Development would be visible from roads around the Proposed Development and in particular highlights the M54, the A460 Cannock Road, Dark Lane, Hilton Lane and the M6. The Applicant has identified 20 representative viewpoints which are displayed in Figures 7.5A to 7.25C [APP-088 – APP-108] in the ES. A description of each view and their ascribed value is provided in Table 7.8 of the ES. VP04, 05, 10 and 12 were of very low value, VP01, 02, 03, 06, 07, 09, 11, 18 and 20 were low, VP08, 13, 14, 15, 17 and 19 were medium and VP16A and 16B were high value. The medium value views were primarily related to the rural setting but described relatively ordinary. The high value views were related to the historic landscape and rural setting around Hilton Hall.

9.3.12. The Applicant has identified the potential impacts from construction on landscape character as being:

- the presence of construction plant and material stockpiles etc. which would have a temporary adverse impact on landscape character and increase perceptions of construction/industrial activity;

- removal of vegetation to accommodate the Proposed Development, which would alter the landscape character through removing characteristic features; and
- the presence of earthworks and excavations, particularly in areas with limited landform variation, which would alter the landscape character.

9.3.13. In terms of the impact on visual receptors during construction the Applicant considers these are likely to include:

- site clearance, particularly clearance of trees and other vegetation around the Hilton Park and Dark Lane areas;
- formation of construction compounds adjacent to A460 Cannock Road to the south of Dark Lane, and adjacent to the M6 junction 11; localised demolition works, including the existing M54 junction 1;
- the stockpiling of materials and general earthworks operations – in particular those required to construct the embankments and cuttings;
- installation of signage equipment, traffic control measures, perimeter fencing, hoardings and overhead gantries;
- the movement of construction traffic, plant and machinery (e.g. cranes);
- lighting of any night-time construction works; and
- the erection of scaffolding and presence of tall structures.

9.3.14. In terms of operational effects the Applicant identifies the effects on landscape character as:

- the introduction of the link road between M54 junction 1 and M6 junction 11. Although partially positioned within an earthwork cutting, it would affect the semi-rural landscape character (through its presence, as well as the loss of vegetation to facilitate it). The alignment would also encroach within the historic parkland surrounding the Grade I listed Hilton Hall;
- alterations to the existing field patterns and surrounding vegetation framework and modifications to existing landform; and
- generally increased perceptions of highways and highway infrastructure within the landscape character.

9.3.15. In terms of visual receptors operational effects are identified as likely to include:

- the introduction of the link road between M54 junction 1 and M6 junction 11. Although partially positioned within an earthwork cutting, it would be an extensive new feature in available views afforded to local residents within Featherstone, Hilton and Shareshill and users of the PRoW network;
- the introduction of the new junction replacing the existing roundabout interchange at M54 junction 1. This would reduce the awareness of the existing road within the adjacent settlement of Featherstone due to the road footprint moving away from the village edge;
- the introduction of the dumbbell roundabout taking traffic between Featherstone and the new link road;
- the realignment of the M6 junction 11 and its associated slip roads, which would extend the current awareness of the existing motorway

corridor from locations where it presently exerts an influence, particularly in views afforded to users of the PRoW network and local roads;
- the stopping up of Dark Lane near to the junction with Park Road;
- modifications to the form and alignment of Hilton Lane;
- the introduction of taller, more frequent and visually conspicuous highway infrastructure such as lighting and gantries; and
- the introduction of an accommodation overbridge to take the Shareshill 1 Bridleway over the mainline.

9.3.16. The Applicant sets out various design mitigation and enhancement measures in the Proposed Development. This includes the design of the Proposed Development to avoid and minimise effects as well as essential mitigation to reduce, remediate or compensate likely significant effects. In construction terms these are included in the Outline Environmental Management Plan (OEMP) which would be developed into a Construction Environmental Management Plan (CEMP) which would include a range of best practice measures. During operation the environmental mitigation measures illustrated on the Environmental Masterplans are aimed at reducing the magnitude of impacts. The landscape mitigation includes a planting strategy and the details of the Environmental Mitigation is provided on Figures 2.1 to 2.7 of the ES (the updated versions are [REP7-016 – REP7-022]). A Handover Environmental Management Plan (HEMP) would be produced by the appointed contractor and would include specific requirements concerning the long term maintenance of all landscaping incorporated into the Proposed Development.

Summary of significant effects

9.3.17. The Applicant concludes that the NCA within the study area, NCA 67: Cannock Chase and Cank Wood and NCA 66: Mid Severn Sandstone Plateau are of regional scale and incorporate such varied landscape components that any changes in the scale at the Proposed Development level would not be significant on the overall character. As no significant effects are anticipated, consideration of the effects at the NCA level is not discussed further as part of the LVIA. They further conclude that direct effects would be confined to the Settled Plateau Farmland Slopes LCT and Settled Heathlands LCT and therefore the landscape effects on these are those considered.

9.3.18. In terms of visual receptors the Applicant considers that the Proposed Development would be screened from viewpoints (VP) 01, 03, 05, 06, 07, 09, 12 and 18 by distance, built form, infrastructure, landform or vegetation and VP 16A, 16B and 17 are addressed in Chapter 6 of the ES on Cultural Heritage therefore these viewpoints are not considered further in the assessment.

9.3.19. The Applicant's assessment found that the Proposed Development would have the following significant effects during the construction phase

Landscape effects (construction):

- Settled Plateau Farmlands LCT -Moderate adverse;
- Settled Heathlands LCT – Slight adverse.

Visual effects (construction):

- VP2 View from A460 Cannock Road, Featherstone – Large adverse;
- VP4 View from houses at Laney Green – Slight adverse
- VP8 View from field gate along Great Saredon Road – Moderate adverse
- VP10 View from A460 Cannock Road, opposite Brookfield Farm – Slight adverse
- VP11 View from PRoW east of Brookfield Farm – Large adverse
- VP13 View from PRoW north of Hilton Lane – Very large adverse
- VP14 View from Houses on Dark Lane and Park Road – Very large adverse
- VP15 View from Hilton Lane – Large adverse
- VP19 View from Whitgreaves Wood – Moderate adverse
- VP20 View from Houses on Dark Lane – Slight adverse.

9.3.20. The effects during the operational phase of the Proposed Development were assessed by the Applicant as follows:

Landscape effects (Operational):

- Settled Plateau Farmlands LCT -Slight adverse at both year 1 and year 15;
- Settled Heathlands LCT – Slight adverse at year 1 and neutral at year 15.

Visual effects (Operational):

- VP2 View from A460 Cannock Road, Featherstone – Large adverse at year 1 and moderate adverse at year 15;
- VP4 View from houses at Laney Green – Slight adverse at both year 1 and year 15;
- VP8 View from field gate along Great Saredon Road – Moderate adverse at year 1 decreasing to slight adverse at year 15;
- VP10 View from A460 Cannock Road, opposite Brookfield Farm – Slight adverse at both year 1 and year 15;
- VP11 View from PRoW east of Brookfield Farm – Large adverse at year 1 reducing to moderate adverse at year 15;
- VP13 View from PRoW north of Hilton Lane – Very large adverse at year 1 reducing to large adverse at year 15;
- VP14 View from Houses on Dark Lane and Park Road – Very large adverse at year 1 reducing to moderate adverse at year 15;
- VP15 View from Hilton Lane – Moderate adverse at year 1 reducing to slight adverse at year 15;
- VP19 View from Whitgreaves Wood – Slight adverse at year 1 reducing to neutral at year 15; and
- VP20 View from Houses on Dark Lane – Slight adverse at year 1 improving to Slight beneficial at year 15.

9.3.21. Overall, the Applicant's assessment found that, by year 15, there would be a slight adverse or neutral effect on the LCTs and five of the assessed viewpoints with a slight beneficial effect on one viewpoint. There would, however, be a moderate to large adverse effect on four of the representative viewpoints. As the landscape proposals mature the landscape and visual effects would reduce such that, by year 15, the Applicant considers that there would only be significant effects on four of the representative viewpoints with there being no significant effects on the landscape character or six of the assessed representative viewpoints.

9.4. REQUIREMENTS (R)

9.4.1. R4 requires a CEMP, substantially in accordance with the OEMP, to be submitted and approved and the construction of the development to be carried out in accordance with it. It further requires a HEMP to be developed by the end of the construction commissioning and handover of the Proposed Development. The CEMP amongst other matters has to include a Landscape and Ecology Management Plan and Arboricultural Mitigation Strategy. The HEMP must include information for the future maintenance and long term commitments to aftercare related to the environmental features and mitigation measures.

9.4.2. R5 requires the submission and approval of a landscaping scheme which must reflect the mitigation measures set out in the Register of Environmental Actions and Commitments (REAC) and must be based on the illustrative environmental masterplan. Replacement planting must be provided of any planting that is removed, dies or is seriously damaged or diseased within 5 years.

9.4.3. R10 requires any permanent or temporary fencing to be constructed in accordance with the OEMP.

9.5. THE POSITION OF THE INTERESTED PARTIES (IPs)

SCC

9.5.1. The SCC Local Impact report (LIR) [REP1-007] notes that in relation to the impact on landscape the County refer to and support the position of SSC.

9.5.2. The signed Statement of Common Ground (SoCG) between the Applicant and SCC [REP7-027] records that SCC is content that the methodology and content of Chapter 7 of the ES provide an accurate assessment of landscape and visual impacts of the proposed highway works. Comments on the effect on Hilton Park and views from Hilton Hall are accepted as dealt with in Chapter 6 on cultural heritage. SCC also agree that following the addition of VP18 the viewpoints are agreed between the parties. The SoCG also records that SCC agree that the creation of heathland vegetation around junction 11 of the M6 was not feasible due to unsuitable soil conditions.

9.5.3. SCC had commented that the impact of junction lighting and views of signage gantries should be considered in more detail and incorporated

into the visual appraisal. Night-time views and impact on tranquillity and dark skies should also be considered.

9.5.4. The Applicant's response was that night-time viewpoints were agreed at a meeting in February 2019. The survey team visited much of the study area at night to understand the baseline lighting levels. Where lighting and signage associated with the Proposed Development would potentially be visible, this is discussed within the chapter. Tranquillity is also discussed within the ES (7.6.20) and illustrated on Figure 7.27 [APP-110]. This was agreed in the SoCG.

SSC

9.5.5. The LIR provided by SSC [REP1-097] notes that the Proposed Development lies within a triangle of land formed by the existing highway network and these transport and infrastructure elements, including the M6, M54 and the A460 Cannock Road, influence the area. The Council also highlight that the area includes Hilton Park, an HLA, but there are no other local landscape designations.

9.5.6. The Council are of the view that potential changes to landscape character and visual amenity would be apparent. However, with regard to some of the landscape character impacts, some would occur in areas deemed to be of low value i.e. adjacent to those travelling along the A460 experiencing relatively urban views, alongside some field/woodland that sit in close proximity to existing highway infrastructure. That said the Council considers the Proposed Development has been designed, as far as possible, to avoid and minimise impacts and effects on the landscape and visual environment. The Council identifies several mitigation measures that have been identified to reduce, remediate or compensate likely significant adverse environmental effects including some remodelling and woodland tree and shrub planting to help filter views.

9.5.7. The Council notes that detailed landscape design would be undertaken at a later stage and the mitigation design would be further detailed and refined at this stage. The Council draw attention to the fact it appears the existing green unsightly fence south east of Dark Lane would otherwise remain, therefore it welcomes the replacement of this fence with a more visually pleasing boundary treatment as part of the application.

9.5.8. There is a signed SoCG between the Applicant and SSC [REP7-028] in respect of issues related to landscape and visual effects. All matters are recorded as agreed between the parties. The Applicant and SSC agree that viewpoint locations are appropriate, that transport and infrastructure elements influence the area, particularly at its northern and southern boundaries and that landscape value is considered to be low across numerous viewpoints.

9.5.9. SCC had identified areas for early planting which the Applicant has agreed to consider but other factors may make early planting challenging or not possible.

9.5.10. SSC and the Applicant agree that the optimum solution for fencing along Dark Lane would be a fence that is secure but more attractive, with parties agreeing that the fence type provided in Appendix C (to the SoCG [REP7-028]) would be acceptable. The parties also agree that a hedge should be provided on the opposite side of the fence from Dark Lane to provide biodiversity benefits and further improve visual appearance. The parties agree that this hedgerow will be provided where it is possible and beneficial to do so.

Hilton, Featherstone & Brinsford and Shareshill Parish Councils

9.5.11. A signed SoCG [REP7-031] between the Applicant and Parish Councils highlights those areas of agreement and disagreement between the parties. Insofar those matters that affect landscape and visual effects the SoCG records the parties are in agreement. With regard to specific matters on visual impacts the SoCG records that design changes submitted in October did not change the conclusions of the ES that the proposed band of trees to the south of Dark Lane provides the main screening and has not been removed from the Proposed Development.

9.5.12. In respect of the fence at Dark Lane the Parish Councils had identified a desire for this to be replaced. The Applicant confirms it has agreed to replace the fence with a design similar to that presented in Appendix C to the SoCG. The parties agreed this would be an acceptable solution and, where it is possible to do so, a hedge would be planted behind the fence to provide biodiversity and visual screening benefits. This was also agreed in the SoCG.

9.5.13. The SoCG notes that in [RR-025] it was stated by Councillor Robert Cope that more woodland was needed along the perimeter of the link road in order to mitigate the noise and visual effects from the link road on Shareshill. The Applicant notes in respect of the visual effects that the view from Sarendon Hill (VP08) was the subject of a photomontage. This demonstrates that strategic planting around M6 junction 11 has been re-instated to replicate a similar effect as at present. In between M6 junction 11 and Hilton Lane the combination of the Proposed Development being in a cutting, proposed hedgerow planting and woodland planting would reduce the visibility of the road. The Applicant was of the view it was not necessary to include additional woodland planting. The Parish Council's confirmed they were happy with the mitigation in this area and this is agreed in the SoCG.

Other IP's

9.5.14. A number of the other IP's raised concerns over the extent of land required for environmental mitigation including woodland planting. However these issues were primarily directed towards the amount of land take in terms of acquisition or possession or in terms of the necessity to deal with the ecological impacts of the development. They did not directly raise issues related to landscape or visual effects. Issues in respect of

Ecology and Compulsory Acquisition (CA) and Temporary Possession (TP) are dealt with elsewhere (Chapters 6 and 16 respectively).

9.6. PLANNING ISSUES

9.6.1. In respect of landscape and visual effects the outstanding areas of dispute and those matters that were the subject of matters that needed to be addressed are:

- The value ascribed to the existing landscape as the baseline against which to make the assessment of effects.
- Whether additional tree planting and screening is required to protect views for residents, particularly in Shareshill.
- Consideration of the existing fence along the south side of Dark Lane.

9.6.2. It is also appropriate to look at the effect of the Proposed Development on landscape and visual effects since, although they are not in dispute, some of the effects are identified as significant in terms of the ES assessment and should therefore be properly considered and taken into account and a judgement reached on their acceptability.

9.7. EXAMINING AUTHORITY (ExA) CONSIDERATIONS

Value of Landscape

9.7.1. The Applicant considers that the land within the application site is overall of low landscape value. This feeds into its assessment of the sensitivity of the landscape which is a function of landscape susceptibility to change and value. This then is taken into account in assessing the significance of effect when combined with the magnitude of impact. In our first written questions ExQ1.7.6 [PD-010] sought views on whether the Local Authorities and other IPs were content with this categorization.

9.7.2. The Applicant based its assessment on various factors as set out in Table 7.7 of the ES. These factors are derived from GLVIA3 and, as the Applicant notes, in effect adopted in DMRB. The factors are Landscape quality/condition, scenic quality, rarity, representativeness, conservation interest, recreational value, perceptual aspects and associations. The Applicant scored these against a scale from negligible to very high as set out in Table 7.2, with descriptors provided for each value.

9.7.3. Overall, there were no significant concerns raised by IPs that landscape condition, scenic quality, rarity and perceptual impacts where not low. This was generally attributable to the nature of the landscape, the lack of significance designations and the heavy influence of other transport infrastructure features including the M54, M6 and A460. Similarly, there was little dispute that representativeness, recreational value and associations where of medium value.

9.7.4. Where there was concern expressed was the Applicant's categorisation of the conservation interests across the site. The Applicant identified this as low, which in the descriptor would be non-designated or designated areas of local recognition or areas of little sense of place. The Applicant

comments that there are a handful of listed buildings within the study area, including two Grade I listed buildings in Hilton Park, as well as clusters of listed buildings in Shareshill, Little Saredon, at Moseley Old Hall and the newer Moseley Hall. A Historic Landscape Area is also present at Hilton Park. There are no other designations of conservational interest located within the study area.

9.7.5. However, in our view this does not appear to give sufficient weight to these features. There are two Grade I listed buildings along with a number of other associated listed buildings within an historic park. Whilst the Park may not be designated in national terms it has protection in the Core Strategy. This area covers a significant proportion of the landscape in the south of the study area. Although the area to the north has limited historical features, the Applicant appears to underplay the contribution that Hilton Park and the listed buildings contribute to the landscape character of the area. On the basis of the Applicant's descriptors it is our view that the conservation interest would be more appropriately identified as of medium value and this reflects the conclusions reached in respect of cultural heritage. This would only raise one of the eight factors up a level.

9.7.6. Overall, this analysis would mean that four of the eight criteria would be low and four would be medium. There is therefore an element of judgement and weighting that needs to be undertaken in concluding how the overall value of the landscape within the study area would be best described. Whilst the conservation interest should be given greater value than is ascribed to it by the Applicant, this is not over the whole of the study area, with low condition, scenic quality, perceptual aspects and rarity it is representative of a landscape that is of reasonably low value. When taking account of the detractors and that the triangle of land within which the Proposed Development is located, between motorways and a main road, we conclude that it is reasonable to identify the overall landscape value of the locality within which the Proposed Development would be located as low.

Tree Planting Screening

9.7.7. The Parish Councils and the Applicant have entered into a SoCG [REP6-024]. In RR [RR-025 and RR-011], on behalf of Featherstone and Shareshill and Hilton Parish Council, concerns were expressed about the adequacy of screening of the development for local residents. In particular, concerns were raised with regard to the mainline of the road north of Hilton Lane as it rises to junction 11 of the M6 and around junction 11 and also around the Dark Lane area.

9.7.8. In respect of Dark Lane the Parish Councils were concerned that the properties would have a total change of view. The Parish Councils were concerned about a loss of amenity, on the basis that the properties current view the historic woodland park of Hilton Hall, its trees, birds and nature [RR-011]. The Applicant has explained that there is a proposed band of trees to the south of Dark Lane that provides the main screening and this would not be removed as a result of the October 2020

application changes. The Applicant accepts that views from the junction with Dark Lane and Park Road looking northeast towards the Proposed Development (VP14) would include temporary and short term construction activity during the construction phases. However, by Year 1 of operation, the Applicant states views towards the Proposed Development would be mainly screened by the proposed noise barrier across much of the view. The Applicant has also explained that landscape mitigation planting has been proposed at this location, filtering views and partially screening them by Year 15 of operation. Furthermore it notes that the views from residential properties on Dark Lane looking south (VP20) are anticipated to experience a slight beneficial effect by Year 15 of operation with the proposed planting restricting views from the upper floors of residential properties towards the Proposed Development. We are satisfied these are an accurate reflection of the Proposed Development, including its mitigation, and are illustrated on the Environmental Masterplans, in particular sheet 3 of 5 [REP7-020].

9.7.9. The Parish Councils in the SoCG accepts the Applicant's explanation and we conclude this is a reasonable representation of the proposed mitigation and would provide for reasonable screening of this section of the Proposed Development

9.7.10. In respect of the area of the mainline north of Hilton Lane this includes the bridge over Hilton Lane, the accommodation bridge to facilitate access for Brookfield Farm and the line of the road. The road is partly in a cutting before approaching M6 junction 11 when it rises on embankment to join into the redesigned junction. With much of the road in cutting and with that element rising to the junction in a location where there is already significant highway infrastructure the nature of change is less intrusive.

9.7.11. The Parish Councils and RRs state that more woodland is needed along the western perimeter of the link road from Hilton Lane rising up to M6 junction 11 on the western side in order to mitigate the noise and visual effect from the link road up on the village of Shareshill. The Environmental Masterplan (Sheets 1 and 2) [REP7-018 and REP7-019] identify woodland planting for screening purposes, integration into the landscape and ecological reasons. The planting in this area would be the subject of detailed design but the masterplan is secured through the OEMP and implementation through the CEMP and maintenance through the HEMP.

9.7.12. The Applicant notes that the view from Saredon Hill (VP08) was the subject of a photomontage to show the proposed landscape mitigation (Figures 7.12C [APP-095]). The Applicant notes that on this figure it is possible to see that the strategic planting around M6 junction 11 has been reinstated to replicate a similar effect to that at present. In between M6 junction 11 and Hilton Lane, the Applicant considers that as there is already a strip of woodland planting proposed to the west of the link road, south of junction 11, it was not considered necessary to include additional woodland beyond that proposed, a decision in line with the Staffordshire Landscape Character Assessment for the Settled Plateau

Farmlands LCT, which states that: *"Large-scale woodlands should be designed to interlock and still allow views through the landscape whilst screening urban edges, power lines, quarries and busy roads"*. (see SoCG between Applicant and Parish Councils in respect of Environmental Mitigation [REP7-031]).

9.7.13. On the basis of this review the Parish Councils confirmed they were happy with the mitigation in this area. This is recorded as agreed in the SoCG.

9.7.14. We consider that there is necessary and reasonable screening of the Proposed Development at this location given its design features and the nature of the landscape in the area. It is concluded that the proposed mitigation measures identified on the Environmental Masterplan would be necessary and reasonable and secure a well-integrated scheme in the context of the nature of the Proposed Development, the wider landscape and the existing detractors in that wider landscape.

Dark Lane fence

9.7.15. The Parish Councils and SSC raised concerns about the appearance of a corrugated iron fence that runs along the south side of Dark Lane. These are reflected in Relevant Representations (RR) [RR-011 and RR-025], SSC's LIR [REP1-097] and the SoCGs [REP7-031 and REP7-028] agreed between the Applicant and these parties.

9.7.16. Concerns were expressed regarding the unattractive nature of the fence and that the Proposed Development should take the opportunity to replace this fence with a more attractive means of enclosure. The Applicant noted that the fence was not within the existing highway boundary and belonged to the adjoining landowner.

9.7.17. Following discussions between the various parties and the landowner, Allow Limited (Allow), it was agreed that a new fence would be provided. This is confirmed in the SoCG between the Applicant and Allow [REP8-011] and in the Applicant's responses to comments raised [REP8-029]. An example of the type of fencing was attached to the SoCG's and this pictured a green weld mesh metal fence design with a hedge planted on the inside of the fence line, away from the highway.

9.7.18. We are satisfied that the proposed fencing would be a visual improvement to the existing corrugated fencing once the hedge has established. The 15-year VP20 would be improved and the immediate surroundings along this section of Dark Lane would be enhanced. The proposed boundary treatment is secured through the OEMP and the Applicant has further identified it as a specified work in Schedule 1 – Authorised Development in the final draft Development Consent Order (dDCO) [REP8-005], as Work No. 80 which includes *'Replacement of existing fence along Dark Lane'*.

Landscape effects

9.7.19. In terms of landscape effects we agree with the Applicant that changes to the NCA at the Proposed Development level would not be significant on the overall national character areas. Given their scale and variety of landscape, the scale of the Proposed Development is not such that it would have a significant effect.

9.7.20. At the local level the landscape character areas that would be affected by the Proposed Development are the Settled Plateau Farmland Slopes and the Settled Heathlands LCTs as there would be direct effects given the Proposed Developments location within and adjacent to them. We agree that other Landscape Character Areas or LCTs are unlikely to experience indirect effects.

9.7.21. In terms of the Settled Plateau Farmlands LCT, it is overall of a low value, albeit that there is moderate sensitivity to change due to the susceptibility of the townscape. Construction activity would take place over a period of around two and a half years with machinery, earthworks, demolition, site compounds and removal of some landscape features including trees and woodland areas etc. The construction activity would be along the length of the Proposed Development although intensity may vary over time. Overall, there would be an effect on the landscape; it is likely this would be more significant in some areas than others but, overall, given the value of the landscape, the view of the Applicant that this would be a moderate adverse effect is reasonable.

9.7.22. In the context of the operational phase at year 1 this would amount to a slight adverse effect given the sensitivity of the existing landscape and existing components of highway infrastructure in the locality. As time progresses, landscaping, trees and shrubs would assist in integrating the Proposed Development. However, the sensitivity of the landscape would remain and while the effects would be reduced, they would not be removed. Overall, the landscape effects would reduce to a slight adverse effect from that of the construction phase.

9.7.23. In terms of the Settled Heathlands LCT the construction activities would be similar to those for the Settled Plateau Farmlands LCT. However, the impacts would only affect localised pockets of the LCT near Shareshill and Featherstone. Again, the duration of effect would be relatively limited, and given the low value of the area and the minor magnitude of change, the overall effect of construction would be slight adverse.

9.7.24. During operation given that the Proposed Development would only affect two small sections of the LCT and indirectly affect its eastern edge these affects are assessed as negligible given the existing highway infrastructure elements in these locations. Overall, at year 1, this would result in a slight adverse effect which would reduce to neutral by year 15 given the landscaping would have matured and integrated the Proposed Development into the wider landscape.

9.7.25. There was no significant dispute in the context of the broad assessment of the effects on landscape. Obviously as a significant infrastructure project it will have an impact and effect but given the nature of the overall low value of the landscape, the greatest effect will be during construction which would rise to a moderate effect. During operation, with the increasing maturity of the landscaping, the effect on landscape overall would be neutral to slight adverse. In the context of a Proposed Development of this nature the Applicant has produced a design that has sought to minimise the adverse effects on the landscape and has introduced landscaping to mitigate, as far as reasonable, the effects. In this regard the Proposed Development accords with the aims of NPSNN paragraph 5.149.

Visual effects

9.7.26. The Applicant identified some twenty representative viewpoints (albeit VP16 was then split into two, 16A and 16B resulting in twenty-one overall) from where to assess the effects of the Proposed Development. These were agreed with SCC and SSC as noted in the SoCGs with these Councils. Of the twenty-one representative views eleven were discounted from further assessment in terms of visual effects. Eight of those due to factors related to distance, existing built form, existing infrastructure, general landform and vegetation reducing views. The other three related to viewpoints within the Hilton Park historic park and therefore were addressed in the cultural heritage appraisal.

9.7.27. There were no substantive issues raised by any of the IPs with regard to the exclusion of these viewpoints from the assessment in the ES. We, on the basis of the information before us, including the VP images, site visits and representations from IPs, are satisfied that these views were reasonably excluded from requiring further assessment.

9.7.28. Whilst there were issues raised by various IPs concerning the visual impact of the Proposed Development on particular locations, Dark Lane, areas north of Hilton Lane, around Featherstone, there were no substantive issues raised with the Applicant's assessment of the likely significant effects in the ES. The nature of the concerns were expressed in general terms and in the context of seeking to ensure that there was adequate mitigation to reduce or filter views as much as possible.

9.7.29. Of the remaining ten representative viewpoints assessed, by Year 15, five of the viewpoints only suffered a slight adverse or neutral effect due to maturing landscaping. Whilst this had been moderate adverse at construction for two viewpoints it had reduced with the improving situation due to the landscaping mitigation. One of the viewpoints, VP20 the houses in Dark Lane is assessed as having a slight beneficial effect. This predominantly arises from the mitigation tree planting and the screening with the fence replacement discussed above. Overall, these effects are not significant in terms of the ES assessment.

9.7.30. The viewpoints with the greatest harmful effects were viewpoints VP2, VP11, VP13 and VP 14. VP2 relates to a view from the A460 at

Featherstone would result in views of the roads providing access to the redesigned junction 1 of the M54, the mainline of the road and the removal of trees. The construction impact would be significant, assessed as large adverse, as would the Proposed Development at Year 1. Whilst landscaping would assist in integrating the Proposed Development somewhat there would be a significant additional highway infrastructure feature visible in the area and which would represent a moderate adverse effect on visual receptors. VPs 11, 13 and 14 are at the houses at Dark Lane and Park Road, and the PRoW north of Hilton Lane and the PRoW east of Brookfield Farm. This is where recreational walkers, highway users and these residents would be most likely to experience the Proposed Development and understand its visual effects. The Proposed Development is assessed as having a large or very large adverse effect during construction and that this would reduce, by Year 15, to a moderate adverse effect in VP11 and VP14 but still be large adverse at Year 15 in VP13, the PRoW north of Hilton Lane.

9.7.31. These general assessments of the significant effect on visual receptors are accepted and are representative of the overall visual effects of the Proposed Development. The Proposed Development would be a significant element of engineered highway infrastructure being developed in a primarily rural location. It would therefore have harmful visual effects. That being said the design of the Proposed Development has incorporated embedded mitigation in terms of route, engineering options (use of cuttings) etc. and incorporates appropriate mitigation to reduce the overall effects. Whilst during construction the visual effects would be much greater, these are reduced over time with the removal of construction activity and the maturing landscape proposals.

9.7.32. We conclude that due to the nature of the Proposed Development it would not be possible to avoid harm altogether to either the landscape or visual receptors. The Proposed Development has incorporated suitable design and mitigation which is secured through the OEMP, CEMP and the HEMP, for after care. As such the Proposed Development meets the stated 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. The proposal would also therefore accord with Core Strategy policy EQ4.

9.8. CONCLUSIONS

9.8.1. The general considerations in respect of landscape and visual effects are based on the relevant documents and policies and are set out above and lead to our concluding that:

- The Proposed Development would result in harm to the landscape character of the area, albeit this would at most amount to slight adverse. Mitigation would be secured which will reduce the overall effect to this level by Year 15 and this is secured through the dDCO in particular R4 and R5 related to environmental management plans and landscaping.

- The Proposed Development would result in harmful visual effects for highway users and local residents of the area. This would amount to a moderate adverse effect in VP11 and VP14 and a large adverse at Year 15 in VP13 and the PRoW north of Hilton Lane. Mitigation has been secured which will reduce the overall effect to these levels by Year 15 and this would be secured through the dDCO in particular R4 and R5 related to environmental management plans and landscaping.
- Given the overall nature of the landscape and visual effects in the context of the Proposed Development and the general area it would not be possible to avoid harm to either the landscape or visual receptors and the Proposed Development incorporates reasonable mitigation measures.
- We consider that the Proposed Development would therefore be in accordance with paragraph 5.149 of the NPSNN, but notwithstanding that it would be harmful to the landscape and visual receptors, given the nature and scale of that harm, the ExA considers that this should be given limited weight in the overall balance.
- We consider that the overall value of the landscape is low and that it is reasonable to judge the effects against this baseline.
- We conclude that the proposed tree planting and mitigation measures identified in the Environmental Masterplan for screening are necessary, reasonable and appropriate.
- We agree that the replacement of the Dark Lane fence would result in a minor beneficial effect for the residents of Dark Lane and should be supported.

10. FINDINGS AND CONCLUSIONS IN RELATION TO NOISE AND VIBRATION

10.1. INTRODUCTION

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

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

10.2. POLICY

National Policy Statement for National Networks

10.2.1. Paragraph 4.8.1 of National Policy Statement for National Networks (the 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."*

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

10.2.3. In relation to decision making paragraph 5.193 of the NPSNN states: *"Due regard must have been given to the relevant sections of the Noise Policy Statement for England, National Planning Policy Framework and the Government's associated planning guidance on noise."*

10.2.4. The NPSNN at paragraph 5.189 sets out the factors that should be included in a noise assessment. These include:

- identification of noise sensitive premises and noise sensitive areas that may be affected;
- the characteristics of the existing noise environment;
- a prediction on how the noise environment will change with the proposed development in the short and long term and at particular times of the day and night;
- the potential noise impact elsewhere that is directly associated with the development, such as changes in road and rail traffic movements elsewhere on the national networks, should be considered as appropriate; and
- measures to be employed in mitigating the effects of noise.

10.2.5. The NPSNN, at paragraph 5.194, advises that proposals should seek to optimise the layout *"to minimise noise emissions and, where possible,*

the use of landscaping, bunds or noise barriers should be used to reduce noise transmission". It also requires projects to *"consider the need for the mitigation of impacts elsewhere on the road and rail networks that have been identified as arising from the development, according to Government policy"*.

10.2.6. Paragraph 5.197 of the NPSNN states that the Examining Authority (ExA) and Secretary of State (SoS) should consider mitigation measures and may wish to impose measures in addition to those which form part of the project application, together with requirements to ensure delivery of all mitigation measures. Paragraph 5.198 requires such measures to be proportionate and reasonable.

10.2.7. It is noted, at paragraph 5.199 of the NPSNN, that for most national network projects the relevant Noise Insulation Regulations will apply, which place a duty on and provide powers to the relevant authority to offer noise mitigation through improved sound insulation to dwellings, with associated ventilation to deal with both construction and operational noise.

10.2.8. Paragraph 5.195 of the NPSNN states the SoS should not grant development consent unless satisfied that the proposals will avoid significant adverse impacts on health and quality of life, mitigate and minimise other adverse impacts on health and quality of life, as well as contribute to improvements to health and quality of life through the effective management and control of noise, where possible.

10.2.9. 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."*

10.2.10. Paragraph 5.200 requires consideration of opportunities to address the noise issues associated with Noise Important Areas.

Noise Policy Statement for England

10.2.11. The Noise Policy Statement for England (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.

10.2.12. 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

10.2.13. 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.

10.2.14. The NPSE refers to the World Health Organisation (WHO) concepts for establishing noise effects – the No Observed Effect Level (NOEL) and the Lowest Observed Adverse Effect Level (LOAEL). 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.

10.2.15. The NPSE adds the concept of Significant Observed Adverse Effect Level (SOAEL). This is the level above which significant adverse effects on health and quality of life occur.

10.2.16. Paragraph 2.22 of the Explanatory Note to the NPSE 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.*"

10.2.17. Paragraph 2.23 of the NPSE advises that the first aim of the NPSE states that significant adverse effects on health and quality of life should be avoided while also taking into account the guiding principles of sustainable development (paragraph 1.8).

10.2.18. The second aim of the NPSE, as advised at paragraph 2.24 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).

10.2.19. Whilst paragraph 2.25 of the NPSE advises 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.

National Planning Policy Framework and Planning Practice Guidance

10.2.20. The National Planning Policy Framework (the Framework), in paragraph 170, notes that new and existing development should be prevented from contributing to, being put an unacceptable risk from, or being adversely affected by unacceptable levels of noise pollution. Paragraph 180 states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health. In doing so decisions *"… should mitigate and reduce to a minimum, potential adverse impacts resulting from new development, and avoid noise giving rise to significant adverse impacts on health and quality of life"*, referencing the NPSE.

10.2.21. The Planning Practice Guidance (the PPG) provides further guidance in relation to the Government's approach to noise. It confirms that decision-making needs to take account of the acoustic environment and in doing so consider whether or not a significant adverse effect or an adverse effect is occurring or likely to occur, and whether a good standard of amenity can be achieved. It identifies various factors that may influence the acoustic environment.

10.2.22. It states that some types and levels of noise will cause a greater adverse effect at night than if they occur during the day; this is because people tend to be more sensitive to noise at night as they are trying to sleep. It also lists a number of factors that should be taken into account when considering the noise impacts of a proposed development, including whether any adverse internal effects can be completely removed by closing windows. It explains that where existing noise sensitive locations already experienced high noise levels, a development that is expected to cause even a small increase in the overall noise level may result in a significant adverse effect occurring even though little or no change in behaviour would be likely to occur.

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

Local Plan

10.2.24. At the local level the South Staffordshire Local Plan Core Strategy (the Core Strategy) contains policy EQ9: Protecting residential amenity. It advises all development proposals should take into account the amenity of any nearby residents, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight. It goes on to state development likely to generate harmful noise levels will be directed to appropriate locations away from known noise sensitive locations and noise sensitive habitats unless measures to suppress noise can be provided for the life of the development. It also advises development must not unacceptably affect the amenity of residents or occupants.

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

10.2.25. The World Health Organisation (WHO) Guidelines for Community Noise 1999 (the CNG) provides guidance on suitable internal and external noise levels, for steady sound in and around residential properties. It recommends:

- 30 decibels (dB) equivalent continuous sound pressure level (L_{Aeq})in bedrooms, with <45dB L_{Amax}, over 8 hrs at night;
- 35dB L_{Aeq} in living rooms over 16 hours in the day;
- 50 to 55dB L_{Aeq} in gardens/outdoor living areas over 16 hours in the day; and
- 45dB L_{Aeq} outside bedrooms with an open window over 8 hours at night.

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

10.2.26. The WHO Night-Time Noise Guidelines for Europe 2009 (the NNG) provides additional guidance on night-time noise and recommends noise levels based on effects on health. Adverse effects are observed at 40-50dB, particularly among vulnerable groups. NNG describes levels above 55dB as *"increasingly dangerous for public health"*.

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

10.2.27. The WHO Environmental Noise Guidelines for the European Region (the ENG) updates and supersedes the CNG in so far as it relates to road traffic noise and complements the NNG. The guidelines are source specific and apply a 1dB increment scheme, whereas the CNG and NNG formulated or presented recommendations in 5dB steps.

10.2.28. They provide information on the exposure–response relationships between exposure to environmental noise from different noise sources and the proportion of people affected by certain health outcomes, as well as interventions that are considered efficient in reducing exposure to environmental noise and related health outcomes. The recommendations rely on the critical health outcomes.

10.2.29. ENG sets out the recommendations in terms of traffic noise. These are summarised in Section 3.1 as follows:

"For average noise exposure, the GDG35 (strongly recommends reducing noise levels produced by road traffic below 53 dB L_{den}, as road traffic noise above this level is associated with adverse health effects.

"For night noise exposure, the GDG strongly recommends reducing noise levels produced by road traffic during night time below 45 dB L_{night}, as road traffic noise above this level is associated with adverse effects on sleep.

"To reduce health effects, the GDG strongly recommends that policymakers implement suitable measures to reduce noise exposure from road traffic in the population exposed to levels above the guideline values for average and night noise exposure. For specific interventions, the GDG recommends reducing noise both at the source and on the route between the source and the affected population by changes in infrastructure."

10.2.30. The ENG explains the rationale for the recommendations, including the impacts on health and potential interventions.

10.3. THE CASE FOR THE APPLICANT

10.3.1. Chapter 11 in the Environmental Statement (ES) addresses Noise and Vibration. The originally submitted Chapter [APP-050] was updated with an amended Chapter [AS-085] when the Applicant submitted its October 2020 Proposed Changes. Change 4 was a change to the Bridge structure at junction 1 of the M54. The change, which was accepted into the Examination, identified a closure of the M54 for up to three weeks with consequent traffic management and re-routing. The Chapter was updated to take account of these changes in terms of construction, construction traffic and any necessary likely diversions. The case for the Applicant set out below is based around the amended Chapter.

10.3.2. The original chapter was supported by a number of appendices and figures which were also updated as necessary. In this regard all figures 11.1 to 11.5 [AS-095, AS-096, AS-097, AS-098 and AS-099] where adjusted, as well as those appendices dealing with construction issues 11.3 [AS-107] and 11.4 [AS-109].

General Approach

10.3.3. The Applicant confirms Chapter 11 assesses the potential noise and vibration impacts associated with the construction of the Proposed Development and the traffic noise impacts associated with the operation of it, following the methodology set out in the Design Manual for Roads and Bridges (DMRB) LA 111 Noise and Vibration.

10.3.4. The assessment takes account of the update to the DMRB released in November 2019 which the original was prepared in advance of. A base line noise monitoring survey was agreed with South Staffordshire Council (SSC) and the results have been used to validate the traffic noise prediction modelling. Future Do-Minimum (DM) conditions have been determined at all identified potentially sensitive receptors based on predicted traffic noise levels in the absence of the Proposed Development. Sensitive receptors are taken as residential properties, educational buildings, medical buildings, community facilities (such as places of worship), designated sites (Areas of Outstanding Natural Beauty, National Parks, Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Sites of Special Scientific Interest (SSSIs) and Scheduled Monuments), and Public Rights of Way (PRoWs) as well as other locations identified in the NPSNN.

10.3.5. In terms of construction representative locations for potentially sensitive receptors were identified. Final details of construction are not available therefore estimated construction noise levels were based on information provided relating to the number and type of plant likely to be required for each construction activity, typical 'on' times for each item of plant, the likely location and extent of each activity, working times and which months the activity is likely to occur in. Thresholds for SOAEL and LOAEL were set related to existing ambient noise level.

10.3.6. In terms of construction traffic noise these were estimated using the model developed for the operational noise and is based on the busiest period for construction traffic. The proposed three-week closure of the M54 mainline at junction 1 to facilitate the replacement of the bridge would result in traffic diverting onto alternative routes, including the sign posted diversion via the A449 and A5. Therefore, the potential traffic noise impact during the three-week closure was also assessed.

10.3.7. In terms of construction vibration, works comprise piling, and works using vibratory rollers (earthworks, road construction (pavement), pilling platform construction and road strengthening). LOAEL and SOAEL vibration thresholds were also set having regard to human annoyance. The Applicant states that building damage is likely to occur at levels far higher than annoyance levels. Therefore, if works are controlled to those relating to annoyance the Applicant considers that it is unlikely buildings would be damaged during construction.

10.3.8. The Applicant identified noise from traffic is generated by both vehicle engines and the interaction of tyres with the road. The Applicant adopts the Calculation of Road Traffic Noise (CRTN) index to assess traffic noise, $L_{A10,18h}$. Night-time traffic noise levels use the parameter $L_{night,outside}$.

10.3.9. Predicted daytime and night-time traffic noise levels at noise sensitive receptors within the 600 metre (m) noise calculation area have been generated by the Applicant using noise modelling software. Predictions have been carried out for the opening year (OY) and future year (FY) (15 years after opening) for the DM and Do-Something (DS) scenarios. Again, LOAEL and SOAEL have been identified for road traffic noise for all sensitive receptors.

10.3.10. A preliminary indication of any properties likely to qualify under the Noise Insulation Regulations was provided in the assessment provided by the Applicant. A full assessment would be completed once the detailed design of the Proposed Development is finalised and in accordance with the timescales set out in the Regulations.

Study area

10.3.11. The study area for the quantitative assessment of construction phase noise and vibration impacts focuses on 22 potentially sensitive receptors, which includes those closest to the construction works. Receptors have been chosen based on their potential sensitivity (as defined in DMRB and as discussed with SSC) and receptor proximity to the various works. As

detailed in DMRB it is standard practice to consider noise impacts from construction up to a distance of approximately 300m from the works and vibration impacts from construction works up to a maximum distance of approximately 100m from the works, as no impacts would be anticipated beyond these distances.

10.3.12. The study area for the operational phase consists of an area within 600m of the Proposed Development and the existing A460 route to be bypassed, plus the area within 50m of all surrounding existing roads that are predicted to be subject to a change in traffic noise level as a result of the Proposed Development of:

- 1.0dB or more in the short-term (DM OY to DS OY); or
- 3.0dB or more in the long-term (DM OY to DS 15 years after Proposed Development opening), subject to a minimum change of 1.0dB between the DM and DS 15 years after Proposed Development opening.

10.3.13. The Applicant estimates a total of 2,272 residential buildings are located within the study area, of which 1,605 are within the 600m calculation area, and 667 are within 50m of affected routes outside the 600m calculation area.

Baseline conditions

10.3.14. The 600m area includes agricultural and built up areas including Featherstone, Shareshill and Hilton which include concentrations of residential and non-residential receptors. There are also PRoWs within the calculation area.

10.3.15. There are no parks or designated areas, no international or national designated areas or no quiet places in the study area

10.3.16. There are three Noise Important Areas in the calculation area:

- 7364: Wolverhampton Road (Highways England (HE));
- 11490: A460 (Staffordshire County Council (SCC)); and
- 7365: M54 (HE).

Figure 11.1 [AS-095] identifies the potentially sensitive receptors in the calculation area and the designated Noise Important Areas.

10.3.17. The Applicant notes there is an existing noise barrier at junction 1 of the M54 which is assumed to be retained with the Proposed Development, though some slight adjustment would be required.

10.3.18. In terms of mitigation measures the Applicant identifies the following noise barriers are proposed:

- 4.0m high reflective noise barrier on the west side of the mainline as it passes close to Dark Lane, which provides an insertion loss[43] of up to 9dB at the top floor of the properties.
- 1.5m high reflective noise barrier on the east side of the existing A460 north of M6 junction 11 in the vicinity of properties on Wolverhampton Road, which provides an insertion loss of up to 2dB at the top floor.
- 3.0m high reflective noise barrier on the west side of the mainline as it passes close to Brookfield Farm, which provides an insertion loss of up to 6dB at The Bungalow.
- 1.5m high reflective noise barrier on the north side of the M54 eastbound off slip on top of the existing earth bund and the proposed eastern extension of this earth bund incorporated into the design, continuing as a 3.0m high reflective noise barrier east of the proposed earth bund, extending to the new western dumbbell roundabout. This provides an insertion loss of up to 2dB at the top floor of receptors in Featherstone.

10.3.19. Thin surfacing is proposed in the Proposed Development with the exception of approaches to the Motorway junctions where high friction surfacing would be applied. The Applicant identifies the existing and expected thin surfacing on existing roads in the area primarily related to the motorways and A449.

10.3.20. A baseline noise survey was completed in March 2019 and used to validate the prediction model with noise levels, according to the Applicant, matching well the upper range of measured levels.

10.3.21. The Applicant has identified the future DM conditions at start of construction and opening year to give representative baselines.

Assessment of likely significant effects (LSE)

10.3.22. The Applicant states predicted monthly noise levels at each selected representative receptor during the construction phase are shown in Appendix 11.3 [AS-097]. Receptor locations are marked on Figure 11.1 [AS-095]. The maximum predicted construction noise level, and whether the construction levels are predicted to be at or above the LOAEL and/or SOAEL, is summarised in Table 11.12 in the ES [AS-085].

10.3.23. Of the 22 selected construction noise assessment locations the Applicant points out:

- During the daytime period in one or more months, 16 are predicted to experience construction noise levels which are at or above the LOAEL, of which six would also be at or above the SOAEL.

[43] A measure of the effectiveness of noise control devices such as silencers, enclosures and barriers. The insertion loss of a device is the difference, in dB, between the noise level with and without the device present

- For the evening/weekend period, six receptors are predicted to be at or above the LOAEL, of which three would also be at or above the SOAEL.
- For the night-time period, 14 receptors are predicted to be at or above the LOAEL, of which 11 would also be at or above the SOAEL.

10.3.24. The Applicant identified significant adverse construction noise effects at the closest receptors to the construction works in the vicinity of the tie in to the existing A460, the M54 junction 1 works, Dark Lane/Park Road, Hilton Lane and Brookfield Farm. However, it is noted that with the exception of the 24/7 works during the three week closure of the M54 at junction 1, all the other evening and night-time potentially significant effects relate to works which are anticipated to take only a small number of evenings/nights, considerably less than the duration criteria. At all of the other selected receptors the magnitude of the construction noise impacts is minor or negligible, and therefore do not constitute a significant effect.

10.3.25. The Applicant explains that once specific details of the construction works are available, the potential to reduce the magnitude of construction noise impacts, for example, through the use of localised site hoardings, would be determined through the requirements in the Construction Environmental Management Plan (CEMP).

10.3.26. The Applicant has identified the activities with the potential to generate vibration during the Proposed Development construction are works using vibratory rollers (earthworks and road construction (pavement)) installation and removal of sheet piles using a vibratory piling rig; and use of a rotary bored piling rig during bridge and retaining wall construction.

10.3.27. Overall, the Applicant concludes that there is the potential for combined significant effects from construction noise and vibration during the construction works at receptors located in close proximity to the works along the section of A460 which would be modified by the Proposed Development, at the eastern end of Dark Lane, along Hilton Lane and at Brookfield Farm.

10.3.28. In terms of construction traffic, which is compared to the 2024 DM scenario, the results indicate that the vast majority of identified potentially noise sensitive receptors are anticipated to experience no more than a negligible increase in traffic noise due to construction traffic. Five properties at the western end of Hilton Lane, are anticipated to experience a minor increase (maximum increase +1.2dB) during the busiest period of the works to build the new Hilton Lane bridge, and assuming the worst case option of all construction traffic using the western end of Hilton Lane to both access and exit the bridge works. Outside of the three-week closure of the M54 at junction 1, significant adverse effects due to night-time road closures are not anticipated.

10.3.29. The Applicant concludes that in terms of the three week period required at the M54 junction 1 for the bridge installation no significant traffic noise increases are anticipated on the signed diversion along the A449 and A5

due to the current relatively high volumes of traffic on these roads. Significant increases in traffic noise during the three-week closure are concentrated on much more minor roads with existing low traffic flows. On such roads absolute traffic flows are still low with the addition of re-routing traffic, however, the percentage increase in flow is large enough to result in significant increases in traffic noise levels.

10.3.30. Moving to operational effects the Applicant highlights that in the daytime in the opening year of 2024, 76% of residential buildings within the 600m calculation area are anticipated to experience a negligible (0.1 - 0.9dB) increase in traffic noise levels due to the Proposed Development. A further 3% are anticipated to experience a minor (1.0 - 2.9dB) increase in traffic noise levels. The overall trend in the study area, according to the Applicant, is for a slight increase in traffic flows, and therefore traffic noise, as the operation of the Proposed Development resolves the existing congestion on the A460, attracting traffic to the area. Four residential properties (0.2 - 0.4%) are anticipated to experience a moderate increase in traffic noise levels on the worst affected façade.

10.3.31. The Applicant identifies one of these properties is The Bungalow at Brookfield Farm, where the worst affected façades facing the Proposed Development are predicted to experience a moderate increase. Mitigation in the form of a 3.0m noise barrier is included in the design at this location which would reduce the magnitude of the impact from major to moderate. The five other properties which undergo a moderate increase are located to the west of the Proposed Development on Hilton Lane. The Applicant categorises this as a significant adverse effect at these properties.

10.3.32. The Applicant notes that mitigation is incorporated into the design of the Proposed Development in this location through placing the mainline in a cutting approximately 6m deep and through the reduction in speed limit on this section of Hilton Lane.

10.3.33. No change or a reduction in traffic noise levels is anticipated by the Applicant at 21% of residential buildings within the 600m calculation area. With the mitigation measures in place, the majority of properties in Featherstone would experience a negligible change in traffic noise. The proposed noise barriers along the M54 eastbound off slip ensure no properties in Featherstone would experience more than a negligible increase in traffic noise.

10.3.34. The Applicant highlights that with a noise barrier in place along the Proposed Development in proximity to Dark Lane the worst case increases in traffic noise at Dark Lane and Park Road would be reduced from major (without barrier) to minor (with barrier). The Applicant further notes that to the east of the Proposed Development the small number of individual properties off Hilton Lane, in the vicinity of Hilton Hall, would be anticipated to experience a minor or negligible increase in traffic noise in the opening year at the worst affected façade. The

majority of properties in Shareshill experience a negligible change in traffic noise due to the Proposed Development.

10.3.35. The Applicant has assessed that the Noise Important Area 11490 on the existing A460, which would be bypassed by the Proposed Development, would experience a reduction in traffic noise. Noise Important Area 7364 to the east of the A460, north of M6 junction 11, would, according to the Applicant, experience an increase in noise due to the increase in traffic on the A460 (north of junction 11). However, a noise barrier and thin surfacing system would be included as part of the Proposed Development to reduce the magnitude of the worst-case impact at nearby properties, which ranges from minor decrease to negligible increase. Noise Important Area 7365 on the M54 to the west of the Proposed Development would experience a negligible increase in the opening year due to the general trend to attract traffic to the Proposed Development.

10.3.36. At night the same general trend is observed as for the day, with the majority of receptors experiencing negligible, minor or no change in traffic noise levels.

10.3.37. A number of PRoWs are located in the study area, users of which would experience a range of impacts. The Applicant concludes that given the linear nature of PRoWs, the range of noise impacts along them, the absolute traffic noise levels, and the transient usage of a PRoW, a material change in the experience of using the PRoWs as a whole, which could affect people's health or quality of life, would not be anticipated and no significant adverse or beneficial effects on the users of PRoWs have been identified.

10.3.38. The Applicant identifies that in the long-term (2024 DM to 2039 DS) the same general pattern of traffic noise level change is observed as in the short-term. The majority of increases and decreases at residential properties in the long-term daytime are negligible or minor (not significant). At night all residential buildings are predicted to experience a negligible, minor or no change in traffic noise.

10.3.39. The Applicant states a preliminary consideration of properties which may qualify for noise insulation works under the Noise Insulation Regulations has identified one residential building as potentially qualifying. A complete Noise Insulation Regulations assessment would be completed at a later stage of the project when the detailed design of the Proposed Development is finalised and in accordance with the timescales set out in the Regulations.

10.3.40. The Applicant has assessed the results of the noise assessment against policy using the aims set out in paragraph 5.195 of the NSPNN. In terms of construction, the Applicant concludes that with the implementation of the mitigation measures outlined in the CEMP and in the context of sustainable development, given the temporary nature of the construction phase, the aims of the NPSNN would be met during the construction of the Proposed Development.

10.3.41. The Applicant anticipates an overall reduction in the number of buildings above the SOAEL due to the Proposed Development. The majority of the remaining residential buildings in the study area, according to the Applicant, would be between the LOAEL and the SOAEL during the daytime. At night all the remaining residential buildings would be between the LOAEL and the SOAEL, both with and without the Proposed Development, as the night-time LOAEL is set at a low level.

10.3.42. The Applicant anticipates the Proposed Development would reduce traffic noise levels from above the SOAEL (in either or both DM scenarios[44]) to below the SOAEL (in both DS scenarios) at 64 residential buildings. A total of 13 residential buildings are anticipated to experience an increase in traffic noise which takes them from below the SOAEL (in both DM scenarios) to above the SOAEL (in either or both DS scenarios). The Applicant notes that 131 residential buildings are above the SOAEL both with and without the Proposed Development in operation, therefore the exceedance of the SOAEL is not due to the Proposed Development. On this basis the Applicant considers that the first NPSNN aim to avoid exceedances of the SOAEL as a result of the Proposed Development, within the context of sustainable development, has been met. The Applicant further concludes that with the inclusion of the identified mitigation measures as detailed in Section 11.8 of the ES, within the context of sustainable development, at receptors between the LOAEL and the SOAEL, the Proposed Development meets the requirements of the second NPSNN aim.

10.3.43. The third NPSNN aim is to 'improve where possible'. The Applicant highlights that the large reduction in traffic on the existing A460 and the closure of Dark Lane as a through route, provide noise improvements in some areas. The Applicant contends that these improvements are not fully reflected within the DMRB analysis. This is because it takes a worst-case approach focussed on the worst affected façade of each property. The Applicant notes many of these properties experience a smaller reduction on other façades, at the side or rear, but are not all are classed as experiencing a significant beneficial effect in the DMRB analysis. On this basis, it is considered that the third NPSNN aim has been met.

10.4. REQUIREMENTS (R)

10.4.1. R4 requires a CEMP to be submitted and approved substantially in accordance with the Outline Environmental Management Plan (OEMP) [REP7-026] and which reflects the mitigation measures set out in the Register of Environmental Actions and Commitments (REAC). The Requirement includes adherence to working hours of 07:00–19:00 Mondays to Fridays and 08:00–16:00 on Saturday with no working on Sundays and bank or public holidays. There are exceptions identified, and one of which allows for 24 hours a day 7 days a week working to carry out the works at the M54 junction 1 for a period of up to 3 weeks whilst the motorway is closed.

[44] In both the Opening Year (2024) and the Future Year (2039).

10.5. THE POSITION OF THE INTERESTED PARTIES (IPs)

SSC

10.5.1. In its Local Impact Report (LIR) [REP1-097] SSC identifies paragraph 5.195 as the key policy in the NPSNN in relation to noise. They further note that the Proposed Development will impact on local residents during construction and operation. The Council states the ES identifies residential properties are concentrated in built up areas and along Dark Lane, Park Road, Hilton Lane and Brookfield Farm, and that non-residential sensitive receptors are also identified. The Council also notes the ES confirms there will be significant adverse construction noise and vibration effects for receptors in the vicinity of Dark Lane, along Hilton Lane (east and west of the Proposed Development) and at Brookfield Farm.

10.5.2. SSC understands that further consultation will take place at a later date regarding detailed plans for construction; SSC welcomes such and will seek to ensure that cumulative impacts of the construction of other local schemes are included, and that roads outside of the planning area are taken into account, including the A460 south of the Proposed Development into Westcroft, and north of the M6 towards Cheslyn Hay. SSC also invites Highways England (HE) to explore future opportunities to improve local amenity for local people, particularly pedestrian safety in the communities closest to the construction activity. For example, implementing a pedestrian crossing in Westcroft, a cycle path from the north and improving footpath conditions and signage in Featherstone.

10.5.3. In relation to Dark Lane specifically, SSC notes that noise during construction would be large in terms of change which would pose a significant adverse effect; however, this would be for a short/temporary period. Following completion and during operation the Council note the change in traffic noise level is not anticipated to adversely affect the existing noise levels. With regards to those properties in closer proximity to the link road SSC identified the proposed mitigation measures. SSC confirm, having consulted with its Environmental Health Team, that no reasons for objection are raised.

10.5.4. The Applicant and SSC have also completed and signed a Statement of Common Ground (SoCG) [REP7-028] in which, in relation to noise, all matters are agreed. The SoCG records that SSC is content with the baseline monitoring and that the ES appropriately assesses the effect of the Proposed Development on noise and vibration and that impacts would be managed through adherence to mitigation measures detailed in the OEMP. The SoCG further records that SSC agrees that the mitigation measures proposed are appropriate and that there is no objection to the proposed Development on noise grounds, having consulted SSC's Environmental Health officer.

10.5.5. The SoCG records changes to the Proposed Development as a result of the changes to the DMRB assessment and that these are reported in version 2 of the noise and vibration Chapter. It records the height of the

noise barrier at Dark Lane was increased from 3m to 4m, and the barrier at Brookfield Farm from 2.5m to 3m. These are agreed by SSC.

Hilton, Featherstone & Brinsford and Shareshill Parish Councils

10.5.6. In the Relevant Representation (RR) from the Featherstone and Shareshill representative [RR-025] it is commented that the section of the proposed link road that goes nearest to the residents of Dark Lane would be better placed further east. This would improve their living conditions and amenity. It is further stated that there are concerns about the noise pollution and air quality levels affecting the nearest properties in proximity which would only be a short distance from the link road. It is suggested that more woodland is needed along the perimeter of the link road between Hilton Lane rising up to junction 11 on the western side in order to mitigate the noise and visual effect from the link road upon the village of Shareshill.

10.5.7. Hilton Parish Council in its RR [RR-011] is concerned that the Proposed Development is very close to existing domestic dwellings which will result in noise, air and light pollution and vibration from the volume of traffic which will result in a loss of amenity.

10.5.8. The Applicant and the Parish Councils have signed and completed a SoCG [REP7-031] which identifies the areas where the parties agree and disagree. In this it is recorded that the Councils' support the need for the Proposed Development but disagree with the chosen route. In relation to noise the proximity of the road to Dark Lane is raised and whether this could be moved further east given concerns about noise and air quality. Although the progression of the route and to the decision on the preferred route is understood the Councils confirm this is not their preferred route. This is therefore recorded as not agreed between the parties.

Public Health England

10.5.9. Public Health England provided a RR [RR-009] at the start of the Examination in which it stated *"… on the basis of the documentation as reviewed, notwithstanding our comments, we can confirm that we have chosen NOT to register an interest with the Planning Inspectorate on this occasion. Please do not hesitate to contact us if you have any questions or concerns"*.

10.5.10. With regard to noise specifically it stated: "*We acknowledge that whilst the Environmental Statement (ES) has identified some residual public health impacts with respect to noise, a detailed explanation is provided as to why further mitigation was not deemed feasible. We welcome the detailed discussions on how the Scheme design has aimed to minimise noise exposure, how it achieves the three aims in the Noise Policy Statement for England (Chapter 11 para. 11.9.62 - 11.9.83), and the focus on noise mitigation at source (para. 11.8.1). We note that the Applicant has chosen not to present a quantification of the health effects*

attributable to noise in the Population and Human Health chapter. We are satisfied that the wider determinants of health have been adequately assessed, using a suitable methodology."

Rt Hon Gavin Williamson CBE MP

10.5.11. Rt Hon Gavin Williamson MP provided a RR [RR-039] and Written Representation (WR) [REP1-070] in which he broadly welcomed the Proposed Development but in which he outlined concerns from residents in his constituency and which included matters related to noise. These were expressed in general terms and stated account should be taken of residents' and the Parish Councils' concerns about the proximity of the road to dwellings, and to ensure information was provided on noise pollution which will have a negative effect on properties in the Parishes of Featherstone, Shareshill and Hilton. He was also aware concerns had been expressed about the effectiveness of proposed noise mitigation measures.

Allow Limited (Allow)

10.5.12. Allow provided a WR at Deadline (D) 1 [REP1-091] in which, amongst other matters, concerns relating to the noise impact of the Proposed Development were raised. Allow was concerned that additional sound mitigation should be provided, including sound boarding along the roadside, for the protection of The Shrubbery, which would be retained by Allow, and the surrounding cottages and Hall. Allow noted that the Proposed Development would cause the felling of a further approximately 0.337 hectares (ha) of established woodland on the eastern side of the road. This would significantly reducing the buffer of woodland which may have otherwise served to reduce the impact of noise and light pollution on the adjoining residences and pools. No corresponding sound mitigation appears to have been proposed to address this, according to Allow. Allow further notes that The Shrubbery would only be 250m from the proposed link road, The Bungalow and Gardeners Cottage only 310m, and 1 & 2 North Lodge would only be 410m away from the link road and that, in its view, there therefore needs to be noise barrier screening in order to prevent noise and disruption once the road is in use and also during the construction phase.

10.5.13. Allow and the Applicant signed a completed SoCG [REP8-011] which records the areas of agreement and disagreement between them. In relation to noise it is recorded that Allow commented there would be an increase in the area of woodland at Lower Pool felled and that noise attenuation measures are requested to address the impact upon the residences at Hilton Park due to the increased felling of the Shrubbery. In response, it is recorded the Applicant pointed out low noise surfacing was proposed along the length of the Proposed Development. The Applicant further noted that to the west of The Shrubbery (residential unit) the road is in a cutting which provides an effective barrier to minimise traffic noise. The Applicant also pointed out that the benefits of trees in noise reduction are limited and an additional barrier above the cutting would be very limited. The Applicant refers to its noise assessment which predicts

a minor (1 to less than 3dB) increase in traffic noise on the western and southern side of The Shrubbery and a negligible (less than 1dB) change on the northern and eastern sides of the property. The Applicant therefore states a significant adverse operational traffic noise effect is not anticipated at the property. Furthermore, the Applicant responded to say based on the anticipated noise impact, the mitigation included in the Proposed Development and the limited benefit of an additional barrier at the top of the cutting, no further mitigation measures are proposed in this location.

10.5.14. The SoCG records that the parties agree these comments and responses.

D Williams

10.5.15. Mr Williams fully engaged with the Examination primarily on matters related to Traffic and Transportation. These matters are addressed in Chapter 12 below. His submissions are set out in full in his representations [RR-032], [REP2-014], [REP5-013], [REP7-040] and [REP9-007], and the following represents the ExA's general understanding of this in relation to noise issues which principally relate to the corridor of the A449 between M54 junction 2 and the A5 at Gailey, on which Mr Williams home is located.

10.5.16. In his initial representations Mr Williams points out that the Transport Assessment Report (TAR) advocates that on the 'A449 Stafford Road – South of Standeford' vehicle derived nuisance noise will drop by 0.7dB in the long term to 69.5dB during the daytime. Mr Williams further asserts it is reasonable to assume that sound pollution levels from traffic on the A449 will be fractionally less harmful if the link road being proposed is built. Nonetheless that assumption begs the question what more can be done to increase the effectiveness of the proposed link road to get it from 70dB plus to sub 55dB? In his view, if the A449 settlements are left with a reduced level that is still greater than 70dB, the Proposed Development will have failed to achieve two of its four primary objectives.

10.5.17. Mr Williams comments that the vast majority of vehicles using the A449 do so as it is the signed route between the M54 eastbound and the M6 northbound (and M6 southbound to M54 westbound). Mr Williams is of the view the Proposed Development has the potential to significantly remedy the existing and future levels of acoustic harm experienced by sensitive A449 residential receptors by putting the right traffic on the right roads to improve residential wellbeing. It could do this by separating local community traffic from long distance and business traffic and reducing volumes of through traffic. Fundamentally, Mr Williams questions the Applicant's traffic model and hence its associated inferred noise assessment. He also queries the Applicant's understanding of the sensitive receptors on the A449.

10.5.18. Mr Williams states his point of dispute is why is the A449 and its communities not worthy of the same degree of relief as the A460 communities just because they are perceived to be spatially distant from the proposed operational development? The stated purpose of the

Proposed Development is not to create a Shareshill bypass; it is to create a motorway link road to transition from the ad hoc linkages that have formed in the absence of a dedicated link road over the past four decades. Mr Williams is of the view the 72-73dB $L_{A10\ 18hour}$ is significantly harmful to the 50 no. residential receptors that reside within the 600m stretch of the A449 to the immediate north of J2-M54 and that the 72-73dB $L_{A10\ 18hour}$ levels could be reduced significantly if the Proposed Development were to do more to transfer A449 vehicular usage onto the proposed link road.

10.6. PLANNING ISSUES

10.6.1. Chapter 11 of the ES relating to noise and vibration was updated following changes to the Proposed Development. The changes were accepted into the Examination [PD-015] along with the updated ES chapter [AS-085] amongst a number of other supporting documents. One of the more significant changes involved changes to the construction method and bridge design at junction 1 of the M54. This would involve the closure of the M54 for a period up to three weeks but reduces the overall construction and necessary traffic management for the Proposed Development. This would result in a significant change to the assessment of effects in respect of construction effects and was fully addressed in the updated noise and vibration Chapter.

10.6.2. The issues explored during the Examination sought to address the noise and vibration effects during construction including those associated with the changes to the M54 junction 1 and the noise and vibration effects during operation. In particular the effects in respect of specific receptors or locations were raised by a number of IPs and which included:

- properties at the end of Dark Lane, for construction and operational effects;
- properties on Hilton Lane related to the construction of Hilton Lane Bridge and following closure of Dark Lane;
- Brookfield Farm, and the construction effects related to the mainline and the accommodation bridge;
- The Shrubbery and other dwellings in the vicinity in terms of construction and operational effects; and
- properties located off junction 2 of the M54 on the A449.

10.7. ExA CONSIDERATIONS

General approach and analysis

10.7.1. In relation to noise and vibration SSC is content with the baseline monitoring and that the ES appropriately assesses the effect of the Proposed Development on noise and vibration. The Council confirms that there are no objections from its Environmental Health department. There are no significant or technical analysis submitted by any IP that provides for a rational or robust challenge to the figures and data put forward by the Applicant. The noise modelling is verified by the baseline monitoring and demonstrates an appropriate and reasonable degree of confidence in respect of the outputs from the model.

10.7.2. The Parish Councils raise concerns that the line of the Proposed Development is not their preferred route given its proximity and potential noise and air quality effects on residents in Dark Lane and Park Road. However, they give no analysis or scientific assessment of the potential effect of the Proposed Development in this regard and simply assert that they would wish to have such effects minimised. The Applicant has undertaken a detailed noise assessment that demonstrates the effects on sensitive receptors, and this provides for a reasonable basis to arrive at such conclusions. The final conclusion on the acceptability of the route of the Proposed Development will be undertaken in the conclusions chapter as this is based on a number of factors including noise, but also including other matters such as cultural heritage and biodiversity issues.

10.7.3. Mr Williams has raised concerns with regard to the extent of the TAR submitted by the Applicant and, as he expresses it, therefore the associated noise assessment. Mr Williams accepts that the Proposed Development will not increase the noise impact on properties along the A449 but is concerned that the Proposed Development did not take the opportunity to address the pre-existing situation in a more fundamental way, including consideration of de-trunking the A449. These matters are addressed in Chapter 12 on Traffic and Transport. In effect our conclusion in that respect is that the Proposed Development meets its objectives although this may not be as bold as Mr Williams would have wanted. There would be reduced levels of traffic along the A449 and there would be no increase in effect as a result of the Proposed Development. Paragraph 4.31 of the NPSNN advises that a good design should meet the principal objectives of the scheme by eliminating or substantially mitigating the identified problems by improving operational conditions and simultaneously minimising adverse impacts. It further advises that it should also mitigate any existing adverse impacts wherever possible. The objectives of the Proposed Development are to keep the right traffic on the right roads, address issues on the A460 and reduce traffic on the A449; the Proposed Development achieves these. The concerns expressed by Mr Williams are outside the scope of the Proposed Development. It is not part of the Examination to assess the strategic road network and the issue of de-trunking is a matter for consideration at another time, as concluded in Chapter 12 below. It is our view that the Proposed Development therefore is in line with the advice in paragraph 4.31.

10.7.4. The Applicant has sought to set, by reference to the existing ambient noise levels and with appropriate reference to the WHO CNG and NNG guidelines, SOAEL and LOAEL related to both construction and operational noise. Similarly, criteria for establishing the effect of vibration levels are set related to annoyance levels and potential damage effects.

10.7.5. On the basis of the above considerations and the matters raised by IPs, we conclude that the baseline monitoring and general approach to the assessment of effects is generally acceptable, and that there is no robust or technical evidence to conclude that these are inappropriate.

Construction Effects

10.7.6. The implementation of the Proposed Development would result in the construction of a major piece of highway infrastructure that would involve site clearance, earthworks, retaining wall construction, bridge construction, bridge demolition and road construction (pavement) works. These activities along with the associated construction traffic would have an effect on sensitive receptors in the locality. Temporary construction vibration effects are associated with earthworks and road construction (pavement) works using vibratory rollers as well as piling at the new bridges and at retaining walls.

10.7.7. In respect of noise effects the Applicant sets out the maximum predicted construction noise levels and the relationship with the LOAEL and SOAEL; these are set out in Table 11. 2 of the ES [AS-085]. These have not been challenged by any party. Of the 22 selected assessment locations 16 are predicted to experience noise levels above the LOAEL, of which six would be at or above the SOAEL during the day time and 14 receptors are predicted to be at or above the LOAEL, 11 of which would be above the SOAEL in the night time period.

10.7.8. The following considers those areas where issues were specifically raised during the Examination:

M54 junction 1

10.7.9. The proposed construction method around the M54 junction 1 includes 24/7 operation for a period of up to three weeks. We accept that there would be significant adverse effects resultant from these activities with the Applicant identifying four representative locations in and around Featherstone where the noise levels would be at or above the SOAEL level for either the day-time or night-time levels, and by as much as 4dB above the level. This is primarily related to preparatory works and actual works in and around the three-week period. There are a further five locations including around Dark Lane, Park Road and Hilton Lane where levels would be above the SOAEL due to the proximity to the borrow pit and haul road when activity for the junction works at junction 1 would be going on and the borrow pit will be operational 24/7 in this period.

Dark Lane

10.7.10. At the receptor in Dark Lane and that at Park Road we agree that daytime levels would be at or just above the SOAEL as anticipated by the Applicant, primarily related to earth works associated with the Proposed Development. Evening and night time levels are anticipated above the SOAEL primarily related to the junction 1 works and are limited to the three-week period of the 24/7 operations given the close proximity to the borrow pit and haul road.

Hilton Lane

10.7.11. In and around Hilton Lane four receptors are identified. The Applicant anticipates day time levels at or above the SOAEL due to earth works associated with the realigned Hilton Lane and new bridge and works to

the live carriageway for the tie-in of Hilton Lane, we have no evidence to suggest this would not be the case and accept this conclusion. It is suggested this will only take a small number of evenings/nights. These receptors are significantly affected by the 24/7 operations for the three week period of the junction 1 works given their close proximity to the haul road and borrow pit.

The Shrubbery

10.7.12. The Shrubbery is located close to Dark Lane and Hilton Lane receptors. The construction effects are generally likely to be of the same order. These are not specifically highlighted by the Applicant in its assessment, but the noise data and mapping would support the position that likely significant effects would be of the same order as those related to the receptors identified in Dark Lane and Hilton Lane.

Brookfield Farm

10.7.13. At Brookfield Farm the anticipated levels are identified as at or above the SOAEL during various stages of the proposed works. Given that these are related to vegetation clearance, earth works for the mainline and accommodation bridge and access track and surfacing of the access track in close proximity to this receptor, this appears reasonable.

Construction Traffic

10.7.14. In terms of construction traffic effects, the Applicant notes that the same noise model for operational effects has been used. The Applicant identifies additional traffic associated with the construction phase and re-routing of traffic associated with the three-week closure associated with the junction 1 works as the main impacts. In our view the results indicate that the vast majority of identified potentially noise sensitive receptors are likely to experience no more than a negligible increase in traffic noise due to construction traffic. Five properties at the western end of Hilton Lane, are anticipated to experience a minor increase (maximum increase +1.2dB) during the busiest period of the works in this area to build the new Hilton Lane bridge, and assuming the worst case option of all construction traffic using the western end of Hilton Lane to both access and exit the bridge works. Outside of the three week closure of the M54 at junction 1, no night-time road closures are currently anticipated with the exception of short periods to set up traffic management and safety barriers, tie in the Proposed Development to the existing road network, the demolition of existing bridge decks at M6 junction 11 and installation of the new bridge decks at the junction.

10.7.15. Significant effects are anticipated during the three-week closure of the M54 at various locations including Featherstone, Calfs Heath, Shareshill, Hilton Lane, the A449 on the northern edge of Wolverhampton and the southern end of Underhill Lane. Moderate to major increases in traffic are also anticipated on the B4484 in Wolverhampton and on part of the A464 northwest of Wolverhampton. No significant traffic noise increases are anticipated on the signed diversion along the A449 and A5 due to the current relatively high volumes of traffic on these roads. Significant

increases in traffic noise during the three-week closure of the M54 at junction 1 are concentrated on much more minor roads with existing low traffic flows. We have been provided no evidence that would lead to a different conclusion on these matters.

Vibration

10.7.16. In terms of vibration effects a similar range of locations has been considered. The Applicant has identified that for humans construction vibration is likely to become perceptible at a vibration level of Peak Particle Velocity (PPV) of 0.3 (millimetre per second) (mms^{-1}) and this is set as the LOAEL. The SOAEL is set at $1mms^{-1}$ PPV, being the level at which construction vibration can be tolerated with prior warning. We have no evidence before us to suggest that these thresholds are inappropriate.

10.7.17. The Applicant predicts that approximately 58 residential buildings are located within 50m of works using a large vibratory roller – these being located along the section of A460 which is modified by the Proposed Development, at the eastern end of Dark Lane, along Hilton Lane and at Brookfield Farm. The Applicant further predicts that approximately 34 residential buildings are located within 20m of works using a medium sized twin drum vibratory roller – these being located along the section of A460 which is modified by the Proposed Development and at Brookfield Farm. The Applicant also identifies approximately two residential buildings located within 20m of works using a medium sized towed roller – these being located at the section of A460 which is modified by the Proposed Development and at Brookfield Farm. All of these receptors are also within 50m of the works using a larger vibratory roller. The magnitude of the potential vibration annoyance impact is moderate at the majority of these identified receptors. Major vibration annoyance impacts are possible at a total of two properties located at the tie-in of the existing A460 to the Proposed Development in Featherstone. We agree that potential significant construction vibration annoyance effects are, therefore, likely at approximately 58 residential buildings, as identified by the Applicant.

10.7.18. Vibration impacts due to rotary bored piling at new bridges and retaining walls are not anticipated by the Applicant to result in significant adverse effects. Piling using a vibratory piling rig would be required to install and/or remove sheet piles during construction of the Shareshill bridge (over Watercourse 5) and to demolish the eastern structure on the existing M54 junction 1 bridge. Given the distance to sensitive receptors vibration impacts due to vibratory piling are not likely to result in significant adverse effects.

General construction effects

10.7.19. In terms of general construction works the Applicant has, it says, adopted a conservative approach and assumed that all the effects identified above the SOAEL will be in excess of the duration criteria and therefore all result in significant adverse construction noise effects. This is, in our view, a reasonable approach. However, the Applicant does

conclude that with the exception of the three-week period for the construction of the M54 junction 1 all the other evening and night time potentially significant effects are of relatively short duration. Full details of construction are as yet not known as the contractor has not been appointed. R4 requires the submission of a CEMP in line with the OEMP and which includes the REAC. There are various commitments within these documents around further noise monitoring, the use of temporary noise barriers and the engagement of the community through a community relations manager. The CEMP would include relevant noise criteria and a range of Best Practical Means to mitigate noise impacts. This includes working hours temporary, temporary re-housing, review of construction programme, provision of acoustic enclosures and fencing etc. These have not been factored into the assessment and the Applicant notes that BS5228[45] advises that such barriers can provide a reduction of 5dB -10 dB for plant screening.

10.7.20. Overall therefore, there is the potential for combined significant effects from construction noise and vibration during the construction works at receptors located in close proximity to the works along the section of A460 which would be modified by the Proposed Development, at the eastern end of Dark Lane, along Hilton Lane and at Brookfield Farm.

10.7.21. We accept that there will be significant adverse effects on various receptors in close proximity to the works associated with the Proposed Development. In many instances these will be for short periods of time with the exception of the relatively intense period around the three-week closure and works associated with the junction 1 works on the M54. The CEMP provides for appropriate means to mitigate and reduce as far as possible the adverse effects and requires effective communication and liaison with the local community. Given the nature and scale of the proposed works, the levels of effects, whilst significant, have been minimised as far as possible and measures put in place to seek to mitigate the effects. These are secured through R4 and the proposed CEMP.

Operational effects

10.7.22. The Applicant divides these effects into short term and long-term changes. The short-term change being the change between the DS and DM scenarios for the year of opening 2024. With the long-term changes being the difference between the DM scenario at 2024 and the traffic noise levels with the Proposed Development in operation in 2039. The assessment is based on the number of sensitive receptors affected within various noise level bands.

10.7.23. Table 11.13 in the ES [AS-085] summarises the short term change in predicted traffic noise levels in 2024 between the DM and the DS.

[45] BS 5228:2009+A1:2014 Code of Practice for Noise and Vibration Control on Construction and Open Sites

10.7.24. In the day time in the year of opening approximately 76% of buildings within the calculation area will experience a negligible increase in traffic noise as a result of the overall trend in the study area for a slight increase in traffic flows as congestion on the A460 is resolved.

10.7.25. There are a number of properties where a moderate increase in traffic noise is predicted by the Applicant including at the Bungalow at Brookfield Farm where a noise barrier would reduce the effect from a major impact. Five other properties, located to the west of the Proposed Development on Hilton Lane, would undergo a moderate increase. These impacts are identified by the Applicant as significant adverse effects. Of the five properties in this area predicted to experience a significant adverse effect, at three the effect would be due to the increase in traffic flow on Hilton Lane, at one property the increase would be due to noise from the Proposed Development, and at the final property the increase would be due to a combination of the two. We agree with these assessments. Mitigation is incorporated into the design in this location through locating the mainline in a cutting approximately 6m deep and the reduction in speed limit from 60 miles per hour (mph) to 30mph on this section of Hilton Lane.

10.7.26. The Applicant predicts that with a noise barrier in place along the Proposed Development in proximity to Dark Lane the worst case increases in traffic noise at Dark Lane and Park Road would be reduced from major (without barrier) to minor (with barrier), we have nothing before us to suggest that this is not correct. The Applicant also draws attention to façades which face directly onto Dark Lane which would experience a reduction in traffic noise due to the large reduction in traffic on Dark Lane as it would become a cul-de-sac with the Proposed Development in place.

10.7.27. To the east of the Proposed Development a small number of individual properties off Hilton Lane, in the vicinity of Hilton Hall, would likely experience a minor or negligible increase in traffic noise in the opening year at the worst affected façade.

10.7.28. The Applicant has also considered the effect on Noise Important Areas and concluded that the Noise Important Area 11490 on the existing A460, which would be bypassed by the Proposed Development, would experience a reduction in traffic noise. Noise Important Area 7364 to the east of the A460, north of M6 junction 11, would experience an increase due to the increase in traffic on the A460 (north of junction 11). However, a noise barrier and thin surfacing system are included as part of the Proposed Development to reduce the magnitude of the worst-case impact at nearby properties, which ranges from minor decrease to negligible increase. Noise Important Area 7365 on the M54 to the west of the application site would experience a negligible increase in the opening year due to the general trend to attract traffic to the Proposed Development when operational.

10.7.29. The Applicant predicts that at night the same general trend would be observed as for the day, with the majority of receptors experiencing negligible, minor or no change in traffic noise levels.

10.7.30. There are also a number of PRoWs in the study area that the Applicant has considered. Saredon 8 footpath is relocated slightly to follow the edge of the Proposed Development at the approach to M6 junction 11; due to its proximity to the mainline of the Proposed Development at the base of the embankment it generally experiences a moderate increase in traffic noise. Similarly, Shareshill 3 footpath and 4 footpath run roughly parallel to the Proposed Development to the east and both experience a range of impacts from minor to major increases at the northern end close to the Proposed Development.

10.7.31. The Applicant describes that Shareshill 1 bridleway and 5 footpath both cross the route of the Proposed Development and therefore would be relocated along the Brookfield Farm accommodation bridge and the realigned Hilton Lane respectively. The magnitude of the change in traffic noise along Shareshill 1 bridleway is predicted by the Applicant to range from major decrease, close to the existing A460, to major increase where it would cross the Proposed Development. The range of impact along Shareshill 5 footpath predicted by the Applicant is from negligible increase at the eastern end to major increase where it would cross the Proposed Development. There is nothing to suggest that these predictions are not reasonable.

10.7.32. Users of the other PRoWs in the study are predicted to experience a negligible to minor effect. Given the linear nature of PRoWs, the range of noise impacts along them, the absolute traffic noise levels, and the transient usage of a PRoW, we conclude that a material change in the experience of using the PRoWs as a whole, which could affect people's health or quality of life, is not anticipated and no significant adverse or beneficial effects on PRoWs have been identified.

10.7.33. Moving to long term effects, Table 11.14 in the ES [AS-085] summarises the long term change in predicted traffic level noise. The Applicant predicts that the same general pattern of traffic noise level change is observed in the long term as in the short-term as described above. The majority of increases and decreases at residential properties in the long-term daytime are negligible or minor (not significant). Three moderate decreases in traffic noise are located on the existing A460 bypassed by the Proposed Development. At night, all residential buildings are predicted by the Applicant to experience a negligible, minor or no change in traffic noise.

10.7.34. In summary, in relation to operational effects, five residential buildings on Hilton Lane west of the Proposed Development and one residential building at Brookfield Farm are identified as experiencing significant adverse effects from operational traffic. Thirty-seven residential buildings close to the existing A460 bypassed by the Proposed Development and 11 residential properties along Old Stafford Road (outside the calculation area) are identified as experiencing a significant beneficial effect. The

effect on the other properties within the calculation area experience effects which are identified as not significant. We agree with these conclusions.

10.7.35. The NPSNN advises the SoS should not grant development consent unless the proposals meet with three aims which are, broadly, a) to avoid, b) to mitigate and minimise and c) contribute to improvements, to health and quality of life. There is the potential for significant temporary adverse noise and vibration effects to remain. Similarly, there are significant adverse effects that are predicted to remain for a small number of properties from operational activity.

10.7.36. With the CEMP secured through R4 in line with the OEMP and the measures outlined in the REAC, mitigation measures are in place for constructional activities. Once the main contractor is in place the use of Best Practical Means and the various available measures including temporary hoardings and noise barriers and working practices could assist in reducing such effects further. The appointment of a community relations manager and effective consultation with the local community would assist in seeking to further mitigate and inform the local community of activities as they are proposed.

10.7.37. The Proposed Development also incorporates a number of embedded measures and design elements which seek to mitigate the effects including the provision of large sections of the mainline of the carriageway in cutting, the use of a low noise surface material, lower traffic speeds along Hilton Lane, etc. These measures, associated with the provision of noise barriers at Dark Lane, Brookfield Farm, the A460 at junction 11 of the M6 and around the north side of the M54, would assist in mitigating and reducing the effects as much as practical.

10.7.38. In this regard the Proposed Development would not totally avoid significant adverse impacts on health and quality of life from noise as a result of the new development. There would be some remaining significant effects, but these would primarily relate to construction activity and would mostly be for short durations. The mitigation measures proposed would reduce these effects. The Proposed Development would therefore mitigate and minimise other adverse impacts on health and quality of life from noise from the new development and would contribute to improvements to health and quality of life through the effective management and control of noise, where possible. We therefore conclude the Proposed Development would therefore overall meet the aims of paragraph 5.195 of the NPSNN, would be in line with the NPSE and would not conflict with Policy EQ9 in the Core Strategy.

10.8. CONCLUSIONS

10.8.1. Taking all the relevant documents and policies into account we conclude as follows:

- The Applicant's approach to noise and vibration assessment is generally acceptable and in line with the NPSNN.
- The Proposed Development would result in construction and operational noise and vibration effects that would result in significant adverse environmental effects on a number of sensitive receptors.
- The proposed embedded and other mitigation secured through R4 and the CEMP would reduce and mitigate further some of the significant effects.
- Given the nature and scale of the Proposed Development, the short term nature of the significant effects and the mitigation, overall, the effects of noise and vibration are minimised.
- The Proposed Development contributes to improvements to a number of receptors and there is further potential through the secured mitigation measures to improve this situation.
- Overall, the significant affects above SOAEL are minimised and effective mitigation is proposed such that the Proposed Development meets the aims and aspirations of the NPSNN in respect of the aims and objectives of the Proposed Development.

10.8.2. We consider that the increase in noise and vibration levels has been considered, minimised and mitigated as far as possible. On this basis whilst there are some outstanding significant adverse effects on a small number of properties, given the limited duration, this should be afforded moderate negative weight in the overall planning balance.

11. FINDINGS AND CONCLUSIONS IN RELATION TO SOCIO-ECONOMIC EFFECTS

11.1. INTRODUCTION

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

11.2. POLICY

National Policy Statement for National Networks

11.2.1. The National Policy Statement for National Networks (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).

11.2.2. It also states *"… severance can be a problem in some locations. Where appropriate applicants should seek to deliver improvements that reduce community severance and improve accessibility"* (paragraph 3.22).

11.2.3. Paragraphs 4.3 and 4.4 of the NPSNN explain that the potential benefits of any proposed development, including the facilitation of economic development, will be taken into account as part of the overall balance. It advises that environmental, safety, social and economic benefits and adverse impacts, should be considered at national, regional and local levels.

11.2.4. Paragraph 5.168 of the NPSNN indicates applicants should take into account the economic and other benefits of the best and most versatile (BMV) 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.

National Planning Policy Framework

11.2.5. The National Planning Policy Framework (the Framework) requires significant weight to be afforded to the need *"… to support economic growth and productivity, taking into account both local business needs and wider opportunities for development"* (paragraph 80).

11.2.6. Paragraph 204 of the Framework makes clear that policies should safeguard mineral resources by defining Mineral Safeguarding Areas. It indicates that policies should ensure that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development. This paragraph also encourages the prior extraction of minerals where practical and environmentally feasible, if it is necessary for non-mineral development to take place.

Local Plan

11.2.7. The South Staffordshire Local Plan Core Strategy (the Core Strategy) Core Policy 7 supports measures to sustain and develop the local economy of South Staffordshire, whilst Core Policy 9 supports the social and economic needs of rural communities within the District.

11.2.8. Core Policy 13 of the Core Strategy supports initiatives that promote the safety of people, both in their own homes and in the community. In particular, the design of all developments must take account of the need to reduce the opportunities for crime and fear of crime. Policy CS1 advises on ways this may be achieved.

11.2.9. Appendix 2 to the Minerals Local Plan for Staffordshire (the Minerals Local Plan) lists mineral infrastructure sites in Staffordshire. Included within this list is Hilton Park for sand and gravel which has a cessation date of 2042.

11.2.10. Within the Policies and Proposals Map for the Minerals Local Plan the majority of the Application site is shown as a "Mineral Safeguarding Areas (All minerals except coal & fireclays)". Under Policy 3 such an area will be safeguarded against needless sterilisation by non-mineral development. Within such an area non-mineral development should not be permitted unless it has been demonstrated that the development is:

- temporary and does not permanently sterilise the mineral; or
- the material planning benefits would outweigh the benefits of the underlying or adjacent mineral; or
- it is not practical or environmentally acceptable in the foreseeable future to extract the mineral.

11.2.11. Where important minerals exist in a Mineral Safeguarding Area and the above criteria have not been met, the mineral should be extracted prior to the development being implemented unless it falls within a list of exemptions; the Proposed Development does not fall within that list.

11.3. THE CASE FOR THE APPLICANT

Introduction

11.3.1. The most relevant elements of the application in relation to socio-economic effects are:

- Chapter 3 – Assessment of Alternatives [APP-042];
- Chapter 9 – Geology and Soils [APP-048];
- Chapter 10 – Material Assets and Waste [APP-049]
- Chapter 12 – Population and Human Health [APP-051]; and
- The Case for the Scheme and National Policy Statement Accordance Table [AS-037].

11.3.2. Included in the objectives for the Proposed Development as identified in the Case for the Scheme [AS-037] is one *to "… support local economic growth for Telford, Shrewsbury, Wolverhampton, Cannock and Tamworth*

by improving traffic flow and enhancing access to east-west and north-south routes".

The effect on local populations

11.3.3. The Applicant notes that no land would be required from residential properties nor would any residential properties be demolished.

11.3.4. The closure of Dark Lane north of the last property would mean that those traveling to and from the dwellings in Dark Lane and Park Road would be required to travel further if they were seeking to go north or east. However, the Applicant maintains that as a result of less traffic on Cannock Road there would be an improved access to the wider highways network so that the effects would be slightly beneficial.

11.3.5. As well as businesses at Tower Hill Farm there are three dwellings which would have their access closed and a new access created. Further, around six properties on Cannock Road in Featherstone would have their driveways altered to tie into the new road alignments in that area. The Applicant acknowledges that this would be a short term adverse effect during construction but neutral once operational.

11.3.6. No community land would be affected, the Applicant asserts, but during construction there would be increases in traffic to and from the construction compounds, but these adverse effects would be minor, particularly in relation to severance.

11.3.7. During operation, the Applicant notes that there would be a reduction in severance for the communities on the two sides of Cannock Road, and for a lesser extent at Laney Green to the north of M6 junction 11. Additionally, by providing a better link between major settlements the Proposed Development would improve connectivity to community facilities in Cheslyn Hay, Cannock and Wolverhampton.

Economic Effects

11.3.8. The Applicant has set out what it sees as the economic aspects of the assessment. These include the cost to construct the Proposed Development along with tax revenues generated once the Proposed Development becomes operational. The economic assessment also takes into consideration 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 6.1 of Chapter 12 of the Environmental Statement (ES) [APP-051].

11.3.9. The main economic benefits of the Proposed Development are seen by the Applicant relate to transport economic efficacy improvements, road safety improvements and indirect taxation revenue increase. It considers that there would be environmental benefits, principally in air quality terms, but acknowledges that there would be 'costs' as a result of increased traffic noise and greenhouse gases. The main taxation benefit relates to fuel duty as a result of increased mileage and thus use of fuel.

11.3.10. In terms of non-monetised benefits the Applicant considers the main benefit to be reliability based on a reduction in congestion. It also acknowledges wider economic benefits in the surrounding area, but as these are less certain are not included in the monetised cost/benefit table.

11.3.11. The Applicant has identified four allocations for development in the Local Plan in the vicinity which may be affected by the Proposed Development. They are:

- i54 South Staffordshire – a 130 hectare (ha) site to the south west of M54 junction 2;
- Royal Ordnance Factory Featherstone (ROF Featherstone) – a 36ha site to the west of Featherstone village and north of the M54 between junctions 1 and 2;
- Hilton Cross Business Park – a 18ha site to the southwest of M54 junction 1 (a very small part of this site is included in the application site); and
- Four Ashes – a 72ha site located to the east of the A449, approximately 3.5 kilometres (km) from M6 junction 11.

11.3.12. The Applicant also refers to the West Midlands Interchange scheme that was granted a Development Consent Order (DCO) in May 2020.

Existing businesses in the Application site and its immediate vicinity

11.3.13. The Applicant notes that there are a number of businesses or allocated land within the application site. These are set out in paragraph 12.6.11 of the ES [APP-051] and include:

- Moseley Old Hall, a National Trust property, south of the M54;
- Hilton Cross Business Park allocated as a strategic development site by SSC (Ref 12.19) located directly southwest of the M54 junction 1;
- Dave's American Motorhome Service, northeast of M54 junction 1, at Tower House Farm;
- Fishing pond, at Tower House Farm;
- Fishing ponds, at Lower Pool and the ponds west of Hilton Hall;
- Car boot sales held at a number of locations in proximity to the Proposed Development including two locations within the application site; and
- Fishing ponds southeast of Brookfield Farm.

11.3.14. The Applicant acknowledges there are a number of other businesses within the vicinity, including:

- Shops and similar businesses in Featherstone;
- A coach hire business on Hilton Lane;
- Hilton Hall offices is used as such and as a wedding venue;
- Various businesses at Brookfield Farm; and
- M6 Diesel filling station.

11.3.15. The Applicant considers that the works to improve the woodland near Moseley Old Hall will be neutral in overall effect in social and economic terms.

11.3.16. The loss of the very small area on the edge of the Hilton Cross Business Park would, according to the Applicant, have a negligible effect on the site leading to a slight adverse effect which is not significant.

11.3.17. In relation to the businesses at Tower Hill Farm the Applicant considers that while the revised access arrangements may require some minor reorganisation this would not affect the viability of the business. While the fishing pond at this site would be lost, this could be re-provided, but for the purposes of the assessment the Applicant assumes that the loss would be total. Both these effects are seen as slight adverse which, according to the Applicant, is not significant.

11.3.18. The effects on the businesses in Featherstone and for the coach hire business on Hilton Lane would be temporary while the works are undertaken. Thus, the Applicant states, the slight adverse effects would not be significant.

11.3.19. In relation to the fishing ponds at Hilton Hall, one would be permanently lost as the section remaining would be acquired by the Applicant. The Applicant has assumed that the two other ponds in this area would continue so that the effect on the overall business would be permanent slight adverse.

11.3.20. At Brookfield Farm the Proposed Development would result in the loss of a single pond and the partial loss of another, both of which are used for recreational fishing. While the Proposed Development would have a major adverse temporary affect, the receptor is of low sensitivity and, thus, the Applicant considers that any effect would not be significant.

11.3.21. Two separate fields are used for car boot sales for up to 14 days per year[46] in Mill Lane, Saredon and Dark Lane, Featherstone. These two fields would be permanently lost. The Applicant asserts that the car boot operation utilises a number of other fields in the vicinity in Essington,

[46] In the absence of any evidence to the contrary, which we would have expected to have been recorded in the planning history of the site as set out in Section 7 of the 'The Case for the Scheme' [AS-037], we assume that the 14 day limit is through the utilisation of Permitted Development rights under Part 4 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

We appreciate that under Regulation 20 of the Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020 land may be used as a market for an additional 14 days, but this is time limited until 31 December 2021 (see Regulation 4 of the Town and Country Planning (General Permitted Development) (England) (Amendment) Regulations 2020). In light of this, for the purpose of consideration of the effects of the Proposed Development, we consider that the 14 day limit should be used as the relevant measure.

Cannock and behind M6 Diesel, Shareshill which would be unaffected by the Proposed Development. The Applicant has assumed that the operation does not provide permanent employment and that, as a secondary use of land, alternatives are likely in the area. The Applicant therefore considers that the loss of this land would result in a minor adverse impact on a receptor of low sensitivity value resulting in a slight adverse effect, which is not significant.

11.3.22. When operational M6 Diesel and similar enterprises along Cannock Road will be affected by the loss of 'passing trade'. The Applicant considers that measures such as satellite navigation systems would allow users to find the facility. The Applicant accepts that there would be an effect, considers it to be minor adverse and thus would not be significant.

Agricultural Land

11.3.23. Nine landowners of agricultural land would be affected by the Proposed Development. A plan showing the holdings in the application site is given at [APP-150] and a table setting these out is given at Table 12.6 of Chapter 12 of the ES [APP-051]. Tables 12.9 and 12.10 give the Applicant's assessment of temporary construction effects and permanent effects respectively.

11.3.24. The Applicant appreciates that for Farm Holding 6 there would be large adverse effects, and for Farm Holding 8 large adverse effects permanently. The Applicant notes that some 78ha of agricultural land would be lost but considers that, as the majority of the land is farmed remotely on a contract basis, there would be few consequences for the ongoing viability and operations of the agricultural occupiers. One holding would be required for the Proposed Development in its entirely.

11.3.25. The Agricultural Land Classification (ALC) data from post 1988 is only available for the area north of Hilton Lane. This indicates that the majority of the area is classified Grade 2 (very good) agricultural land. There are small areas north of Hilton Lane classified as Grade 3a (good) and 3b (moderate) agricultural land. The area located to the northeast of the A462 is classified as Grade 3a (good) agricultural land.

11.3.26. The Natural England (NE) Provisional Land ALC for the land south of Hilton Lane and from junction 1 to junction 2 of the M54 is Grade 3 (approximately 91ha, good to moderate).

11.3.27. Surveys were undertaken in 2019 of the area and the results are given at [APP-192]. Annex A diagrammatically sets out the results, and Table 2 sets out of the areas of Grade 2, 3a and 3b land. Of the 80.5ha of agricultural land within the application site, 52.8ha (66%) is Grade 2, 19.3ha (24%) is Grade 3a and 8.4ha (10%) is Grade 3b.

11.3.28. The Applicant has compared this with the proportions of ALC in the Channock Chase and Cank Wood National Character Area. This shows that the proportion of BMV Land is higher than for the NCA, the area surrounding the application site (between the M6, M54 and A460) is predominantly BMV, with over 90% of the land in Grades 2 and 3a.

11.3.29. As set out in paragraph 9.9.5 of Chapter 9 of the ES [APP-048] the Proposed Development would result in the loss of BMV[47]. This is shown in Table 5: Loss of BMV Agricultural Land.

Table 5: Loss of BMV Agricultural Land

Grade of Land	Permanent Loss (ha)	Temporary Loss (ha)
2	41.8	11.0
3a	14.5	4.7
3b	7.3	1.2
TOTAL	63.6	16.9

11.3.30. Of this approximately 7.7ha of BMV land would be permanently sealed with the remaining area required to deliver environmental mitigation which would therefore no longer be available for agricultural use. Table 9.14 of Chapter 9 of the ES [APP-048] sets out how the land would be utilised post development.

11.3.31. At Lower Pool Site of Biological Importance (SBI) and Brookfield Farm SBI there would be a permanent loss of 0.01ha and temporary loss of 0.05ha of soil which support local wildlife sites. The Applicant considers that this would be a minor adverse effect due to the small area of soils that would be lost.

11.3.32. In relation to the restoration of BMV land the Applicant is proposing in the Outline Environmental Management Plan (OEMP) [REP7-026] in References MW-GEO7 and MW-GEO9 that topsoil would be stripped during construction, and generally this would be replaced for those areas which would be returned to agriculture but *"this is dependent on the [final] use of the land"*. Through the Statement of Common Ground (SoCG) with NE [REP8-028] it is clear that for those areas which would be used for species rich grassland the Applicant is not suggesting replacement due to time and resource necessary to deplete the nutrient levels in the soil for its future use.

[47] Paragraph 9.9.5 of Chapter 9 of the ES [APP-048] indicates the permanent loss of 15.5ha of Grade 3a land. However, Table 9.13 immediately following that gives a figure of 14.5ha. Later in paragraph 9.9.5 it is stated that there would be the loss of 56.3ha of BMV land; this is the sum of 41.8ha of Grade 2 land and 14.5ha of Grade 3a land. Consequently, we have worked on the assumption that some 14.5ha of Grade 3a would be permanently lost through the Proposed Development.

11.3.33. The Applicant considers that the Proposed Development would result in a very large adverse effect for Grade 2 soils, and moderate adverse effect for both Grade 3a and Grade 3b.

Minerals

11.3.34. The Applicant notes that the Proposed Development passes through a Mineral Safeguard Area for bedrock and superficial sand and gravel and also crosses safeguarded mineral infrastructure at Hilton Park Quarry[48]. It has considered the effects in a 'Minerals Safeguarding Report' (Appendix 10.1 to the ES [APP-193]).

11.3.35. The Applicant indicates that the Proposed Development does not cross active, permitted or allocated extensions to mineral sites. There is, however, insufficient information on the quantity, the quality and the value of the bedrock sand and gravel resource, but the Applicant considers that the material planning benefits of the Proposed Development would clearly outweigh the loss of any resource.

11.3.36. The Applicant also asserts that prior extraction would significantly delay the commencement and completion of the Proposed Development for which there is an identified need, and the analysis for the current application has identified a number of environmental constraints if prior extraction of the mineral resource was undertaken. Given this, the Applicant considers that the prior extraction of sand and gravel or brick clay may neither be practicable or environmentally acceptable.

11.3.37. Hilton Park Quarry, east of the Proposed Development, is a non-operational mineral infrastructure site but with permitted reserves. Discussions between the Applicant, the owner and Staffordshire County Council (SCC) have taken place regarding a replacement access off a new roundabout/junction so that operations at the Hilton Park site would not be prohibited by the Proposed Development should the Hilton Park site become operational in the future.

11.3.38. It should be noted that the Applicant intends to utilise one area of the site, shown at [APP 065], as a 'borrow pit'. This would be restored at the completion of the Proposed Development and afterwards the area used for woodland mitigation.

Future potential developments

11.3.39. SSC is carrying out a review of the Local Plan. The Applicant notes that the Spatial Housing Strategy does not show any areas of search for a proposed urban extension or new settlement within the Application site or the settlements of Featherstone, Shareshill or Essington in the surrounding area. An Infrastructure Delivery Plan was published in 2019 to set out the infrastructure required to deliver growth within the District.

[48] The location of Hilton Park Quarry can be seen in Figure 1 (Minerals Safeguarding Areas) to Appendix 10.1 of the ES 'Minerals Safeguarding Report' [APP-193].

In this Delivery Plan it is recognised that a new M54 to M6 link road will help address congestion on the A460, which is currently at capacity.

11.3.40. Two significant sites have been put forward for potential development either forming part of the application site or in very close proximity. These are the site promoted by Nurton Developments (Hilton) Limited (Nurton) (the extent is shown in the map at Appendix A to the SoCG between the Applicant and Nurton [REP8-019]) and to the north and west of M54 junction 1 by Persimmon Homes (shown in Figure 7.3 of The Case for the Scheme [AS-037]).

Human Health

11.3.41. The individual effects on human health are considered above. This section deals with more intangible elements. In this regard the Applicant considers that the Proposed Development would not result in any significant effects during construction, as there would be no effect on access to healthcare, open space, travel, work and training, and social cohesion.

11.3.42. Once operational, the Applicant considers that the Proposed Development would support local economic growth and access to training by improving connectivity and reliability.

Equality Impact Assessment

11.3.43. The Applicant submitted an Equality Impact Assessment (EqIA) with the application [APP-214], which was updated at Deadline (D) 3 [REP3-034] to deal with typographic errors in the original.

11.3.44. The EqIA found neutral effects for those with the following protected characteristics:

- sex;
- religion or belief;
- race;
- sexual orientation;
- gender reassignment;
- pregnancy and maternity; and
- marriage and civil partnership.

11.3.45. This was based on the Applicant's conclusion that the effects of the Proposed Development would not affect people with these characteristics differently from any other group.

11.3.46. The EqIA, however, found positive effects on those with the following protected characteristics:

- Age; and
- Disability.

11.3.47. The reasoning for the former was that the local population has a lower proportion of those aged 60 or more than the national average, and thus the economic benefits would derive more to those who are of working

age. In respect of the latter, the EqIA bases its conclusion that the reduction in traffic on the local roads will improve accessibility for people with mental and physical disabilities.

11.4. REQUIREMENTS (R)

11.4.1. R4 of the draft Development Consent Order (dDCO) [REP8-005] would ensure that the CEMP would include a Soil Management Strategy (including a Soil Management Plan and Soil Handling Strategy) to ensure that topsoil associated with agricultural land is appropriately dealt with.

11.5. THE POSITION OF INTERESTED PARTIES (IPs)

Staffordshire County Council (SCC)

11.5.1. In respect of the issues raised in this Chapter, SCC notes in its LIR [REP1-007] the Proposed Development would affect a minerals safeguarding area for sand and gravel as well as for clay resources and a mineral infrastructure site at Hilton Park Quarry.

11.5.2. It notes that there would be additional demand on the provision of aggregates, but it would be difficult to assess the impact on current reserves.

South Staffordshire Council (SSC)

11.5.3. SSC recognises in its LIR [REP1-097] that the Proposed Development will deliver economic benefits at a local, regional and national level. SSC also accepts that on a larger than local scale benefits will arise from the link road due to reductions in congestion and air quality impacts associated with the existing A460 and surrounding roads. SSC considers the Proposed Development would generate other significant economic benefits through manufacturing, business administration, plant hire, long term servicing and employment.

Telford and Wrekin Council

11.5.4. Telford and Wrekin Council support the Proposed Development [RR-043] on the basis that it will make the area more attractive for inward investment.

Natural England (NE)

11.5.5. NE's objections on socio-economic grounds [RR-037] relate to the significance, or otherwise, of the effect on agricultural land, particularly as a high proportion is BMV land.

11.5.6. NE is concerned that topsoil stripping and non-replacement would deplete the BMV resource in the area.

Nurton Developments (Hilton) Ltd (Nurton)

11.5.7. Nurton are promoting the area shown in Appendix A of the SoCG between the Applicant and Nurton [REP8-019] for development as part of the Local Plan review.

11.5.8. Nurton's main objections from a socio-economic aspect are that it:

- considers that the proposal could affect the quantum of employment land available for future use in the area;
- has sought assurance from the Applicant that Highways England (HE) would not object to, either the accommodation bridge proposed could be enhanced or that a second bridge could be accommodated within the overall design of the Proposed Development to allow access across the two sides of the land which would be divided by the Proposed Development; and
- the location of one of the proposed ecological mitigation ponds could affect future use of the land.

Allow Limited (Allow)

11.5.9. Allow have landholdings in the area to the south of Hilton Lane. There is an SoCG between the Applicant and Allow [REP8-011].

11.5.10. Allow's main objections from a socio-economic aspect are:

- the effect on agricultural land holdings;
- the remaining car boot field would be too small and have to close leading to loss of economic activity;
- the effect on an equestrian business off Hilton Lane.

R Rowe

11.5.11. R Rowe owns land to the north of M54 junction 1 and to the west of M6 junction 11 south of Mill Lane. The southern of these two areas includes the access to Tower Hill Farm with the employment there and access to Hilton Park Quarry.

11.5.12. In the SoCG between the Applicant and Mr Rowe [REP8-013] the parties agreed all matters in respect of socio-economic matters, including appropriate access arrangements to the two southern areas, to secure employment and the future extraction of minerals should they be required.

M and T Commins

11.5.13. Mr and Ms Commins own the land within the application site to the east of Brookfield Farm. The SoCG between them and the Applicant [REP7-032] record objections relating to the effects on the remaining fishing ponds in this vicinity and that a bridge across the link road could be facilitated in line with the objections from Allow set out in paragraph 11.5.9. However, all matters are agreed with the Applicant.

I and A Simkin

11.5.14. I and A Simkin own land to the east of M6 junction 11 both north and south of the junction. Their socio-economic objections relate to the loss of agricultural land but accept if the Proposed Development were to go ahead particular attention needs to be given to ensure the re-provision of accesses and water supply. These matters are all agreed with the Applicant in the SoCG between the parties [REP8-017].

N and P Simkin

11.5.15. P Simkin [RR-027] considers that the Proposed Development will have a *"catastrophic"* effect on his landholdings to the east of Brookfields Farm. A further RR [RR-034] on Messrs N and P Simkin's behalf considers that the ecological mitigation is excessive resulting in a loss of economic activity, including fishing and clay pigeon businesses.

11.5.16. The draft SoGC between Messrs N and P Simkin and the Applicant [REP8-014] records that Messrs Simkin believe that the remaining small sections of agricultural land cannot be farmed effectively. In this regard Messrs Simkin consider that the accommodation bridge would be of insufficient width.

11.5.17. There are also unresolved objections relating to access for agricultural purposes from the A460 via Brookfield Farm and at Latherford Brook. As this land is subject to an option with Nurton, they also agree with Nurton's objections.

St Francis Group

11.5.18. St Francis Group is redeveloping the ROF Featherstone site. It considers [RR-029] that the Proposed Development would increase the attractiveness of that site. This site is allocated in the local plan as a key employment development site to deliver a significant level of jobs in an employment cluster with the i54 site. St Francis Group confirm that the ROF Featherstone site is not 'dependent' on the Proposed Development.

Other IPs

11.5.19. A number of other IPs, including Arrow County Supplies [RR-001] and Ms R Shepherd [RR-041] give support to the Proposed Development on the basis that it will enhance employment in the area.

11.5.20. Persimmon Homes Limited [RR-028] has an interest in land to the northwest of M54 junction 1. It does not object to the principle of the Proposed Development but has concerns that it may affect the land it is promoting for residential development.

11.6. PLANNING ISSUES

11.6.1. The above sections set out the socio-economic issues raised by IPs during the Examination, particularly in RRs and Written Representations (WRs), although they were also the subject of questions raised by us.

11.6.2. In general terms, there was little objection to the overall proposition of the Applicant that the Proposed Development would give rise to benefits. However, there are a number of areas where individual IPs considered that the Applicant had not taken sufficient account of objections and concerns. The main issues in dispute are:

- the effect on employment and social facilities; and
- the effect on BMV land, including the measures for post-development restoration and agricultural use;
- whether pre-development exploitation of mineral reserves should be undertaken;
- whether the proposal makes appropriate provision for future development potential in the area.

11.6.3. We will also use this chapter to set out our conclusions in relation to the Public Sector Equality Duty.

11.7. ExA CONSIDERATIONS

Employment and social facilities

11.7.1. It is clear that the Proposed Development would have a direct detrimental effect on employment in the area from the loss of the fishing lakes, the use of land for car boot sales, and from the reduction in land used for agriculture. Quantifying this is however not clear.

11.7.2. In the ExA's First Written Questions (ExQ1) ExQ1.12.11 [PD-010] we asked IPs, and in particular Messrs Rowe, Simkin and Commins and Allow, about direct effects on employment in the area.

11.7.3. Only Allow responded [REP1-090], noting that the three fishing pools at Hilton Park were fished by syndicates of 110, 150 and 30 members. The Top Pool is maintained by retired members, the Middle Pool by a groundsman but no information on maintenance was provided relating to Lower Pool, which would be lost.

11.7.4. When operating Allow maintains that the car boot sales employs *"at least 10 local people with 6 permanent employees and more part time"* and provides pitches for between 300 and 400 sellers, including trade and catering stands, and 2500 to 4000 visiting cars. Allow estimated that 8.5 full-time equivalent staff would be affected by the Proposed Development (response to the ExA's Second Written Questions (ExQ2) ExQ2.12.2 [PD-017] given at [REP4-045]). In response to the ExA's Third Written Questions (ExQ3) ExQ3.12.2 [PD-023] as to the number of jobs which would be lost, Allow indicated at [REP6-048] that this was *"difficult to quantify"* due to the *"multi-faceted business"*.

11.7.5. Allow did however estimate that two full-time equivalent jobs would be lost in respect of the car boot sales and suggested the loss of 0.5 full-time equivalent for the fishery manager at Lower Pool. Allow also maintained that the Proposed Development would curtail future employment opportunities.

11.7.6. The loss of the Lower Pool fishing pond, along with a second at Brookfield Farm, would result in the loss of social facilities for participants and employment for those maintaining the ponds. The reduction in car boot sales sites would also result in the loss of employment and a social facility for those who visit. However, as this site is only used for 14 days a year this loss is not considered to be significant and thus we only give this limited weight.

11.7.7. The equestrian business to the east of Hilton Hall would not be directly affected by the Proposed Development, although future opportunities for the reinstatement of a cross-country course would be prevented. While this would prevent the expansion of the equestrian enterprise, such an expansion would necessarily utilise land which is currently being used for another purpose. We therefore conclude that any overall effect would be limited.

11.7.8. We are also conscious of our recommendation that a weight limit be placed on Cannock Road may affect the operation of M6 Diesel. With the introduction of signage at M6 junction 11 and as there are no other similar facilities that would be made more attractive by the Proposed Development, we conclude that, overall, the effect on socio-economic factors of this would be neutral.

11.7.9. There would also be the loss of agricultural land from production. This is a different consideration from any effects on BMV land which are considered below. There would also be the fragmentation of holdings, although, as explored below, the accommodation bridge would be of an appropriate size. We note that while some IPs consider that the land would be more difficult to farm this has not been demonstrated beyond a generalised concern and, therefore, we give this element little weight. However, as there would be the loss of over 63ha of agricultural land this is of moderate weight against the Proposed Development.

11.7.10. Both Nurton and Mr and Ms Commins are seeking a wider accommodation bridge across the mainline so as to facilitate the use of agricultural machinery on both sides. In this regard we consider that the bridge as so designed would be of sufficient width for both agricultural equipment and users of the bridleway and therefore would be of sufficient width to mitigate the effects of the Proposed Development.

11.7.11. Set against these losses is the more intangible enhancement of business opportunities from the improved connectivity in the area, particularly at the areas which have been allocated for development such as i54, Hilton Cross Business Park, and ROF Featherstone. While none of these developments are dependent on the Proposed Development taking place, the Proposed Development would enhance that provision. Due to the lack of dependency we give the Proposed Development moderate beneficial weight. This more than outweighs the direct losses on site.

Best and Most Versatile Agricultural(BMV) Land

11.7.12. There are two elements to this issue, relating to the loss of BMV land itself, and to the standard of restoration.

11.7.13. Paragraph 5.176 of the NPSNN says that little weight should be given to the loss of agricultural land in grades 3b, 4 and 5, which does indicate that greater weight should be given to the loss of higher grade land.

11.7.14. The Applicant has taken the view that over the quantum of BMV land in the National Character Area the loss of 56.3ha of BMV land is not significant. NE is of the view that significance should be judged against the national breakdown of such land. It sets out in [REP1-012] that this is 42% of the agricultural land in England.

11.7.15. Table 2 of the Agricultural Land Classification and Soil Resources document [APP-192] indicates that there is a total of 80.5ha of agricultural land within the Application site which means that approximately 70% of the agricultural land is BMV land.

11.7.16. However, it is also clear from the evidence in the same document that the land in the immediate surrounding area is predominantly BMV land and to deliver a link between M54 junction 1 and M6 junction 11 would inevitably lead to the loss of BMV land. It would therefore be difficult, if not impossible, to utilise only areas of poorer quality land; the preference in paragraph 5.168 of the NPSNN.

11.7.17. The second part relates to the standard of restoration. The Proposed Development would not restore stripped topsoil to those areas where higher quality land would not be conducive to the proposed environmental mitigation, particularly species rich grassland. NE objects to this and notes its publications, referenced in the SoCG between the Applicant and NE [REP8-028] that both advise against topsoil removal.

11.7.18. While it is clear that topsoil would need to be stripped off large parts of the site while construction was taking place, for example for the borrow pit, construction compounds and other areas, we consider that there may be further opportunities for re-use of stripped topsoils in areas where such restoration would not hinder the appropriate environmental mitigation.

11.7.19. We note that R4 in the preferred DCO [REP8-005] does require the undertaker to consult with NE in respect of a matter relevant to its function. As it is clear the effect on BMV land is relevant to NE's function, we are satisfied that the detailed design of the Proposed Development could allow for less harm than is currently identified through discussions between the undertaker and NE.

11.7.20. Taking all of the above into account, we conclude that the loss of BMV land should be given moderate weight against the Proposed Development, and that this would be of greater significance than identified by the Applicant.

Mineral reserves

11.7.21. The area is subject to mineral reserves which could be utilised for this development and others elsewhere. There are no policies in the NPSNN on whether there should be pre-working. However, paragraph 204 of the Framework makes clear that policies should encourage the prior extraction, where practical and environmentally feasible, if it is necessary for non-mineral development to take place.

11.7.22. In this regard we accept the evidence of the Applicant that the prior extraction on the mainline would delay the Proposed Development and there may be environmental objections. We also note that the minerals in the proposed borrow pit would be effectively used and this mitigates the non-utilisation elsewhere to some extent.

11.7.23. Overall, we consider that the non-prior use of minerals in this Minerals Safeguarding Area is neutral in the consideration of the Proposed Development.

Future development potential

11.7.24. There are objections to two areas of land, to the south of M6 junction 11 and to the north and west of M54 junction 1, and whether the design of the Proposed Development would prevent future development.

11.7.25. It must be remembered that the consideration does not relate to whether the land should be developed, rather whether the design would prevent future development.

11.7.26. The provision of the Proposed Development would clearly have an effect on whether land could be developed. However, this predominantly relates to compensation and is not a matter for this Examination (see s106 PA2008).

11.7.27. Nurton, in particular, is seeking a reassurance the HE would not object to a proposal for a further bridge across the main line; HE is not willing to give such an assurance. We consider that this approach is appropriate in that the law, policy and guidance may all change by the time that any proposal was brought forward and to give an assurance may fetter discretion at that time.

11.7.28. In relation to the ponds, there are two in proximity to the objector's land. One to the west of the mainline would be a drainage pond. Given the location of the mainline, topography and the relevant catchments options for the location are limited; we consider the Proposed Development would be appropriate. In respect of the pond on the east of the mainline, as this would be in close proximity to the Brookfields Farm SBI, which is designated for being wet woodland, it is considered that this would optimise its function for biological mitigation.

11.7.29. In relation to the land to the north and west of M54 junction 1 the mitigation works, particularly the drainage pond, are appropriately

located at a low point, as would be the diversion of the high pressure gas main.

11.7.30. Taken together it is considered that the locations of the Proposed Development including its environmental mitigation would not unduly fetter development of the area should it come forward in due course and is neutral in the balance.

11.8. PUBLIC SECTOR EQUALITY DUTY (PSED)

11.8.1. As set out above (paragraph 3.4.11) the PSED is designed to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share the protected characteristics and persons who do not.

11.8.2. The PSED is for the decision-maker, in this case the Secretary of State for Transport (the SoST). However, to assist the SoST in making their determination we make the following comments.

11.8.3. We consider that the EqIA provides a reasonable approach to this issue. We agree with the Applicant that due to the nature of the project there would be no positive or negative effects for those with protected characteristics of sex, religion or belief, race, sexual orientation, gender reassignment, pregnancy and maternity, and marriage and civil partnership.

11.8.4. We also agree with the Applicant that the Proposed Development would have a positive effect on those with the protected characteristics of age and disability for the reasons set out.

11.9. CONCLUSIONS ON SOCIO-ECONOMICS

11.9.1. Taking all relevant documents and policies into account, we conclude as follows:

- The proposal would result in direct loss of employment opportunities on the application site, but these effects would be more than off-set by the enhancement of business opportunities from the improved connectivity in the area.
- The loss of social facilities in the fishing ponds and car boot sale site should be given limited weight.
- The loss of BMV land should be given moderate weight.
- The non-prior use of minerals in this Minerals Safeguarding Area is neutral in the consideration of the Proposed Development.
- The locations of the environmental mitigation and drainage ponds would not unduly fetter development of the area should it come forward in due course and thus is neutral in the balance.
- Consideration of the PSED is for the SoS, but we agree with the Applicant's assessment.

12. FINDINGS AND CONCLUSIONS IN RELATION TO TRAFFIC AND TRANSPORT

12.1. INTRODUCTION

12.1.1. This chapter considers the traffic and transport issues in relation to the Proposed Development.

12.1.2. To seek to avoid confusion over nomenclature, when describing the existing A460 between the Featherstone west roundabout and M6 junction 11 post-development this will be referred to as "Cannock Road", which is what this section of the A460 is known as locally at present.

12.2. POLICY

National Policy Statement for National Networks

12.2.1. The National Policy Statement for National Networks (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.

12.2.2. Paragraph 2.2 of the NPSNN *notes "… there is a critical need to improve the national networks to address road congestion and crowding on the railways to provide safe, expeditious and resilient networks that better support social and economic activity; and to provide a transport network that is capable of stimulating and supporting economic growth. Improvements may also be required to address the impact of the national networks on quality of life and environmental factors"*.

12.2.3. Traffic congestion is noted as constraining the economy and impacts negatively the quality of life by, among other matters, leading to a marked deterioration in the experience for road users, frustration and stress and can cause environmental problems with problems of blight and intrusion for people nearby particularly where traffic is routed through small communities (paragraph 2.16).

12.2.4. Paragraph 3.17 of the NPSNN 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 retro-fitting the latest solutions.

12.2.5. Paragraphs 5.211 and 5.212 of the NPSNN both note that due consideration should be given to impacts on local transport networks and on policies in local plans.

12.2.6. Applicants should seek to deliver improvements that reduce community severance and improve accessibility and provide evidence that they have

used reasonable endeavours to address any existing severance issues that act as a barrier to NMUs. The 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).

National Planning Policy Framework

12.2.7. The policies within the National Planning Policy Framework (the Framework) generally reflect the policies within the NPSNN, in so far as they encourage a high-quality environment for pedestrians, easy connections for cyclists and seek to facilitate social interaction between communities.

Local Plan

12.2.8. The South Staffordshire Local Plan Core Strategy (the Core Strategy) has a section on Sustainable Transport (Core Policy 11). The M54/M6 Link Road proposal is specifically mentioned in Core Policy 11 as a national and regional transport infrastructure scheme to be delivered in the plan period, although this refers to the link extending to the M6 (Toll). Improvements to transport and accessibility are also set out in the Core Strategy's Strategic Objective 13.

12.3. THE CASE FOR THE APPLICANT

Introduction

12.3.1. The background to the Proposed Development is described in the Applicant's Case for the Scheme and NPSNN Accordance Table (the Case for the Scheme) [AS-037].

12.3.2. The objectives for the Proposed Development are set out in the Case for the Scheme [AS-037]. They are set out to be:

- Relieve traffic congestion on the A460, A449 and A5 and provide more reliable journey times.
- Keep the right traffic on the right roads and improve safety by separating local community traffic from long distance and business traffic.
- Reduce volumes of through-traffic in villages, improving local community access.
- Support local economic growth for Telford, Shrewsbury, Wolverhampton, Cannock and Tamworth by improving traffic flow and enhancing access to east-west and north-south routes.

12.3.3. The Applicant considers that the Proposed Development would provide a number of benefits to road users, businesses, the local community and tourists. These include:

- Economic benefits relating to transport economic efficiency improvements, road safety improvements and Indirect Taxation Revenue (ITR) increase;
- More reliable and faster trips compared to the existing capacity provision on the A460, A5 and A449;
- Local air quality benefits; and
- Reliability benefits from reductions in congestion and incidents.

General Approach

12.3.4. Traffic and Transport issues are not addressed in a specific Chapter within the Environmental Statement (ES). The Applicant has addressed them within the ES in:

- Chapter 2 – The Scheme [APP-041];
- Chapter 3 – Assessment of Alternatives [APP-042];
- Chapter 12 – Population and Human Health [APP-051];
- Chapter 15 – Assessment of Cumulative Effects [APP-054];
- ES Non-Technical Summary [APP-211];
- Case for the Scheme [APP-220];
- Transport Assessment Report [REP3-036];
- Heavy Goods Vehicle (HGV) Flows on Existing A460 [REP3-039]; and
- Walking, Cycling and Horse-riding Routes at Junctions Technical Note [REP4-035].

12.3.5. In addition, there are numerous documents where the Applicant responded to our Written Questions and Rule 17 letters or made comments on representations made by statutory and interested parties which also set out their approach and provided additional information.

Policy

12.3.6. The Applicant submits that the Proposed Development accords with the NPSNN, including the Government's vision and strategic objectives for the national networks. The Applicant's assessment of how the Proposed Development complies with the NPSNN objectives, including its technical assessment requirements, is provided in Appendix A of the Case for the Scheme [AS-037].

12.3.7. Similarly, the Applicant submits that the Proposed Development would also comply with local policies, and a compliance table is set out in Appendix B of the Case for the Scheme [AS-037] including, specifically, Core Policy 11 of the Core Strategy.

12.3.8. The Applicant has confirmed that the Proposed Development falls within Road Investment Strategy 2: 2020 – 2025 (RIS2) (response to ExQ1.0.1 at [REP1-036]) as a Committed Scheme, and within both the Highways England Strategic Business Plan and Highways England Delivery Plan.

12.3.9. The Applicant also considers that the Proposed Development would be in accordance with a number of other documents including the West Midlands Area Multi Modal Study, Midlands Connect 'Our Routes to Growth', 'Movement for Growth: The West Midlands Strategic Transport

Plan 2026' and the West Midlands Freight Strategy. It should be noted, however, that some of these documents refer to the M54/M6/M6 Toll Link Road, which was the original intention for the proposed application[49].

12.3.10. At the more local level the Applicant maintains the proposal would comply with the South Staffordshire: District Integrated Transport Strategy where Staffordshire County Council (SCC) notes that congestion on the A460 is exacerbated by the fact that it carries high levels of traffic travelling between the M6 North, M54 and M6 Toll. The Applicant notes that the A449 and A5 are also congested routes suffering from journey time delays.

Effect on roads in the vicinity

12.3.11. The Applicant maintains that the Proposed Development will separate local and strategic traffic and would reduce traffic along the existing A460 by 88%, with a reduction in vehicle numbers from 26,800 to 3,020 per day in the opening year. The Proposed Development is also predicted to reduce traffic by 39% along the A449 and 26% along the A5 between the A449 and M6 junction 12.

12.3.12. The southern section of the A460 from the M54 junction 1 to the existing entrance to Tower House Farm would be stopped up. The section between the northern extent of the stopping up past the junction with The Avenue to where it would meet the new joining road to the Featherstone West roundabout would be reclassified as an Unclassified Road. The new joining road and the remainder of the Cannock Road to its junction with M6 junction 11 would be reclassified as a C-class Road. The proposed classification of roads is shown on the Classification of Roads Plans [REP7-008].

12.3.13. As originally proposed the speed limit on the western end of Hilton Lane to its junction with Cannock Road would be reduced to 30 miles per hour (mph). Following discussions between the Applicant and SCC it was agreed that this would be preceded by a section some 629 metres (m) long where the speed limit would be reduced to 40mph from the national speed limit. The majority of this 40mph section falls outside the application site. This would be secured in Article 11(8) and Part 7 of Schedule 3 to the preferred Development Consent Order (DCO) [REP8-005] and is shown on Sheet 5 of the Traffic Regulation Measures [REP7-007].

12.3.14. We questioned (ExA's First Written Questions (ExQ1) ExQ1.5.44 of [PD-010] and ExA's Third Written Questions (ExQ3) ExQ3.10.3 of [PD-023]) whether the priority on the junction of Cannock Road and The Avenue should remain as at present. Currently this is a 'Give Way' at the eastern exit from The Avenue, and traffic travelling south and turning

[49] Originally free-flowing links to the M6 Toll were envisaged but this element was removed as contributions from development where not sufficient (see section 3.5 of the Case for the Scheme [AS-037]).

right into The Avenue would have to give way to traffic from the south[50]. As a result of the Proposed Development the section of Cannock Road to the south of The Avenue would be a short cul-de-sac serving approximately ten dwellings. The Applicant and SCC agreed that the priority of this junction would be changed so that the main carriageway would be through the junction between Cannock Road and The Avenue and this forms part of the final Proposed Development.

12.3.15. The following sections deal with the Applicant's case in respect of matters specifically raised by interested or statutory parties.

Journey time changes/Capacity

Approach

12.3.16. To analyse the effects of the Proposed Development on the road network the Applicant utilised the approach set out in the Transport Assessment Report (TAR) [REP3-036]. This is based on the Midland Regional Highway Model (MRTM) which was commissioned by Highways England (HE) and is stated as having been continuously maintained and improved since 2016. This data was input into the SATURN[51] software and validated in accordance with the Department for Transport's (DfT's) Transport Analysis Guidance (TAG).

12.3.17. The Applicant notes that delays on the current A460 may lead to journey choices over a considerable area, particularly as it currently forms part of the Strategic Road Network (the SRN). Consequently, the MRTM model was extended to cover other parts of Great Britain. Figure 3.1 of the TAR [REP3-036] shows the simulation area (in black) and the buffer area (in red) on the SRN. The simulation links in the local area are shown in Figure 3.2 of the TAR [REP3-036].

12.3.18. Traffic Counts, Journey Time Surveys and 'Origin – Destination' data was also explored using data from HE and SCC and previous traffic models. Automatic Traffic Counter (ATC) surveys were undertaken in June 2017 and Manual Classified Counts (MCC) in June 2017 and September 2018. Details of the locations and dates are set out in the TAR [REP3-036].

12.3.19. The Applicant then described five different routes to the north and west of the application site and two to the east. These are shown in Figures 3.6 and 3.7 of the TAR [REP3-036] and are shown in Figure 3 and Figure 4 of this report. 'Origin – Destination' matrices were taken from the MRTM model combined with observed traffic data from the local area surveyed in 2017.

[50] There is currently a 'yellow box' junction.
[51] Simulation and Assignment of Traffic to Urban Road Networks developed by the Institute of Transport Studies, University of Leeds.

Figure 3: Journey Time Survey Routes Assessed – North/West of the Applications site[52]

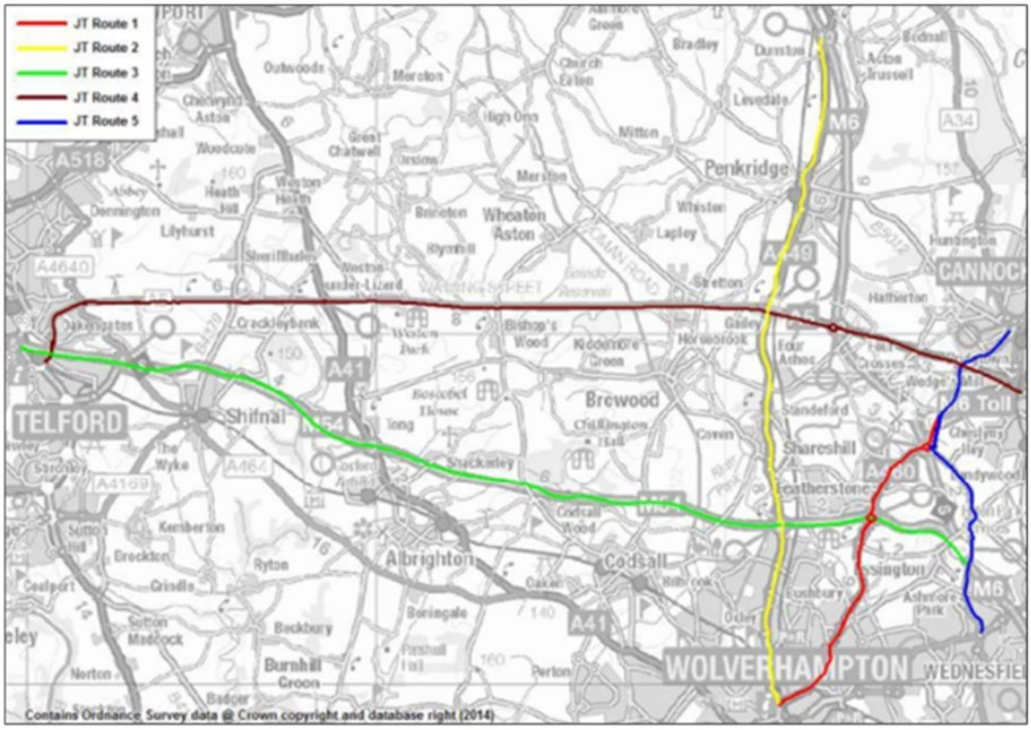
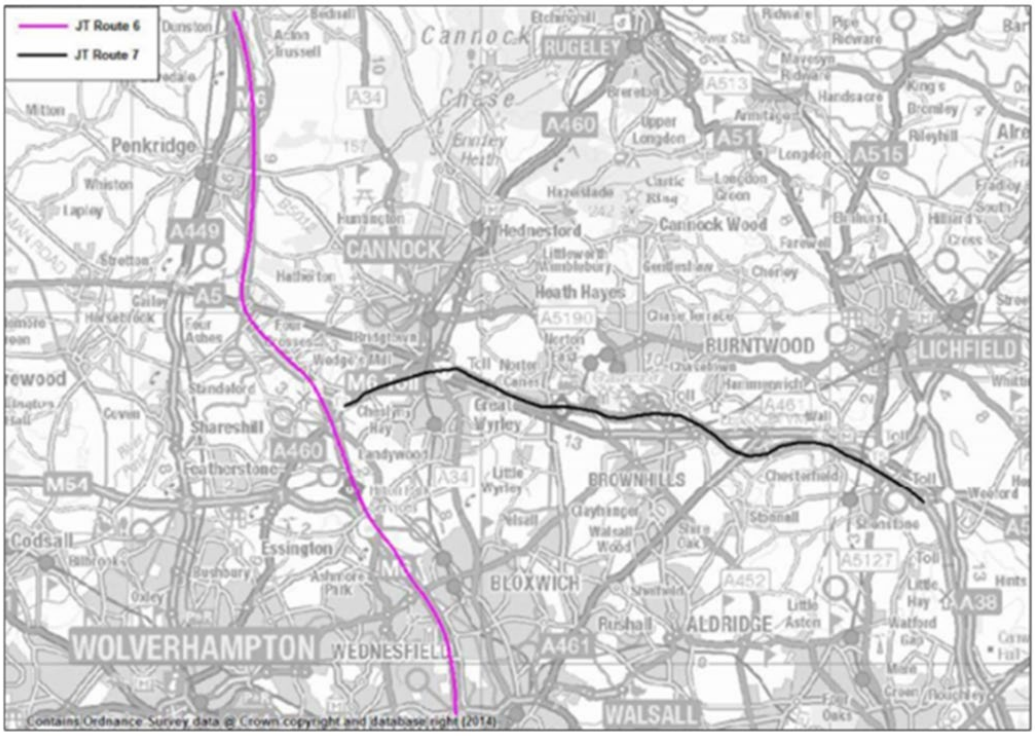


Figure 4: Journey Time Survey Routes Assessed – East of the Application site[53]



[52] Source: Figure 3.6 of TAR [REP3-036]
[53] Source: Figure 3.7 of TAR [REP3-036]

All of the above fed into the Baseline model.

12.3.20. To assess the effects of the Proposed Development the Applicant looked at two 'future year scenarios', based on 'Do-Minimum' (DM), with traffic growth included but only transport interventions that were considered more than likely to be implemented included, and 'Do-Something' (DS) with the Proposed Development included. In both cases Opening Year (2024), Intermediate Year (2031) and Design Year (2039) were assessed. The TAR sets out what traffic growth is expected and the reasoning for this.

Assessment

12.3.21. For Cannock Road the DM assessment is that a two-way flow in 2039 would be 29,400 vehicles per day (vpd), which would reduce to 3,350 vpd in the DS scenario. Of this, for HGVs on a 12-hour (07:00 to 19:00) weekday the Base Model indicates 3,097 movements (see Table 4.3 of the TAR [REP3-036]). The Applicant's model for 2024 for the same 12-hour period gives 181 two-way HGV movements.

12.3.22. The Applicant reports the observed two-way HGV flow on the A460 to the south of the 'M6 Diesel' fuel filling station business that was observed to turn into/out of this site is 375 HGV two-way per day. The Applicant has not utilised the M6 Diesel as a 'destination in its own right' because *"users of such sites tend to be making pass-by trips on their journey between other origins and destinations"* (paragraph 4.6.4 of the TAR [REP3-036]).

12.3.23. In respect of Peak Hour Flows, when congestion is most likely, the Applicant anticipates that the Proposed Development would remove between 60% (at M54 junction 1) and 90% (at M6 junction 11) of the peak hour flow on Cannock Road and between 15% and 47% of the peak hour flows on the A449/A5 route (source: Table 4.5 of the TAR [REP3-036]).

12.3.24. The Applicant has undertaken an analysis of the network and various junctions in the area and concludes that existing junctions would not have sufficient capacity for future levels of traffic demand.

12.3.25. With the Proposed Development included, the two main junctions, M54 junction 1 and M6 junction 11, would both operate within capacity in 2039, although the M6 junction 11 would be at a Degree of Saturation (DoS) of 90%; above this per-centage is the level at which queues would increase.

12.3.26. The Applicant undertook an analysis of the routes described in paragraph 12.3.19 as to the effect of the Proposed Development in 2024, 2031 and 2039, which are set out in Tables 4.10 to 4.17 of the TAR [REP3-036]. In summary the Applicant considers that the most significant journey time changes would occur in the three AM Peak hours and the PM1 (16:00 to 17:00 hours) and PM2 (17:00 to 18:00 hours). The routes which experience the largest reductions in the DS scenario are Route 1 (A460 (Stafford Street) to M6 Toll junction T8) (North Bound), Route 4 (from

Hollinswood Roundabout to Churchbridge Roundabout) (East Bound and West Bound) and Route 5 (from the A462 and A4124 Roundabout to the A4601/A34 Junction) (North Bound).

12.3.27. Route 1 includes Cannock Road and was utilised in the predicted times in the DS Scenario. As most drivers utilising this route from one end to the other would be likely to use the new link road were it to be constructed we requested (ExQ3.10.6 [PD-023]) the timings for Route 1 be re-run for the same end points, but by travelling along the new link road rather than via Cannock Road.

12.3.28. This was done at Deadline (D) 6 [REP6-039] and the results can be found at Appendix 3.10.6. This shows the time differences in the DS scenario, which would predominantly be savings. The Applicant also points out the differences in distances that would be travelled along the route due to the Proposed Development. These are shown in Table 6.

Table 6: Journey Distances for 'Route 1' in kilometres[54]

	DN & DM	DS via Cannock Road	DS via Cannock Road less DM	DS via new link	DS via new link less DM
Northbound	10.3	10.6	+0.3	10.5	+0.2
Southbound	10.5	10.9	+0.4	10.1	-0.4

12.3.29. Table 4.18 of the TAR [REP3-036] also undertook an analysis of an East/West route from M54 junction 2 to Catshill in Brownhills, located on the A452 to the south of the A5(T) and M6 Toll Road, and at the west end of the A4124. These also show time reduction[55] as a result of the Proposed Development.

Road Safety

12.3.30. The Applicant has undertaken an assessment of the effects on road safety utilising accident data from the area (shown in Figure 5.1 of the TAR [REP3-036]), and over the whole area anticipates that there would be a reduction in 330 personal injury collisions (3.8% based on the DM

[54] Source: Table at end of Appendix 3.10.6 in [REP6-039]

[55] In ExQ1.10.10 [PD-010] the ExA queried why these time savings were as positives while time savings in Tables 4.10 to 4.17 of the TAR were negatives. The Applicant explained [REP1-036] that *"The timings in Table 4.18 are presented as DM-DS whereas in Tables 4.10-4.17 they are presented as DS-DM. This is because the East-West journey time savings as a result of implementation of the M54 to M6 Link scheme, discussed in section 4.10 (with values shown in Table 4.18) are a measure of the objectives of the Scheme. By contrast, the journey times discussed in section 4.9 (with values shown in Tables 4.10 to 4.18) are measuring the secondary impacts of the Scheme on perpendicular and complimentary routes*".

Scenario), 10 less fatalities (7.8%), 83 less serious casualties (7.4%) and 372 less slight casualties (3.3%).

Weight Restriction on existing A460

12.3.31. SCC [REP1-005], South Staffordshire Council (SSC) [REP1-097], Hilton, Featherstone & Brinsford and Shareshill Parish Councils (the Parish Councils) [REP7-031] and Councillor Robert Cope [REP1-077] and [REP5-012] all requested a weight restriction on Cannock Road. This was not proposed by the Applicant and the reasons why such a request has been made will be set out below. The Applicant considers that it would not be necessary as the amount of HGV traffic along this section following the Proposed Development would be some 279 two-way trips when compared to the 3,114 HGVs per day in the existing Base Year Scenario.

12.3.32. On that basis the Applicant maintains that the Proposed Development without a weight restriction would achieve the objectives of the scheme as the volume of traffic and HGV traffic would be significantly reduced. The Applicant is therefore satisfied that would not be necessary to provide a weight restriction and is therefore not proposed as part of the Proposed Development (see 'Response to SCC's Written Representations (WR) from the Applicant, issue 3, 4, 5a and 5b' at [REP3-037] and [REP3-039] 'HGV Flows on Existing A460').

12.3.33. In the alternative, the Applicant suggests that, should the Proposed Development be consented and open, if SCC considers that a weight restriction is appropriate then it could utilise other powers to bring that into effect (this is referred to as a 'Monitor and Manage' approach below).

NMU Routes

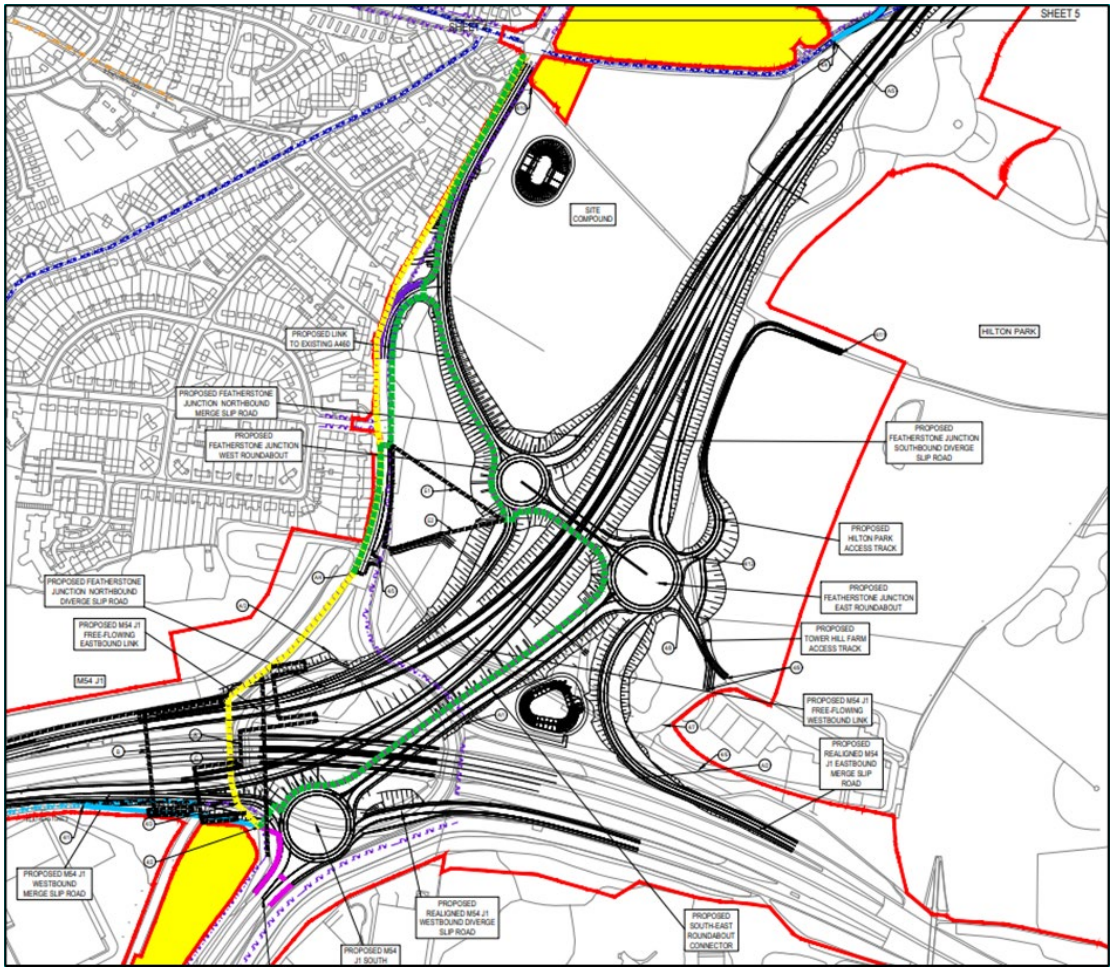
12.3.34. There are a number of NMU routes across and through the application site, although most Public Rights of Way (PRoW) are located north of Hilton Lane. These are shown on the Streets, Rights of Way and Access Plan [REP7-006]. The Applicant identified seven locations where there were particular issues:

M54 junction 1

12.3.35. As the application was originally submitted the route around M54 junction 1 is described by the Applicant in paragraph 2.1.2 of the Walking, Cycling and Horse-riding Routes at Junctions Technical Note [REP4-035]. This is shown as the green dashed route in Figure 5[56].

[56] For reference the current NMU route through the junction is shown as a yellow hatched line.

Figure 5: Proposed NMU route north/south through M54 junction 1[57]



12.3.36. From a central point of the junction of The Avenue with Cannock Road to the end of the diverted route at the southern end south of M54 junction 1 this would increase the current distance for NMUs of 500m to 1040m.

12.3.37. The Applicant set out in its 'Walking, Cycling and Horse-riding Routes at Junctions Technical Note' [REP4-035] alternatives of bridges or underpasses they explored but explained why they were not adopted and the proposed route was the best option. This was due to a combination of the height necessary for bridges, their visual intrusion and their length courtesy of the need to provide ramps so that they would be accessible to all users. In addition, bridges and long underpasses are linked to antisocial behaviour due to their isolated nature and are not considered by the Applicant pleasant to use.

12.3.38. The Applicant also explored two potential routes through the woodland between Cannock Road and the Featherstone Road junction (shown as Options E1 and E2 on the plan referred to in paragraph 12.3.36). These

[57] Source: Drawing entitled "NMU Diversions Route Lengths Calculations M54 Junction 1 in Appendix A of [REP4-035].

would reduce the distance travelled to 750m and 840m[58] respectively. Option E1 was initially discounted due to the impact on existing woodland as was the remote nature of Option E2 with its inherent risk of antisocial behaviour (paragraph 2.4.3 of [REP4-035]).

12.3.39. In ExQ3.10.8 [PD-023] we requested the Applicant explore the possibility of creating a route along the line of the existing access to Tower House Farm from Cannock Road to Featherstone west roundabout as this route physically exists, albeit for another purpose, and therefore would not have an adverse effect on woodland. In response to this [REP6-039], the Applicant suggested this third route (Option E3) would only reduce the distance travelled to 950m.

12.3.40. However, as we concluded that route as originally applied for would worsen accessibility for non-motorised users, contrary to paragraph 5.216 of the NPSNN, in the ExA's Consultation dDCO [PD-025] we requested the Applicant include a proposed footpath and cycleway along the line of Option E2 into the dDCO to mitigate the effects as far as reasonably possible.

12.3.41. In an Email dated 16 March 2021 [AS-134] the Applicant undertook further analysis of this route, particularly in the light of the need to create embankments. However, the Applicant also indicated that it had revisited the route of Option E1 (the shortest and most direct option) and concluded that subject to some minor revisions it would be possible as a pedestrian only route. Using measures set out in the OEMP this would result in minimum tree loss. The Applicant did, however, conclude that due to the gradients and level landing areas (for wheelchair and pushchair users) that this route would not be suitable for cyclists as it would encourage high speeds with a level of discomfort for cycle users and could lead to potential conflicts between cyclists and pedestrians

12.3.42. This was included as an additional work (Work 91) in the preferred DCO [REP8-005] and in the final Works Plans [REP7-004] and the Street, Rights of Way and Access Plans [REP7-006], and Statement of Reasons [REP7-015]. This is the final route considered in this report.

Dark Lane

12.3.43. Dark Lane would be stopped up north of the most northerly property. The Applicant proposed a new bridleway north of the stopping up point to run to the west but parallel to the link road at existing ground level up to the junction with Hilton Lane. It would then cross to the east side of the Hilton Lane Bridge to link to the current northern end of Dark Lane.

Hilton Lane

12.3.44. Currently there is no footway to the edge of Hilton Lane to the east of the most easterly property at the western end of Hilton Lane. The Proposed Development would involve the creation of a footway on the proposed

[58] This dimension was corrected from 1040m in [REP4-035] in the response to ExQ3.10.8 in [REP6-039].

Hilton Lane Bridge. The Applicant proposes that this would mitigate any impact on pedestrians and vulnerable users.

Shareshill 5 Footpath

12.3.45. Originally the Proposed Development would have involved the re-routing of Shareshill 5 footpath, travelling west, from where the cutting to the link road would cross the line of the footpath, along the top of the cutting, to Hilton Lane. It would then have followed a new alignment on the northern side of Hilton Lane to the existing western terminus of the footway at Hilton Lane.

12.3.46. Under the October application changes, having crossed the new Hilton Lane Bridge, the proposed alignment would travel north on the top of the western side of the cutting to re-join the current alignment. The Applicant indicated (paragraph 2.6.4 of the Formal Request for Scheme Changes [AS-117]) that this was as part of the relocation of the Hilton Lane Bridge some 20m north of its current alignment, and, insofar as is relevant for this footpath, would avoid the need for a temporary diversion and would retain more of the existing route.

Brookfield Farm

12.3.47. Shareshill 1 bridleway would be blocked, travelling east, between the point it emerges past buildings at Brookfield Farm to its junction with Shareshill 3 footpath. The Proposed Development would involve it being diverted parallel to the mainline, across the new Brookfield Farm overbridge, and then on a northern alignment alongside the eastern edge of the mainline and to Shareshill 3 footpath. This is shown on Sheet 5 of the Streets, Rights of Way and Access Plans [REP7-006]. This would add an extra 605m to the journey. The Applicant acknowledges that this is a major increase in journey length but considers that the effect would only be slight adverse due to the low number of recorded users (see paragraph 12.9.37 of Chapter 12 of the ES [APP-051]).

South of M6 junction 11

12.3.48. The proposal would involve the diversion of the length of Saredon 8 footpath and Saredon 1R/2214 so that the proposed footpath would link to M6 junction 11 resulting in a reduction in travel distance of 18m (see paragraph 12.9.39 of Chapter 12 of the ES [APP-051]). This would involve the provision of a ramp.

Whole corridor

12.3.49. The Applicant has assessed whether the Proposed Development would result in severance between populations and trip attractors, principally community facilities, but also employment sites such as Hilton Hall. The Applicant identifies the removal of traffic from the existing A460 as a moderate benefit of the Proposed Development (see paragraph 1.29.59 of Chapter 12 of the ES [APP-051]).

Public Transport

12.3.50. There are no rail facilities in the immediate vicinity of the application site; the nearest station being Landywood, on the Rugeley to Birmingham line, some 3 kilometres (km) to the east. However, there are bus routes to both Cannock and Wolverhampton stations that follow the existing A460.

12.3.51. As some bus services travel through either or both motorway junctions there is potential for effects from the Proposed Development. One route, Route 70, would require a modified path, and a new bus stop would be located opposite The Avenue. While there would be a longer travel distance, the Applicant maintains that the bus service would be likely to be able to more easily pull in to the road from bus stop laybys due to their being less traffic on Cannock Road and therefore the Proposed Development would result in a more reliable service (see section 7 of the TAR [REP3-036], particularly paragraph 7.2.8).

Construction Period

12.3.52. The Applicant acknowledges that during the construction period of 30 months there would be disruption and inconvenience to road users. To mitigate the effects the Applicant has proposed an 'Outline Traffic Management Plan' [REP8-007]. As a result of the October application changes, the most significant element would be the re-construction of M54 junction 1 which would involve the full closure of the M54 between M6 junction 10A and M54 junction 2 for a period of three weeks. Diversion eastbound would be from M54 junction 2, north along the A449 to the A5, east along the A5 to join the M6 at junction 12, and south to the end of the diversion at M6 junction 10A.

12.4. REQUIREMENTS (R)

12.4.1. R4 of the preferred DCO seeks to secure a Construction Environment Management Plan (CEMP) in accordance with the Outline Environment Management Plan (OEMP) [REP7-026] which must then be followed throughout the construction phase. Following completion this would be converted into a Handover Environmental Management Plan (HEMP) to ensure proper maintenance thereafter. This specifically requires a Traffic Management Plan (including a Site Access Plan, Site Travel Plan and Construction Workforce Travel Plan).

12.5. THE POSITION OF INTERESTED PARTIES (IPs)

Staffordshire County Council (SCC)

12.5.1. SCC strongly supports the new link road (paragraph 6.1 of the Local Impact Report (LIR) [REP1-007]) as it will take pressure off the strategic and local highway network, both in the immediate vicinity, but also potentially wider afield. SCC supports the retention of Cannock Road to enable connectivity to local communities and access to properties.

12.5.2. SCC sets out a number of transport issues that the Proposed Development would mitigate on the Cannock Road including:

- better access from side roads particularly avoiding delays in making right hand turn manoeuvres;
- improved safety for pedestrians and cyclists due to less traffic, particularly HGVs which currently leads to severance either side of the A460;
- resolving excessive vehicle speeds;
- reduction in congestion, particularly M54 junction 1 and M6 junction 11 and the approach from the south for the latter;
- anti-social use of existing laybys; and
- egress issues from M6 Diesel, with exiting vehicles blocking the carriageway as they attempt to cross.

12.5.3. SCC's concerns relate to:

- HGVs on Cannock Road;
- Shareshill layby;
- Various junctions outside the application site; and
- The effect on NMUs.

HGVs on Cannock Road

12.5.4. HGVs would continue to use Cannock Road, particularly to use the M6 Diesel site. Consequently SCC argues a 7.5 tonne gross laden weight (except for access and similar exceptions) should be imposed on the following roads:

- A460 Cannock Road – from a point approximately 8m south of its junction with Church Road in a southerly direction to a point approximately 2m north of its junction with New Road, Featherstone. A total distance of approximately 705m;
- Dark Lane – entire length;
- Hilton Lane – entire length; and
- Old Warstone Road – from Hilton Lane to its junction with Warstone Road A462.

12.5.5. This is required, SCC asserts, to enable the Proposed Development to meet its objectives, and that the monitor and manage approach advocated by the Applicant *"would be an inefficient response and potentially would require retrospective changes to signage implemented during the construction of the link road"* (SCC Written Representations [REP1-005]). This would combine with existing 7.5 tonne weight restrictions in the area (see SCC's D4 submission [REP4-042]), to provide a comprehensive approach for the area.

12.5.6. The weight restriction would also assist in ensuring, in the event that the link road was closed, that HGV traffic would not travel through the by-passed communities.

Shareshill Layby

12.5.7. There is an existing layby on the east side of the A460 within the application site a short distance south of the junction with Hilton Lane. This is used by HGV drivers for 'parking up'. SCC considers that this should be closed, it is currently subject to a 1-hour parking restriction, to

remove a destination for HGV drivers and that the resultant highway could be utilised for future pedestrian/cycle improvements.

Various junctions outside the application site.

12.5.8. SCC has noted the Applicant had identified a number of junctions where additional traffic would increase. SCC therefore requests that the Applicant undertakes junction capacity assessments to understand if the existing and proposed junction layouts could accommodate the additional traffic induced by the Proposed Development. These are at:

- A41/Wrottesley Park Road/Heath House Lane junction, Perton;
- A5 west of Tamworth;
- A4601 and A460 between A5 and M6 junction 11;
- Churchbridge Interchange (A460 Lodge Lane Link, Cannock and A460 West of Cannock); and
- Hilton Lane.

NMU

12.5.9. SCC was concerned about the extended distances that were originally proposed for those travelling between Featherstone and the employment sites to the south of M54 junction 1. However, by the end of the Examination it agreed that *"E1 is the optimum route give it is shorter, in closer proximity to the Avenue junction and minimises woodland loss"* (SoCG between the Applicant and SCC [REP7-027]).

12.5.10. There are a number of bridleways which are currently effectively cul-de-sacs in that there is no further bridleway for users to connect to. Examples being Shareshill 1 and Saredon 13 (north of the M6 junction 11). SCC would like to see existing footpaths upgraded to enhance provision (paragraph 9.4 of LIR [REP1-007]).

12.5.11. SCC agrees to the additional footpath between Cannock Road and Featherstone west roundabout (Work 91 in the preferred DCO [REP8-005]).

City of Wolverhampton Council (CWC)

12.5.12. CWC in its Relevant Representation (RR) [RR-018] considers the Proposed Development would make a significant contribution in terms of relieving traffic pressure around M54 junction 2 and improving access opportunities for existing and future development sites. Access to the M6 North would be significantly improved from the Wolverhampton area. The proposal would assist in keeping the right traffic on the right roads, improving safety, and supporting the continued regeneration and economic growth in the City of Wolverhampton, by improving journey time reliability and connectivity.

12.5.13. CWC requested to be included as a stakeholder in the Traffic Management Plan.

South Staffordshire Council (SSC)

12.5.14. In its LIR SSC [REP1-097] SSC confirmed it supports the Proposed Development in order to relieve congestion, improve journey time reliability and support economic growth.

12.5.15. SSC has liaised with SCC as lead specialist on highways and transport, and like SCC has concerns that the proposal would result in many HGVs continuing to use Cannock Road. SSC therefore supports the proposal for the 7.5 tonne weight limit.

12.5.16. SSC is also concerned about the stopping up of roads, Dark Lane and the southern end of Cannock Road, on the basis that this may encourage the likelihood of fly-tipping. SSC would therefore ask for appropriate measures, possibly a gate, to prevent such fly-tipping, along with planting to improve and soften closure views.

12.5.17. SSC supports Councillor Cope's proposals for enhanced links between Featherstone and the employment areas to the south of M54 junction 1 which it considers would be preferable to the footpath between Cannock Road and Featherstone west roundabout.

Parish Councils

12.5.18. In respect of highway matters, the Parish Councils wish to discourage the use of Cannock Road, particularly if the link road was closed (Statement of Common Ground (SoCG) with the Applicant [REP7-031]). The Parish Councils raise concerns about the lack of a weight limit on Cannock Road, and the non-closure of the Shareshill layby with this being specifically set out by Hilton Parish Council in its RR [RR-011].

12.5.19. The Parish Councils also regret the loss of the free-flowing link to M6 (Toll) junction T8 on the basis that would lead to an undesirable amount of traffic on the A460 between that junction and M6 junction 11.

12.5.20. The Parish Councils would also like to see a direct footway/cycle link to the strategic employment site at Hilton Cross to the south of M54 junction 11.

The Rt Hon Gavin Williamson CBE MP

12.5.21. Mr Williamson, as MP for South Staffordshire, agrees that the link road is needed [RR-039]. He is concerned that the West Midlands Interchange (WMI) and HGV control measures also need to be taken into account.

12.5.22. In his WR [REP1-070] he raises the following issues for particular attention:

- Access to PRoWs, and the potential for a 'green bridge'.
- Weight restriction on A460
- Cumulative effects with the WMI development.

Councillor Robert Cope

12.5.23. Councillor Robert Cope [REP1-077] and [REP5-012] has expressed a desire to ensure that the shortest possible direct route for NMUs be secured between Featherstone and the existing employment areas to the south of M54 junction 1.

12.5.24. He notes that the West Midlands Combined Authority is planning active travel cycle routes across the West Midlands with one of the routes on the indicative map ending at the Wolverhampton boundary on the A460 to the south of M54 junction 1. Therefore, having crossed the Proposed Development to the south there would be non-car linkages to other facilities.

12.5.25. Councillor Cope supports the provision of a weight restriction on the A460 to the south of the M6 Diesel site to prevent HGVs continuing towards Featherstone. He is concerned about the cumulative traffic impacts identified by SCC and set out in paragraph 12.5.8.

12.5.26. He is also concerned about design of the created cul-de-sacs at the southern end of Cannock Road and on Dark Lane to prevent fly-parking and fly-tipping.

D Williams

12.5.27. Mr Williams wrote extensive correspondence and critiques of the evidence of the Applicant on traffic and transport matters. They are set out in full in his representations [RR-032], [REP2-014], [REP5-013], [REP7-040] and [REP9-007]. In essence, these relate to traffic and transport issues along the A449 between M54 junction 2 and the A5 at Gailey.

12.5.28. Mr Williams notes that the Applicant has set the reduction of congestion on the A449 as an objective of the Proposed Development. However, he considers that the TAR misrepresents the number of dwellings which would be affected on this corridor, and that the modelling has not been undertaken comprehensively, particularly at night. He considers that there were deficiencies in data collection, particularly in relation to this length of road.

12.5.29. Given the opportunities which could be achieved by the Proposed Development Mr Williams considers that the A449 should be 'de-trunked' north of M54 junction 2 to reduce effects (and in particular noise effects) on residents in the vicinity. The existing signage, which makes this the *"official"* route from this section of the M54 to M6 north, should be revised. That the Applicant has not considered this as part of the overall project shows that the scope of the project was misconceived, and if it does not result in relocated traffic then the Proposed Development would have failed in its objectives of *"putting the right traffic on the right road"* and would not create significant local benefits.

12.5.30. Mr Williams has queried asserted discrepancies between the data put forward in support of the WMI, and responded to by HE, and that put

forward in support of the Proposed Development and the *"holistic relationship"* between the two. (The queries on the traffic data was the subject of ExQ2.10.2 [PD-017]). He also considers that the assessment fails to fully take account of the consented WMI development.

12.5.31. He considers that traffic travelling between the M54 junction 2 and M6 junction 12 or 13 would be as likely to use the A449 as the Proposed Development. He maintains that the Applicant considers that those on transregional journeys (passing through the West Midlands) are likely to use the Proposed Development rather than the A449, but those on interregional (within the West Midlands) would use the A449 and finds this illogical.

12.5.32. He considers that as an absolute minimum, speed restrictions should be introduced on the A449 between M54 junction 2 and A5 at Gailey along with sections of single carriageway[59] so that it would act as a low speed, high volume transport link between the WMI and the West Midlands conurbation. He also considers that the Applicant has failed to assess a potential route from M54 junction 2 to M6 junction 12 via the new WMI Link Road proposed as part of that scheme.

M6 Diesel

12.5.33. M6 Diesel took an active part in the discussions within the Examination and were represented at Issue Specific Hearing 2 (ISH2) on Traffic and Transport.

12.5.34. It agrees with the Applicant in relation to the current lack of a weight restriction on Cannock Road and objects to such an imposition. This is principally in socio-economic terms and the potential effect on its business, but it provided information on traffic generation from the site and that is reported here.

12.5.35. In October 2019 M6 Diesel undertook a traffic count from its site. The results are set out in the table at paragraph 2.2 of [REP1-018]. Out of 570 movements in a day some 333, or 58%, utilised the A460 south of the M6 Diesel site, with the remaining 237 (42%) travelling to and from M6 junction 11.

12.5.36. At ISH2 the representatives of M6 Diesel and those of the Applicant agreed that the survey results put in by M6 Diesel were broadly comparable with those put in by the Applicant (see 13:00 to 14:00 of [EV-017]).

12.5.37. M6 Diesel does however wish to see changes to the Proposed Development as follows.

12.5.38. Firstly, it wishes to see the preferred DCO [REP8-005] amended so that a weight restriction could not be imposed under its provisions. If,

[59] Mr Williams does not suggest how this could be achieved, but we consider that this could be done by additional white lining to result in single carriageways.

subsequent to the Proposed Development being operational, SCC considers such a limit to be desirable it should make a Traffic Regulation Order in the normal way.

12.5.39. Secondly, it maintains that signage to M6 Diesel (identified as "Saredon Filling Station") should be installed at M6 junction 11. This signage would seek to avoid confusion within the gyratory and consequential potential highway risks. Details are set out in [REP4-054] with the figures showing this graphically. Such provision should be included within the DCO, with drafting provided at [REP4-055].

I and A Simkin

12.5.40. Messrs I and A Simkin [RR-033] object to the diversion of the Saredon 13 bridleway as it is a 'dead end' and is not used, and has not been for several years. They consequently consider it does not need to be re-provided and should be closed.

Allow Limited (Allow)

12.5.41. In the SoCG between the Applicant and Allow [REP8-011] it is reported that Allow are requesting an access point to Dark Lane from plot 4/20g as shown on the Land Plans [REP6-004]. This is to continue a one-way system through this area which is proposed to be shut by the Proposed Development.

Pramesh Chandra

12.5.42. Pramesh Chandra [AS-122] objected to the October application changes, in particular to the non-diversion of Shareshill 5 footpath which *"… currently runs through the side of a residential property and a commercial business … and then continues onto the field"*. The objection is based on his contention that the footpath is not maintained and poses a safety risk.

Other IPs

12.5.43. Mr Lacey [RR-003] supports the Proposed Development on the basis it will improve his commute.

12.5.44. Mr N Harris [RR-013] would like to see an improvement to the pedestrian arrangements at the western end of Hilton Lane at its junction with Cannock Road.

12.5.45. The St Francis Group [RR-029] supports the overall scheme but wishes to ensure that the traffic generation from the Royal Ordnance Factory (ROF) Featherstone redevelopment is factored into the assessment. This is because the ROF Featherstone traffic would principally utilise M54 junction 2.

12.5.46. The Staffordshire Chambers of Commerce [RR-030] support the Proposed Development on the basis that it would help to reduce traffic on local roads including Cannock Road around Featherstone and also along

the A449 through Penkridge and as far north as its junction with the M6 near Stafford. The Chambers of Commerce suggest that it should continue to the M6 Toll.

12.5.47. Nurton Developments (Hilton) Ltd (Nurton) [RR-038] raised concerns that the accommodation bridge south of Brookfields Farm was of insufficient width to allow for agricultural machinery and use as a bridleway. As a result of the October application changes the design of the bridge was made wider to resolve this request, however, this is not agreed as Nurton consider the bridge should be made wider still. Nurton also considered that TAR is insufficient but agreed the cordon model provided to it in October 2020 was sufficient for its purpose. These points are set out in the signed SoCG [REP8-019].

12.6. PLANNING ISSUES

Introduction

12.6.1. The above section sets out the traffic and transport issues raised by IPs during the Examination particularly in RRs and WRs, which were discussed in the relevant ISH2. In summary the main issues in dispute are:

- whether, in principle terms, the Proposed Development would meet its defined objectives;
- whether the TAR sufficiently assesses the Proposed Development, including whether by omitting consideration of a wider scope, such as whether the A449 should be de-trunked, the application is not properly justified;
- whether a weight limit should be imposed on Cannock Road, and if so what implications flow from that, in particular to deal with signage;
- whether the Shareshill layby should be closed, and if so what implications flow from that;
- whether the Proposed Development makes appropriate provision for NMUs in respect of:
    - links between Featherstone and the employment areas to the south of M54 junction 1;
    - any necessary diversion of Shareshill 5 footpath;
    - the stopping up of Saredon 13 bridleway;
    - other PRoWs within the application site;
- the provision of an access to Dark Lane from Plot 4/20g; and
- whether the Proposed Development would give rise to 'fly-parking' or 'fly-tipping'.

12.7. ExA CONSIDERATIONS

General comments

12.7.1. There is effectively no opposition to the principle of the Proposed Development from any participant to the Examination. All the evidence shows, and we agree, the current A460 is unsuited for the purpose it is having to undertake in linking traffic that wishes to travel between

Wolverhampton, Telford and Shrewsbury and the north. It mixes local and longer distance traffic and puts pedestrians and other more vulnerable road users in close proximity to traffic. As there is a high proportion of HGVs that utilise the route this adds to risks.

12.7.2. We therefore agree that local residents are subject to delays, finding difficulties in turning across the A460, even with traffic lights at the junction of Dark Lane/New Road and the A460 and a 'yellow box' at the junction of the A460 with The Avenue. This also leads to severance of the community either side of the A460 as there are few, safe places to cross.

12.7.3. It is also not in dispute, and we agree, that following the Proposed Development users of both the Strategic Road Network and local roads would have more reliable journey times. The most straightforward route analysed in the TAR [REP3-036] is Route 1 which includes the existing alignment. Comparing the journey times for Route 1 using the existing alignment and Route 1 using the link road shows noticeable time savings. These are set out in Appendix 3.10.6 to [REP6-039] and show that there would be time savings for using both Cannock Road and the link road for the majority of times analysed.

12.7.4. Mr Williams general objections are effectively that the Proposed Development is not bold enough in its scope and that it should have included further measures to reduce the effect of traffic on local communities, in his case particularly those which lie either side of the A449 between M54 junction 2 and A5 at Gailey.

12.7.5. It will always be the case that it might have been possible to extend the scope of the project, but what needs to be considered is whether within the terms set for the project, in this case the objectives set out in the Case for the Scheme [AS-037] and described in paragraph 12.3.2, is what is proposed reasonable.

12.7.6. In that regard, the information is clear that if implemented the Proposed Development would reduce traffic on the existing A460, A449 and A5 than would have otherwise been the case had the Proposed Development not been implemented. In respect of the latter two roads it might not be as much as Mr Williams would consider appropriate, but it will reduce traffic in comparing the DS with the DM scenarios. This is set out in Table 7: AADT Flows on selected links.

Table 7: AADT Flows on selected links[60]

	2015	2039 (DM)	2039 (DS)	DS less DM
A449 south of Gailey (NB)	5930	8350	4570	-3780
A449 south of Gailey (SB)	5910	6810	4000	-2810
A5 west of Gailey (EB)	6970	9000	7310	-1690
A5 west of Gailey (WB)	8290	8920	7280	-1640

12.7.7. The Applicant does include the effects of the WMI (shown as "Gailey Development") and identified in paragraph 4.3 11 of the TAR [REP3-036]. The effects of that development on the highway network are outside the consideration of this Proposed Development having been considered when the SoST granted the DCO for that development. The cumulative effects have been included in the assessments.

12.7.8. The reduction of traffic (two-way) along Cannock Road would be in the order of 88% while that on the A449 would be 43% and that on the A5 between the A449 and M6 junction 12 would be 19%. While we agree that the Proposed Development would meet the objective of reducing traffic on the A5 and A449 this would be less successful when compared to that on the A460.

12.7.9. In respect of the A460 the Proposed Development would clearly meet the objectives of keeping the right traffic on the right roads, improving safety by separating local community traffic from long distance and business traffic, and reducing volumes of through-traffic in villages, improving local community access.

12.7.10. The A449 is a different case. At present it is a trunk road and notwithstanding the Proposed Development would continue to provide a strategic, and more direct, route between M54 junction 2 and M6 at either junctions 12 or 13. Journey times along this route (Route 2 as shown in Figure 3) would be largely unaffected by the Proposed Development (a maximum time saving in 2039 being 47 seconds in the 08:00 hour to 09:00 hour and 17:00 hour to 18:00 hour peaks) in a journey of between 20 and 30 minutes (depending on the time of day).

12.7.11. The distance between M54 junction 2 and M6 junction 12 or 13 via the A449 and A5 would be less than via the new road and M6 junction 11. This is set out in paragraph 2.23 of the TAR [REP3-036] which notes that it is approximately 1.6km longer via the new road than the signed route via the A449, A5, M6 junction 12. While the route via the new road will

[60] Sources: TAR [REP3-036] Figures 3.13 and 4.10

result in less junctions for a vehicle to manoeuvre, this additional distance will be a factor in route decision making.

12.7.12. The A449 is a dual-carriageway over its length between M54 junction 2 and the Gailey roundabout junction with the A5. There are two roundabouts and two signal controlled junctions, but this provides good connectivity between these two points and good capacity.

12.7.13. With the Proposed Development in operation, it is clear that only some drivers travelling will chose to use the new link road between M54 junction 2 and M6 junction 12 or 13. However, we consider that, overall, the Proposed Development would encourage drivers to use the Proposed Development so that most traffic would be kept on the right roads thereby improving safety.

12.7.14. The villages along the A449 are in a different relationship to that road when compared with the villages along Cannock Road due to the dual carriageway nature of the A449. With the exception of the community at Coven Heath on either side of the A449 immediately north of M54 junction 2, the communities are not separated in the same way as those on either side of the A460. Because of the proximity of M54 junction 2 to Coven Heath changing the status of the A449 would make no material difference to severance in that community. In the meantime, there is nothing in front of us to indicate that as a consequence of the Proposed Development the A449 north of M54 junction 2 will not continue to be part of the Strategic Road Network. Therefore, we do not agree with Mr Williams that there should be any change to its status at this time.

12.7.15. It may be that with the link road in operation that Highways England considers that the A449 north of M54 junction 2 no longer in reality forms part of the Strategic Road Network and it should be de-trunked. That is for the future and we express no opinion as to whether that would be appropriate.

12.7.16. Consequently, in general terms we consider that the Proposed Development would meet its objectives.

The Transport Assessment Report (TAR)

12.7.17. The TAR [REP3-036] in general terms follows a reasonable approach in that it sets out to understand current road conditions in the area which may be affected by the Proposed Development, but with particular emphasis on the more local area where the most significant effects of the Proposed Development are likely to take place.

12.7.18. From this, in our view, it makes a reasonable comparison between the DM and DS scenarios to identify the effects of the Proposed Development, based on reasonable future assumptions. As set out in section 4.4 of this report the traffic modelling takes no account of the COVID-19 pandemic. We are satisfied that it is based on reasonable assumptions and to take account of any long term effects resulting from changes either caused or influenced by the COVID-19 pandemic which have not been evaluated would be conjecture.

12.7.19. Mr Williams does point out apparent inconsistencies between the traffic assessments on the A449 for the WMI and the Proposed Development. This was subject to ExQ2.10.2 of [PD-017]. The Applicant's response [REP4-033] is that, having gone back to the original survey data, the traffic reported in the TAR is within an acceptable tolerance, and if anything underestimates the daily flows on the A449.

12.7.20. We consider that the Applicant's explanation is reasonable and does not invalidate the TAR. We also consider that the TAR analyses a sufficient area to allow the significant effects of the Proposed Development to be assessed and overall represents a robust analysis of the Proposed Development.

Weight restriction on Cannock Road

12.7.21. The local community representatives reported above consider that there should be weight restriction post-development as set out above. Some of these are not controversial, effectively redefining the areas of existing restrictions in the vicinity of the application site.

12.7.22. What is controversial is whether such a restriction would be justified on Cannock Road. The Applicant points out that traffic on Cannock Road would be reduced by approximately 88%.

12.7.23. The Applicant considers that post-development there would be some 279 two-way HGV movements along Cannock Road, and the survey from M6 Diesel shows 333 two-way HGV movements south of M6 Diesel at present. However, all parties considered that these two figures are "broadly comparable" and we have no reason to disagree. While the M6 Diesel site would be by-passed by the link road, alternative provision at the motorway service area at Hilton Park between M6 junctions 10A and 11 is also by-passed.

12.7.24. Although the Applicant considers that the site is not a 'destination in its own right' we consider that the nature of the facility is that it is and would be just that. This is because effectively the vast majority of the HGV traffic post-development on Cannock Road south of M6 Diesel would be travelling to or from the M6 Diesel site in Saredon.

12.7.25. While there would be an increase in distance for traffic travelling via the M6 Diesel site from M6 junction 11 to M54 junction 1 and vice versa from that having to return to M6 junction 11, we consider that this would not be excessive. It also considers the benefits to the local community of further significantly reducing HGV traffic south of the M6 Diesel site in terms of safety, convenience, noise reduction and air quality improvements, and reductions in severance to local communities is such that a weight restriction is appropriate. We therefore recommend as such and recommend appropriate changes to the preferred DCO to this effect.

12.7.26. The Applicant considers [REP5-004] that the imposition of a weight restriction could result in HGV traffic driving to the outer limits of the restriction and not being able to turn. However, we consider that with appropriate advance signage this would be unlikely to happen. In any

event, traffic travelling from the south would be able to continue west along The Avenue, which does not have an existing weight restriction, and from the north would be able to turn through the M6 Diesel site.

12.7.27. In the same point the Applicant states *"the Weight Restriction … would be challenging to enforce and is unlikely to be supported by the Police"*. However, the enforcement would be no different from any other weight restriction, and which there are already existing in the area. We have no evidence, even anecdotal, that the existing restrictions are not complied with or enforced. Further, there is no evidence that the Police would object to (as opposed to not support) such a proposal.

Signage relating to M6 Diesel and weight restriction

12.7.28. There are two elements relating to this. Firstly, manoeuvring around M6 junction 11 for those wishing to visit the M6 Diesel site, and secondly to provide advance warning of the proposed weight restriction.

12.7.29. In its Written Submission of Oral Case (ISH2) [REP4-054] M6 Diesel explain why HGVs (in particular) travelling to the site from M6 southbound could lead to conflicts on the M6 junction 11 gyratory. It therefore considers that additional signage is appropriate. M6 Diesel also highlights [REP9-008] that in making the DCO for the A303 Sparkford to Ilchester, the SoST amended the preferred DCO to ensure signage for a to be bypassed service area, albeit that was on socio-economic grounds alone.

12.7.30. The Applicant points out [REP1-043] that M6 Diesel is not a motorway truckstop or service area and cannot be signed from the mainline of either motorway; M6 Diesel is not requesting this, but only on the gyratory. Although M6 junction 11 would be maintained by HE following the implementation of any consent, and technically form part of the Strategic Road Network, we consider that this would not be a part of the Strategic Road Network in the same way as the main lines of motorways. The advice in DfT Circular 02/13 'The Strategic Road Network', which the Applicant cites, relating to signage from the strategic road network is only advice. We have not been appraised of anything that would legally prevent such signage.

12.7.31. We consider that providing signage on the M6 junction 11 gyratory would result in more convenience for all users of the gyratory, and if included within the overall signage design would not lead to visual clutter or harm. Consequently, we recommend as such and recommend appropriate changes to the preferred DCO to this effect.

12.7.32. Introducing a weight restriction as recommended on Cannock Road could lead to HGV traffic inadvertently using this route and being prevented, legally, from travelling further, and causing traffic hazards when turning around. We consider that additional advance warning signing at M6 junction 11 and the Featherstone west roundabout would reduce such problems to acceptable levels. Consequently, we recommend as such and recommend appropriate changes to the preferred DCO to this effect.

Shareshill layby

12.7.33. This layby is located to the south of Hilton Lane on the east side of Cannock Road. It has a '1-hour' parking restriction. SCC requests that the layby is closed.

12.7.34. The changes to Cannock Road, including the weight restriction proposed, would be likely to result in less traffic passing the layby. Therefore, it is less likely to be used as a parking area. In addition, the one hour parking arrangements will continue to restrict use. Consequently, we do not see the need as part of the Proposed Development to close the layby.

12.7.35. This is different to the weight restriction since we consider that is required to ensure the objectives of the Proposed Development are met, while this would not be case for the closure of the Shareshill layby.

Non Motorised User (NMU) Routes

Links between Featherstone and the employment areas to the south of M54 junction 1

12.7.36. SSC and Councillor Cope both wished to see enhancements to the NMU routes between Featherstone and the south of M54 junction 1. We agree with them that the original arrangements requiring pedestrians, in particular, to travel effectively in the 'wrong direction' would be counter intuitive to most users who would therefore be more likely to utilise vehicles.

12.7.37. While a direct link would reduce the distances to be travelled, such a route needs to have the appearance of being safe for any users and also convenient. The alternative bridge and underpass routes that the Applicant investigated are considered not to be appropriate for these reasons.

12.7.38. We consider that the ultimate solution proposed by the Applicant of a pedestrian route to the Featherstone west roundabout from, effectively, opposite the junction of The Avenue with Cannock Road, would be an effective compromise and would appropriately mitigate the effects of the Proposed Development on pedestrians in this area.

12.7.39. While this route would not be suitable for cyclists, cyclists are less susceptible to short distance changes in travel distance and traveling via the originally promoted route would still be available to them and represent an appropriate solution.

Shareshill 5 footpath

12.7.40. Shareshill 5 footpath currently predominantly travels through an agricultural field. The proposal would divert part of its length around the link road cutting and across the Hilton Lane bridge. The western extent of the footpath would not be affected.

12.7.41. The western end of the footpath travels through the side of a residential garden, past a dwelling with a window in the side elevation and anybody

traversing it is required to go through two gates and climb a height of approximately 900mm via a step to exit into the field.

12.7.42. The original proposal of re-routing the footpath on the side of Hilton Lane would have avoided the conflicts with the occupier and these difficulties. However, it would have resulted in the loss of mature vegetation as a new footway on the south side of Hilton Lane would have been required, and the crossing of Hilton Lane twice.

12.7.43. As a general principle, we consider that if a PRoW is not directly affected by a proposal then it should remain in situ unless there are exceptional reasons why it should be diverted as part of the proposal. We do not consider that there are exceptional reasons in this case. Consequently the routing of Shareshill 5 footpath as set out in the amended application as the Proposed Development, which utilises the existing alignment at its western end, is acceptable.

Saredon 13 bridleway

12.7.44. This bridleway connects the A460 to the north of M6 junction 11 and local roads in Saredon. From the south it starts from adjacent to the motorway junction, runs parallel to the A460, before travelling along a vegetated route, adjacent to the M6, initially under a bridge carrying the M6 Toll being separated by an approximately 1.8m close boarded fence, then slightly further from the M6 by vegetation.

12.7.45. The surveys undertaken by the Applicant (Table 12.7 of [APP-051]) did not show that the route was used. Further, it is a cul-de-sac in that there are no routes away from a main carriageway from the southern end for NMUs. The landowners request, therefore, it be stopped up.

12.7.46. The NPSNN makes clear in paragraph 5.216 *that "there is a very strong expectation that impacts on accessibility for non-motorised users should be mitigated"*. The corollary of this must be that routes for non-motorised users should not be affected unless there is a very good reason. That it is a cul-de-sac is not, of itself, material as it provides an 'out and back' route over a reasonable distance from Great Saredon north of M6 junction 11A. Consequently, the amount that a route is used is of little materiality and therefore this route should be maintained as in the Proposed Development.

Other PRoWs

12.7.47. While other PRoWs are affected, for example the Shareshill 1 bridleway, the Proposed Development makes appropriate provision for its diversion, and as amended would be of sufficient width to allow agricultural machinery and those on horses to pass safety. Consequently, the Proposed Development makes adequate provision, and there is no need to 'upgrade' footpaths to bridleways as part of the Proposed Development.

Access to Dark Lane

12.7.48. Under the Proposed Development the existing wall and fence on the south side of Dark lane is to be replaced by an open metal fence and a hedgerow (Plot 4/20d of the Lands Plans [REP6-004]). Access to the excluded triangle of land to the south of this would be provided to Cannock Road via Plots 4/20a, 4/20b and 4/20c.

12.7.49. While providing a one-way system through this area from Cannock Road to Dark Lane may be more convenient to the landowner, such an access would reduce the improvements to the street scene along Dark Lane from the provision of the fence, which was agreed by all parties as being appropriate, and would lead to the loss of established woodland. Further there is nothing to show that utilising the existing entrance to Cannock Road for access and egress would not be acceptable. We therefore conclude that the proposed arrangements are appropriate.

Other matters

12.7.50. M6 Diesel has expressed concern about traffic being able to easily exit its site, as it would have to turn right across the flow of traffic. At present this can cause delays both to those exiting the site and on the A460 when HGVs slowly exit (see video at [REP6A-001]). However, with the significant reduction in traffic on Cannock Road, we consider that this would not be a problem post-development, as conflicts would infrequently occur.

12.7.51. We consider the Environmental Mitigation Plans [REP7-016 to REP7-022], together with appropriate consultation mechanisms in the preferred DCO [REP8-005] and OEMP [REP7-026], would ensure that undesirable fly-parking and fly-tipping would be unlikely to take place. They would provide a process whereby these issues could be discussed and addressed by the Applicant with the input of SSC. The two identified areas as being at risk, at the end of the new cul-de-sacs at Dark Lane and Cannock Road, would be overlooked by existing residential properties reducing the likelihood that fly-tipping would take place as perpetrators may be seen.

12.8. CONCLUSIONS

12.8.1. Taking all relevant documents and policies into account, we conclude as follows:

- The Applicant's analysis of the base situation and the effects of the Proposed Development are reasonable and use standard methodologies.
- The Proposed Development would, subject to the recommended changes set out below, meet its traffic and transport objectives, and provide substantial benefits for those around Cannock Road through reductions in traffic, less congestion and improved reliability, and significant benefits for those living close to the A449 and A5 through reductions in traffic and improved reliability.

- A weight restriction on Cannock Road should be made to link in with existing weight restrictions and ensure the objectives of the Proposed Development are fully realised.
- Associated changes to signage are necessary, including the addition of signage around M6 junction 11 to the Saredon filling station.
- The question of closure of the Shareshill layby should be considered comprehensively with any other beneficial changes to Cannock Road post development.
- The revised NMU routes between the north and south of M54 junction 1 would provide a reasonable solution to ensure connectivity.
- There are no other changes required to NMU routes to make the Proposed Development acceptable.

13. FINDINGS AND CONCLUSIONS IN RELATION TO THE WATER ENVIRONMENT

13.1. INTRODUCTION

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

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

13.2. POLICY

National Policy Statement for National Networks

13.2.1. The National Policy Statement for National Networks (the NPSNN) paragraphs 5.90 to 5.115 deal with flood risk considerations and paragraphs 5.219 to 5.231 deal with water quality and resources.

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

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

13.2.3. When determining the application, paragraph 5.99 of the NPSNN states, that the Secretary of State (SoS) should be satisfied *"… flood risk will not be increased elsewhere and only consider development appropriate in areas at risk of flooding where it can be demonstrated that … development is appropriately flood resilient and any residual risk can be safely managed"*.

13.2.4. Paragraph 5.102 sets out circumstances where linear infrastructure may be required in areas at risk of flooding, while paragraph 5.103 of the NPSNN states *"… the design of linear infrastructure and the use of embankments in particular can reduce the risk of flooding for the surrounding area. In such cases the SoS should take account of any positive benefit to placing linear infrastructure in a flood-risk area"*.

13.2.5. In terms of mitigation, paragraph 5.112 of the NPSNN indicates *"… site layout and surface water drainage systems should cope with events that exceed the design capacity of the system, so that excess water can be safely stored on or conveyed from the site without adverse impacts"*. Paragraph 5.113 of the NPSNN states *"… the surface water drainage arrangements for any project should be such that the volumes and peak flow rates of surface water leaving the site are no greater than the rates*

prior to the proposed project, unless specific off-site arrangements are made and result in the same net effect".

13.2.6. Paragraph 5.114 of the NPSNN advises *"… it may be necessary to provide surface water storage and infiltration to limit and reduce both the peak rate of discharge from the site and the total volume discharged from the site. There may be circumstances where it is appropriate for infiltration attenuation storage to be provided outside the project site, if necessary, through the use of a planning obligation"*.

13.2.7. Turning to water quality and resources paragraph 5.222 of the NPSNN states *"… for those projects that are improvements to the existing infrastructure, such as road widening, opportunities should be taken, where feasible, to improve upon the quality of existing discharges where these are identified and shown to contribute towards Water Framework Directive commitments"*.

13.2.8. In terms of decision making, paragraph 5.226 of the NPSNN states the SoS *"… should be satisfied that a proposal has had regard to the River Basin Management Plans and the requirements of the Water Framework Directive … and its daughter directives, including those on priority substances and groundwater"*.

13.2.9. Paragraph 5.227 of the NPSNN states the Examining Authority (ExA) and SoS *"… should consider proposals put forward by the applicant to mitigate adverse effects on the water environment and whether appropriate requirements should be attached to any development consent and/or planning obligations"*.

13.2.10. In terms of mitigation, paragraph 5.230 of the NPSNN states *"… the project should adhere to any National Standards for sustainable drainage systems (SuDs). The National SuDs Standards introduce a hierarchical approach to drainage design that promotes the most sustainable approach but recognises feasibility, and the use of conventional drainage systems as part of a sustainable solution for any given site given its constraints".*

National Planning Policy Framework and Planning Practice Guidance

13.2.11. The National Planning Policy Framework (the Framework) sets out various planning policies to meet the challenge of climate change and flooding in paragraphs 148 to 165. This provides detail on the Sequential and Exception Tests as does the Flood risk and coastal change section of the Planning Practice Guidance (the PPG).

River Basin District Management Plan

13.2.12. The Proposed Development is located in the Humber River Basin District and therefore the Humber River Basin District River Basin Management Plan is relevant. Its purpose is to provide a framework for protecting and enhancing the benefits provided by the water environment. To achieve

this, and because water and land resources are closely linked, it also informs decisions on land-use planning. It sets out statutory objectives for water bodies and a programme of measures to achieve statutory objectives.

Local Plan

13.2.13. Staffordshire County Council's (SCC's) Local Flood Risk Management Strategy (LFRMS) guides the flood risk management in the county. The strategy sets out the approach used by SCC as the Lead Local Flood Authority (LLFA) to limit the impacts of local flooding. SCC has also published a Sustainable Drainage Systems (SuDS) Handbook which sets out the role of SuDS in achieving sustainable development across nine LLFAs in the West Midlands of which SCC is one.

13.2.14. The South Staffordshire Local Plan Core Strategy (the Core Strategy) contains Strategic Objective 7 which is to reduce the effect of society on the environment and adapt to the impacts of climate change. Within this objective Core Policy 2 seeks to protect and enhance the natural and historic environment, including protecting and improving water and air quality. Policy EQ1, as part of Core Policy 2 advises that in line with the objectives of the Water Framework Directive (WFD), development proposals must not adversely affect the ecological status of a water body and wherever possible take measures to improve ecological value in order to help meet the required status.

13.2.15. Core Policy 3 addresses sustainable development and climate change and includes requirements to ensure the use of SuDs in all new development and promoting the retrofitting of SuDs where possible; and ensure that all development includes pollution prevention measures where appropriate to prevent risk of pollution to controlled waters. This is further developed in Policy EQ7 which advises development will be permitted where proposals do not have a negative impact on water quality and that all applications must include a suitable SuDs Scheme.

13.3. THE CASE FOR THE APPLICANT

13.3.1. Chapter 13 of the Environmental Statement (ES) [APP-052] along with the associated figures and appendices set out the Applicant's case in respect of Road Drainage and the Water Environment. In particular Appendix 13.1 [APP-200] provides a Flood Risk Assessment (FRA), Appendix 13.2 [APP-201] a Drainage Strategy, Appendix 13.3 [APP-202] an Assessment of Routine Road Runoff and Accidental Spillage Risk (using Highways England Water Risk Assessment Tool (HEWRAT)) and Appendix 13.4 [APP-203] provides the Water Framework Directive Assessments (WFDa).

13.3.2. The Applicant sets out that the methodology for the assessment of road drainage and the water environment follows that set out in the Design Manual for Roads and Bridges (DMRB) Volume 11, Section 3, Part 10, LA 113 Road Drainage and the Water Environment. It includes impacts on water quality, the potential for increased surface water runoff from new

impervious areas leading to an impact on flood risk, potential for changes in surface water drainage patterns, and impacts on hydraulic processes and hydromorphology of the watercourses in the study area.

13.3.3. A WFDa has also been undertaken and is presented in Appendix 13.4 [APP-203] which considers specifically the impact on relevant WFD objectives for designated waterbodies in the study area. An assessment of the potential impacts of routine runoff on surface waters has also been undertaken following HEWRAT version 2.0.4, 2019 methodology as described within DMRB LA 113 Road Drainage and the Water Environment. Furthermore a FRA has been prepared for the Proposed Development in accordance with NPSNN and the Framework requirements.

Baseline

13.3.4. For the purposes of the water resource (flow and quality) assessment, a study area of approximately 1 kilometre (km) around the Proposed Development boundary has been considered. The flood risk study area comprises the Environment Agency Flood Zones, 1-3, along the watercourses that may be affected by the Proposed Development. The flood risk study area includes the extents of watercourses 1 to 6, 1km upstream and 1km downstream of the crossing locations.

13.3.5. The Applicant identifies the key surface waterbodies within the 1km study area which are illustrated on Figure 13.1 of the ES [APP-151] and then identifies those receptors which have been scoped out of the assessment. The remaining water bodies are:

- Watercourses 1 to 4; unnamed ordinary watercourses;
- Watercourse 5 (Latherford Brook), an ordinary watercourse and WFD designated watercourse. Tributary to the WFD designated Saredon Brook (GB 104028046740);
- Watercourse 6 and 7, unnamed ordinary watercourses;
- River Penk, a main river and WFD designated;
- Saredon Brook a main river and WFD designated;
- Tower House Farm Pond (near Old Ride);
- Kings Pools Fishery Ponds;
- Lower Pool;
- Chubb Angling Club Fishing Ponds;
- Hilton Hall Pond; · Brookfield Fishery; and
- Fishing Ponds east of Brookfield Farm;

13.3.6. In terms of flood risk the baseline shows that Watercourses 1, 2, 3 and 6 are located within Flood Zone 1. The land around Watercourse 4 and Watercourse 5 (Latherford Brook) is classified as Flood Zone 2 and 3 although the Applicant explained that FRA modelling shows a lesser Flood Zone 2 and 3 extent to the modelling used to create the Environment Agency's flood mapping. The Applicant confirms that although Watercourse 7, Watercourse 8 and the Staffordshire and Worcestershire Canal are located within the study area, they would not be impacted or altered by the construction of the Proposed Development.

13.3.7. The Applicant confirms the study area is at very low risk of surface water flooding and that there is no risk of flooding from reservoirs and any risk from ponds would be low. In terms of ground water level information this shows that apart from the areas in close proximity to the existing watercourses, the groundwater is generally more than 3 metre (m) below ground level and it is considered unlikely that the groundwater level would naturally rise sufficiently to cause groundwater flooding across most of the Proposed Development boundary.

Drainage Strategy

13.3.8. The Drainage Strategy (Appendix 13.2 [APP-201]) has been designed to ensure no surcharge for a 1 in 1 year return period and no flooding in a 1 in 5 year return period. The network has been designed, including a 40% increase in rainfall intensity, to consider the effects of climate change. The number of new surface water outfalls has been minimised where possible and the drainage strategy makes use of existing outfalls from the M54, M6 and A460, in order to prevent construction of unnecessary structures along the riverbank.

13.3.9. A new bridge is proposed for the crossing of Water course 5 (Latherford Brook), with a 10m clear-span, reflecting the need to minimise any impact on channel flow and sediment processes, as well as riparian habitat. Other than this, new culverts are proposed on some of the smaller and more minor watercourses in the study area, including on Watercourses 2, 3 and 4. Watercourses 2, 3, 4 and 5 are proposed to be realigned/diverted, the detailed design of which would be undertaken within the detailed design stage, as detailed in the Outline Environmental Management Plan (OEMP).

Assessment of likely significant effects

Construction

13.3.10. In terms of water quality, for construction the Applicant notes the construction of the Proposed Development would require two construction compounds, one located to the north-west of M6 junction 11, and a secondary compound located to the east of Featherstone. Satellite welfare facilities may also be established at two locations, close to Hilton Lane and Ride Lane. Surface water drainage from temporary compounds would be directed to the existing land drainage system and outfall to a local watercourse. For the main compound this would likely be Watercourse 5 (Latherford Brook), and for the satellite compound this would likely be Watercourse 2 or 3. The Applicant confirms that during construction, areas of temporary topsoil/earthworks storage would be required in close proximity to the Proposed Development, but the implementation of standard mitigation measures defined within the OEMP would avoid or reduce the potential for adverse surface water quality impacts from the compound areas.

13.3.11. During construction the Applicant anticipates that there would be a negligible effect on Watercourse 1, slight adverse effect (not significant) on Watercourses 2, 3 and 4. For Watercourse 5 (Latherford Brook) the

Proposed Development would cross the brook on a 10m wide clear span structure, which would allow the existing course to be maintained. Whilst construction works would take place at the margins of the primary channel with appropriate measures in place there would be a negligible temporary impact. The Applicant predicts that there may be a need to discharge treated foul wastewater from welfare facilities to Watercourses 2 and 5 which may result in a minor adverse impact on water quality for the duration of the compounds use; this is a slight adverse temporary effect which is considered not significant.

13.3.12. In terms of ground water a large portion of the Proposed Development is in cutting and it is assumed that construction level is 1m below final road level. The Applicant concludes that the construction of the cutting for the mainline of the Proposed Development through the new M54 junction 1 would have no impact on groundwater flow.

13.3.13. At the Hilton Lane Overbridge the groundwater level would be above the assumed construction level and construction dewatering would be required during the construction of the cutting. The dewatering associated with the construction of the cutting has potential to reduce baseflow discharge to Watercourse 4, and therefore mitigation measures will be required. With implementation of the proposed mitigation, the significance of the effect of dewatering on groundwater flow and on baseflow discharge to the surface water system is reduced, in the Applicant's view, to neutral (not significant).

13.3.14. In the cutting to the northeast of Brookfields Farm the groundwater level is approximately 3m to 6m below the assumed construction level; no dewatering would therefore be required.

13.3.15. The Applicant draws attention to the borrow pit adjacent to Dark Lane which would cover a maximum area of 59,800 square metres (m^2) and be up to 10m deep. The Applicant predicts that the extrapolated groundwater level is shallow, within 2m of the ground surface, and hence significant dewatering would be required to maintain a dry operational area irrespective of natural seasonal variations in the groundwater level. It is likely that dewatering of up to 8m may be required. The Applicant concludes that with the implementation of mitigation measures, it is considered that the magnitude of the impact of dewatering of the borrow pit on water resources is reduced to minor and the residual significance of the effect is reduced to moderate for groundwater and slight (not significant) for surface water.

13.3.16. In terms of flood risk during construction the Applicant assesses risk from a variety of sources including fluvial, surface water sources, artificial sources, ground water sources and drainage infrastructure. From all of these sources the Applicant concludes that with appropriate mitigation during works the Proposed Development would not be at risk of flooding nor would the works have an adverse effect on flood risk in the surrounding area during the construction of the Proposed Development. The effects would be negligible, resulting in a neutral effect (not significant).

Operation

13.3.17. In terms of operational effects on surface water quality from routine road runoff the Applicant undertook a HEWRAT assessment (Appendix 13.3 [APP-202]. The Applicant's overall conclusion is that there are considered to be no significant adverse effects on receiving watercourses from routine runoff from new outfalls from the Proposed Development, or worsening of the current situation for existing outfalls, with the application of the proposed treatment measures. In terms of ground water, the impact of routine road runoff from the Proposed Development is predicted to be negligible for groundwater waterbodies with the application of mitigation as has been described in the Drainage Strategy [APP-201].

13.3.18. In terms of accidental spillages the Applicant considers the potential impact on the receiving watercourses is negligible, resulting in a slight effect on Watercourses 2, 3 and 5, and a neutral effect on the remaining Watercourses 1, 4, 6 and 7.

13.3.19. In addressing the effects of de-icing of the carriageways on water quality the Applicant concludes that a minor magnitude of impact would result in a neutral or slight adverse effect (not significant) for the low importance Watercourses 1 and 4. However, given the temporary, intermittent nature of the impact this is considered to be a slight adverse effect (not significant). For the high importance watercourses (Watercourses 2, 3 and 5) and medium importance watercourses (Watercourses 6 and 7) the Applicant predicts a minor adverse magnitude of impact which would give a slight adverse effect (not significant). Therefore, the Applicant considers that this aspect would give a not significant effect on the receiving watercourses as a whole.

13.3.20. The Proposed Development design includes four new culverts, and one clear-span bridge. The Applicant contends that the detailed design for the culverts/ watercourse crossings aim to minimise changes in river alignment and length as much as is feasible. Overall, the Applicant concludes that new culverts would be installed on Watercourse 2, 3 and 4, all of which are considered to be of low importance for morphology. With the embedded mitigation measures this results in a slight adverse effect (not significant). Watercourse 5 (Latherford Brook) would be crossed by a 10m wide clear span structure. Latherford Brook is a WFD waterbody and is considered to be of high importance for some attributes, and medium importance for hydromorphology. The additional width on the crossing would allow the watercourse to maintain river processes without significant impact. Based on the 10m clear span bridge, the Applicant considered there would be a minor adverse impact on the watercourse morphology. In terms of the ES this is considered by the Applicant to result in a slight adverse effect (not significant) due to the presence of bridge abutments, loss of a secondary high flow channel, and some constriction of the primary channel.

13.3.21. The Proposed Development includes the excavation of three cuttings. The invert of both the southern and northern cuttings are considered by the Applicant to be above the groundwater level in the sandstone aquifer.

Accordingly, it is concluded that no groundwater control would be required in these two cuttings and hence there would be no change in groundwater flow, resulting in a neutral effect (not significant).

13.3.22. The cutting beneath Hilton Lane Overbridge would be up to 5.8m below ground level. This is in the vicinity of Watercourse 4 and the Applicant considers that the impact on the flow in the stream would be minor. As Watercourse 4 is of low importance, the significance of the effect is slight (not significant). Other than Watercourse 4, there are no other groundwater receptors in the vicinity of the cutting.

13.3.23. Twelve new ecology ponds would be constructed as part of the Proposed Development. It is the Applicant's view these would mitigate for the loss of the two ponds during construction, and the partial loss of Lower Pool. Therefore, on balance is the Applicant considers there would be a negligible impact on pond morphology and habitat provision. This would result in a neutral effect (not significant).

Flood Risk

13.3.24. In terms of Watercourses 1 - 4, and 6 - 8 the Applicant concludes that the change in fluvial flood risk is negligible, resulting in a neutral effect (not significant). In respect of Watercourse 5 (Latherford Brook) the Applicant's conclusion is that the FRA has shown that the depths and extents of flooding are largely unchanged in the higher frequency events (50% and 5% Annual Exceedance Probability (AEP)), therefore the impact of flooding is considered to have a minor adverse impact, resulting in a neutral effect (not significant). In terms of Watercourse 2 the Applicant highlights that the baseline model predicts that there is flood risk to the A460 during the 1% AEP plus 50% climate change storm, indicating that a flood depth of 4 centimetres (cm) could occur on the Cannock Road road surface. However, according to the Applicant, the Proposed Development has been designed to not worsen flood risk to the Cannock Road keeping flood depths to the same as the baseline scenario (there is no change to the size of the existing culvert).

13.3.25. The Applicant confirms the application site is generally at low risk from surface water flooding, although there are some areas of medium and high risks associated with watercourses. The Proposed Development alignment is predominantly on undeveloped (greenfield) land currently used for agricultural purposes. Given that the Proposed Development would increase the impermeable area along the entirety of its length, there would be the potential for the surface water flood risk, both to the highway alignment and surrounding area, to increase. With the implementation of the Drainage Strategy (Appendix 13.2 [APP-201]) the Applicant contends there should be no increase in surface water flood risk from the Proposed Development.

13.3.26. The Applicant notes that groundwater level monitoring shows that the groundwater level is generally below the base levels of the Proposed Development and hence there is a negligible risk that the groundwater level would rise to intercept the Proposed Development. During operation

groundwater control would be required in the cutting beneath Hilton Lane Overbridge to maintain the groundwater level below road level, as this level would be below the existing groundwater level. The Applicant notes the drainage from the cutting would be discharged to surrounding surface watercourses and thus concludes the impact on groundwater flooding mechanisms due to the Proposed Development is considered to be minor in the operational phase. Overall, a negligible magnitude of impact is predicted resulting in a neutral effect (not significant).

WFD Assessment

13.3.27. The Applicant notes the WFDa indicates that only localised temporary and permanent impacts to WFD relevant bodies are expected providing the mitigation measures embedded in the design are implemented. This would include the design of drainage systems, new watercourse crossings, and outfalls, and implementation of construction phase mitigation measures. The future design of the clear-span bridge across Watercourse 5 (Latherford Brook) and any minor watercourse diversions to new culverts will be informed by appropriate hydromorphological and ecological surveys. Where possible, the diversion of minor watercourses will deliver enhancement on the existing artificially modified channel form. The Applicant confirms mitigation measures including those to be adopted during construction to manage all pollution risks are outlined in the OEMP.

13.4. REQUIREMENTS (R)

13.4.1. R4 requires the submission of a Construction Environmental Management Plan (CEMP), substantially in accordance with the OEMP, and its approval by the SoS. Amongst other matters the CEMP must reflect the mitigation measures set out in the Register of Environmental Actions and Commitments (REAC) and include various management plans including a Water Management Plan. A Handover Environmental Management Plan (HEMP) must be completed by the end of the construction period to address matters set out in the CEMP and must contain long term commitments to aftercare monitoring and maintenance.

13.4.2. R8 addresses surface and foul water drainage and requires details of the drainage system to be submitted and approved. The details must reflect the mitigation measures in the Register of Environmental Actions and Commitments (REAC) including means of pollution control. The system must be constructed in accordance with the approved details.

13.5. THE POSITION OF THE INTERESTED PARTIES (IPs)

Staffordshire County Council (SCC)

13.5.1. SCC's initial comments at the start of the Examination included its Local Impact Report (LIR) [REP1-007] submitted at Deadline (D) 1 and in which matters related to Flood Risk and the Drainage Strategy were raised.

13.5.2. SCC noted that the FRA identifies six ordinary watercourses that intersect the route alignment. Of these, five have upstream catchments of less than 3 square kilometres (km^2) so have no associated modelled Flood Zones. Watercourse 5 (Latherford Brook) has an upstream catchment greater than $3km^2$, so has associated Flood Zones for which the Environment Agency (EA) is responsible.

13.5.3. SCC highlights that the Proposed Development was found to have no impact on Watercourses 1 and 6, and to produce negligible changes in flood extents and depths at Watercourse 4. Watercourse 2 was found to pose an existing risk to the A460, which the Proposed Development would not increase. The potential to reduce the risk here would be beneficial but was deemed not significant enough to include in the detailed design.

13.5.4. SCC further notes that at Watercourse 3, it was found that Lower Pool has a significant impact on the flood risk downstream at the Dark Lane culvert and A460 culvert. The Proposed Development would reshape and reduce the area of Lower Pool, but it was found that the Proposed Development would not impact the fluvial flood risk provided that the pool is retained as an online pond. It is recommended that Lower Pool is retained as an online feature, as it provides flood protection downstream, and that further sensitivity testing concerning the pond size and weir design should be considered at the detailed design stage. The detailed design should ensure that flood risk downstream is not increased, and preferably include measures to reduce it. The detailed design of Lower Pool and weir could provide an opportunity for improvement.

13.5.5. SCC notes that the risk of blockage or build-up of sediment is highlighted as a residual risk. A maintenance plan will need to be developed at detailed design stage to describe the ownership, frequency of and techniques for site drainage maintenance. In the event of failure through either blockage or exceedance, the detailed design is to include landscaping of the topography to ensure no flooding to third party land and reducing flood risk to the road.

13.5.6. In relation to the drainage strategy SCC note that a sustainable drainage strategy is required to ensure that surface water discharge from the site is attenuated to greenfield runoff rates, and that adequate water quality treatment is provided to protect downstream watercourses from increased pollution. The submitted Drainage Strategy [APP-201] outlines the key parameters and standards to be followed in the detailed drainage design to achieve these requirements:

- attenuation within Sustainable Drainage System (SuDS) features to be provided to ensure no flooding in a 1 in 100 year + 40% return period event, with a 300 millimetre (mm) freeboard included in the proposed design;
- discharge of surface water runoff to be restricted to a greenfield rate of 5l/s/ha for all events up to the 1 in 100 year + 40% return period event; and

- drainage design to be in accordance with the SuDS Manual 2015, CIRIA C753, with water quality treatment in accordance with DMRB LA113, to be assessed using HEWRAT.

13.5.7. SCC draws attention to the strategy noting that preliminary hydraulic modelling has been undertaken to establish approximate attenuation volumes required, but detailed modelling will be required for the detailed design of the network and structures, and to demonstrate compliance with the design standards for the full range of critical storm events and that ongoing maintenance will be key to managing flood risk for the lifetime of the development.

13.5.8. Another potential source of flood risk from the strategy to which SCC points is where surface water is discharged via existing systems, and it is vital that replacements or upgrades identified at the detailed design stage are fully implemented.

13.5.9. By the end of the Examination a signed Statement of Common Ground (SoCG) [REP7-027] between SCC and the Applicant was provided. In respect of matters related to the water environment, including any permits required from SCC as LLFA all matters were agreed.

13.5.10. This included, amongst other matters, the following points.

- The LLFA is content that the ES appropriately assesses the effect of the Proposed Development on road drainage and the water environment and that impacts would be managed through adherence to mitigation measures detailed in the OEMP.
- In principle the LLFA is content with the design proposals of proposed ordinary watercourse crossings.
- The LLFA is content that the FRA appropriately assesses the flood risk associated with the Proposed Development with the exception of the following points on fluvial flood risk.
    - The following text has been added to the FRA Report to clarify:
      "*The baseline model predicts that the first instance of flood risk to the A460 is as a result of a 1% AEP plus 50% climate change storm. The application of the Scheme design to the baseline model shows that there is no change in the return period of the first instance of flood risk, as flood risk in the vicinity of the scheme first occurs during the 1% AEP plus 50% climate change storm event".*
      The parties agree that this resolves SCC's query.
    - The LLFA queries whether there was any potential to reduce the flood risk at the A460 by providing additional floodplain storage upstream/downstream of the new culverts? The Applicant's response was that this was considered as part of the option design development; however, it was not explicitly stated in the FRA as it was discounted from the proposed Development early on. Additional text was added to the FRA as follows:
      "The baseline model predicts that the first instance of flood risk to the A460 is as a result of a 1% AEP plus 50% climate change storm. The application of the Scheme design to the

baseline *model shows that* there *is no change in the return period of the first instance of flood risk, as flood risk in the vicinity of the scheme first occurs during the 1% AEP plus 50% climate change storm event"*

This was agreed between the parties.

- Matters related to Lower Pool its reduction in size and whether it would be on-line. Changes to the FRA and Hydraulic model were made by the Applicant and the SoCG records that the parties agreed that this resolves the queries.

13.5.11. SCC asked whether there is potential to optimise the pond/weir design to reduce flood risk downstream. The Applicant agreed that further sensitivity testing concerning the pond size and weir design will be undertaken at the detailed design stage to minimise flood risk downstream. This is secured through commitment DWAT8 of the OEMP [REP4-011] (this was updated during the Examination and the latest version was submitted at D7 [REP7-026]). In light of this commitment, the point was agreed.

13.5.12. The LLFA is content that the Drainage Strategy [APP-201] as outlined in Appendix 13.2 of the ES is appropriate and that the requirement to implement this design is captured through adherence to the OEMP.

13.5.13. The LLFA is content that the WFDa as reported in Appendix 13.4 of the ES [APP-203] appropriately assesses the impact of the Proposed Development in line with the Water Framework Directive and that impacts would be managed through adherence to mitigation measures detailed in the OEMP.

South Staffordshire Council (SSC)

13.5.14. In the LIR SSC states flooding and drainage details along with mitigation has been assessed by the County Council. SSC therefore have no comments to make and supports SCC's judgement.

Environment Agency

13.5.15. The Applicant and the EA have completed and signed a SoCG [REP8-027] (attached to which is a WFDa Summary Report) and which confirms all matters in relation to road drainage and the water environment are agreed. This includes consideration of the Applicant's FRA (Appendix 13.1 to the ES) [APP-200], the Drainage Strategy (Appendix 13.2 to the ES) [APP-201] and the WFDa (Appendix 13.4 to the ES) [APP-203], amongst other supporting documents. The SoCG records the EA's conclusions and final position and responses from the Applicant that has enabled the EA to reach those conclusions.

13.5.16. The SoCG records that the EA is content that the ES appropriately assesses the effect of the Proposed Development on road drainage and the water environment and that impacts would be managed through adherence to mitigation measures detailed in the OEMP.

13.5.17. It Records that the EA have no objection to the assessment of flood risk in relation to Watercourse 5 (Latherford Brook), which is the only one they have assessed as it has a mapped floodplain, subject to the land acquisition agreement proposed.

13.5.18. The SoCG records that the EA considers the drainage strategy utilises an appropriate discharge rate and is content with the climate change allowance.

13.5.19. In relation to the WFDa the SoCG records that the EA is content that the mitigation and enhancement measures set out in the OEMP [REP4-010] (this was updated during the Examination [REP7-026]) are appropriate and that these measures are appropriately secured through the Development Consent Order (DCO). It also records in respect of the River Penk that the submission of a revised WFD Summary Report (attached to the SoCG) and with discussions at a meeting on 25 March 2021, the EA is content that the Proposed Development would be WFD compliant.

13.5.20. In terms of the WFDa the EA raised a number of issues around the treatment of mitigation and enhancement measures. The SoCG records that the EA is content that these enhancements are appropriately secured and that the amendment to the WFDa, that ditches are not being considered as enhancement measures, that mitigation measures are not being considered as enhancement measures, that mitigation measures are listed in the main body of the report, that appropriate mitigation measures, in respect of Watercourse 5 (Latherford Brook) for over-pumping are outlined in the ES and OEMP and that the bridge span has been justified, is appropriate, and that the impacts on Latherford Brook are reflected in the WFDa.

13.5.21. Following further clarification, the EA is content that sufficient hydromorphology assessment has been undertaken. The SoCG also records that the EA is content that the Proposed Development would not impact on mitigation measures identified for Saredon Brook under WFD.

The Canal and River Trust

13.5.22. The Canal and River Trust provided a RR [RR-007] which stated that it has previously confirmed to the promoter that the proposal is unlikely to have an adverse impact on any of their assets, unless the proposal or limits of development significantly alters. As the proposal and limits of development had not altered it considers the earlier response is still applicable. The Canal and River Trust took no active part in the Examination.

13.6. PLANNING ISSUES

13.6.1. There were no outstanding areas of dispute in respect of drainage and the water environment by the end of the Examination. The conclusion of issues which were considered during the Examination and are important for the SoS's decision are used to identify the main issues are:

- Whether the Proposed Development results in increased flood risk on the A460 at Featherstone.
- Whether the reduction in size of Lower Pool has the potential to increase flood risk downstream.
- Whether the proposed bridge at Watercourse 5 (Latherford Brook) would result in increased flood risk or adversely affect the watercourse.
- Whether the Proposed Development is appropriate in the area, given its flood risk level, and whether overall it results in increased flood risk elsewhere.
- Whether the proposed drainage strategy is appropriate.
- Whether the Proposed Development would be compliant with the WFD.

13.7. ExA CONSIDERATIONS

General approach and analysis

13.7.1. The ES chapter was supported by comprehensive documentation which provided a FRA, a Drainage Strategy, an Assessment of Routine Road Runoff and Accidental Spillage Risk (HEWRAT), and a WFDa. Overall, we are satisfied with the general approach, baseline and analysis of the FRA, drainage strategy, potential for contamination and WFDa. There have been no substantive matters left unresolved between the Applicant and main IPs in this regard. The LLFA and EA confirm, in their respective SoCG's with the Applicant, that the issues or clarifications that were raised or sought were provided and resolved and that they were content with the approach, conclusions and mitigation measures proposed. There was no substantive or conflicting evidence which required further resolution or judgement to reach a conclusive position.

Flood Risk at A460

13.7.2. Watercourse 2 is described as a small, unnamed tributary to the River Penk (from Source to Saredon Brook) WFD water body, set between existing culverts beneath the A460 downstream and the M54 upstream, of the Proposed Development. It is located to the south of Featherstone. The Proposed Development significantly reshapes the watercourse, diverting the watercourse approximately 80m north of its current position. In addition, a culvert of 182m length is included in the design but the design does not include any changes to the existing A460 culvert.

13.7.3. The baseline model predicts that there is a flood risk to the A460 during the 1% AEP plus 50% climate change storm, indicating that a flood depth of 4cm could occur on the A460 road surface. The LLFA queried whether the frequency of flooding would be increased here by the Proposed Development. In other words the LLFA wished to identify the lowest return period that flooding is seen at the A460 in the baseline and Proposed Development scenarios. The ES notes that the Proposed Development has been designed to not worsen flood risk to the A460 keeping flood depths the same as the baseline scenario. It confirms that the baseline model predicts that the first instance of flood risk to the A460 is as a result of a 1% AEP plus 50% climate change storm.

13.7.4. The Applicant in the ES further confirms that different alignments of the watercourse were tested as part of the development of the design. Iterations of this included the testing of a pond storage area between the main and minor culvert. Whilst this did have a minor impact on water levels at the existing A460 culvert, it was not significant enough to include in the design given the physical constraints, required alterations and increase in Proposed Development costs. It was further noted that the existing A460 culvert throttles flows during larger magnitude events, holding flows upstream and consequently providing some flood risk benefits to properties downstream in the Featherstone area. Improvements to the A460 culvert such as increasing diameter or conveyance would allow more flows to pass forward through the A460 culvert, which could put properties to the south of the Featherstone area at risk of flooding during a 1% AEP plus 50% climate change storm. Therefore, no significant changes to the existing A460 culvert were proposed as part of the Proposed Development, to avoid this risk.

13.7.5. The LLFA in its SoCG agreed to this position and did not seek further improvement. The Proposed Development does not therefore increase the risk of flooding elsewhere for receptors in the region of the A460 culvert on Watercourse 2. We are satisfied that the residual risk has been minimised, there is no worsening of the situation elsewhere and that the Proposed Development would not be affected by the residual risk.

Lower Pool

13.7.6. Watercourse 3 is a small, unnamed tributary to Saredon Brook (from source to River Penk) WFD water body. Watercourse 3 is an outflow from a sequence of impounded online small ornamental lakes/ponds upstream of the Proposed Development, including Lower Pool, which then flows through two culverts that are downstream of the Proposed Development, one beneath Dark Lane, and the other beneath the A460.

13.7.7. The Proposed Development reshapes the outline of Lower Pool and includes a culvert underneath the new carriageway. The dissection of Lower Pool will reduce its area from, approximate values, 13,200m^2 to 8,723m^2. The Applicant contends that despite the reduction in the size of Lower Pool, the Proposed Development does not impact the fluvial flood risk for this watercourse if the pool is retained as an online pond. Water levels within the channel are increased in the section of watercourse between the culvert crossing and the Dark Lane culvert, as a result of reprofiling the upstream river reach. However, retaining part of the Lower Pool protects properties at Dark Lane, as well as the existing A460 from potential flood risk.

13.7.8. The LLFA noted that the model is predicated on Lower Pool remaining on-line. As the model sensitivity testing demonstrated the importance of Lower Pool, and a section of Lower Pool will be lost as a result of the Proposed Development SCC requested confirmation of the necessary storage capacity to be retained, or whether the detailed design would need further modelling to confirm no increase in flood risk. The Applicant confirmed that it is important that the Lower Pool is retained as an online

feature, as it provides flood protection downstream. The LLFA were content with this response but queried whether the pond/weir design could be optimised during detailed design to reduce flood risk downstream. Following further discussion the Applicant provided a firmer commitment in the REAC in the OEMP to ensure the pond size and weir design will be tested and considered at the detailed design stage to minimise flood risk downstream. Again, the LLFA were content with this commitment. R4 secures that a CEMP is produced and R8 a detailed drainage design, both to be in line with the OEMP and REAC and this matter has therefore been secured.

Crossing of Watercourse 5 (Latherford Brook)

13.7.9. Watercourse 5 (Latherford Brook) is located to the south of junction 11 of the M6. It is an Ordinary Watercourse and principal tributary to the Saredon Brook (from Source to River Penk) WFD water body. The proposed crossing is downstream of an existing culvert beneath the M6, and upstream of a culvert beneath the A460. The Proposed Development would cross the water course. The proposed crossing, at this stage, is a 30m long bridge (with a 10m span) for the new carriageways, and that there would be no embankment footprint on the watercourse.

13.7.10. The FRA confirms that Watercourse 5 (Latherford Brook) overtops its banks and floods in the 1% AEP event. The Proposed Development changes the shape and depth of the floodplain in this location in the vicinity of the proposed river crossing of the Latherford Brook. The Applicant contends that despite the change in flood extents and depth, there is no significant change in flood risk.

13.7.11. The Applicant contends that the areas at risk of inundation are open fields and woodland, which are already at risk of flooding under existing conditions. There is no change in flood risk to any vulnerable receptors, such as property and the road. The only receptor, identified by the Applicant, to the change in flood risk is woodlands adjacent to the watercourse. The change in flood depths during the return periods modelled has been assessed as a minor impact to the existing woodland. During a 1% AEP event with a 50% climate change allowance, peak channel flood depths in this area are predicted to increase by 12cm, with flood extents widened.

13.7.12. The impact of a 1% AEP event with 50% climate change allowance, according to the Applicant, may impact a wider area. However, the Applicant contends that a woodland receptor is generally resilient to the impacts of flooding. The impact of a high magnitude event is unlikely to significantly change the nature of the woodland, once recovery has taken place.

13.7.13. Notwithstanding this, the impact of frequent events is very likely to change the habitat of the woodland over time. The Applicant highlights that simulations show that there is very little out of bank flooding during this high frequency event, and extents and depths between the baseline and Proposed Development events are similar, with no new areas

experiencing flooding. Therefore, the Applicant concludes that the impacts of the Proposed Development on flood risk to these woodlands is predicted to be minimal.

13.7.14. The EA in its SoCG confirmed it had no objection to the assessment of flood risk in relation to this watercourse, subject to the land acquisition agreement proposed within paragraph 4.2.8 of the FRA [APP-200] going ahead. The Applicant confirmed that the land referred to in paragraph 4.2.8 affected by the change in floodplain is within the Proposed Development boundary (it includes areas of plots 5/11i, 5/22 and 5/23, as shown on the Land Plans [AS-065] (these are now [REP6-004]) and is to be purchased to allow other environmental mitigation and compensation measures to be implemented, including the woodland planting proposed to compensate for the impact on ancient woodland). This position was agreed by the parties in the SoCG. The LLFA raised no concerns about this aspect of the Proposed Development.

13.7.15. We conclude that whilst the Proposed Development would increase the area and extent of inundation this would not affect any properties or the road. The only receptors that would be affected would be the woodland adjacent and, given the simulation modelling, this would not be significant. In terms of flooding there is not an increase in the sensitivity of receptor or the actual risk, albeit that there may be a small increase in the extent of inundation. The area of woodland is already a woodland which is affected by flooding and there is no significant harm arising. The biodiversity issues are dealt with in the Chapter 6 of this report, but no significant impact is identified.

13.7.16. We are satisfied that there would be no increased risk of flooding elsewhere as a result of this part of the Proposed Development.

Flood Risk

13.7.17. Albeit the majority of the Proposed Development site is within Flood Zone 1 there are a number of water courses where the Proposed Development crosses and the Applicant's FRA acknowledges that the Proposed Development alignment passes through Flood Zone 2 and Flood Zone 3 areas. The NPSNN paragraph 5.105 advises that there is a preference for locating projects in Flood Zone 1, then in Flood Zone 2. It further advises that if there is no reasonable available sites in these Flood Zones then national networks infrastructure projects can be located in Flood Zone 3, subject to the Exception Test. This is the Sequential Test. In this case the project is for a linear infrastructure connecting two points. The majority of the Proposed Development is across Flood Zone 1 but there are a number of water bodies and which includes Flood Zone 2 and 3 areas, these include areas located close to junction 11 of the M6 and which cannot be avoided by the Proposed Development. The Proposed Development is therefore acceptable in the context of the Sequential Test if it meets the Exception Test.

13.7.18. The Proposed Development is classed as a Nationally Significant Infrastructure Project (NSIP), it proposes to connect two national

motorways and bring substantial benefits to the wider community as is assessed and addressed in other chapters of this report. The evidence of the wider sustainability benefits to the community is provided as part of the wider DCO submission. The information presented within the FRA further demonstrates that mitigation measures have been incorporated into the design to ensure that the new road will be at a low risk of flooding and would be safe for the lifetime of the development. Given the limited effect on flood risk, this risk is significantly outweighed by the sustainability benefits to the community. There are no areas where the Proposed Development is at risk from flooding identified in the modelling.

13.7.19. On this basis we are satisfied that the Proposed Development would meet the two elements of the Exception Test as set out in paragraph 5.108 of the NPSNN.

13.7.20. The FRA has assessed the Proposed Development and considered the effect and risk from all sources of flooding including fluvial, surface water, ground water, sewer and water supply infrastructure and artificial sources. In all cases the FRA concludes that risk to and from the Proposed Development is low. Mitigation is identified as required in terms of surface and ground water due to the increase in the permeable area of the road and the cuttings etc. that are created. The mitigation measures are identified in the surface water drainage plan which is secured through the OEMP and through commitments in the REAC within the OEMP. These are secured through R4 and R8.

13.7.21. In areas identified where flooding may occur, addressed above, those associated with Watercourse 5 (Latherford Brook) and Watercourse 2, the FRA confirms that the Proposed Development would remain operational and safe for users in times of flood. We have no evidence to the contrary.

Drainage Strategy

13.7.22. The Drainage Strategy [APP-201] is provided as an appendix to the ES chapter. It sets out how the use of SuDS would be implemented as part of the Proposed Development to manage surface water runoff and accidental spillages, where necessary, that may drain to watercourses. SuDS are the preferred solution as they provide a number of functions, including a way to minimise the risk and impact of flooding in addition to potentially providing a degree of treatment for pollutants. A number of wet ponds, filter drains, swales, new highway ditches and vortex flow separators have been incorporated into the overall water management strategy. These have been designed to mimic natural drainage as far as practicable, and to provide a number of other benefits to ecological habitat creation.

13.7.23. The EA considers that the drainage strategy utilises an appropriate discharge rate and is content with the climate change allowance provided for attenuation features as outlined in it. The LLFA is content that the Drainage Strategy is appropriate and that the requirement to implement this design is captured through adherence to the OEMP. The LLFA is

further content that the submitted Drainage Strategy outlines the key parameters and standards to be followed in the detailed drainage design to achieve these requirements.

13.7.24. We have been provided with no substantive concerns or issues that the Drainage Strategy is not reasonable and appropriate. The overall surface water drainage details are required to be submitted and approved and are secured through R8 and R4 requires the production of a CEMP in accordance with the OEMP and the REAC. The OEMP includes the requirement to include a Water Management Plan and the REAC contains a number of specific commitments required to be undertaken during and after the Proposed Development is constructed and becomes operational.

13.7.25. We are satisfied that the Proposed Development would be satisfactorily drained, and the Drainage Strategy is appropriate.

Water Framework Directive (WFD)

13.7.26. The WFD aims to protect and enhance the quality of the water environment and is transposed into legislation in England by the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003 (as amended 2015 and 2016). Under the WFD, 'waterbodies' are the basic management units, defined as all or part of a river system or aquifer. Waterbodies form part of a larger 'river basin district', for which 'River Basin Management Plans' are used to summarise baseline conditions and set broad improvement objectives.

13.7.27. The application site is located within the Humber River Basin District. In the context of this application the Applicant has assessed seven water courses that are part of the catchment of two water bodies designated under the WFD, the River Penk from Source to Saredon Brook and Saredon Brook from Source to River Penk. Watercourses 1 and 2 are within the River Penk from Source to Sarendon Brook and Watercourses 3 to 7 are within the Saredon Brook Source to River Penk water bodies.

13.7.28. In terms of the works affecting Watercourse 2 at junction 1 of the M54 and Watercourses 3, 4 and 5 around junction 11 of the M6, Brookfields Farm and Lower Pool the conclusion is that the Proposed Development would result in some loss of existing open channel habitat. The existing watercourses are highly modified and disconnected from the rest of the catchment, so the importance of protecting the local habitat that remains is recognised. However, it also means that local impacts are unlikely to affect the rest of the water bodies. The impacts of the Proposed Development are judged by the Applicant as unavoidable and unlikely to have significant detriment to the overall condition and value of the River Penk (from Source to Saredon Brook) water body and the Saredon Brook (Source to River Penk) WFD water body. In terms of Watercourse 5 it is concluded that it is unlikely that the new bridge would have a significant detrimental impact on Watercourse 5 (Latherford Brook) as a whole, or on the overall condition and value of the Saredon Brook (from Source to River Penk) WFD water body.

13.7.29. The EA is content that the mitigation and enhancement measures set out in the OEMP [REP4-010] (this has been updated to [REP7-026]) are appropriate and that these measures are secured through the DCO. The EA further agreed in the SoCG that it is content that the Proposed Development would be WFD compliant. Following clarification, the EA is satisfied that mitigation measures were not being considered as enhancements. The Drainage Strategy OEMP and REAC provide satisfactory assurances and secure the required mitigation along with R8 which requires detailed design of the drainage.

13.7.30. The LLFA is content that the WFD Assessment appropriately assesses the impact of the Proposed Development in line with the Water Framework Directive and that impacts would be managed through adherence to mitigation measures detailed in the OEMP.

13.7.31. The EA and LLFA are satisfied with the assessment and that the Proposed Development would be WFD compliant. We have no evidence before us to reach a different conclusion and therefore are satisfied that the Proposed Development would be WFD compliant.

13.8. CONCLUSIONS

13.8.1. Taking all the relevant documents and policies into account and on the basis of the above, we conclude as follows:

- The Proposed Development would meet the Sequential and Exception Tests and as essential infrastructure and it would be appropriately located, even given that some of it would be within Flood Zones 2 and 3.
- The Proposed Development would be safe for its lifetime and its operation and would not be affected by flooding.
- The Proposed Development would not increase the risk of flooding elsewhere.
- We are satisfied that the Proposed Development would meet the appropriate tests in the NSPNN with regard to flood risk, having particular regard to the works at Watercourse 2, Lower Pool and Watercourse 5 (Latherford Brook) and would not conflict with the policies of the Core Strategy.
- We are satisfied that the Proposed Development is supported by an appropriate Drainage Strategy and contains appropriate mitigation secured through R4 and R8 and through the OEMP and REAC.
- We are satisfied that the Proposed Development would be WFD compliant and that it would not result in significant detriment to the overall condition and value of the potentially affected water bodies and would not conflict with the Core Strategy.
- Overall, we are satisfied that the Proposed Development would not be at risk of flooding or increase the flooding risk off-site or result in adverse effects on water quality and resources in the study area.

14. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

14.1. INTRODUCTION

14.1.1. This chapter sets out the analysis and conclusions reached relevant to the Habitats Regulations Assessment (HRA). This will assist the Secretary of State for Transport (the SoST), as the Competent Authority, in performing their duties under the Habitats Regulations[61].

14.1.2. Consent for the Proposed Development may only be granted if, after having assessed the potential adverse effects the Proposed Development could have on European Sites[62] , the Competent Authority considers it acceptable in light of the requirements stipulated in the Habitats Regulations.

14.1.3. We 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. Evidence was sought from the Applicant and the relevant Interested Persons (IPs), including Natural England (NE) as the Statutory Nature Conservation Body (SNCB), through Written Questions and Issue Specific Hearings (ISHs).

14.1.4. Regulation 63 of the Habitats Regulations states that if an application proposal is likely to have a significant effect (either alone or in combination with other plans or projects), then the Competent Authority must undertake an Appropriate Assessment of the implications for that site in view of its conservation objectives.

14.1.5. The Habitats Regulations were amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 which came into force on Implementation Period Completion Day, 31 December 2020. These amendment regulations reflect the arrangements in light of the UK's departure from the EU, as discussed in section 3.3 of this report, including the introduction of new terminology with reference to the National Site Network rather than the Natura 2000 network (which remains the collective term for sites in the European Union).

[61] The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations)

[62] The term European sites in this context includes Special Areas of Conservation (SAC), Sites of Community Importance (SCI), candidate SACs (cSAC), possible SACs (pSAC), Special Protection Areas (SPA), potential SPAs (pSPA), Ramsar sites and proposed Ramsar sites for which the United Kingdom UK is responsible. For a full description of the designations to which the Habitats Regulations apply, and/ or are applied as a matter of Government policy, see the Planning Inspectorate's Advice Note 10.

14.1.6. Consent for the Proposed Development may only be granted if, having assessed the potential adverse effects of the Proposed Development on European Sites, the Competent Authority considers it passes the relevant tests in the Habitats Regulations.

14.1.7. A Report on the Implications for European Sites (RIES) was produced for the Proposed Development [PD-026] on 26 February 2021 in accordance with the process set out in Planning Inspectorate Advice Note 10 (AN10). The RIES documents and signposts information provided within the Development Consent Order (DCO) application, and the information submitted throughout the Examination by both the Applicant and relevant IPs, up to Deadline (D) 6 of the Examination (12 February 2021) in relation to potential effects on European Sites.

14.1.8. The RIES was issued to ensure that that IPs, including NE as the SNCB, had been consulted formally on Habitats Regulations matters and so that we could be satisfied that it had correctly understood HRA-relevant information and the position of the IPs in relation to the effects of the Proposed Development on European sites at that point in time. Consultation on the RIES took place between 26 February 2021 and 7 April 2021. No comments were received and therefore, the consultation raised no new, relevant, important issues or concerns. This process may be relied upon by the SoST for the purposes of Regulation 63(3) of the Habitats Regulations.

14.1.9. Our recommendation is that the RIES, and consultation on it, represents an appropriate body of information to enable the SoST to fulfil their duties of consultation under regulation 63(3) of the Habitats Regulations.

14.1.10. A final version of the Statement of Common Ground (SoCG) with NE was submitted at D8 [REP8-028] which included those issues relating to the HRA and European sites which NE had concern over during the Examination. The SoCG concluded that there are no longer any outstanding matters of concern for NE. This is discussed below in Section 14.4.

14.2. PROJECT LOCATION

14.2.1. As described in Chapter 2 of this report, the Proposed Development comprises a new link road between the M54 junction 1, and the M6 junction 11, and would be located to the east of the existing A460.

14.2.2. The Order Limits of the Proposed Development do not overlap with any European site or Ramsar site.

14.2.3. The European sites of Cannock Extension Canal Special Area of Conservation (SAC) and Cannock Chase SAC are located 5.9 kilometres (km) east and 6.5km north, respectively, from the Proposed Development.

14.2.4. No other European sites or features were identified by NE or any other IP.

14.2.5. The Applicant did not identify any effects on European sites in any other European Economic Area (EEA) State.

14.2.6. We are satisfied that the Applicant has correctly identified all the relevant European sites and qualifying features/interests for consideration within the HRA.

14.3. HRA IMPLICATIONS OF THE PROJECT

14.3.1. The Applicant provided an HRA No Significant Effects Report (NSER) [APP-216] as part of the application. In response to Section 51 advice issued by the Planning Inspectorate on 28 February 2020 the Applicant provided an updated HRA NSER as an additional submission [AS-035] on 29 May 2020. The only change in the updated version was the addition of a screening consultation response from NE to the Applicant, dated 22 November 2019, which had been omitted from the application version of the HRA NSER. All references in this report to the HRA NSER should be construed as reference to the updated version unless otherwise stated.

14.3.2. The HRA NSER indicates that the Proposed Development would not fall within the boundary of any European or Ramsar sites and is not connected with or necessary to the management for nature conservation of any of the European sites considered within the Applicant's assessment.

14.3.3. The Applicant did not identify any potential impacts on European sites in other EEA states in its HRA NSER [APP-216] and [AS-035], or within its Environmental Statement (ES) (ES Chapter 4) [APP-043]. No such impacts were raised for discussion by any parties during the Examination.

14.3.4. As the Applicant did not identify any European sites in an EEA State that may be affected, only European sites within the national site network and Ramsar sites are addressed in this Report.

14.3.5. The HRA NSER includes Screening Matrices for the identified European sites in accordance with the Inspectorate's Advice Note 10. Section 3.1 of the NSER identified the following European sites as being relevant considerations in terms of the Habitats Regulations which are located 5.9km east and 6.5km north, respectively, of the Proposed Development site and were screened into the assessment on the basis that they are susceptible to changes in air quality:

- The Cannock Extension Canal (SAC); and
- Cannock Chase (SAC).

14.3.6. A map showing the locations of these sites relative to the location of the DCO red line boundary was provided in Annex A of the HRA Report [AS-035].

14.3.7. Summary information for these European sites, including their qualifying features is provided in Table 3.1 and Annexes B and C of the NSER

[AS-035]. Table 3.1 of the HRA NSER summarises the conservation objectives of the two European sites.

14.3.8. The qualifying features of the Cannock Extension Canal SAC are:

- An anthropogenic, lowland habitat supporting floating water-plantain *Luronium natans* at the eastern limit of the plant's natural distribution in England.

The qualifying features of the Cannock Chase SAC are:

- European dry heaths, the largest area of lowland heath in the Midlands; and
- Northern Atlantic wet heaths with *Erica tetralix*.

14.3.9. The Applicant concluded within their DCO application that there would be no likely significant effects on any of the European sites screened. The HRA NSER and screening matrices contained in Appendix C were provided by the Applicant in support of this conclusion.

14.3.10. In response to the ExA's First Written Question (ExQ1) [PD-010] during the Examination, ExQ1.3.26, NE stated that it was satisfied that the Applicant had identified the correct sites in the HRA NSER and that the features that are the primary reason for selection of the sites had been identified [REP1-012]. NE did not identify any other European site or features that could be affected by the Proposed Development.

14.4. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS (LSE)

14.4.1. Under Regulation 63 of the Habitats Regulations, the Competent Authority must consider whether a development will have LSE on a European site, either alone or in-combination with other plans or projects. The purpose of this test is to identify any LSE on European sites that may result from the project and to record the ExA's conclusions on the need for an appropriate assessment and its reasons for including activities, sites or plans and projects for further consideration.

14.4.2. The Applicant considered whether there were any European Sites within 2km of the route corridor and application site boundary and any SACs within 30km of the route corridor and application site boundary where bats are one of the qualifying features. The Applicant also considered whether the Proposed Development crosses or lies adjacent to, upstream or downstream of a watercourse which is designated in part or wholly as a European site, or might have a potential hydrological or hydrogeological linkage to a European site containing a groundwater dependent terrestrial ecosystem. The Applicant determined that there were no such European sites.

14.4.3. The Cannock Extension Canal SAC and Cannock Chase SAC are 5.9km east and 6.5km north, respectively, of the application site and were screened into the assessment on the basis that they are susceptible to

changes in air quality which may occur as a result of the Proposed Development.

14.4.4. NE noted that the Cannock Chase SAC includes an Annex I habitat, Northern Atlantic wet heaths with *Erica tetralix* (a qualifying feature, but not a primary reason for selection), and that this had been omitted from the key features of the SAC listed in Table 3.1 (Screening Matrix) of the HRA NSER but was referred to elsewhere in the HRA NSER. The Applicant, in their comments [REP2-009] on the responses from IPs to the First Written Questions, acknowledged the omission and stated that this feature had been included in the Cannock Chase SAC Screening Matrix in Appendix C of the HRA NSER and therefore its omission from Table 3.1 had not changed the conclusions of the HRA NSER.

14.4.5. We consider that the correct European sites and qualifying features have been identified for the purposes of assessment.

14.4.6. The Applicant has described how it has determined what would constitute a 'significant effect' within its HRA NSER [AS-035]. The potential impacts identified are described in paragraph 2.3.1 of the HRA NSER and are:

- the likelihood that a qualifying feature of a European Site (habitat or species) would be present in the Zone of Influence of the Proposed Development;
- the ability of the qualifying feature to avoid or adapt to impacts, the availability of alternative, suitable habitat and the likelihood that the qualifying feature would access it; and
- the conservation objectives for the designated species and other information that supports the determination of the importance of the area around the Proposed Development to the qualifying feature.

14.4.7. Decommissioning impacts were not assessed, with justification provided by the Applicant that, due to the nature of the M54 to M6 Link as part of the SRN, it is not envisaged that the Proposed Development will be subject to decommissioning [AS-035]. We are satisfied with this approach.

14.4.8. The Applicant has addressed potential in-combination effects in Section 2.4 of their HRA NSER. Table 3.1 and Annexes C and D summarise the in-combination assessment for each European site.

14.4.9. NE, in its Relevant Representation (RR) [RR-037], stated that satisfactory information had been submitted to allow them to advise the SoST that the Proposed Development would have no Likely Significant Effects (LSE) on the Cannock Chase SAC.

14.4.10. NE agreed that there would be no LSE on the Cannock Chase SAC but raised concerns about the conclusion of no LSE on the Cannock Extension Canal SAC and its qualifying features on the basis of potential effects arising from indirect impacts on air quality.

14.4.11. The Examination focussed on NE's concerns about potential effects on the Cannock Extension Canal SAC arising from indirect impacts on air quality

resulting from the Proposed Development. NE considered that insufficient information had been provided in the application about potential indirect impacts arising from an increase in nitrogen deposition on the Chasewater and the Southern Staffordshire Coalfield Heath Site of Special Scientific Interest (SSSI), which is hydrologically linked to the SAC, and that further information was required before they could conclude on the matter.

14.4.12. The draft Statement of Common Ground (dSoCG) between the Applicant and NE submitted with the application [APP-221] set out NE's advice on the impacts to be assessed and states the agreement reached with NE on the potential impacts included. The dSoCG was revised during the Examination with subsequent versions of the dSoCG between the Applicant and NE submitted at D1 [REP1-028], D4 [REP4-031], D6 [REP6-022] and D8 [REP8-028]. The dSoCG at D1 [REP1-028] recorded that NE's concerns about air quality impacts on the Cannock Chase Canal SAC were still outstanding but highly likely to be agreed. NE had also submitted a letter at D4 [REP4-040] confirming that the conclusions of the HRA NSER were correct.

14.4.13. Both the Applicant and NE considered the likelihood of agreement on this remaining issue was high. We asked the Applicant in the ExA's Third Written Questions (ExQ3) ExQ3.3.5 [PD-023] to provide an update on all HRA matters that were outstanding through a later version of the SoCG with NE. The Applicant responded [REP7-036] confirming that this matter had been resolved between both parties as shown in the dSoCG submitted at D6. The Applicant and NE also provided an update on the outstanding matters in a signed SoCG at D8 [REP8-028].

14.4.14. Representations were made by NE during the Examination on the methodologies applied to the assessment of air quality effects and the nature of effects from potential habitat loss. However, no party raised any additional, novel, impacts to be assessed and we are satisfied that all potential impacts which could give rise to significant effects have been identified.

14.4.15. NE considered that further discussion was needed between NE and the Applicant on air quality impacts before they could advise the SoST that the Proposed Development would have no likely significant effect upon the Cannock Extension Canal SAC and questioned the Applicant's approach to the assessment of in-combination effects, particularly the decision to screen it out.

14.4.16. NE disputed the Applicant's conclusions during the Examination in relation to the effects on the Cannock Extension Canal SAC. In their Written Representations (WR) [REP1-012] NE stated their view that indirect impacts on the SAC required scrutiny, and noted that the Cannock Extension Canal SAC is hydrologically linked to the Chasewater and the Southern Staffordshire Coalfield Heath SSSI, which is within 200m of the Affected Road Network (ARN) and would see an increase in nitrogen deposition resulting from the Proposed Development. It stated

that this indirect impact on air quality needed to be assessed alone and in combination.

14.4.17. As set out in the RIES, we issued Written Questions (ExQ1) [PD-010] ExQ1.3.26 to 1.3.30 related to HRA issues, and were either directed to the Applicant, NE or both. NE's [REP1-012] and the Applicant's responses at D1 [REP1-036] provide evidence of the scrutiny given to the issue of the potential effects on the Cannock Extension Canal SAC arising from indirect impacts on air quality from the Proposed Development.

14.4.18. In its D2 comments [REP2-009] on the responses from IPs to ExQ1 the Applicant acknowledged that, as Unit 13 of the Chasewater and the Southern Staffordshire Coalfield Heaths SSSI tops up the SAC, and Chasewater is partially within 200 metres (m) of the M6 Toll, it was possible that the water quality could be influenced by any increase in nitrogen deposition from changes in traffic in that location as a result of the Proposed Development. However, the Applicant stated that overall only a very small change in nitrogen deposition across a small portion of the Chasewater was predicted, and this was unlikely to result in any significant change in the nitrogen concentration of the Chasewater, so the effect on the Cannock Extension Canal SAC was not anticipated by the Applicant to be significant.

14.4.19. We noted in our Second Written Questions (ExQ2) ExQ2.3.2 [PD-017] that the Applicant had not included an updated HRA NSER with the revised documents submitted in respect of the Applicant's change request made on 9 October 2020 [AS-117], and requested confirmation of whether the Applicant considered the existing HRA NSER to be up-to-date. In their response [REP4-033] the Applicant drew attention to Section 5.2 of the 'Environmental Statement Addendum: Proposed Scheme Changes October 2020' [AS-118] which set out the Applicant's view that the design changes would not change the findings of the HRA NSER as both SACs remained screened out of further assessment due to their distance from the Proposed Development and the ARN. The Applicant did not therefore consider it was necessary to amend the HRA NSER following the acceptance of the design change by the ExA in October 2020.

14.4.20. At the Biodiversity and Cultural Heritage Issue Specific Hearing 1 (ISH1), held on 8 December 2020, following discussion on whether significant effects on the Cannock Extension Canal SAC could be excluded, NE stated that after further meetings with the Applicant it had agreed that there would be no LSE on the Cannock Extension Canal SAC resulting from air quality impacts. It also confirmed that it would submit written confirmation of this for D4 (ISH Action Point 6 [EV-023]). The NE's changed position is stated in its letter submitted at D4 in response [REP4-040]. NE stated that it had seen the draft revised HRA Report dated December 2020 and noted that this had screened the Proposed Development to check for the likelihood of significant effects on European protected sites, and the assessment concluded that the Proposed Development could be screened out from further stages of assessment

because significant effects are unlikely to occur, either alone or in combination. NE agreed with this view.

14.4.21. With question ExQ3.3.5 [PD-023] we asked the Applicant and NE to provide an update on the outstanding HRA matters in the SoCG. ExQ3.3.6 [PD-023] raised an apparent contradiction between the Applicant's statement made in their response to ExQ2.3.2 [REP4-033] that it was not necessary to update the HRA NSER following our acceptance of their design changes, and NE's reference in their D4 submission [REP4-040] to a December 2020 version of the HRA NSER. The Applicant was asked to clarify the position and to submit a revised version if one existed.

14.4.22. In its D6 response [REP6-039] to ExQ3.3.35 the Applicant confirmed that NE's concerns had been resolved and that this was reflected in the dSoCG [REP6-022] submitted for D6. In response to ExQ3.3.36, the Applicant reiterated that the HRA NSER [AS-035] was unaffected by the design change. It stated that NE's concerns relating to potential effects on the Cannock Extension Canal SAC from increased nitrogen deposition resulting from the Proposed Development had been resolved and reported within the dSoCG submitted at D6.

14.4.23. With respect to NE's concerns over potential effects to the Cannock Extension Canal SAC, the Applicant summarised the information that was agreed with NE in their SoCG at D6 [REP6-022]. The information provided to us and NE at D2 [REP2-009] by the Applicant had considered whether a change in nitrogen deposition over a small percentage of Unit 13 (The Chasewater) could be transported to the SAC via an 8km length of canal system. The Applicant stated that the Cannock Extension Canal has only a limited inflow of water from the Wryley and Essington Canal to offset leakage and evaporation. Air quality modelling undertaken for the Proposed Development had predicted an increase in nitrogen deposition associated with an increase in traffic using the M6 Toll road with the operation of the Proposed Development within Unit 14, connected via Wryley and Essington Canal to the Cannock Extension Canal SAC by 7.5km of canal, and which the Applicant considered would have little or no effect because of dilution effects. Overall, the Applicant stated that the assessment of nitrogen deposition to the Chasewater (Unit 13) and Wryley and Essington Canal (Unit 14) and its contribution to the Cannock Extension Canal SAC had been demonstrated to be nugatory. In the absence of an identified effect pathway, the impact of the Proposed Development on Cannock Extension Canal SAC was not anticipated to result in or to introduce uncertainty around likely significant effects. NE agreed with this conclusion in the dSoCG [REP6-022].

14.4.24. On the basis of the information provided to us at D2 [REP2-009] and further information included in the SoCG with NE, the Applicant considered that the conclusions of the HRA NSER were correct and that it

was not necessary to update it[63]. The Applicant did not make any reference to a December 2020 version of the HRA NSER. The dSoCG submitted by the Applicant for D6 [REP6-022] reflected that all HRA matters were agreed between NE and the Applicant and the Applicant submitted a final SoCG with NE for D8 [REP8-028] also reflects this.

14.4.25. We asked a number of HRA-related questions during the Examination, which were addressed to the Applicant and NE. Both parties provided additional information, in response to our questions and also as a result of ongoing discussion between them. It was confirmed by NE at D4 [REP4-040] that they agreed with the Applicant's conclusion that there would not be any LSE on the Cannock Extension Canal SAC, and this was reiterated in the dSoCG submitted by the Applicant at D8 [REP8-028].

14.4.26. Having given careful consideration to all relevant evidence and tested the position on HRA in written questions, we are satisfied that there are no likely significant effects of the Proposed Development on any European sites or their qualifying features.

14.5. CONSERVATION OBJECTIVES

14.5.1. The conservation objectives for the sites and features of the two European sites identified above are summarised in Table 3.1 of the HRA NSER.

14.6. ExA's HRA CONCLUSIONS

14.6.1. We conclude as follows in relation to the HRA process:

- There are no likely significant effects of the Proposed Development on any European Sites or their qualifying features.
- No mitigation relevant to HRA has been proposed and none is required.
- The Proposed Development can proceed without an Appropriate Assessment being undertaken by the SoS.

[63] The Applicant referenced the application version of the HRA NSER [APP-216] in this statement; the ExA assumes that this was an error and was intended to refer to the updated version [AS-035].

15. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

15.1. INTRODUCTION

15.1.1. This chapter sets out our reasoning and conclusions on the planning merits of the Proposed Development and whether there is a case for the making of a Development Consent Order (DCO) for the Proposed Development.

15.1.2. The legal and policy context is set out in Chapter 3 with Chapter 4 setting out the planning issues that arose from the application and during the Examination. Chapters 5 to 13 address the potential effects of the Proposed Development with Chapter 14 addressing Habitats Regulation Assessment (HRA) considerations.

15.1.3. The matters to be taken into account in decision making are set out below, following which the remainder of this chapter provides a summary of the main planning issues and conclusions reached in respect of the individual matters before moving to the overall conclusions in which the heritage balance, Green Belt balance and overall planning conclusions are set out.

15.1.4. Matters in relation to the Compulsory Acquisition (CA) and Temporary Possession (TP) of land and/or rights and the creation of new rights over land are discussed in Chapter 16, with Chapter 17 addressing the implications of the matters arising for the DCO and finally Chapter 18 summarises all relevant considerations and sets out the Examining Authority's (ExA's) recommendation to the Secretary of State for Transport (SoST).

15.2. MATTERS TO BE TAKEN INTO ACCOUNT

15.2.1. Section (s) 104 of the Planning Act 2008 (PA2008) sets out at subsection (2) the matters to which the Secretary of State (SoS) must have regard where there is a relevant National Policy Statement (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."

15.2.2. Given the Proposed Development is highway infrastructure and a Nationally Significant Infrastructure Project (NSIP) the designated National Policy Statement for National Networks (NPSNN) provides the primary basis for making decisions on development consent applications for national networks NSIPs in England by the Secretary of SoST.

15.2.3. Our 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 to 14 dealing with the main planning issues, we have taken all other relevant law and policy into account. We have had regard to the Public Sector Equality Duty (PSED) as addressed in Chapter 11 of this report.

15.2.4. 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"*.

15.2.5. In considering any proposed development, and in particular when weighing its adverse impacts against its benefits, paragraph 4.3 of NPSNN expects the following to be taken into account:

- *"its potential benefits, including the facilitation of economic development, including job creation, housing and environmental improvement, and any long-term or wider benefits; and*
- *its potential adverse impacts, including any longer-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts."*

15.2.6. Our conclusions follow from our consideration of all evidence presented to the Examination, including the application documents, the Environmental Statement (ES), the HRA, the Local Impact Reports (LIR), Statements of Common Ground (SoCG), Relevant and Written Representations, oral submissions at the hearings, answers to questions, responses to requests for information and our Unaccompanied Site Inspections and including all matters which we consider are both important and relevant to the Secretary of State's decision.

15.3. SUMMARY OF THE MAIN PLANNING ISSUES

The need for the Proposed Development

15.3.1. The need for a new link road between the M54 and the M6/M6 Toll Road was identified in the West Midlands Area Multi Modal study in 2001, when need for a strategic network link between the M54 and M6 northbound was identified. There has been ongoing recognition and support for such a link since with, amongst other strategies, Road Investment Strategy: 2015/16 – 2019/20 Road Period (RIS1) committing to deliver such a link. A Preferred Route Announcement was made following a full appraisal process and which was then further refined. The commitment to the provision of a link has more recently been further confirmed with commitment included in Road Investment Strategy 2: 2020 - 2025 (RIS2). The Proposed Development is the first formal application to achieve the conclusion of this strategic aim. These details are confirmed in Section 4.6 above as part of the Consideration of Alternatives.

15.3.2. The objectives of the Proposed Development have been identified as:

- Relieve traffic congestion on the A460, A449 and A5 and provide more reliable journey times.
- Keep the right traffic on the right roads and improve safety by separating local community traffic from long distance and business traffic.
- Reduce volumes of through-traffic in villages, improving local community access.

- Support local economic growth for Telford, Shrewsbury, Wolverhampton, Cannock and Tamworth by improving traffic flow and enhancing access to east-west and north-south routes.

15.3.3. With the Applicant also identifying the benefits of the Proposed Development as including:

- Economic benefits relating to transport economic efficiency improvements, road safety improvements and Indirect Taxation Revenue (ITR) increase.
- More reliable and faster trips compared to the existing capacity provision on the A460, A5 and A449.
- Local air quality benefits.
- Reliability benefits from reductions in congestion and incidents.

15.3.4. We have concluded in Chapter 12 on Traffic and Transportation that the Proposed Development would, subject to the recommended changes set out below, meet its traffic and transport objectives, and provide substantial benefits for those within the communities of Featherstone, Shareshill and Little Saredon around Cannock Road and those using the A460 to travel between M54 junction 1 and M6 junction 11 and significant benefits for those living close to the A449 and A5 as well as providing more reliable journey times for those on both the strategic and local road networks.

15.3.5. Staffordshire County Council (SCC) strongly supports the new link road (paragraph 6.1 of the Local Impact Report (LIR) [REP1-007]) as it will take pressure off the strategic and local highway network, both in the immediate vicinity, but also potentially wider afield. While in its LIR South Staffordshire Council (SSC) [REP1 097] confirms it supports the Proposed Development in order to relieve congestion, improve journey time reliability and support economic growth. The Proposed Development is identified in Core Policy 11 of the Core Strategy as one of the national and regional transport infrastructure schemes which may be delivered in the plan period and would therefore meet one of the strategic objectives of Policy CP11.

15.3.6. 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. These are consistent with the Proposed Development objectives and we conclude the Proposed Development would meet these objectives.

15.3.7. Accordingly, we 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, including Carbon Emissions (Chapter 5)

15.3.8. In accordance with paragraph 5.10 of the NPSNN, the application has adequately considered air quality impacts over the wider area likely to be affected, as well as in the near vicinity of the Proposed Development.

15.3.9. We have concluded that whilst the construction phase of the Proposed Development has the potential for adverse effects to arise from dust these can be appropriately mitigated and the mitigation is secured through DCO Requirement (R) 4, the Outline Environmental Management Plan (OEMP) and Construction Environmental Management Plan (CEMP). There are no other significant air quality effects resultant from the construction of the Proposed Development.

15.3.10. We are satisfied that there would be a net benefit of the Proposed Development to air quality receptors within the study area. Whilst there would be some locations where there would be increases in pollutant levels these increases would be small or imperceptible and would not result in concentrations exceeding objective levels or relevant statutory air quality thresholds. The Proposed Development therefore is in compliance with paragraph 5.9 and 5.10 of the NPSNN.

15.3.11. We conclude that the proposed development is estimated to cause a net increase (between the Do-Something (DS) – Do-Minimum (DM)) of 206,860 tonnes of carbon dioxide equivalent (tCO2e) which, split across the prevailing carbon budgets, would contribute to 0.0013% of the Third carbon budget period, 0.0048% of the Fourth Carbon Budget period and 0.0043% of the Fifth Carbon Budget period. In our view this would not lead to an increase in carbon emissions so significant that it would materially impact on the ability of the Government to meet its carbon reduction targets.

15.3.12. The SoS may wish to satisfy themselves as to the impact of the publication of the Sixth Carbon Budget, which was announced at the end of the Examination period, the Carbon Budget Order 2021 and consider the impact of the CO_2 equivalent emissions for the operational phase in relation to the relevant carbon budget now that it is available and the cumulative impact of emissions for the NPSNN in the context of the revised net carbon target and other projects and programmes, namely RIS1/RIS2. The SoS may also wish to consider the effect of 'Decarbonising transport: a better, greener Britain' in this regard.

15.3.13. Subject to this matter, taking all matters into consideration, we conclude that air quality and carbon emission matters do not weigh against the Order being made.

Biodiversity, Ecology and the Natural Environment (Chapter 6)

15.3.14. We conclude that there would be no significant adverse effects on nationally designated sites (in this case Sites of Special Scientific Interest (SSSIs)). However, there would be direct and indirect loss of locally

designated wildlife sites, which would be compensated for within the Proposed Development to an appropriate level and an appropriate precautionary approach has been taken as regards great crested newts, with appropriate mitigation provided. Moreover, there are no significant geological effects. These are neutral factors in addressing whether the Order should be made. However, the effects on bats would, in our opinion, be greater than identified by the Applicant this would, in our view, only be of moderate significance.

15.3.15. We are of the opinion that moderate positive weight should be given to the net gains for biodiversity as evidenced in the Biodiversity matrix. Overall, in our 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.

15.3.16. We further conclude that there would be indirect effects on ancient woodland that could not be avoided; therefore, development consent should not be granted unless the need for and benefits of the development, in that location, clearly outweigh the loss. In addition, we conclude there would be effects of moderate adverse significance on bats. Again, development consent should be refused unless the benefits of the development (including need) clearly outweigh the harm. In themselves, these matters weigh against the Order being made and we give them significant weight.

Cultural Heritage, including Archaeology (Chapter 7)

15.3.17. We have had regard to the desirability of preserving designated heritage assets, including listing buildings and their settings. We consider that the information provided in the ES is sufficiently comprehensive for us to take account of the significance of heritage assets and to understand the impacts of the Proposed Development on their significance.

15.3.18. We have concluded that the Proposed Development would result in less than substantial harm to the following designated heritage assets: Hilton Hall (Grade I), The Conservatory (Grade I), The Coach House and Stable Block (Grade II), The Gate Piers (Grade II) and the Portobello Tower (Grade II) through harm to Hilton Park which contributes to their setting. Moreover, we have also identified that the Proposed Development would result in less than substantial harm to Hilton Park, an Historic Landscape that is a non-designated heritage asset.

15.3.19. Great weight should be given to any heritage asset's conservation, with the more important the asset the greater the weight, in accordance with Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, Paragraph 5.131 of the NPSNN and 193 of the National Planning Policy Framework (the Framework), great weight and importance should be given to any harm to a heritage asset in the overall balance.

15.3.20. Where we have found that harm would arise to designated heritage assets, we consider this would be less than substantial in each instance.

We have not identified any instances, during construction or operation where the Proposed Development is likely to result in substantial harm to or loss of significance of any designated heritage asset. The NPSNN requires that the harm we have identified should be weighed against the public benefit of the development, recognising that the greater the harm the greater the justification that will be needed. We go on to consider this within our overall conclusions later in this Chapter.

15.3.21. We conclude that the Proposed Development would result in some limited damage to undesignated archaeological assets including crop marks, ditches and other features but overall, the effect would be limited and not significant. There is no substantial evidence to conclude that the Proposed Development would result in damage or destruction of Kettle Holes within the Order Limits. The Proposed Development would provide for the re-use of materials salvaged from the Mile Wall, a feature of local interest. None of these matters therefore weigh significantly against the Order being made.

Green Belt (Chapter 8)

15.3.22. We conclude that the Proposed Development represents inappropriate development in the Green Belt and is not covered by any of the exceptions in paragraphs 145 or 146 of the Framework. Moreover, the Proposed Development would result in significant harm to the spatial qualities and moderate harm to the visual qualities of the openness of the Green Belt and it would conflict with one of the five purposes of including land within the Green Belt, namely, to assist in safeguarding the countryside from encroachment. The Proposed Development would therefore conflict with the fundamental aim of Green Belt Policy to prevent urban sprawl by keeping land permanently open, and their essential characteristics which are openness and permeance.

15.3.23. Inappropriate development is, by definition, harmful to the Green Belt. We attach substantial weight to the harm that would result to the Green Belt. We go on to consider the question of whether very special circumstances exist to clearly outweigh the harm by reason of inappropriateness below.

Landscape and Visual Effects (Chapter 9)

15.3.24. We conclude that given the overall nature of the landscape and visual effects in the context of the Proposed Development and the general area it would not be possible to avoid harm to either the landscape or visual receptors and the Proposed Development incorporates reasonable mitigation measures. We also consider that the overall value of the landscape is low and that it is reasonable to judge the effects against this baseline.

15.3.25. We consider that the Applicant has sought to minimise harm to the landscape and provided reasonable mitigation where possible, the Proposed Development would therefore be in accordance with paragraph 5.149 of the NPSNN.

15.3.26. We accept that the proposed Development would result in harm to the landscape character of the area, albeit this would at most amount to a slight adverse effect and that there would be harmful visual effects for highway users and local residents of the area which will be mitigated to some extent by DCO R4 and R5.

15.3.27. Notwithstanding that there would be some harm to the landscape and visual receptors, given the nature and scale of that harm, we consider that this should be given limited weight in the overall balance and does not weigh significantly against the Order being made.

15.3.28. We conclude that the proposed tree planting and mitigation measures for screening purposes identified in the Environmental Masterplan are necessary, reasonable and appropriate.

15.3.29. We agree that the replacement of the Dark Lane fence would result in a minor beneficial effect for Dark Lane residents and should be supported.

Noise and Vibration (Chapter 10)

15.3.30. We conclude that the Applicant's approach to noise and vibration assessment is generally acceptable and in line with the NPSNN.

15.3.31. We 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.

15.3.32. The proposed embedded and other mitigation secured through R4 and the CEMP would reduce and mitigate further some of the significant effects associated with construction but not remove them. Given the nature and scale of the Proposed Development the short term nature of the significant effects during construction and the mitigation overall we conclude that the effects of noise and vibration are minimised.

15.3.33. We also note that the Proposed Development contributes to improvements to a significant number of receptors and there is further potential through the secured mitigation measures to improve this situation.

15.3.34. Overall, we conclude that whilst significant effects remain, the significant effects above Significant Observed Adverse Effect level (SOAEL) are minimised and effective mitigation is proposed such that the Proposed Development meets the aims and aspirations of the NPSNN in respect of the aims and objectives of this scheme.

15.3.35. There would be adverse effects from noise and vibration and these weigh against the Order being made but, given the short term nature during construction and the proposed mitigation, not significantly so.

Socio-Economic Effects (Chapter 11)

15.3.36. We are satisfied that the findings of the ES are reasonable and that, where necessary, mitigation measures could be secured through the recommended DCO which are proportionate to any adverse effects that would result.

15.3.37. We note that the Proposed Development would result in direct loss of employment opportunities on the application site, but these effects would be more than off-set by the enhancement of business opportunities from the improved connectivity in the area. We therefore 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, both locally and outside the region.

15.3.38. We note the loss of social facilities provided by the fishing ponds and car boot sale site but consider this should be given limited weight in the overall balance. The loss of Best and Most Versatile land (BMV) land is also recognised, and this should be given moderate weight against the order being made.

15.3.39. The non-prior use of minerals in this Minerals Safeguarding Area is neutral in the consideration of the Proposed Development. This is because the land affected within the Minerals Safeguarding Area would be used for the environmental mitigation and drainage ponds which would not sterilise development of the area should it be necessary for it to come forward in due course.

15.3.40. Overall, the positive economic and social benefits would weigh in favour of the Order being made.

Traffic and Transportation (Chapter 12)

15.3.41. We conclude that the Proposed Development would deliver a significant benefit to the strategic road network to which we attach significant weight.

15.3.42. The Applicant's analysis of the base situation and the effects of the Proposed Development are reasonable. The Proposed Development would, subject to the recommended changes set out below, meet its traffic and transport objectives, and provide substantial benefits for those around Cannock Road and significant benefits for those living close to the A449 and A5.

15.3.43. A weight restriction on Cannock Road should be made to link in with existing weight restrictions and ensure the objectives of the Proposed Development are fully realised particularly for local communities. Associated changes to signage are necessary, including the addition of signage around M6 junction 11 directing to the Saredon filling station.

15.3.44. The revised non-motorised user (NMU) routes between the north and south of M54 junction 1 would provide a reasonable solution to ensure connectivity and there are no other changes required to NMU routes to make the Proposed Development acceptable.

15.3.45. The question of closure of the Shareshill layby should be considered comprehensively with any other changes to Cannock Road post development.

15.3.46. Taking all these matters into consideration we conclude that traffic and transportation matters weigh substantially in favour of the Order being made.

Water Environment (Chapter 13)

15.3.47. We are satisfied that the Proposed Development would meet the Sequential and Exception Tests and as essential infrastructure it would be appropriately located, even given that part would be within Flood Zones 2 and 3. Moreover 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.

15.3.48. We are satisfied that the Proposed Development would meet the appropriate tests in the NSPNN with regard to flood risk, having particular regard to the works at Watercourse 2, Lower Pool and Watercourse 5 (Latherford Brook) and would not conflict with the policies of the Core Strategy.

15.3.49. We are satisfied that the Proposed Development is supported by an appropriate Drainage Strategy and contains appropriate mitigation secured through DCO R4 and R8 and through the OEMP and Record of Environmental Actions and Commitments (REAC).

15.3.50. We are 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 and would not conflict with the Core Strategy.

15.3.51. Overall, we are satisfied that the Proposed Development would not be at risk of flooding or increase the flooding risk off-site or result in adverse effects on water quality and resources in the study area. Taking all matters into consideration we conclude that water environment matters do not weigh against the Order being made.

Habitats Regulations Assessment (Chapter 14)

15.3.52. We have found that there would be no likely significant effects of the Proposed Development on any European sites or their qualifying features. No mitigation relevant to HRA has been proposed and none is required. We are satisfied that the Proposed Development can proceed without an appropriate assessment being undertaken by the SoS.

15.4. FINDINGS AND OVERALL CONCLUSIONS:

Heritage conclusions

15.4.1. We consider that the need for and the benefits of the Proposed Development outlined above (most notably as set out in paragraphs 15.3.1, 15.3.4, 15.3.7, 15.3.15, 15.3.28, 15.3.35, 15.3.36, 15.3.40 and 15.3.41 above) would outweigh, in each case, the harm that we have identified in relation to designated heritage assets. We also consider that the harm to the undesignated heritage assets, including the harm to archaeological assets, would be outweighed by the public benefits of the Proposed Development.

15.4.2. We are also satisfied that an appropriate balance has been struck with regard to the provision of tree planting to the west of the mainline in the vicinity of Hilton Hall and the potential effect in terms of the effect on bats. Had an alternative strategy been adopted with a greater quantum of mitigation on the eastern side of the mainline this would have had a greater effect on the settings of the designated heritage assets and on the non-designated heritage asset that is Hilton Park, and would not have provided sufficient mitigation to ameliorate the landscape and visual effects of the Proposed Development on the western side of the link road.

15.4.3. Taking account of the public benefits, we are satisfied that there is clear and convincing justification for the harm that would result, both individually and collectively, upon designated and undesignated heritage assets. Overall, therefore, we consider that matters concerning the historic environment would accord with the relevant policy provisions of the NPSNN.

Green Belt conclusions

15.4.4. We set out above that the Proposed Development would be inappropriate within the Green Belt. It would result in significant harm to the openness and moderate harm to the visual qualities of the Green Belt and it would conflict with one of the five purposes of including land within the Green Belt, namely, to assist in safeguarding the countryside from encroachment. We attach substantial weight to the harm that would result to the Green Belt.

15.4.5. To accord with the NPSNN (paragraph 5.178), the SoS will need to assess whether there are very special circumstances to justify inappropriate development. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. We go on to carry out this assessment below.

15.4.6. We have recorded where harm is likely to arise in Chapters 5 to 14 of this report with the relevant conclusions set out above. In summary, the non-Green Belt harm that we consider would arise is listed below (this list is provided irrespective of whether each issue would conform with the relevant NPSNN policy tests notwithstanding the harm resulting):

- Some increases in pollutant levels, albeit these would be, at most, small increases and below objectives levels;
- Indirect effects on ancient woodland that could not be avoided;
- A moderate adverse effect on bats;
- Harm to designated and non-designated heritage assets during construction and operation;
- Landscape and visual harm during construction and operation;
- Small direct loss of employment opportunities;
- Short term temporary harm to traffic during the closure and re-routing of traffic during the closure of the M54 for a three week period;
- Short term temporary harm to health and quality of life during construction, including from noise and vibration; and
- Temporary harm to users of public rights of way during construction.

15.4.7. We have set out previously in this report the need for and benefits that would be likely to arise from the Proposed Development. These include:

- The delivery of Government policy and programmes;
- Benefits from a decrease in congestion and improved journey times, enhanced highway safety, and alleviating traffic on Cannock Road;
- The conformity with local Development Plan policy and allocations for delivery of transport infrastructure; and
- Economic and social benefits from improved connectivity and improved reliability of journeys.

15.4.8. We have given each of the above benefits significant weight in our assessment. We have also taken into consideration the consideration of alternatives to achieving the connection between the M54 and M6; all of the options considered would fall within the Green Belt.

15.4.9. We also acknowledge that several of the structures which would impact on Green Belt openness would replace existing structures (for example the replacement junctions at M54 junction 1 and M6 junction 11) that already impact to varying degrees upon Green Belt openness.

15.4.10. Overall, we consider that the potential harm to the Green Belt, and the other harm we have found would result, would be clearly outweighed by these other considerations set out above, and that they amount to very special circumstances. Consequently, we are satisfied that the very special circumstances exist to justify the approval of inappropriate development in the Green Belt. The Proposed Development would therefore accord with the Green Belt policy set out in paragraph 5.178 of the NPSNN and the Framework.

Overall conclusions

15.4.11. 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, 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.

15.4.12. In reaching conclusions on the case for the Proposed Development, we have had regard to s104 of the PA2008, that the NPSNN as the relevant NPS, the NPPF, the LIR and all other matters which we consider are both important and relevant to the SoS's decision. We have also considered whether the determination of this 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. Subject to consideration of the implications arising from the publication of the Sixth Carbon Budget, the Carbon Budget Order 2021 and the 'Decarbonising transport: a better, greener Britain' and the cumulative effects of carbon emissions as set out we are satisfied, in all respects, this would not be the case.

15.4.13. The Proposed Development would make an important contribution to the improvement and enhancement of the existing strategic road network, meeting one of the key objectives of the NPSNN and local planning policy. The need and benefits are summarised previously in this Chapter but include relieving traffic congestion on the A460, A449 and A5 and provide more reliable journey times, keeping the right traffic on the right roads and improving safety by separating local community traffic from long distance and business traffic, reducing volumes of through-traffic in villages, improving local community access and supporting local economic growth for Telford, Shrewsbury, Wolverhampton, Cannock and Tamworth by improving traffic flow and enhancing access to east-west and north-south routes. Accordingly, we attach very significant weight to the benefits of the Proposed Development and compliance with a key policy objective of the NPSNN. We have found that significant economic benefits would result from the Proposed Development, along with other benefits in terms of overall improvements for air quality.

15.4.14. 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.

15.4.15. Whilst harm would arise from the Proposed Development, both during the construction and operation phases, we are satisfied that the Applicant has taken a reasonable and proportionate approach in seeking to minimise such harm. The OEMP and consequent CEMP includes a comprehensive list of mitigation and management measures during the construction process to minimise the harm arising. A final OEMP was submitted at Deadline 7 [REP7-025].

15.4.16. We have considered the impacts based on the worst-case scenario as assessed in the ES. In the case of the effects on the designated heritage assets we are satisfied that the Proposed Development would result in less than substantial harm and that this would be further minimised by the alignment and proposed mitigation planting. It is acknowledged that there was a tension between planting in respect of protecting the setting of the listed buildings and the Historic Landscape of Hilton Park and that

which would have been most appropriate for bat conservation (see paragraphs 6.7.32 and 7.8.1 of this report). However, we are satisfied that an appropriate balance has been struck which safeguards the importance of the openness of the park on the eastern side of the mainline, acknowledges that there would be an adverse effect on bats and ensures appropriate visual mitigation is provided. Consequently, the Proposed Development would provide a reasonable compromise between the competing interests.

15.4.17. We list below the issues where we conclude that any adverse impacts would be moderate, minor or where we are satisfied that the impacts would be sufficiently minimised and/ or mitigated, such that they would not weigh significantly against the Order being made, albeit that in respect of harm to listed buildings that is still attributed great weight and importance:

- Biodiversity, ecology and the natural environment;
- Economic and social effects (limited to temporary effects during construction);
- Historic environment (including less than substantial harm to designated assets);
- Landscape and visual effects;
- Noise and vibration (limited to temporary effects during construction); and
- Traffic and transport (during construction).

15.4.18. In the case of Green Belt considerations, we have concluded that harm would result, to which we have given substantial weight. However, we conclude that the Green Belt and other harm would be clearly outweighed by other considerations such as the need for and benefits of the Proposed Development.

15.4.19. 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, the SoST may wish to consider the impact of the carbon dioxide (CO_2) equivalent emissions for the operation phase in relation to the Sixth Carbon Budget, which was only made available towards the end of the Examination, the Carbon Budget Order 2021, the 'Decarbonising transport: a better, greener Britain' and the cumulative impact of emissions for the NPSNN in the context of the revised net carbon target.

15.4.20. Although some harmful impacts are likely to result, we consider them overall to be within the scope of the relevant policy provisions of the NPSNN. We are satisfied that the Proposed Development would be generally in conformity with the NPSNN.

15.4.21. In conclusion, we find that the benefits of the Proposed Development, particularly in terms of addressing existing congestion, improving safety and promoting economic benefits for the region, would outweigh the impacts we have identified in relation to the construction and operation of the Proposed Development. 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 Planning Act 2008 as amended (PA2008) and the NPSNN.

15.4.22. We conclude overall that, on the basis of all these considerations, subject to consideration of the effect on the Sixth Carbon Budget, the Carbon Budget Order 2021, the 'Decarbonising transport: a better, greener Britain' and the cumulative effects of carbon emissions, there is a convincing case for development consent to be granted.

16. COMPULSORY ACQUISITION AND RELATED MATTERS

16.1. INTRODUCTION

16.1.1. The application subject to examination included proposals for the Compulsory Acquisition (CA) and Temporary Possession (TP) of land and imposition of Permanent Rights over land. Notwithstanding our conclusion on the merits of the application this Chapter records the examination of those proposals and related issues.

16.2. THE REQUEST FOR CA AND TP POWERS

16.2.1. The request for CA and TP powers is made through the inclusion of Part 5 Powers of Acquisition and Possession in the Applicant's final draft Development Consent Order (dDCO) [REP8-005] (the preferred DCO). The following provisions are included:

- Article 20: Compulsory Acquisition of Land
- Article 21: Compulsory acquisition of land – incorporation of the mineral code
- Article 23: Compulsory acquisition of rights and imposition of restrictive covenants
- Article 24: Private rights over land
- Article 27: Acquisition of subsoil or airspace only
- Article 28. Rights under or over streets
- Article 29: Temporary use of land for carrying out the authorised development
- Article 30: Temporary use of land for maintaining the authorised development

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

- Article 12: Temporary stopping up and restriction of use of streets
- Article 13: Permanent stopping up and restriction of use of streets, public rights of way and private means of access
- Article 18: Protective works to buildings
- Article 19: Authority to survey and investigate the land
- Article 31: Statutory undertakers
- Article 34: Felling or lopping of trees and removal of hedgerows

16.2.3. As finally submitted the application was accompanied by:

- Book of Reference (BoR) [REP6-015];
- Land Plans [REP6-004];
- Works Plans [REP7-004];
- Streets, Rights of Way and Access Plans [REP7-006]
- Special Category Land Plans [AS-011];
- Statement of Reasons (SoR) [REP7-015]; and
- Funding Statement [APP-022].

16.2.4. Taken together these documents set out the land and rights sought by the Applicant, together with the reasons for their requirement and the basis under which compensation would be funded. References to the BoR and the Land, Works and Streets, Rights of Way and Access Plans in this Chapter from this point should be read as references to the latest revisions cited above.

16.2.5. Land over which CA and TP powers are sought is referred to in this Chapter as the Order Land.

Compulsory Acquisition

16.2.6. The CA powers sought under Article 20 are for the acquisition of land within the Order Lands where it is required to carry out or facilitate the Proposed Development. Article 24 provides for the extinguishment of private rights over land that is subject to compulsory acquisition under the Order.

Temporary Possession and Rights Acquired Permanently

16.2.7. In addition to the CA of land Article 23(1) provides for the Compulsory Acquisition of rights and the imposition of restrictive covenants. Article 23(2) provides that in the case of Schedule 5 land only new rights may be acquired, rather than the land itself. It also allows for the imposition of such restrictive covenants, as may be required for the purposes set out in Schedule 5. Article 23(3) restricts the imposition of restrictive covenants to Schedule 5 land, whilst Article 23(4) provides that where the undertaker only needs to acquire rights over land it is not obliged to acquire any greater interest in that land.

16.2.8. Under Article 29(1)(a)(ii) the undertaker may enter any Order land not land only required for TP of which no notice of entry has been service and no declaration made and, under Article 29(1)(d) construct any works on that land as are mentioned in Schedule 1. As the works in Schedule 5 are also mentioned in Schedule 1, this allows the undertaker to take temporary possession of the land set out in Schedule 5 and then construct the works in question. In other words, as it says in the key on the Land Plans [REP6-004], *"Land to be used temporarily and rights to be acquired permanently"* (the land coloured blue).

Temporary Possession

16.2.9. Article 29 provides for the temporary use of land for carrying out the authorised development. As set out in the previous paragraph it also allows for the temporary occupation of any of the land intended for permanent acquisition that has not yet been acquired. Article 29(1)(c) permits the construction of temporary works and sub-paragraph (d) provides for the construction of permanent works specified in Schedule 1, or any other mitigation works in connection with the authorised development. Article 29(3) sets out the time limits for remaining in possession of land under Article 29, unless it has the agreement of the

owners. Article 29(4) makes provision for the restoration of the land and 29(5) sets out the provision for compensation.

16.2.10. As drafted Article 29(9) prevents the Applicant from Compulsorily Acquiring land set out in Article 29(1)(a)(i) (land in Schedule 7) except for that where it would acquire new rights under Article 23 (Compulsory Acquisition of rights and restrictive covenants and imposition of new rights) or where it would acquire subsoil or airspace only under Article 27.

16.2.11. Article 24(4) provides that all private rights over land which the undertaker takes TP of under the Order will be suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

16.2.12. Article 30 allows the Undertaker to take TP of land within the Order Limits, at any time within a period of five years from the date on which that part of the authorised development is first opened for use where required, for the purpose of maintaining the authorised development.

Crown Land

16.2.13. The original application had been accompanied by Crown Land Plans [APP-008] which related to land held on behalf of the Secretary of State (SoS) for Business, Energy and Industrial Strategy by the Coal Authority. However, correspondence from the Coal Authority [AS-040] indicated that interests that the Coal Authority holds in land *"are not categorised as Crown Land for the purposes of the 2008 Act"* and these plans were withdrawn. No land within the Order land therefore represents "Crown Land" for the purposes of the Planning Act 2008 as amended (PA2008).

Special Category Land

Statutory Undertakers

16.2.14. Statutory Undertakers' land and Electronic Communications Code Operators' land is extensively involved along the route and CA powers are sought to acquire land, interfere with interests, override interests and remove apparatus. All the land involved is included in Part 1 and Part 3 of the BoR.

16.2.15. Article 31 allows the Undertaker, subject to the Protective Provisions in Parts 1 to 5 of 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. Article 31(2) provides that the power in relation to apparatus does not apply if the streets in question are to be stopped up as part of the authorised development. In that situation then the provisions of Article 32 will apply.

16.2.16. Article 32 governs what happens to Statutory Undertakers' apparatus (pipes, cables etc.) under streets that are stopped up by the Order. Under Article 32(2) the Applicant may require a Statutory Undertaker to

remove and relocate the apparatus (or apparatus provided in substitution) elsewhere.

16.2.17. The Statutory Undertakers and utility providers with interests in the Order land are:

- British Telecommunications plc;
- Vodafone Limited;
- Zayo Group Ltd;
- Cadent Gas Limited;
- Severn Trent Water;
- South Staffordshire Water Plc; and
- Western Power Distribution Plc.

16.2.18. Schedule 9 to the preferred DCO has Protected Provisions for the following undertakers:

- Part 1: Electricity, gas, water and sewage for undertakers not covered in Parts 3 to 5;
- Part 2: Electronic Communications Code Networks;
- Part 3: Cadent Gas Ltd as gas undertaker;
- Part 4: National Grid as electricity undertaker; and
- Part 5: Western Power Distribution Limited (West Midlands) Plc as electricity undertaker

16.2.19. Disputes between the parties in respect of Protective Provisions will be discussed in Chapter 17 of this report.

The National Trust

16.2.20. Section 130 of the PA2008 applies to land belonging to the National Trust which is held by the Trust inalienably. There is a single plot of land within the application site which is so held; plot 3/7b (the main car park for Moseley Old Hall). No specific provisions are made within the preferred DCO in respect of this land.

16.3. PROPOSED DESIGN CHANGES AND ADDITIONAL LAND

16.3.1. The PA2008 requires that if changes are sought to the application, the changes, whether material or non-material, must be considered and accepted or otherwise by the ExA. If the changes accepted into the Examination involve CA of additional land and the consent to the provision in the DCO authorising such CA of all persons with an interest in that land is not obtained by the Applicant, then the provisions of the Infrastructure Planning (CA) Regulations 2010 (CA Regulations) will apply.

16.3.2. Paragraphs 2.3.2 to 2.3.20 detail the October application changes which were considered to be material. These, however, did not include additional land, but rather in some locations changed requests for the CA to TP of land, or the imposition of rights or non-inclusion. In no cases were land which had been identified for TP or the imposition of rights

following the proposed changes were to be subject to CA. Equally, some land where CA or TP had previously been requested was excluded from such a request.

16.3.3. However, as set out in paragraph 2.3.21 this change included an error in relation to land to the southeast of M6 junction 11. This change had altered this land so that instead of being the subject of CA it was to be subject of TP. However, this was incorrect, in that the Applicant wished to utilise CA powers in respect of part of that plot. As a result of this the Applicant sought to further change the land covered by CA and 're-include' as a new Plot 6/38 on the Land Plans for CA. This change would have represented "additional land" for the purposes of the CA Regulations. We accepted this change in [PD-019].

16.3.4. Regulation 4 of the CA Regulations sets out the procedure to be followed. However, this Regulation only applies where the person(s) with an interest in the additional land do not consent to the inclusion of the provision. Where they do consent, there is no requirement to undertake additional procedures.

16.3.5. The landowners confirmed [AS-135] *"their agreement to the changes set out … and confirm their consent to the permanent acquisition of new Plot 6/38"*. In light of this there was no need to undertake any additional procedures.

16.3.6. The final non-material changes agreed in March 2021 (see paragraphs 2.3.24 to 2.3.26) did not involve any additional land.

16.4. THE PURPOSES FOR WHICH LAND IS REQUIRED

16.4.1. The purposes for which the CA and TP powers are required are set out in the BoR and the SoR.

16.4.2. In general terms, CA is sought for land that would be required permanently for the construction and operation of the main proposal namely the M54 to M6 Link Road and the reconstruction of M54 junction 1 and M6 junction 11, alterations to the local road network, the associated drainage works, landscaping, and habitat compensation. CA of rights is sought to accommodate the diversion of statutory undertakers' apparatus over a number of plots (as identified in Schedule 5). The Applicant states *"… whilst these rights are shown as applying to whole plots, following the completion of the detailed design by the contractor and through engagement with the Statutory Undertakers, the final areas for these works will be in defined corridors"*.

16.4.3. The Applicant also seeks powers to take TP of land to carry out and thereafter maintain the Proposed Development. Articles 33 and 34 make provision for these powers. The SoR explains that this is land which is required during construction of the Proposed Development which is not required permanently. The authorisation of TP prevents the Applicant having to permanently acquire land that is required to construct the Proposed Development, but which is not needed permanently. The

Applicant states that this approach helps to minimise effects on landowners.

16.5. LEGISLATIVE REQUIREMENTS

16.5.1. CA powers can only be granted if the conditions set out in s122 and s123 of PA2008 are met, and the relevant guidance in "Guidance Related to Procedures for the Compulsory Acquisition of Land", DCLG, September 2013 (the Former Department for Communities and Local Government (DCLG) (the CA Guidance) sets out the purpose for which CA may be authorised.

16.5.2. S122(2) of the PA2008 requires that land subject to CA must be required for the development to which the development consent relates, or must be required to facilitate, or be incidental to that development. In respect of land required for development the land to be taken must be no more than is reasonably required and proportionate[64].

16.5.3. S122(3) of the PA2008 requires that there must be a compelling case in the public interest to acquire the land compulsorily, which means the public benefit derived from the CA must outweigh the private loss that would be suffered by those whose land is affected.

16.5.4. An order granting development consent may include provision authorising the CA of land only if the SoS is satisfied that one of the conditions in s123(2) to (4) is met. These are:

- The application includes a request for CA to be authorised.
- All persons with an interest in the land consent to the inclusion of the provision.
- The prescribed procedure is followed.

16.5.5. We are satisfied that the condition in s123(2) is met because the application for development consent includes a request for CA of the land to be authorised and thus one of the conditions is met.

16.5.6. A number of general considerations also have to be addressed either as a result of following applicable guidance or in accordance with the legal duties on decision-makers:

- All reasonable alternatives to CA must have been explored;
- The Applicant must have a clear idea of how it intends to use the land subject to CA powers and to demonstrate that adequate funds are likely to be available to meet the compensation liabilities that might flow from the exercise of CA powers; and
- The decision-maker must be satisfied that the purposes stated for the CA are legitimate and sufficiently justify the inevitable interference with Human Rights of those affected.

[64] DCLG CA guidance.

16.5.7. These matters were tested in the Examination and are reported on below.

16.5.8. S127 of PA2008 applies to land acquired by a Statutory Undertaker for the purposes of their undertaking where a representation is made about the application for the DCO and not withdrawn. S127(5) states that an order granting development consent may include provision authorising the creation of a new right over statutory undertaker's land providing that it can be done without serious detriment to the carrying out of the undertaking or any detriment can be made good by undertakers.

16.5.9. S130 of the PA2008 applies to land which is held inalienably by the National Trust. As set out in paragraph 6.3.31 although the National Trust owns four plots within the Order lands, only one, plot 3/7b (the main car park for Moseley Old Hall), is held inalienably.

16.5.10. S138 of PA2008 provides for an order to include provision for the extinguishment of the relevant rights, or the removal of the relevant apparatus of statutory undertakers only if the SoS is satisfied that such actions are necessary for the purposes of carrying out the development to which it relates.

16.5.11. Further to s120 and Part 1 of Schedule 5 to PA2008 at paragraph 2, TP powers are capable of being within the scope of a DCO. PA2008 and the associated CA Regulations do not contain the same level of specification and tests as for CA to be met in relation to the granting of TP powers, as by definition such powers do not seek to permanently deprive or permanently interfere with a person's interests in land. The need for the powers and their implications for Human Rights are considered below.

16.6. EXAMINATION OF THE CA AND TP CASE

16.6.1. The Examination of the Proposed Development included consideration of all submitted written material relevant to CA and TP. All relevant guidance and legislation is taken into account in the reasoning below and relevant conclusions are drawn at the end of this Chapter in relation to both CA and TP.

16.6.2. Written Questions were posed to the Applicant and Affected Persons (APs) in respect of CA and TP in our First Written Questions [PD-010], and two sets of Second Written Questions [PD-017] and [PD-023].

16.6.3. The Applicant was asked about the justification for the powers sought. A request for a Compulsory Acquisition Hearing (CAH) was made on behalf of Allow Ltd (Allow) [PDC-001]. A CAH was held on 10 December 2020 [EV-021] and [EV-022]. This hearing was not attended by any Statutory objectors but was attended by representatives of South Staffordshire Council (SSC), Allow and Nurton Developments (Hilton) Limited (Nurton), and I and A Simkin.

16.6.4. The documents set out in paragraph 16.2.3 taken together form the basis of the analysis in this Chapter. References to these documents from this point should be read as references to the latest revision cited above.

It should be particularly noted that all Land Plan plot references employed in this Chapter are correct as per the most recently submitted Land Plans.

16.6.5. The Land subject to powers of CA and TP required in order to enable the Applicant to construct, operate and maintain the Proposed Development comprises approximately 198 hectares (ha). Of this, approximately 159ha would be permanently acquired, approximately 32ha would be temporarily possessed for construction and approximately 1ha would be subject to TP with acquisition of permanent rights.

16.7. THE APPLICANT'S CASE FOR CA AND TP

General Case

16.7.1. The Applicant's case is set out in the SoR. It considers that the land subject to CA requests is either needed for the development, or is needed to facilitate the development, or is incidental to the development.

16.7.2. The Applicant considers that the land the subject to CA and TP is the minimum necessary to construct, operate, maintain and mitigate the Proposed Development necessary to achieve its objectives (paragraph 5.3.4 of the SoR [REP7-015]). The Applicant confirms that if less land proves necessary to be required at a later stage in the process, the Applicant will only seek to acquire that part of the land that is required. This would also apply in situations where it transpires that land is only required temporarily rather than permanently (paragraphs 5.3.5 and 5.3.7 of the SoR [REP7 015]).

16.7.3. The Applicant confirms that all land for which TP applies will be restored to its original condition once the work is completed, unless otherwise agreed with the landowner (paragraph 5.3.8 of the SoR [REP7-015] and Article 29(4) of the dDCO [REP8-005]).

16.7.4. Where provision has been made for the creation and acquisition of new rights to accommodate the diversion of statutory undertakers' apparatus (as identified in Schedule 5 of the dDCO [REP8-005]) this has been shown for the whole plot. Following detailed design final areas of works will be in defined corridors (paragraph 5.3.9 of the SoR [REP7-015]).

16.7.5. The Applicant maintains that the environmental mitigation is all essential to mitigate the impacts of the Proposed Development. It was drawn up in collaboration with statutory bodies, including Natural England (NE), to agree methodologies and ensure that environmental mitigation is well designed, reasonable and proportionate (paragraph 5.3.9 of the SoR [REP7-015]).

16.7.6. Even where the Applicant already holds an interest in land, the Applicant is seeking CA or the imposition of rights to ensure the implementation of the Proposed Development should an unidentified owner later assert a previously unidentified interest. This is the minimum required to ensure that the Proposed Development could be constructed.

16.7.7. In general terms the Applicant considers that there is a compelling case in the public interest for CA. The need and benefits of the Proposed Development are set out in the Case for the Scheme [AS-037]. The Applicant notes that the NPSNN identifies a "critical need" to improve national networks and address the impact on quality of life and environmental factors. The Proposed Development has been identified in the National Infrastructure Plan and the Government's Road Investment Strategy for 2020 – 2025 period (RIS2) published in 2020.

16.7.8. The objectives for the Proposed Development are set out in the Case for the Scheme [AS-037] and are said to be:

- Relieve traffic congestion on the A460, A449 and A5 and provide more reliable journey times.
- Keep the right traffic on the right roads and improve safety by separating local community traffic from long distance and business traffic.
- Reduce volumes of through-traffic in villages, improving local community access.
- Support local economic growth for Telford, Shrewsbury, Wolverhampton, Cannock and Tamworth by improving traffic flow and enhancing access to east-west and north-south routes.

16.7.9. The Applicant maintains that there would be substantial public benefits as identified in the Case for the Scheme [AS-037] which include:

- Economic benefits relating to transport economic efficiency improvements, road safety improvements and Indirect Taxation Revenue increase.
- More reliable and faster trips compared to the existing capacity provision on the A460, A5 and A449.
- Local air quality benefits.
- Reliability benefits from reductions in congestion and incidents.

16.7.10. Consequently, the Applicant considers that there is a clear and justified case in the public interest for the Proposed Development.

Early entry

16.7.11. Article 29(1) of the draft DCO [REP8-005] allows the undertaker to take TP of the land listed in the first column of Schedule 7. Article 29 (1)(a)(ii) extends this to *"any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the [Compulsory Purchase Act 1965] (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the [Compulsory Purchase (Vesting Declaration) Act 1981]"*. Effectively, this allows the undertaker to gain early entry of land which is to be the subject of CA before having undertaken the appropriate procedures set out in those Acts or to take TP when the full extent of CA has yet to be determined through the detailed design.

16.7.12. In respect of the latter provision this is explained in the Explanatory Memorandum (EM) (paragraph 5.84 b) of [REP7-013]) that if the detailed design reduces the amount of land that is required to be subject to outright acquisition then the whole of the plot does not need to be the subject of CA. We can appreciate that this may be the case as detailed design is undertaken.

16.7.13. The explanation of this provision was clearly set out in the EM [REP7-013] and no AP has raised objection. We conclude that this approach would facilitate the earlier completion of the Proposed Development and would also allow for matters to be resolved as the detailed design is finalised, allowing for the quantum of land that is needed to be Compulsorily Acquired to be minimised.

Relationship between Temporary Possession with Permanent Rights and Temporary Possession (Articles 23 and 29)

16.7.14. In looking in detail at the drafting of the relationship between Articles 23(1), 27(1) and 29(1)(a) it has come to our attention that there is a conflict between the provisions so that APs may not be fully aware of the extent of rights that the Applicant is seeking.

16.7.15. As drafted, in the preferred DCO [REP8-005] Article 23(1) enables the creation of undefined new rights on a permanent basis in the land described as being for TP only (being the land in schedule 7). This would go beyond that shown on the Land Plans [REP6-004] for the land coloured green ("land to be used temporarily") and thus could lead to unfairness for those affected. This issue does not arise in relation to the acquisition of subsoil or airspace under Article 27 as the Applicant is seeking CA/CA with permanent rights not TP.

16.7.16. It is clear that this is an unintentional error on behalf of the Applicant in that this is not something that the Applicant has given any arguments to support or any indication that they consulted landowners on that basis. On this basis we conclude that there is no need to reconsult on this point.

16.7.17. To resolve this issue, it is recommended that the exceptions set out in Article 29(9)(a) are deleted as this creates the route to allow for the imposition of permanent rights on land, which was only identified for TP. It is also recommended that Article 29(9)(b) is also deleted as it is redundant given that the Applicant is not seeking TP over subsoil or airspace. There then needs to be related changes to this paragraph to deal with this deletion. These changes are set out in Table 9: Recommended changes to preferred DCO.

16.7.18. We have considered whether those whose land would be subject of temporary possession with permanent rights would have been fully aware of this proposal. In each case, the BoR [REP6-015] the description of land, which also sets out the right sought, commences with the phrase *"Temporary possession and acquisition of rights over land*

comprising …"[65]. Reading this, together with Schedule 5 of the draft DCO [REP8-005], which sets out the purpose for which rights over land may be acquired, ensures that any party so affected would be able to ascertain the situation and, had they so wished, make representations on this matter. We therefore conclude that no party would have been disadvantaged by this approach.

Consideration of Alternatives

16.7.19. The SoR [REP7-015] sets out the Applicant's case in relation to the consideration of alternatives. It refers to the pre-application consultation exercise, involving engagement with stakeholders, to identify the preferred route, which became the Proposed Development, and the changes proposed (and accepted into the Examination) during the Examination process.

Funding

16.7.20. The Funding Statement [APP-022] sets out that funding had been agreed for the Proposed Development in the Road Infrastructure Strategy 1 2015 – 2020, and confirmed in response to ExQ1.0.1 [PD-010] at [REP1-036] that the Proposed Development is categorised as committed for the Second Road Period. This means construction of this project is expected to start by 1 April 2025. Highways England Delivery Plan 2020 - 2025 was published on 21 August 2020 following the publication of RIS2 and gives details of specific funding, activities and projects Highways England will deliver over the five years from 2020 to 2025. The Proposed Development is included in this document.

Acquisition by Agreement

16.7.21. The Applicant has set out in Annex B to the SoR a summary of the discussions between the Applicant and landowners seeking to acquire the relevant land by agreement. However, it acknowledges that in order to deliver the Proposed Development in a timely manner, or in the event that it does not prove possible or practical to acquire all the land by agreement, that CA powers should be granted.

ExA Conclusions on the General Case for CA and TP

16.7.22. We agree with the Applicant's conclusions on the generality of the case, including its approach to dealing with Alternatives and ensuring that there are no outstanding interests that have not been previously identified in land that the Applicant already owns. We also agree that in order to ensure delivery of the Proposed Development is not delayed by negotiations that CA, TP with Permanent Rights or TP would be appropriate. However, the overarching conclusion on CA and TP cannot

[65] The text in the BoR for Plot 3/2c omits the word "of", but we consider this to be a typographic error rather than one of substance.

be reached until individual objections and all other relevant and important considerations have been addressed.

16.8. CONSIDERATION OF INDIVIDUAL OBJECTIONS AND ISSUES

16.8.1. Annex B to the SoR [REP7-015] sets out in the table the status of objections with the individual owners and others with an interest in land. These are then considered individually below. Annex B had been updated throughout the Examination and the final version was submitted at Deadline 7. During the course of the Examination there was little change in that objections were still maintained, although as set out below in relation to plot 6/38 the owners agreed to the land being compulsorily acquired.

16.8.2. The following represents the situation at the close of the Examination. Through the changes, principally those in October 2020 [AS-117], there were alterations to the interests sought (see paragraphs 2.3.2 to 2.3.20 of this report). In setting out the various APs positions, we have not included those objections where, as a result of the changes, the Applicant no longer seeks CA, TP with Permanent Rights or TP of land. We may refer to earlier, and now resolved, objections to ensure clarity.

Category 1 objectors

Allow Limited (Allow) [RR-031].

16.8.3. Allow set out its final position at [REP9-005], and written submissions in support or oral case at CAH1 [REP4-048] along with other representations throughout the Examination.

Locations:	Land to west of Hilton Hall and south of Hilton Lane extending to Cannock Road Land to east and west of M6 north of M6 junction 11
Interests:	CA of plots: 4/20a, 4/20b, 4/20c, 5/2, 5/4, 6/16, 6/21 TP with Permanent Rights plots: 4/20f, 4/20g TP of plots: 4/20d, 5/25, 6/13, 6/20
Status Summary:	Unresolved in respect of whether CA and TP of land is justified both generally and, in respect of plots 4/20a, 4/20b, 4/20c, 5/2 and 5/4 and of permanent rights over plot 4/20g, in relation to the appropriate legal and policy tests. There is a signed Statement of Common Ground (SoCG) between the Applicant and this objector [REP8-011].

Objector's case:

Allow's general case, is that in overall terms, the location of the environmental mitigation for the effects on the Lower Pool Site of Biological Importance (SBI) should be located in proximity to the SBI, and that the alternative land that it has promoted is preferable, so that a compelling case in the public interest has not been demonstrated for the land for which rights is sought.

Specific objections in the Relevant Representation (RR) are given to plots 4/20a, 4/20b, 4/20c, 5/2 and 5/4 and of permanent rights over plot 4/20g.

In respect of these plots the legal and policy tests are not met as follows:

Not necessary, because other land is available and preferable from an environmental perspective.

CA is a measure of last resort; since other land is available, a compelling case in the public interest has not been demonstrated.

Scant justification for ecological mitigation to the west of the mainline – therefore there is no clear evidence to support case (see paragraph 13 of the DCLG Guidance)

The Applicant failed to justify consideration of alternatives, not in the generality but in respect of the specificity of individual plots, and this was not assessed by the Applicant.

The Court of Appeal in *R (FCC Environment (UK) Ltd) v Secretary of State for Energy and Climate Change* [2015] EWCA Civ 55[66] at paragraph 10 indicated that the need for the development alone cannot amount to a compelling case in the public interest to compulsory acquire land.

In the alternative, if mitigation did need to go to the west of the mainline then CA is not justified; the mitigation could be secured through TP with imposition of rights (see [REP5-009]).

Applicant's response:

The Applicant maintains that the environmental mitigation is multi-faceted, not

[66] A copy of the judgement can be found at [REP4-047]

just required for ecology, but also in landscape and visual terms and to minimise effects on the setting of listed buildings and the Historic Landscape Area (HLA). Considered holistically, the preferred solution is the most appropriate and this provides a compelling case in the public interest.

The plots are required as follows:

- Plot 4/20a for accommodating drainage attenuation;
- Plot 4/20b for construction of the highway and the Featherstone Junction Northbound slip road;
- Plot 4/20c for environmental mitigation and construction of a culvert;
- Plot 4/20g for the Hilton Park access track– permanent rights are required to ensure this route is maintained.
- Plot 5/2 for (in respect of the objection) environmental works;
- Plot 5/4 for the mainline, a culvert, Hilton Lane bridge, Public Right of Way (PRoW) between Dark Lane and Hilton Lane and associated works. (Note: This area has been reduced in size in the October application changes from that originally sought.)

In respect of the cited Court of Appeal case, the Applicant agrees that there is a distinction between the 'need for a development' as may be supported by a National Policy Statement (NPS) and whether there is a compelling case for CA as required by S122(2) and (3) of the PA2008 of land to deliver that development. The Applicant considers that there are four occasions where there may be a need for the development in planning policy terms but not a case for CA of particular plots. These are:

- The extent of the land requested for CA powers is excessive, in the sense the land is not necessary for the development to be constructed;
- The acquisition of a right, rather than CA, might suffice;
- The owner may agree to sell the land willingly; and
- In the scenario that an NPS did not require consideration of alternative sites for a particular piece of infrastructure, but

where the existence of alternative land would be relevant for the purpose of deciding whether there was a compelling case in the public interest for CA.

It is the Applicant's view that none of these occasions apply to the case for CA of Allow's land in general, or the specific plots in the 4/20 series or plot 5/2.

In relation to the alternative of TP with the imposition of Permanent Rights, the Applicant notes that mitigation for biodiversity purposes must be retained and will require maintenance over a 30-year period. The Applicant considers that it must have the ability to secure this as it would be required in the terms of a DCO, if made. Whilst Allow has expressed an interest in retaining the land and maintaining future mitigation, their interest is caveated by the need to understand in detail what retention, management and maintenance of the mitigation would entail and any financial arrangements for it, including compensation. The Applicant cannot provide this information until the detailed design has been undertaken post-consent, and there is no certainty that this can be agreed (see REP6-039].

ExA Reasoning and Conclusion:

16.8.4. In respect of the Court of Appeal decision, it is clear that just because a need for the development has been identified in a National Policy Station (NPS) does not mean that there is a compelling case in the public interest for the CA (or TP) of any particular plot of land. Such a case needs to be made in respect of each plot of land. In respect of the fourth reason set out above, this does not apply because the NPS does not specifically identify the application site.

16.8.5. In our conclusions on the planning merits of the Proposed Development as set out in Chapter 15 we have concluded that the environmental mitigation on the west side of the mainline (in the case of Allow's objection being the plots as set out above) is necessary as it provides the appropriate balance between the necessary ecological mitigation and visual screening for local residents, in this context in Dark Lane, while minimising the effect on the significance of the heritage assets in Hilton Park and of the Park itself, particularly as great weight should be given to the conservation of heritage assets (see paragraph 5.131 of the National Policy Statement for National Networks (NPSNN)).

16.8.6. We are also satisfied that the quantum and location of woodland planting, is the minimum necessary to ensure that significant harm to biological conservation interests is avoided (see paragraph 6.7.23 of this

report and paragraph 5.25 of the NPSNN) and to ensure that the visual effects on local residents are appropriately mitigated (paragraph 5.158 of the NPSNN).

16.8.7. Allow's objection in respect of plot 5/4 has been, in our view, resolved through the October application changes since it removed the land take from that part of the plot where Allow were specifically objecting ([AS-117] and specifically the most southerly of the three areas identified "EM10" in the plan entitled "Changes to the Environmental Masterplan"[67] on the last page).

16.8.8. We are therefore satisfied that in respect of the plots to which Allow has made specific objection, including for the avoidance of doubt the remaining area of plot 5/4, that each plot is required for the development to which the development consent relates or to facilitate or be incidental to that development.

16.8.9. We consider it an academic argument as to whether any mitigation is required for the Proposed Development for which the development consent relates or is to facilitate or is incidental to that development since in all three cases it would comply with the test set out in S122 of the PA2008 which sets out the conditions under which land can be compulsorily acquired under a DCO.

16.8.10. In respect of the case that powers of TP with Permanent Rights should be utilised instead of CA, we accept the case of the Applicant that until the detailed design has been agreed the precise details of what would be required cannot be concluded. It may also be that negotiations thereafter are unsuccessful, and it is, of course, necessary to ensure that the environmental mitigation is provided for the life of the development. Given the nature of the development this is effectively in perpetuity.

16.8.11. Whilst "temporary" does not necessarily need to be short term, it does imply a limited duration defined by either a date or an event. Under Article 29(3) of the preferred DCO [REP8-005] the undertaker would be required to hand back any land subject to TP within one year of the opening of the Proposed Development (subject to various exceptions including the agreement of the landowner to an extension, which could be refused) and under Article 30(11) of the preferred DCO [REP8-005] the time limit for maintenance thereafter is five years. It is clear that management of the mitigation will be required for more than five years from when the Proposed Development is completed to ensure that it fulfils its functions. Equally, to rely on a landowner agreeing to an extension may well put securing the mitigation at an unacceptable risk of not being managed for an appropriate period. A date as an end date would therefore not be appropriate.

16.8.12. The only other option would be to identify an event. However, given the long term nature of the maintenance regime necessary, any event, such as the land being able to be self-maintaining, is likely to be a significant

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time in the future, if at all, and it would be difficult, if not impossible, to define. This would, effectively, mean that there is little realistic prospect of the land being offered back to the owners in the future. In practice the owner would have no increased right to use the land than any member of the public and would effectively be dispossessed of it. The use of CA, therefore, is the correct approach.

16.8.13. We therefore conclude that the use of TP with Permanent Rights would not be appropriate as an alternative to CA.

16.8.14. Taking the above together, we conclude that there is a compelling case in the public interest for the CA of the plots of land in question and the tests set out in s122 of the PA2008 would be satisfied.

16.8.15. Similarly, the two plots for TP with permanent rights (plots 4/20f and 4/20g) are required to re-provide a high pressure gas main for Cadent Gas Limited. This is needed to ensure that the position of a statutory undertaker is in no worse position and to ensure the provision of gas to the local community. The mechanism of TP with permanent rights would represent the least intrusive manner in which this could be provided and thus there is a compelling case in the public interest.

16.8.16. In respect of the four plots for TP:

- Plot 4/20d is required to replace the existing Dark Lane fence, a visual enhancement sought by the local community; this was agreed as part of the negotiations between the Applicant, the community and Allow as landowners. The Applicant requires rights to ensure this would be delivered.
- Plot 5/25 is required as a Borrow Pit and temporary construction area to facilitate permanent works. This would minimise the need to transport materials to and from the application site and facilitate the construction of the Proposed Development.
- Plots 6/13 and 6/20 are situated on either side of the M6 north of junction 11. These are required to facilitate the construction of permanent works.

16.8.17. In each case we consider that TP is required to ensure the delivery of the Proposed Development and that this is required for purposes ancillary to the development being sought (see s120 of the PA2008).

Barry Jones and Valerie Jones [RR-020, RR-021, RR-035]

Location:	Land to southwest of M6 junction 11
Interests:	CA of plot: 6/9
Status Summary:	Unresolved. There is an unsigned SoCG between the Applicant and these objectors [REP8-016].
Objectors' case:	Land is not required for drainage purposes, the existing stream (Latherford Brook) would suffice.

	Excessive mitigation is being provided, and this particular plot is not necessary. Lack of engagement by Applicant. Would affect possible future development. Compensation would not be to an appropriate level.
Applicant's response:	The land is required to ensure the delivery of the Proposed Development. The stream forms part of the overall drainage strategy, but it is necessary to ensure that drainage ponds provide attenuation to ensure drainage flows are appropriate. Proper engagement took place.

ExA Reasoning and Conclusion:

16.8.18. We are satisfied that due to the increased hard-surfaced area, the new highways, it would be necessary to collect pluvial water and attenuate it at greenfield rates to ensure that there was no harm to the water environment. Thus, the provision of said pond is incidental to the Proposed Development. The location needs to be at a low point close to an existing watercourse in order to act efficiently and effectively. We therefore are satisfied that the location is appropriate and the proposed pond of an appropriate size. Consequently the plot needs to be acquired permanently to allow the Proposed Development to function appropriately.

16.8.19. In relation to engagement, we consider that the engagement as recorded in the unsigned SoCG between the parties [REP8-016] was sufficient. It is in the public interest that the Proposed Development is brought forward expeditiously.

16.8.20. While we would hope that there would be a negotiated agreement between the parties such negotiations could continue indefinitely. This could put the delivery of the Proposed Development at risk. Therefore, for the reasons set out in paragraph 16.7.21 of this report it is considered that CA powers should be granted.

16.8.21. We conclude that there is a compelling case in the public interest for the CA of the plot of land in question and the tests set out in s122 of the PA2008 would be satisfied.

16.8.22. Compensation issues fall outside the matters for consideration in deciding whether to grant a DCO (see s106 PA2008).

Danielle Leigh Killingworth [RR-022]

Location:	Land to west of M6 junction 11
Interests:	CA of plots: 6/15
Status Summary:	Unresolved
Objector's case:	Would like land swap, redesign or early acquisition to allow relocation of animals.
Applicant's response:	Plot 6/15 is required for multiple works including the construction of the realigned Cannock Road and its connection with M6 junction 11, and improvements to that junction. HE would not be able to acquire alternative land using compulsory purchase powers, so any alternative provision by HE would have to be from its own estate. The Applicant is continuing to discuss matters with the objector.

ExA Reasoning and Conclusion:

16.8.23. We agree with the Applicant that this plot is necessary to ensure the delivery of the Proposed Development. Without this plot acquired on a permanent basis the Proposed Development would not be able to achieve its objectives and thus there is a compelling case in the public interest for the land to be compulsorily acquired and the tests set out in s122 of the PA2008 would be satisfied.

16.8.24. While it would be more convenient to the objector to be re-provided with suitable land elsewhere, this falls outside the remit of an application for a DCO.

16.8.25. The level of compensation falls outside the remit of this Examination (s106 PA2008).

Elizabeth Stella Whitehouse & Stella Arblaster [RR-016, RR-036]

Locations:	Land to south M6 junction 11 Land to north of A460 north of M6 junction 11
Interests:	Mrs Whitehouse: CA of plots: 5/23, 6/6, 6/32b, 6/32c TP of plots: 6/32a, 6/36 Ms Arblaster: CA of plots: 5/23, 6/6
Status Summary:	Unresolved.

There is an unsigned SoCG between the Applicant and these objectors [REP8-018].

Objectors' case: In relation to plots 5/23 and 6/6:

- The tree planting is excessive; to compensate for un-registered Ancient Woodland on other land.
- Requires a replacement access after development to ensure non-acquired land can be farmed.
- Would limit farming activities due to lack of agricultural land in area for sale.
- Would prejudice future development of land in conjunction with other for commercial development.

In relation to plots 6/32a and 6/36:

- Needs to ensure stock fencing and maintenance of access.
- Lack of engagement by Applicant.
- Compensation would not be to an appropriate level.

Applicant's response: The nature of environmental mitigation is that compensation often has to be in another location as the original site is directly affected by the Proposed Development. In this case the compensation works need to be located elsewhere, and compensation works on plots 5/23 and 6/6 would link with existing habitats.

Evidence to demonstrate the existence of ancient woodland has been shown and it is an irreplaceable asset. However, this still needs to be compensated for.

In relation to plots 6/32a and 6/36 suitable fencing would be provided; this would be agreed post consent. Access would be maintained throughout the development process.

Proper engagement took place and will continue with those promoting the land for commercial development.

Compensation is assessed independently and would be proportionate.

ExA Reasoning and Conclusion:

16.8.26. A significant proportion of the land sought by the Applicant would be used for permanent works, particularly the mainline and for the

realignment of the northbound off-slip road from the M6 at junction 11. CA is therefore the only appropriate mechanism for this.

16.8.27. We concur with the Applicant when it states the nature of compensation works is that inevitably they occur away from where the direct impacts take place. In this case we are satisfied that the woodland lost through proximity should be considered as ancient woodland. The use of the area adjacent to the Brookfield Farm SBI is appropriate and will allow biodiversity to migrate into this area. Given the location of the Brookfield Farm SBI the land sought (plot 6/6) would be the only suitable location to allow the necessary mitigation to happen. Mitigation needs to be considered as a whole.

16.8.28. We are satisfied with the Applicant's intentions in relation to plots 6/32a and 6/36 would overcome the objections.

16.8.29. In relation to engagement, we consider that the engagement recorded in the unsigned SoCG [REP8-018] was sufficient. It is in the public interest that the Proposed Development is brought forward expeditiously.

16.8.30. While we would hope that there would be a negotiated agreement between the parties such negotiations could continue indefinitely. This could put the delivery of the Proposed Development at risk. Therefore, for the reasons set out in paragraph 16.7.21 of this report it is considered that CA powers should be granted.

16.8.31. We conclude that in order to ensure that the Proposed Development is delivered as designed there is a compelling case in the public interest for the CA and TP of the plots of land in question and the tests set out in s120 and s122 of the PA2008 would be satisfied.

16.8.32. Compensation issues fall outside the matters for consideration in deciding whether to grant a DCO (see s106 PA2008).

Ian Simkin and Adrian Simkin [RR-033]

Locations:	Land to west of A460 north of M6 junction 11, and Land to between A462 and M6 south of M6 junction 11
Interests:	CA of plots: 6/23, 6/29, 6/30, 6/38 TP with Permanent Rights plots: 6/31 TP of plots: 6/37, 6/25
Status Summary:	Unresolved, although following the October application changes some of the plots originally sought (pots 5/26, 5/27 and 6/25) are no longer required, and plot 6/25 would be used under TP.

The objector confirmed their consent to the permanent acquisition of plot 6/38 [AS-135].

There is a signed SoCG between the Applicant and these objectors [REP8-017].

Objectors' case:

Objections are raised in respect of:

- Plot 6/25, the loss of Grade 3a Agricultural Land which is contrary to NPSNN and Framework.
- Plots 6/25 and 6/23, the environmental mitigation is excessive and would be better located elsewhere.
- Plot 6/31, as a bridleway as this is not used.
- Would represent an 8% loss of arable land across holding.
- Plots 6/23, 6/31 and 6/37, would prevent the use of the remaining part of the field for arable and would only be suitable for grazing.
- Plots 6/29 and 6/30 are not being acquired for the Proposed Development, or incidental to, the construction of the highway. The area acquired for species rich grassland will be impractical (and virtually impossible) to manage.
- Compensation for hope value will be sought for plot 6/25 which is being promoted for development.

Applicant's response:

Plot 6/23 is required for works connected to the realignment of M6 junction 11 and is required for these purposes. The Applicant will seek to ensure that there is an access from the layby to match the current arrangement.

The replacement of the bridleway is required by policy and legislation to retain connectivity of PRoWs where possible. Lack of use, by itself, is not sufficient reason to extinguish a PRoW.

Plots 6/29 and 6/30 are required for for Work 39, the realignment and widening of the A460 southbound by a single lane from the M6 toll merge to M6 junction 11 and the widening of the A460 northbound carriageway by a single lane from M6 junction 1, tapering back down to two lanes ahead of the M6 Toll overbridge. None of this land is required for environmental mitigation.

Following the October application changes no land held by these landowners would be subject to CA solely for environmental mitigation.

ExA Reasoning and Conclusion:

16.8.33. We are satisfied that plots 6/23, 6/29 and 6/30 are required for the provision of highway, which, depending on how considered, is either the development to which development consent relates or is required to facilitate that development. If the view is taken that as the A460 north of M6 junction 11 already exists it is being altered to tie-in to the reconfiguration of M6 junction 11. Without these plots the Proposed Development would not be able to achieve its objectives.

16.8.34. We agree with the Applicant in stating that lack of use, by itself, is not sufficient reason to extinguish a PRoW. Consequently, the PRoW needs to be re-provided and the Proposed Development would secure this appropriately. This is most appropriately secured by TP with the imposition of rights.

16.8.35. The plots sought for CA would be utilised for the delivery of the revised M6 junction 11, and consequently the use of CA powers would represent the least level of intrusion to deliver the Proposed Development.

16.8.36. The two plots sought for TP are both required to allow for the construction of the Proposed Development, and it would not be possible to deliver the Proposed Development without them.

16.8.37. We conclude that there is a compelling case in the public interest for the CA, TP with Permanent Rights and TP of the plots of land in question in each case to ensure that the Proposed Development is successfully delivered. Consequently in respect of the tests set out in s120 and s122 of the PA2008 would be satisfied

16.8.38. Compensation issues fall outside the matters for consideration in deciding whether to grant a DCO (see s106 PA2008); this would include whether land was still capable of arable use or could only be used for grazing.

Mark Commins & Tracy Claire Commins [RR-023]

16.8.39. This RR was submitted by Leslie Commins[68] on behalf of himself. However, he is not referred to in the BoR [REP6-015] or any of its previous iterations. It is clear that the correspondence relates to the plots cited and we consider, as within most planning matters, the matters under Examination do not relate to an individual and can be dealt with on that basis.

[68] The address given by Leslie Commins is the same as that for Mark Commins.

Locations:	Land to east, south and northwest of Brookfields Farm, Shareshill
Interests:	CA of plots: 5/19, 5/20, 6/3
	TP with Permanent Rights plots: 5/16, 5/17
Status Summary:	No objection cited.
Objectors' case:	Concerned to ensure that the Proposed Development minimises effects on Brookfield Farm.
Applicant's response:	Thanks the parties for their assistance to date.

ExA Reasoning and Conclusion:

16.8.40. We consider that the plots in question all relate to land to form the mainline or in close proximity, and in respect of the two plots where Rights are requested would be utilised for drainage or the provision of a diversion of an overhead electricity cable; in both cases this would be the most appropriate mechanism to provide delivery. It is not in dispute that they are all necessary for the Proposed Development to achieve its objectives.

16.8.41. While we would hope that there would be a negotiated agreement between the parties such negotiations could continue indefinitely. This could put the delivery of the Proposed Development at risk. Therefore, for the reasons given at paragraph 16.7.21 we consider that CA is necessary to ensure that a failure in negotiations does not prevent the Proposed Development from taking place expeditiously.

16.8.42. We conclude that there is a compelling case in the public interest for the CA and TP with Permanent Rights of the plots of land in question and the tests set out in s120 and s122 of the PA2008 would be satisfied.

Michael John Alfred Byard [RR-026]

Locations:	Land west of Mill Lane, Shareshill
Interests:	CA of plots: 6/10
Status Summary:	Unresolved. There is an unsigned SoCG between the Applicant and this objector [REP8-015].
Objector's' case:	Object to CA but would be content to *"agree means of facilitating HE requirements without the need for HE to use powers to acquire"*.
Applicant's response:	Plot 6/10 is required for re-alignments of Cannock Road and Mill Lane woodland, and species rich grassland, as well as for a temporary construction compound. The Applicant states it will continue to work with the objector, and is agreeable, in

principle and subject to suitable terms, that the land for environmental mitigation will be retained by or returned to the landowner for future management or maintenance.

ExA Reasoning and Conclusion:

16.8.43. We note plot 6/10 is required for the realignment of Cannock Road for environmental mitigation in the form of species rich grassland or woodland as highway verge. This land is either the development to which development consent relates or is required to facilitate that development, if the view is taken that as the A460 south of M6 junction 11 already exists, it is being altered to tie in to the reconfiguration of M6 junction 11. Without this plot the Proposed Development would not be able to achieve its objectives.

16.8.44. For the reasons set out in paragraphs 16.8.10 to 16.8.12 we consider that TP would not be sufficient to ensure that the Proposed Development including its long term mitigation was delivered.

16.8.45. We conclude that there is a compelling case in the public interest for the CA of the plot of land in question and the tests set out in s122 of the PA2008 would be satisfied.

Nigel Simkin and Paul Simkin [RR-027 and RR-034]

Location:	Land east of Brookfields Farm between Hilton Lane and Latherford Brook
Interests:	CA of plots: 5/8, 5/11b, 5/11c, 5/11d, 5/11h, 5/11i, 5/11j, 5/12, 5,15, 5/18, 5/20, 5/22, 6/4, 6/5 TP with Permanent Rights plots: 5/7, 5/11e, 5/11f, 5/13, TP of plots: 5/6, 5/10, 5/11a, 5/11g, 5/14
Status Summary:	Unresolved. There is an unsigned SoCG between the Applicant and these objectors [REP8-014].
Objectors' case:	The land is not required as the road is not required and would have a devastating effect on the farm. Catastrophic effect on lives, home and business. Lack of consultation with objectors. Excessive ecological mitigation exacerbates effects on land: Loss of good quality agricultural land/severed fields/access routes (not all identified). Impact on fishing and clay pigeon businesses.

Impact on riding routes from equestrian business.

Loss of income/increased costs.

Design would result in small areas of land that could not be farmed effectively.

Bridge crossing the mainline would be of insufficient width.

Lack of positive engagement over future commercial development.

Applicant's response: The Applicant empathises with the objectors to CA, but the land is required to facilitate the Proposed Development.

Discussions have taken place between the Applicant and objectors and engagement took place prior to submission of the application.

The quantum of mitigation is the minimum necessary to ensure that the Proposed Development is properly mitigated for its effects.

The Applicant considers that the resulting fields could still be farmed effectively, if the remainder of the holding becomes unviable this is a matter for compensation.

Appropriate access arrangements would be delivered, and the accommodation bridge would be of an appropriate size (ExA Note: the width of the bridge was increased following the RR.) Sufficient visibility would allow users to wait for each other to eliminate risk of conflicts.

The Applicant has been engaging with the land promoter.

ExA Reasoning and Conclusion:

16.8.46. We note that this objection predominantly relates to land which would be utilised for the mainline and is therefore directly required for the development. That which is beyond the mainline is either to facilitate this or incidental, for example the provision of the accommodation bridge.

16.8.47. In our conclusions on the Planning merits of the Proposed Development as set out in Chapter 15 we have concluded that, when considered overall, the environmental mitigation on the west side of the mainline is necessary as it provides the appropriate balance to provide the necessary ecological mitigation and visual screening for local residents, in this context in Dark Lane, while minimising the effect on the significance of

the various heritage assets, particularly as great weight should be given to the conservation of heritage assets (see paragraph 5.131 of the NPSNN).

16.8.48. We are also satisfied that the quantum and location of woodland planting is the minimum necessary to ensure that significant harm to biological conservation interests is avoided (see paragraph 6.7.23 and paragraph 5.25 of the NPSNN) and to ensure that the visual effects on local residents do not outweigh the benefits of the development (paragraph 5.158 of the NPSNN).

16.8.49. This has to be considered holistically over the whole of the Proposed Development.

16.8.50. The Applicant has shown that the accommodation bridge would facilitate the largest road legal vehicles under the Road Vehicles (Authorisation of Special Types) (General) Order 2003. While this would not then allow other vehicles or users to use the bridge at the same time, the survey data set out in Table 2.5 of Appendix 12.2 of the Environmental Statement (ES) [APP-199] does not show a high level of use for the Shareshill 1 bridleway so conflicts would be infrequent, and sufficient visibility would be available to allow users to avoid collision risks. While there would be an effect on the equestrian business, this falls as a compensation issue.

16.8.51. In relation to engagement, we consider that the engagement recorded in the unsigned SoCG [REP8-014] was sufficient. It is in the public interest that the Proposed Development is brought forward expeditiously.

16.8.52. The objectors have not set out in detail why they consider the remaining land would be difficult to farm post-development. In looking at the eastern boundary of the Order lands in this vicinity (north of Hilton Lane) the boundary would be effectively straight. On the western side there are smaller areas south and west of a balancing pond and the ramp to the accommodation bridge at Brookfield Farm. These may have some effect on the farming of this area, but if the Proposed Development is to be delivered then these effects will be unavoidable.

16.8.53. While we would hope that there would be a negotiated agreement between the parties such negotiations could continue indefinitely. This could put the delivery of the Proposed Development at risk. Therefore, for the reasons set out in paragraph 16.7.21 of this report it is considered that CA powers should be granted.

16.8.54. In respect of the land where TP with permanent rights is sought this relates to a strip of land to the east of the mainline which would be utilised for maintenance access to the accommodation bridge. This approach is considered to have the least effect on landowners' rights and still deliver and maintain the Proposed Development.

16.8.55. The land where TP alone is sought would be utilised to allow for the construction of the permanent development and is considered necessary

and appropriate in all cases to allow the Proposed Development to be constructed.

16.8.56. We conclude that there is a compelling case in the public interest for the CA, TP with permanent rights and TP of the plots of land in question and the tests set out in s120 and s122 of the PA2008 would be satisfied.

16.8.57. Compensation issues, including resulting effects on agricultural and other businesses, fall outside the matters for consideration in deciding whether to grant a DCO (see s106 PA2008).

William Bibbey [RR-024]

Locations:	Land to north M54 between M54 junctions 1 and 2 Land to north west of M54 junction 1
Interests:	CA of plots: 3/2b, TP with Permanent Rights plots: 3/2c, 3/2d, 3/6, 4/17a TP of plots: 4/17b, 4/18
Status Summary:	Unresolved. There is an unsigned SoCG between the Applicant and this objector [REP8-012].
Objector's case:	In relation to plot 4/17a this covers land with development potential, and thus would like CA kept to a minimum to avoid sterilisation of the land.
Applicant's response:	In relation to: • Plot 4/17a would be required for TP with Permanent Rights for diversion of a high-pressure gas main operated by Cadent Gas. Such a main exists on this plot, so this is a re-provision and to allow for flexibility. • Plots 4/17b and 4/18 are sought for TP to allow construction. • Plot 3/2b would be required as a drainage pond treating highway runoff in a Sustainable Drainage System, with a buffer of species rich grassland. All plots are essential to the delivery of the Proposed Development. Any development potential would be dealt with in the considering compensation.

ExA Reasoning and Conclusion:

16.8.58. We agree with the Applicant that the Plots here are all essential for the delivery of the Proposed Development, being either to facilitate or would be incidental to that development.

16.8.59. The plot proposed for CA is required to ensure that the Proposed Development is appropriately drained on a permanent basis; therefore the use of CA powers is appropriate and is the minimum necessary based on the evidence submitted.

16.8.60. The plots proposed for TP with permanent rights are all required to facilitate the diversion of existing equipment for statutory undertakers. This therefore provides the most appropriate way to achieve this.

16.8.61. The plots where TP is sought would provide access to allow the diversion of a high pressure gas pipeline. Given the constraint of the M54 and the eastbound off-slip road access from the north is effectively the only way that this could be achieved.

16.8.62. We conclude that there is a compelling case in the public interest for the CA, TP with Permanent Rights and TP of the plots of land in question and the tests set out in s120 and s122 of the PA2008 would be satisfied.

16.8.63. Compensation issues fall outside the matters for consideration in deciding whether to grant a DCO (see s106 PA2008).

Special category land

16.8.64. The National Trust has agreed in a land agreement with the Applicant and confirmed in a Planning Obligation under s106 of the Town and Country Planning Act 1990 (as amended) that it is content for its land to be utilised for compensation planting.

16.8.65. No representations from the National Trust indicate it has an objection in relation to plot 3/7b and consequently the provisions of s130(2) of the PA2008 do not apply.

16.8.66. There is one plot, 1/2, which is north of M54 west of Coven Lane, which is owned by a Statutory Undertaker, Severn Trent Water Limited. If granted, the DCO would authorise the erection of a verge mounted advance directional sign along the M54 carriageway (Work 1C). This would not affect Severn Trent's statutory function and we are therefore satisfied that it can therefore be acquired and not replaced without the serious detriment to the carrying out of the undertaking (see s127(3) of the PA2008).

Land to which no objection has been received

16.8.67. There are a number of other Category 1 landowners in the Order lands whose land would be subject to CA, TP with Permanent Rights or TP who have not raised objections to the Proposed Development.

16.8.68. Some of these are public bodies, in particular Staffordshire County Council (SCC) and SSC, which have indicated their general support for the Proposed Development. The issues of concern raised do not relate to land matters. Similarly, there is land in the control of the Secretary of State for Transport (SoST), which would not represent an impediment to the delivery of the Proposed Development. As the Applicant explains, the comprehensive approach to CA is to ensure 'clean title' and no unexpected delays.

16.8.69. 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.

16.8.70. In all cases we 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.

Category 2 Objector

16.8.71. In addition, the following objection relates to CA and TP in respect of the following party who has Category 2 interests in the Order Lands.

Nurton Developments (Hilton) Limited (Nurton) [RR-038]

16.8.72. Nurton played an active part in the Examination and made a number of other representations throughout the Examination.

Locations:	Land between Hilton Lane and M6 junction 11
Interests:	CA of plots: 5/8, 5/11b, 5/11c, 5/11d, 5/11h, 5/11i, 5/11j, 5/12, 5/15, 5/18, 5/22, 5/23, 6/4, 6/5, 6/6, 6/9 TP with Permanent Rights plots: 5/7, 5/11e, 5/11f, 5/13, TP of plots: 5/6, 5/10, 511a, 5/11g, 5/14,
Status Summary:	Unresolved. There is a signed SoCG between the Applicant and this objector [REP8-019].
Objector's case:	The Environmental Impact Assessment (EIA) has not been adequately prepared in respect of alternatives, and in particular as to the design of the accommodation bridge and in respect of any future development of the interest land.

Insufficient information has been provided to justify the proposed ponds, both for drainage and environmental mitigation, on the interest land.

Further, the environmental mitigation is excessive, in particular the great crested newt (GCN) mitigation ponds, the provision of which is determined through assumed populations. The proposed ecological ponds at Brookfields Farm would introduce an artificial constraint on future development.

There has been a lack of engagement.

Additional reassurance should be given over a potential further bridge over the mainline.

Applicant's response: The Applicant considers that alternatives have been adequately explored and in line with appropriate legislation and guidance. This includes the location and design of the accommodation bridge. Alternative locations would involve additional carriageway and environmental effect.

The location of the attenuation ponds is at low points adjacent to existing ditches to allow for drainage, with the locations dictated by topography and location of ditches and they are of an appropriate size.

NE advised on the appropriate mitigation strategy in relation to ponds for GCN mitigation [AS-002]. NE advised on the appropriate mitigation strategy in relation to ponds for GCN mitigation [AS-002]. They would be surrounded by species rich grassland the woodland so as to be optimal for their purpose. The design was arrived at as being fitting to the character of the area. The ponds are required for long-term habitat for GCNs.

The land is not subject to any allocation for development and is in the Green Belt. Consequently, no specific provision needs to be made to facilitate any future development.

To agree, in principle, to a future bridge would fetter HE's discretion if and when an application was to be submitted, particularly as details of what the bridge would need to accommodate are not clear.

There was appropriate engagement with Nurton but *"the answers [the Applicant] has provided are not the responses Nurton Developments wanted to hear".*

The accommodation bridge design is such to allow the largest road legal vehicles. It is sufficiently wide to allow vehicles and other users to pass, or at least see so that conflicts are avoided.

ExA Reasoning and Conclusion:

16.8.73. A significant proportion of the land sought by the Applicant would be used for permanent works, particularly the mainline and for the realignment of the northbound off-slip road from the M6 at junction 11. CA is therefore the only appropriate mechanism for this.

16.8.74. As set out in paragraphs 4.6.19 to 4.6.21and 16.7.22 of this report we are satisfied with the Applicant's overall approach to the consideration of alternatives and thus the EIA has been adequately prepared.

16.8.75. The site is in the Green Belt and we have found in paragraph 8.6.20 of this report that the Proposed Development would represent inappropriate development in the Green Belt. However, we have concluded in paragraph 15.4.10 of this report that that there are very special circumstances to justify the Proposed Development. This does not mean that such a situation would pertain for any other development in the area.

16.8.76. As set out in paragraph 3.10.3 of this report SSC is undertaking a review of its Local Plan which will consider whether or not the Green Belt boundary should be altered. Such a review is for that process and would be able to take account of the implications, if any, of the SoST's decision on this Proposed Development.

16.8.77. We therefore concur with the Applicant that as the area is not allocated for development it would be premature at this stage to give any assurance as to whether an additional bridge could be accommodated. To require a new bridge or ensure its future provision should it be necessary could in some way be seen to provide support for redevelopment proposals of the area. At this point in time this would be premature as there is no development plan allocation, permission in principle or any extant permission of any sort that would facilitate any development.

16.8.78. We are satisfied that due to the increased hard surfaced area, the new highways, it would be necessary to collect pluvial water and attenuate it at greenfield rates to ensure that there was no harm to the water environment or risk of flooding. Thus, the provision of said pond is incidental to the Proposed Development. The location needs to be at a low point close to an existing watercourse in order to act efficiently and effectively; in locational terms to ensure appropriate function this would

be the only suitable location. We are therefore satisfied that the location is appropriate, and the proposed pond would be of a satisfactory size.

16.8.79. In respect of GCN mitigation we note that there are uncertainties about this, particularly due to a lack of survey information (see paragraph 6.3.108 of this report). However, NE has issued a revised Letter of No Impediment [REP9-004] in light of the current proposals.

16.8.80. The proposed location of the ecological ponds would be located close of the edge of the range of Metapopulation 6 (see [AS-094]) with alternative locations within the application site not available due to the route of the mainline. Alternative locations would require a greater area of land to be Compulsorily Acquired than is currently proposed.

16.8.81. Therefore, the proposed location is appropriate and would be in proximity to the proposed habitats. Given that the ponds would be in close proximity to the Brookfields Farm SBI, which is designated for being wet woodland, it is considered that this would optimise its function for biological mitigation; in locational terms to ensure appropriate compensation this would be the only suitable location. Any effects that this location may have on future development is a matter for compensation which falls outside this Examination (s106 PA2008).

16.8.82. We consider that the design of the accommodation bridge is appropriate in that it allows for the largest road legal vehicles under the Road Vehicles (Authorisation of Special Types) (General) Order 2003. While this would not then allow other vehicles or users to use the bridge at the same time the survey data set out in Table 2.5 of Appendix 12.2 of the ES [APP-199] does not show a high level of use for the Shareshill 1 bridleway so conflicts would be infrequent, and sufficient visibility would be available to allow users to avoid collision risks.

16.8.83. In relation to engagement we are satisfied that adequate engagement took place both prior to the submission and post-submission.

16.8.84. While negotiations could continue indefinitely to allow the Applicant to purchase the land by agreement for the reasons set out in paragraph 16.7.21 of this report it is considered that CA powers should be granted.

16.8.85. In respect of the land where TP with permanent rights is sought this relates to a strip of land to the east of the mainline which would be utilised for maintenance access to the accommodation bridge. This approach is considered to have the least effect on landowners' rights and still deliver and maintain the Proposed Development.

16.8.86. The land where TP alone is sought would be utilised to allow for the construction of the permanent development and is considered necessary and appropriate in all cases to allow the Proposed Development to be constructed.

16.8.87. We conclude that there is a compelling case in the public interest for the CA, TP with Permanent Rights and TP of the plots of land in question.

Consequently, the tests set out in s120 and s122 of the PA2008 would be satisfied.

Other matter

16.8.88. In correspondence received from the Applicant at Deadline 9 [REP9-001] it is stated that it received information from the Planning Inspectorate to the effect that 1 Park Road, Featherstone has been sold, the proprietor has moved out and the property is vacant. The former proprietor held a Category 3 interest and was notified of the application at the relevant stages. The Applicant explained it had not been provided with details of the new owner nor were the details expected to be discoverable from the Land Registry before the close of the Examination. The Applicant asserts it will continue to make diligent enquiries as to the new owner, and we would expect the Applicant to continue to do so and then ensure that any new proprietor was fully aware of the situation.

16.9. THE ExA's RECOMMENDATIONS ON THE GRANTING OF COMPULSORY ACQUISITION POWERS

16.9.1. Our approach to the question as to whether and what CA powers it should recommend to the Secretary of State (SoS) to grant has been to seek to apply the relevant sections of the PA2008, notably s122 and s123, the DCLG Guidance, and the Human Rights Act 1998; and, in the light of the representations received and the evidence submitted, to consider whether a compelling case has been made in the public interest, balancing the public interest against private loss.

16.9.2. The preferred DCO [REP8-005] deals with both the Proposed Development itself and CA powers. We conclude above that when the adverse effects of the Proposed Development are weighed against its public benefits the DCO should be confirmed, albeit with modifications. The consideration of the CA issues must be consistent with that view

16.9.3. We are satisfied that if development consent were to be granted for the Proposed Development there would be a need to acquire the rights and interests in the CA land. On this basis the Proposed Development would comply with s122(1) and s122(2).

16.9.4. We are also satisfied that the Applicant has sought to acquire land by negotiation, and has modified the Proposed Development by way of the material and non-material changes to reduce the extent of land for which it seeks CA or TP in accordance with paragraph 8 of the DCLG Guidance.

Funding

16.9.5. In accordance with DCLG Guidance the Applicant submitted a Funding Statement [APP-022] with the application and reiterated that it was still valid in the last version of the SoR [REP7-015]. The Funding Statement estimates that the cost of the Proposed Development would be about £198.26 million. This estimate includes an allowance for compensation payments relating to the CA of land interests in, and rights over, land

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

16.9.6. The Proposed Development would be fully funded by the Department for Transport (DfT) and it is not dependent on funding contributions from other parties. On the basis of the evidence submitted by the Applicant no changes to the Funding Statement have been requested. We are satisfied that should the DCO be confirmed there would be adequate funding in place to ensure its delivery.

16.9.7. Consistent with previous SoS decisions on Orders relating to Highways England and having regard to the DCLG Guidance in respect of the adequacy and security of financial resources, we are satisfied that there are adequate funds for CA and TP compensation and no additional or special steps are required to secure or guarantee those funds.

16.10. HUMAN RIGHTS ACT 1988 CONSIDERATIONS

16.10.1. The Applicant acknowledges in the SoR [REP7-015] that the DCO engages a number of the articles of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) as brought into UK Law by the Human Rights Act but submits that such interference with individuals' rights would be lawful, necessary, proportionate and justified in the public interest.

16.10.2. It would affect Article 1 of the First Protocol (rights of those whose property is to be Compulsorily Acquired and whose peaceful enjoyment of their property is to be interfered with).

16.10.3. Article 6 entitles those affected by CA powers sought for the project to a fair and public Hearing of their objections. The provision of a CAH [EV-014][69] enabled any AP who wished to be heard to be heard fully, fairly and in public. The Applicant states that all owners and occupiers of land affected by the Proposed Development have been contacted and that representations could be made in response to notice under s56 PA2008 or at any CAH advertised or held in public by the ExA.

16.10.4. Article 8 protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well-being of the country.

16.10.5. In each of these cases while Rights would be interfered with, we consider that the interference would be proportionate and justified in the public interest, and consequently the CA, TP with Permanent Rights and TP would be compatible with the Human Rights Act and the ECHR.

[69] With the Recording available at [EV-021 and EV-022].

16.11. CONCLUSIONS

16.11.1. We conclude as follows:

- The CA powers sought would accord with Sections 122(2) and (3) and 123 of the PA2008;
- There are no Crown interests;
- We are satisfied that in all cases relating to individual objections and issues that CA, CA with Permanent Rights and TP is justified to enable implementation of the Proposed Development and a compelling case in the public interest has been made out;
- The TP of National Trust land that is held inalienably has the agreement of the National Trust and consequently Section 130 of the PA2008 is not engaged;
- In relation to Statutory Undertakers, we are satisfied there are no outstanding objections which are not addressed by recommended changes to the preferred DCO (see Chapter 17);
- There is adequate funding in place for the Proposed Development;
- The Proposed Development would be compatible with the Human Rights Act in terms of being a proportionate interference with property and family life. The Public Sector Equality Duty issues are considered in section 11.8 of this Report.
- Overall, the SoS can be satisfied:
    - the tests in s122(2)(a) and (b) and s122(3) PA2008 are met and recommend acceptance of the CA and TP powers proposed in the DCO; and
    - that the conditions in s123(2) and s123(4) PA2008 are met.

17. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

17.1. INTRODUCTION

17.1.1. A draft Development Consent Order (dDCO) [APP-018] and Explanatory Memorandum (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.

17.1.2. The submission version dDCO was broadly based on the now-repealed Infrastructure Planning (Model Provisions) (England and Wales) Order 2009) along with other DCOs that have been made up to the date of the application. The original draft DCO [APP-018] and subsequent iterations are in the form of a Statutory Instrument as required by s117(4) of the Planning Act 2008 as amended (PA2008).

17.1.3. This Chapter starts by providing an overview of the dDCO, the changes made to the dDCO during the Examination process between the original application draft DCO and the final dDCO submitted by the Applicant at Deadline 8 [REP8-005]. This final dDCO will be referred to as "the preferred DCO" as it is the version preferred by the Applicant at the end of the Examination.

17.1.4. A final EM was submitted at Deadline 7 [REP7-013] which incorporated changes to that date. This Chapter then considers changes which should be made to the preferred dDCO in order to arrive at the Examining Authority's (ExA's) Recommended DCO in Appendix D to this Report in the event that the Secretary of State for Transport (SoST) is minded to make the Development Consent Order (DCO).

17.1.5. The sections of this Chapter describe:

- The DCO as applied for;
- Changes during the Examination;
- Wording of Requirements (Rs); and
- Matters in contention.

17.2. THE DCO AS APPLIED FOR

17.2.1. The first version of the dDCO [APP-018] included a number of provisions to enable the construction, operation and maintenance of the Proposed Development. As explained, it was modified during the Examination. Its final general structure is set out below:

- Part 1 (Preliminary): Articles 1 and 2 set out how the DCO may be cited, when it would come into force and the meaning of various terms used in the Order;
- Part 2 (Principal Powers): Article 3 to 5 provide development consent for the Proposed Development, allow it to be carried out and maintained. Article 6 deals with limits of deviation. Articles 7 and 8

set out who has the benefit of the Order and how that benefit can be transferred;
- Part 3 (Streets): Articles 9 to 16 provide powers in relation to street works. These include the ability for the undertaker to construct and maintain new, altered or diverted streets and other structures, provides for the classification of roads, powers for temporary and permanent stopping up and restriction of streets, ensures access to works and deals with traffic regulation, including the use of clearways;
- Part 4 (Supplemental Powers): Articles 17 to 19 relate to discharge of water, protective works to buildings and authority to survey and investigate land;
- Part 5 (Powers of Acquisition and Possession): Articles 20 to 33 provide powers in relation to the Compulsory Acquisition (CA) and Temporary Possession (TP) of land, along with powers in relation to Statutory Undertakers;
- Part 6 (Operations): Articles 34 and 35 contain powers in relation to trees and hedgerows, including those trees protected by Tree Preservation Orders; and
- Part 7 (Miscellaneous and General): Articles 36 to 42 relate to the application of landlord and tenant law, operational land under the Town and Country Planning Act 1990, defence to proceedings in respect of statutory nuisance, protection of interests, document certification, the serving of notices and arbitration.

17.2.2. There are ten schedules to the dDCO providing for:

- The description of the Authorised development (Schedule 1);
- The requirements applying to it (Schedule 2);
- Classification of roads (Schedule 3);
- Permanent stopping up of streets, public rights of way and private means of access (Schedule 4);
- Land in respect of which only new rights etc. may be acquired (Schedule 5);
- Modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants (Schedule 6);
- Land of which TP may be taken (Schedule 7);
- Trees and hedgerows (Schedule 8);
- Protective Provisions (Schedule 9); and
- Documents to be certified (Schedule 10).

17.2.3. Although there were numerous changes made to the dDCO during the Examination, as described below, including moving provisions from one part to another, its broad structure did not change.

17.3. CHANGES DURING EXAMINATION

17.3.1. During the Examination the Applicant sought to make various changes to the dDCO. These changes were in relation to the Proposed Changes to the design submitted in October 2020 [AS-075], in response to the ExA's First Written Questions (ExQ1) [PD-010], Second Written Questions (ExQ2) [PD-017] Third Written Questions (ExQ3) [PD-023], agreements

between parties (particularly to deal with Protective Provisions) and our Proposed Changes to the draft DCO [PD-025].

17.3.2. As part of the Examination process, we published our Consultation Draft Consent Order, or more accurately a list of proposed changes to the dDCO existing at that time, version 5, which we considered were likely to be necessary.

17.3.3. In setting out these Proposed Changes [PD-025], we made clear that these did not include all those matters where it might need to recommend a change to the SoST. These were most likely to be in situations where it was clear that there were fundamental differences between parties.

17.3.4. At each iteration of the dDCO the Applicant submitted a "clean" and "tracked change" version of the dDCO. There were seven versions of the dDCO up to the close of the Examination. The Table 8 sets out the version number, dates of the submission and Examination event, along with the Examination Library numbers of the clean and tracked change versions.

Table 8: History of draft DCOs

Version	Date	Event	Clean version reference	Tracked change version reference
1	January 2020	Application	[APP-018]	
2	October 2020	To accompany Proposed Changes	[AS-075]	[AS-074]
3	November 2020	Deadline 2	[REP2-006]	[REP2-005]
4	January 2021	Deadline 4	[REP4-005]	[REP4-006]
5	February 2021	Deadline 6	[REP6-006]	[REP6-007]
6	March 2021	Deadline 7	[REP7-011]	[REP7-010]
7	April 2021	Deadline 8	[REP8-005]	[REP8-004]

17.3.5. As these various changes often flowed from discussions between the Applicant and Interested Parties (IPs) to address concerns raised, we

consider that they are justified and can be recommended for inclusion in the DCO if the SoST concludes that development consent should be granted.

17.4. PROVISION OUTSIDE APPLICATION SITE

17.4.1. There is one provision of the dDCO which provides for effect outside the application site. As set out in paragraph 12.3.13 it was agreed between Applicant and Staffordshire County Council (SCC) that a new 40 miles per hour (mph) speed limit would be imposed on a section of Hilton Lane some 629 metres (m) long to the east of the proposed 30mph speed limit. The vast majority of this 40mph section falls outside the site. This would be secured in Article 11(8) and Part 7 of Schedule 3 to the preferred DCO [REP8-005] and is shown on Sheet 5 of the Traffic Regulation Measures [REP7-007] in the green dashed line along Hilton Lane.

17.4.2. Section 120 of the PA2008 sets out what may be included in an order granting development consent. Under subsection (3) an order may make provision relating to, or to matters ancillary to, the development for which consent is granted, with subsection (4) setting out *"the provision that may be made under subsection (3) includes in particular provision for or relating to any of the matters listed in Part 1 of Schedule 5"*. The setting of speed limits is not included in this Part. In paragraph 5.35 of the EM [REP7-013] the Applicant takes the view that these matters are ancillary and thus fall within the provision of sub-section (3). No contrary view was expressed.

17.4.3. In our view none of the drafting in s120 of the PA2008 limits the scope of a development consent order to the extent of the application site. The drafting of subsection (3) provides that the matters listed in Part 1 of Schedule 5 of the PA2008 is not a closed list. Consequently, while this is a matter of law and thus is a matter for the SoS, we take the view that such a provision would be lawful.

17.4.4. The provision of a speed limit as proposed would seek to ensure that traffic from the east reduced in speed prior to arriving at dwellings on Hilton Lane, which is required in the interests of highway safety and would have slight beneficial (not significant) effect in terms of noise. We therefore conclude that this provision is appropriate subject to a point about timing which is considered in paragraph 17.5.56 of this report.

17.5. MATTERS IN CONTENTION

17.5.1. This section of the Report addresses the outstanding matters where IPs did not agree with the Applicant as to the substance of the draft DCO. This will be dealt with by topic area.

17.5.2. A number of these were considered in the relevant chapter of this report and we will not repeat our reasoning why we consider that the preferred DCO should be amended, since that was set out above.

17.5.3. As part of the Examination, we asked those promoting such changes to set out how they considered that the provisions should be drafted. These promoted changes were then the subject of comment, if on a without prejudice basis. This Chapter will consider these and set out our conclusions.

17.5.4. There were also disputes between the Applicant and various Statutory Undertakers as to how the relevant Protective Provisions, as set out in Schedule 9 of the preferred DCO, should be drafted. This Chapter will also consider these and set out our conclusions.

17.5.5. Having concluded on each matter, Table 9: Recommended changes to preferred DCO, then sets out the proposed changes to the preferred DCO. This includes changes considered appropriate through consideration of the planning issues in Chapters 5 to 14. All are cross-referenced from where the recommendation is considered in the Table.

Archaeology

17.5.6. As set out in Chapter 7, as originally submitted the application did not include a Written Scheme of Investigation (WSI) or the results from trial archaeological trenching.

17.5.7. A WSI was submitted at D4 [REP4-032] and was agreed with SCC and a Report on Archaeological Trial Trenching was submitted at D7 [REP7-035]. This concluded there was a lack of archaeological evidence for activity other than post-medieval and modern agricultural practices. It also recommended that no further work was necessary. As set out in paragraph 7.7.33 no representations were submitted following the submission of the Report on Archaeological Trial Trenching to indicate that any party considered that further archaeological work was necessary.

17.5.8. As drafted in the preferred DCO, R9 requires the submission of a Written Scheme of Investigation (WSI), that the Proposed Development takes place in accordance with the WSI and the final Report is added to the Historic Environment Record. Further, R4(2)(d) also requires that the Construction Environmental Management Plan (CEMP) includes an Archaeological Management Plan and an Archaeological Mitigation Strategy. The latter of these is set out as Appendix B of the Outline Environmental Management Plan (OEMP) [REP7-026] and there are provisions within the OEMP (provisions PW-CH1 and PW-CH2) which also deal with trenching and the provision of an Archaeological Management Plan.

17.5.9. As a result of the archaeological trenching some of these provisions are effectively redundant having been completed. For the OEMP this is of little import since D4 only requires the CEMP to be *"substantially in accordance with the OEMP"*. However, for R9 some elements are no longer necessary.

17.5.10. In the unlikely event that archaeological remains not identified are revealed when carrying out the Proposed Development, then the

measures set out in the sub-paragraphs (4), (5) and (6) of the submission draft of R9 need to take place. Consequently, R9 needs to be redrafted. This revised drafting is set out in Table 9: Recommended changes to preferred DCO.

Weight restriction on Cannock Road and surrounding highways

17.5.11. The application does not provide for a weight restriction on Cannock Road following the Proposed Development. For the reasons set out in paragraphs 12.7.21 to 12.7.50 we consider that such a restriction is necessary. In addition, this would need to tie into the existing weight restrictions that are in place at present (see submission at [REP4-042]).

17.5.12. This submission also set out provisions for the delivery of such a weight limit, to which the Applicant responded [REP5-004] on a 'without prejudice' basis. In simple terms SCC suggests amending Article 16 (Traffic Regulation) while the Applicant considers that this should be done by amending Article 11 (Classification of Roads).

17.5.13. The new speed limit on Hilton Lane is being included within Article 11 and it would be more consistent for the addition of this weight restriction to be dealt with under the same Article. Therefore, we consider that the drafting set out by the Applicant is to be preferred, subject to drafting changes to take account of changes to the preferred DCO following the Deadline 5 submission and to ensure that the traffic regulation comes into force.

17.5.14. In light of our conclusions the discussion between M6 Diesel and the Applicant as to whether Article 16 of the preferred DCO should be time limited to prevent a weight restriction subsequent to the opening of the Proposed Development becomes academic. However, in the event that the SoS does not agree with us regarding the imposition of the weight restriction, we are of the view that the provision of Article 16(3) would be sufficient to alleviate M6 Diesel's concerns. This is a 'sunset clause' on the ability of the undertaker to impose any Orders 12 months after the opening of the authorised development. This would ensure that any later imposition would have to be considered independently from the delivery of the Proposed Development.

Signage relating to M6 Diesel and weight restriction

17.5.15. As set out in paragraphs 12.7.28 to 12.7.32 we consider that the DCO should be amended to allow for additional signage at:

- M6 junction 11 to direct traffic around the gyratory to the M6 Diesel site and to give advance notice of the weight restriction on Cannock Road; and
- the proposed Featherstone West roundabout to give advance notice of the weight restriction on Cannock Road.

17.5.16. As a result of the discussions at Issue Specific Hearing (ISH) 2 on Traffic and Transport, M6 Diesel submitted Protective Provisions in its favour in

respect of signage at Deadline 4 [REP4-055]. The Applicant responded to these at [REP5-004] but only to say that it did not consider such signage was necessary or appropriate. For the reasons set out in paragraphs 12.7.28 to 12.7.32 we disagree. Following a Further Written Question from the ExA at ExQ3.5.9 [PD-023], the Applicant responded at [REP6-039]. M6 Diesel responded further at [REP7-041] and the Applicant, finally, at [REP8-029]

17.5.17. The Applicant took the view that, rather than Protective Provisions, any *"signage would more appropriately be secured through the inclusion of a new works description within Schedule 1 of the draft DCO (with appropriate changes to the Works Plans to show the proposed location of the signage) or the inclusion of a new requirement within Schedule 2 of the draft DCO"*. The Applicant considered that any signage should be agreed by the SoS following consultation with the local highway authority and that it would not be appropriate for approval to be via a private company. The Applicant also considered that any signage should be subject to on-going review as necessary, rather than for as long as the M6 Diesel site continues to operate.

17.5.18. We consider that as M6 Diesel is not a Statutory Undertaker it would not be appropriate for this matter to be dealt with by Protective Provisions, and equally M6 Diesel should not be the approval body. All other approvals are by the SoST and we consider for consistency and ease of operation that should be the case in relation to this matter. However, this does not mean that M6 Diesel (and for that matter the local highway authority) should not be consulted, so that the SoST would be aware of their views.

17.5.19. In the preferred DCO the reconstruction of M6 junction 11, including portal gantries, falls within Work No. 36 of Schedule 1. The rubric at the end of that Schedule provides for, inter alia, in items (k) *"works to place … road furniture"* and (o) *"provision of other works including … signing"*.

17.5.20. Including specific wording in Work 36 to ensure signage to M6 Diesel would not be appropriate since this would be anomalous, as other destinations are not specified in that Work. We therefore conclude that the most effective way to deal with this matter would be the provision of an additional Requirement in Schedule 2 and recommend to this effect.

17.5.21. We, however, consider that provided that signage is displayed, which can be secured in the wording of the Requirement, then to require it to be maintained in perpetuity would not be appropriate since circumstances may change.

17.5.22. In addition, so that drivers of Heavy Goods Vehicle (HGV) traffic are advised of the proposed weight restriction before reaching it, we consider that two warning signs should be displayed at the junction of Cannock Road with the Featherstone west roundabout and the junction of Cannock Road with the M6 junction 11 gyratory. Neither of these locations is shown on the Traffic Regulation Measures Plans [REP7-007], although the approximate location for the southern sign is shown at the end of the

identification line for the "Featherstone West Roundabout" on Sheet 4 of those Plans. The northerly sign would be located to the south of the slip road from the M6 junction 11 gyratory to the Cannock Road.

17.5.23. These two signs should be of the type shown in diagram 818.4 (S12-28-22) as shown in Figure 5-3 of Chapter 3 of the Traffic Signs Manual (Regulatory Signs 2019 Edition) and indicate *"Weight limit [x distance] ahead"*.

17.5.24. In order to secure these signs, we recommend, for the reasons given above in respect of the signage to the Saredon Filling Station, an additional Requirement in Schedule 2.

Protective Provisions

17.5.25. During the Examination representations were made over the form of Protective Provisions to be made under Schedule 9 of the preferred DCO.

17.5.26. In particular there were Relevant Representations (RR) from Cadent Gas Limited (Cadent) [RR-010], South Staffordshire Water plc (SSW) [RR-015], Severn Trent Water Limited (STW) [RR-002] and Western Power Distribution Ltd (WPD) [RR-008] which need to be further considered.

Cadent

17.5.27. Cadent explains it has a medium pressure and a high pressure (major accident hazard) gas pipeline and associated above or below ground apparatus within the application site which would be affected.

17.5.28. Cadent does not object in principle to the Proposed Development but has objections to the relevant Protective Provisions. These are set out in various documents [REP1-079], [REP3-042], [REP4-049], [REP6-050], [REP7-039], [REP8-032] and [REP9-006]. There is also an unsigned Statement of Common Ground (SoCG) between the Applicant and Cadent [REP8-020]. The Applicant's specific final response is provided in Table 3.4 of [REP8-029] although it also made comment at D9 [REP9-001].

17.5.29. The preferred DCO [REP8-005] includes Protective Provisions in favour of Cadent as Gas Undertaker, but these are not agreed, although it must be noted that there has been considerable progress on agreement since the original submission. There remain three areas of dispute between the parties (references are to paragraph numbers in Schedule 9 of the preferred DCO [REP8-005]).

Paragraph 20 (on-street apparatus)

17.5.30. While the wording of most of this paragraph is agreed, there is a dispute over sub-paragraph (3).

17.5.31. Cadent is of the view that it should not be liable for any expenses associated with works wherever located, while the Applicant considers that the costs sharing arrangements for major highway works, major

bridge works or major transport works under S85 of the New Roads and Street Works Act 1991 should apply. The Applicant takes this view because it is a publicly funded body and should be able to benefit from the statutorily permitted cost sharing provisions for major works.

17.5.32. We consider that whether the Proposed Development is publicly funded or not is not a relevant consideration. Rather it should be whether, as a matter of public policy, there should be such cost sharing arrangements. This is a matter for the SoST. However, we take the view that as the New Roads and Street Works Act 1991 does have this provision, and this represents the view of Parliament as set out in law, in the absence of a specific reason these provisions should apply.

17.5.33. Consequently, we consider that the drafting provided in the preferred DCO should apply.

Paragraph 27 (expenses)

17.5.34. The parties have utilised the term "betterment", but we consider that this is not a good term in respect of the science and art of planning since this has a specific definition relating to increases in the value of land by the grant of a planning permission. In respect of the matters in hand a better word would be "enhancement" since what is referred to is the situation where Cadent would be in an enhanced position as a result of the Proposed Development.

17.5.35. Cadent takes the view that were it not for the Proposed Development there would be no need for it to replace or renew its apparatus. Therefore, any enhancement is caused by the Applicant as part of the development and Cadent should not make provision towards this. Such matters could put Cadent in breach of its statutory duty under Section 9 of the Gas Act 1986 to *"develop and maintain an efficient and economical pipe-line system for the conveyance of gas"*.

17.5.36. The Applicant wishes to include three elements where it would be able to off-set benefits against cost:

- Scrap value from removed apparatus;
- Where determined in arbitration that the replacement apparatus represents an enhancement, the additional value from this, with specified exclusions; and
- Where the existing equipment is more than 7 years 6 months old the value of this should be removed, on the basis of depreciation from age.

17.5.37. In each case the Applicant considers that the benefit that the undertaker may receive would be self-evident. Similar provisions have been included in other made DCOs including A585 Windy Harbour to Skippool Improvement (the A585WHtS) and A1 Birtley to Coal House Improvement (the A1BtC).

17.5.38. We are of the view that it is reasonable for the Applicant to receive the benefit of the scrap value of any apparatus removed. By definition it

would be scrap and no longer of use to Cadent. This would only be equitable given that the Applicant would be paying for the new (replacement) apparatus under paragraph 27(1). In our view sub-paragraph (2) should be retained.

17.5.39. While only applying where arbitration is involved, we consider that any increased value from enhanced provision should be excluded. Such enhanced provision would only be incidental to works required by the Proposed Development and would be unlikely to be at the behest of Cadent given the overall de-carbonisation of energy supply. Consequently, we consider that sub-paragraphs (3) and (4) should be deleted.

17.5.40. In respect of the depreciation by age, there is no information in front of us as to the length of the 'life cycle' of Cadent's equipment. While such equipment will have a life span, to exclude this arbitrarily on the basis of an unjustified date would not be appropriate. In our view sub-paragraph (5) should therefore be deleted.

Paragraph 28 (Indemnity)

17.5.41. Cadent makes clear that it would prefer for the whole of sub-paragraph 3(c) to be deleted relating to indirect or consequential loss but accepts that in light of SoS decisions in other DCO applications that this is unlikely to be agreed to. We agree with this proposition.

17.5.42. Cadent makes the point that in two made DCO's, Protective Provisions relating to the A585WHtS and the A1BtC, consequential liability was allowed for, but accepts that in the two other schemes, the A38 Derby Junctions[70] and the M42 Junction 6, such provisions were not provided. Cadent notes that the A1BtC scheme was the only one of the four where this matter was expressly considered by the SoST.

17.5.43. Cadent notes that it has contractual obligations to landowners where it would be put at risk by and because of the Proposed Development only. It therefore seeks to ensure that it is not put in the position of a loss by the actions of the undertaker. This would only *"apply in respect of landowners in whose land apparatus is situated so is a narrow exclusion to a broad carve-out to the indemnity which Cadent is otherwise content to accept"*.

17.5.44. The Applicant notes that the SoST has previously considered this in respect of Cadent (as opposed to National Rail in the A1BtC provisions which were in dispute) in the M42 Junction 6 DCO and, most recently, in the A38 Derby Junctions DCO. In the latter case the ExA and SoS concluded that there was no serious detriment to Cadent as a statutory

[70] We are aware that the High Court has quashed the decision in respect of the A38 Derby Junctions DCO so that the decision of 8 January 2021 no longer stands. However, we believe the quashing does not relate to this matter and consequently we consider that in this matter we can still rely on the SoS's reasoning.

undertaker, the test in S127 of the PA2008. The Applicant concludes *"the exclusion of indirect and consequential losses was held to be entirely consistent with Highways England's position as a publicly funded body and Highways England respectfully requests that the ExA and the Secretary of State uphold this position."*

17.5.45. S127 of the PA2008 sets out the test as being one of "serious detriment", which will be a matter of judgement. Again, we consider that whether the Proposed Development would be publicly funded is not material. Notwithstanding this, given that Cadent's interests in this respect only relate to land in which its equipment is situated, we consider that would not result in serious detriment. Consequently we consider that the drafting put forward by the Applicant is appropriate, noting that this does include direct or indirect loss which is not reasonably foreseeable. This drafting allows Cadent to seek to mitigate its risk by undertaking any appropriate surveys and communicating the results to the undertaker.

17.5.46. Therefore, we consider that the drafting provided by the Applicant should be retained.

Other matters

17.5.47. We note that the Applicant's cover letter to Deadline 9 [REP9-001] makes reference to a meeting being held on 20 April 2021 between the Applicant and Cadent to discuss outstanding points, and of the ExA being updated after that meeting. No such update has been received. However, there may be post-Examination correspondence provided to the SoST on this, which takes forward the matters set out above.

17.5.48. We have noted two typographic errors in this part of the preferred DCO in paragraphs 22 and 33. The specific recommendation set out below deals with them both.

SSW

17.5.49. SSW wrote at Deadline8 [REP8-033] to confirm it had reached agreement with the Applicant *"which is now just subject to formal documentation"*. Notwithstanding that there is no signed SoCG between the Applicant and SSW, we have no reason to believe that the drafting in the preferred DCO [REP8-005] does not meet this agreement.

STW

17.5.50. In both its RR [RR-002] and Deadline 2 [REP2-015] submissions, STW explain that is has assets in the application site which need to be protected. In the latter correspondence it explains that discussions are continuing between it and the Applicant.

17.5.51. The unsigned SoCG [REP8-021] between the Applicant and STW indicates that there is agreement on the Protective Provisions, which would be covered under the general provisions set out in Part 1 of Schedule 9. In that unsigned SoCG there are no matters set out as still to be discussed.

17.5.52. In the absence of any information to the contrary we are satisfied that STW's status as a Statutory Undertaker is protected.

WPD

17.5.53. In both its RR [RR-008] and Deadline1 [REP1-001] submission, WPD explain that it has assets in the application site which need to be protected. In the latter correspondence it explains that discussions are continuing between it, particularly over the imposition of rights and the Applicant and also that it considers that a SoCG is unnecessary.

17.5.54. The unsigned SoCG [REP8-023] between the Applicant and WPD indicates that there is agreement on the Protective Provisions, which would be covered under the general provisions set out in Part 5 of Schedule 9. In that unsigned SoCG there are no matters set out as still to be discussed.

17.5.55. In the absence of any information to the contrary we are satisfied that WPD's status as a Statutory Undertaker is protected.

Other Changes

17.5.56. As set out in paragraph 17.5.13 there needs to be certainty that the relevant traffic regulations are to be brought into force. The drafting of Article 11(9) set out below allows for this, and to ensure consistency the drafting of Article 11(8) should also be changed in like manner. This is recommended below.

17.5.57. In Article 2 the definition of "maintain" is very widely drawn and, is not limited as in other made DCOs to the extent of that which has been assessed in the Environmental Statement (ES). An example of drafting including such a limitation to the effects which have been assessed is set out in the A1BtC DCO. To not include this limitation would be contrary to the relevant legal and policy principles and, consequently, we recommend a change to this effect.

17.5.58. Further, within the preferred DCO there are a small number of typographic errors. In addition to the more substantive changes considered above, we have included these in Table 9: Recommended changes to preferred DCO.

Table 9: Recommended changes to preferred DCO

Provision	Examination Issue	Recommendation
Cover	Typographic	Delete
Contents	Typographic and to cover recommended change	In contents of Schedules, at end of Schedule 3 add:

Provision	Examination Issue	Recommendation
		"PART 7 – CREATION OF NEW TRAFFIC REGULATION ORDERS. PART 8 – VARIATION OF EXISTING TRAFFIC REGULATION ORDERS"
Article 2	To ensure later maintenance does not exceed current assessment.	In the definition of "maintain" after the word "includes" insert ", to the extent assessed in the environmental statement,".
Article 11	Certainty as to provision of speed limit to east of application site in Hilton Lane.	In sub-paragraph (8) after "by the undertaker," insert "which shall be no later than three months after the authorised development is open for traffic,".
Article 11	Provision of Weight limit on Cannock Road	After sub-paragraph (8) insert: (9) On such day as the undertaker may determine, which shall be no later than three months after the authorised development is open for traffic, the order specified in column (3) of Part 8 (variation of existing traffic regulation orders) of Schedule 3 is to be varied 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.

Provision	Examination Issue	Recommendation
		Renumber sub-paragraph (9) as (10) and replace "(8)" with "(9)".
Article 20	Typographic	In paragraph (2) replace "(compulsory acquisition of rights and restrictive covenants)" with "(compulsory acquisition of rights and imposition of restrictive covenants)"
Article 29	To ensure the imposition of permanent rights on land does not extend to land only identified for TP.	Replace paragraph (9) with: "The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i)."
Article 31	Typographic	In paragraph (1) replace "(compulsory acquisition of rights and restrictive covenants)" with "(compulsory acquisition of rights and imposition of restrictive covenants)"
Article 40(4)(b)	Typographic	Replace "contain" with "contained".
Schedule 2, Requirement 9	Archaeology	Delete sub-paragraphs (1), (2) and (3). Renumber sub-paragraphs (4), (5) and (6) as (1), (2) and (3) respectively. In newly numbered sub-paragraph (2) replace "sub-paragraph (4)" with "sub-paragraph (1)" each time it occurs.
Schedule 2	Signage to Saredon Filling Station.	After Requirement 10 add:

Provision	Examination Issue	Recommendation
		Signage to Saredon Filling Station **11**. No part of the authorised development constituting Work No. 36 in Schedule 1 shall take place unless the undertaker has first consulted with the local highway authority and the proprietors of the Saredon Filling Station regarding a scheme for the signage of this Work, including provision of directional signage to the Saredon Filling Station. The submission to the Secretary State must include directional signage to the Saredon Filling Station and the approved signage must be installed in full before the relevant part of the authorised development becomes fully operational.
Schedule 2	Advance warning signs of weight restriction	After new Requirement 11 add: *Weight Restriction Warning Signs* **12.** Before the authorised development is operational, two warning signs, of a type shown in diagram 818.4 (S12-28-22) as shown in Figure 5-3 of Chapter 3 of the Traffic Signs Manual (Regulatory Signs 2019 Edition) (or any equivalent sign in a subsequent edition) shall be installed at the junction of Cannock Road with the

Provision	Examination Issue	Recommendation
		Featherstone west roundabout and at the junction of Cannock Road with the M6 junction 11 gyratory indicating warning of the weight restriction imposed pursuant to sub-paragraph (9) of Article 11 of this Order and these signs shall thereafter be maintained.
Schedule 2	Consequent typographic changes	After new Requirement 12 re-number Requirements thereafter.
Schedule 3	Provision of Weight limit on Cannock Road	Add new Part 8 as follows.

Provision	Examination Issue	Recommendation

PART 8

VARIATION OF EXISTING TRAFFIC REGULATION ORDERS

(1) *Parish(es)*	*(2)* *Road name and number*	*(3)* *Title of Order*	*(4)* *Variation*
Hilton	A460 Cannock Road between points 4/37 and 5/8 as shown on the classification of roads plans.	The Staffordshire County Council (Hilton Lane, Dark Lane and Old Warstone Lane, Hilton) (Prohibition of Heavy Commercial Vehicles or over 7.5 Tonnes (Gross) Order 1991.	Shown as 4/37and 5/8 on sheets 4 and 5 of the classification of roads plans.

ExA Note:

As a result of this recommended change, the Classification of Roads Plans will need to be amended. Point 4/37 is shown but Point 5/8 will need to be added. This change is provided for in Article 40(2) of the preferred DCO so further drafting alterations should not be necessary.

Schedule 7	Typographic.	In line relating to Plot 4/8 replace "utilities" with "utilities'".
Schedule 7	Typographic	For entry "5/11(g)" replace with "5/11g".
Schedule 9	Typographic	Paragraph 22 – delete "(1)".
Schedule 9	Protective Provisions	Paragraph 27 – delete sub-paragraphs (3), (4) and (5).
Schedule 9	Typographic	Paragraph 33 – replace "LE10 ONAor" with "LE10 ONA or".

Provision	Examination Issue	Recommendation
Schedule 9	Typographic	Paragraph 38 – delete "(1)".

17.6. CONCLUSIONS

17.6.1. We have considered all the iterations of the draft DCO submitted by the Applicant set out in Table 8, and have noted the significant number of changes made during the Examination made in response to the material and non-material changes, responses to representations made and our Proposed Changes [PD-025].

17.6.2. In light of the evidence submitted and heard we have recommended a number of changes to the Applicant's preferred DCO submitted at Deadline 8 [REP8-005] which are set out in Table 9. These are incorporated into the recommended DCO (rDCO) which is set out in Appendix D.

17.6.3. We are satisfied that the rDCO (Appendix D) adequately defines the scope of the consent being granted and that it secures the necessary controls and mitigation measures that are consistent with the assessments provided in the ES.

17.6.4. We consider that the rDCO (Appendix D) only includes requirements that are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects. On that basis we are of the view that paragraph 4.9 of the National Policy Statement for National Networks (NPSNN) is satisfied.

17.6.5. If the SoST is minded to make the DCO, we recommend that it is made in the form set out in Appendix D subject to the SoST being satisfied with the Conclusion on the Case for Development Consent in Chapter 15:

- The SoST's consideration of the adoption of the Sixth Carbon Budget and the Carbon Budget Order 2021 and the 'Decarbonising transport: a better, greener Britain' policy statement in relation to the Proposed Development.

18. SUMMARY OF FINDINGS AND CONCLUSIONS

18.1. INTRODUCTION

18.1.1. This Chapter summarises our conclusions arising from the Report as a whole and sets out a recommendation to the Secretary of State for Transport (SoST).

18.2. CONSIDERATION OF FINDINGS AND CONCLUSIONS

18.2.1. In relation to section (s) 104 of the Planning Action 2008 as amended (the PA2008) we conclude that making the recommended Development Consent Order (DCO) would be in accordance with the National Policy Statement for National Networks (the NPSNN) and would not substantially conflict with relevant development plan policy and other relevant policy, all of which have been taken into account in our Report. We have also had regard to the Local Impact Reports from Staffordshire County Council and South Staffordshire Council in reaching our conclusions.

18.2.2. Whilst the SoST is the competent authority under the Habitats Regulations, and will make the definitive assessment under those Regulations, we are satisfied that the Proposed Development would be likely to have no significant effects on European sites and this finding has been taken into account in reaching our recommendation.

18.2.3. With regard to all other matters and representations received, we are satisfied that there are no important and relevant matters that would individually or collectively lead to a different recommendation from that set out below.

18.2.4. We accepted a number of changes to the Proposed Development during the Examination. These are set out in more detail in Chapter 2 and were:

- A series of changes submitted in October 2020 [AS-117];
- A further change in January 2021, which was effectively to resolve an error in the October 2020 application changes, but did include "additional land" [AS-125]; and
- A series of changes in March 2021 [REP7-001].

18.2.5. While the October 2020 application changes represented a material change both the January and March 2021 application changes only represented non-material changes. None of the changes either individually or cumulatively fundamentally changed the Proposed Development to the extent that a new application would have been necessary.

18.2.6. We have considered whether the determination of this application in accordance with the relevant National Policy Statement (NPS) would lead the United Kingdom (UK) to be in breach of any of its international obligations where relevant. Subject to consideration of the implications

arising from the publication of the Sixth Carbon Budget, the Carbon Budget Order 2021, 'Decarbonising transport: a better, greener Britain' policy statement and the cumulative effects of carbon emissions as set out we are satisfied this would not be the case. Again, subject to the same point, neither would it lead to the SoST being in breach of any duty imposed on the SoST by or under any enactment, or be otherwise unlawful by virtue of any enactment.

18.2.7. The Proposed Development would deliver a number of benefits which are specific to this proposal. These include:

- Benefits from a decrease in congestion and improved journey times, enhanced highway safety, and alleviating traffic on Cannock Road, together with associated benefits in noise and air quality in its immediate vicinity.
- Economic and social benefits from improved connectivity, both regionally and in the immediate vicinity of the Proposed Development, and improved reliability of journeys.

The Proposed Development would also comply with local Development Plan policy and allocations for delivery of transport infrastructure

18.2.8. With the mitigation proposed through the recommended DCO (rDCO) in Appendix D of this Report, taking into account s104(7) of the PA2008 there are no adverse impacts arising from the Proposed Development that would outweigh its benefits. There is nothing to indicate that the application should be decided, other than in accordance with the relevant NPS, the NPSNN.

18.2.9. We have considered the case for Compulsory Acquisition (CA) and Temporary Possession (TP) of land and rights in order to implement the Proposed Development and are satisfied that the CA and TP powers sought by the Applicant are justified and should be granted. They are necessary to enable the Applicant to complete the Proposed Development. In addition, there is a compelling case in the public interest for land and interests to be compulsorily acquired. The Applicant has a clear idea of how it intends to use the land, and funds are available for the implementation of the Proposed Development.

18.2.10. We have also had regard to the provisions of the Human Rights Act 1998. We consider that the opportunity for objectors to make their cases through the CA Hearing fully, fairly and in public has ensured compliance with Article 6. 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.

18.2.11. However, with the weight of national policy in favour of the Proposed Development, the wider public interest qualifies any interference with the human rights of the owners and occupiers affected by CA and TP. The interference in their human rights would be proportionate and justified in the public interest.

18.2.12. We have had regard to the Public Sector Equality Duty (the PSED). 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. It may enhance provision for those with protected characteristics of age and disability. On that basis, there would be no breach of the PSED.

18.2.13. As required by Regulation 3(1) of the Infrastructure Planning (Decisions) Regulations 2010, we 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.

18.2.14. Where we have found that there would be harm to the significance of designated heritage assets (as set out in Chapter 7 of this report), we consider that this would be less than substantial in each instance. In Chapter 15 we 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.

18.2.15. Overall, in our 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.

18.2.16. The application site is in the Green Belt and the Proposed Development would represent inappropriate development. We are of the view that even giving substantial weight to the harm to Green Belt, and appropriate weight as identified to other harms, these harms would be clearly outweighed by the benefits and other considerations so that they amount to very special circumstances to justify the approval of inappropriate development in the Green Belt.

18.2.17. We are satisfied that the Proposed Development meets the tests in s104 of PA2008.

18.3. MATTERS FOR FURTHER CONSIDERATION

18.3.1. As highlighted in Chapter 5 the Government published its Sixth Carbon Budget (the greenhouse gases emitted over a 5-year period from 2033-2037) towards the very end of the Examination. This did not allow time for us to consult upon the implications, if any, of this. In addition, the Carbon Budget Order 2021 came into force on 24 June 2021. The overall recommendation is therefore set out on the basis that the SoST may wish to consider the implications of this in making their final decision.

18.3.2. Also, the SoST published 'Decarbonising transport: a better, greener Britain' on 14 July 2021 as part of the government response to the Sixth Carbon Budget. As this was after the close of the examination it has not formed part of the reasoning for the recommendation set out here but the SoST may wish to consider the impact of the proposals in it when making their final decision on the DCO.

18.4. RECOMMENDATION

18.4.1. For all of the above reasons, and in the light of our findings and conclusions on important and relevant matters set out in the Report, we recommend that, subject to the SoST satisfying themselves in respect of:

- The impact of the publication of the Sixth Carbon Budget, which was announced at the end of the Examination period, the Carbon Budget Order 2021 and the impact of the CO_2 equivalent emissions for the operational phase in relation to the relevant carbon budget now that it is available and the cumulative impact of emissions for the NPSNN in the context of the revised net carbon target and other projects and programmes, namely RIS1/RIS2, and the 'Decarbonising transport: a better, greener Britain' policy statement.

the SoST makes The M54 to M6 Link Road DCO in the form recommended at Appendix D of this Report.

APPENDICES

APPENDIX A: THE EXAMINATION II
APPENDIX B: EXAMINATION LIBRARY III
APPENDIX C: LIST OF ABBREVIATIONS IV
APPENDIX D: THE RECOMMENDED DCO V

APPENDIX A: THE EXAMINATION

APPENDIX A: THE EXAMINATION

The table below lists the main events that occurred during the Examination and the procedural decisions taken by the Examining Authority

Date	Examination Event
16 June 2020	ExA's unaccompanied site inspection
20 July 2020	Issue by the ExA of written questions and requests for information (**ExQ1**)
10 September 2020	**Procedural Deadline A** Deadline for receipt by the ExA of: • Confirmation as to wish to participate in or observe Preliminary Meeting (Part 1) • Submission of written comments or questions on the proposed procedural arrangements for the Examination • Submission by Applicant of suggested Accompanied Site Inspection (ASI) itinerary
1 October 2020	**Preliminary Meeting (Part 1)**
12 October 2020	**Procedural Deadline B** Deadline for receipt by the ExA of: • Submission of written responses to matters discussed at the Preliminary Meeting (Part 1) • Confirmation as to wish to participate in or observe Preliminary Meeting (Part 2) • Confirmation as to wish to participate in or observe Open Floor Hearing 1 (OFH1)
20 October 2020	**Preliminary Meeting (Part 2)**
21 October 2020	**Start of Examination**

21 October 2020	**Open Floor Hearing 1 (OFH1)**
3 November 2020	**Deadline 1** Deadline for receipt by the ExA of: • Responses to Written Questions, issued on 20 July 2020 [PD-010] • Comments on Applicant's change application of 29 May 2020 [AS-004], accepted on 20 July 2020 [PD-005] • Comments on Additional Documents submitted by the Applicant and other parties since the application was accepted [AS-001] to [AS-059] • Comments on Relevant Representations (RRs) • Summaries of all RRs exceeding 1500 words • Written Representations (WRs) • Summaries of all WRs exceeding 1500 words • Applicant's submission of Integrity matrices as to effects on European sites • Post Hearing submissions including written summaries following PM and OFH1 • Interested Party comments on Applicant's suggested ASI itinerary • Local Impact Reports (LIRs) (Annex B) • Statements of Common Ground (SoCG) requested by the ExA (Annex B) • Responses to any further information requested by the ExA for this deadline
3 November 2020	**Procedural Deadline C** Deadline for receipt by the ExA of: • Notification by Statutory Parties of their wish to be considered as an IP by the ExA • Notification of wish to speak at an Open Floor Hearing (OFH2) • Notification of wish to make oral representations at an Issue Specific Hearings (ISH) together with indication of specific topics that the party wishes the ExA to discuss • Notification of wish to speak at a Compulsory Acquisition Hearing (CAHs) • Notification of wish to have future correspondence received electronically

17 November 2020	**Deadline 2** Deadline for receipt by the ExA of: • Comments on responses to the ExA's Written Questions • Applicant's first revised draft DCO • Responses to comments on RRs • Comments on any additional information/submissions received by D1 • Responses to any further information requested by the ExA for this deadline including the question relating to publicity
17 November 2020	**Procedural Deadline D** Deadline for receipt by the ExA of: • Confirmation as to wish to participate or observe at Hearings scheduled for December 2020 • Notification of wish to attend, or part attend, an ASI should this be possible
24 November 2020	**Deadline 3** Deadline for receipt by the ExA of: • Comments on WRs • Comments on SoCGs • Comments on LIRs • Comments on Applicant's first revised draft DCO • Comments on Integrity matrices as to effects on European sites • Submission by the Applicant of low resolution documents (see Annex F) • Comments on any additional information/submissions received by D2 • Responses to any further information requested by the ExA for this deadline
1 December 2020	**Deadline 3A** Deadline for the receipt by the ExA of: • Comments on the Changes accepted on 29 October 2020
4 December 2020	Issue by the ExA of further written questions and requests for information (**ExQ2**)

8 December 2020	Issue Specific Hearing 1 (Biodiversity and Cultural Heritage)
8 December 2020	Issue Specific Hearing 2 (Traffic and Transport)
9 December 2020	Issue Specific Hearing 3 (Draft Development Consent Order)
10 December 2020	Compulsory Acquisition Hearing 1
18 December 2020	**Procedural Deadline EA** • Confirmation as to wish to participate or observe at Hearings scheduled for January 2021 (should they take place)
8 January 2021	**Deadline 4** Deadline for receipt by the ExA of: • Post December 2020 Hearing submissions including written submissions of oral case • Any revised/updated SoCG • Responses to the ExA's Further Written Questions (if issued) • Applicant's revised draft DCO (if required) • Comments on any additional information/submissions received by D3 and D3A • Responses to any further information requested by the ExA for this deadline
18 January 2021	**Publication of ExA's Site Inspection Timetable** for Site Inspections identified for 9 and 10 February 2021
20 January 2021	**Deadline 5 (D5)** Deadline for receipt by the ExA of: • Comments on any revised/updated SoCG (if any) • Comments on Applicant's revised draft DCO (if any)

	• Comments on responses to ExA's further written questions (if issued) • Comments on any additional information/submissions received by D4 • Responses to any further information requested by the ExA for this deadline
27 January 2021	**Deadline 5A** Deadline for receipt by the ExA of: Comments on the suitability of virtual site inspection methods and necessary lead-in
29 January 2021	Issue by the ExA of further written questions and requests for information (ExQ2)
12 February 2021	**Deadline 6** Deadline for receipt by the ExA of: • Responses to the ExA's Third set of Written Questions (if required) • Comments on any additional information/submissions received by D5 • Responses to any further information requested by the ExA for this deadline
26 February 2021	Publication of the RIES and ExA's proposed schedule of changes to the draft DCO
12 March 2021	**Deadline 6A** Submission by the Applicant of the 360° photography and video footage requested by the ExA on 29 January 2021.
16 & 17 March 2021	**The Examining Authority's Site Inspection**
26 March 2021	**Deadline 7** Deadline for receipt by the ExA of: • Comments on responses to the ExA's further Written Questions (if required) • Comments on the RIES (if issued) • Comments on the ExA's proposed schedule of changes to the draft DCO (if issued)

	• Comments on any additional information/ submissions received by D6 • Comments on the 360° photography and video footage received by D6A • Responses to any further information requested by the ExA for this deadline
7 April 2021	**Deadline 8** Deadline for receipt by the ExA of: • Responses to comments on the RIES (if issued) • Responses to comments on the ExA's proposed schedule of changes to the draft DCO (if issued) • Final DCO to be submitted by the Applicant in the SI template with the SI template validation report (MS Word) • Final updated Book of Reference • Final SoCGs • Final Statement of Commonality of SoCG • Final Compulsory Acquisition Schedule • Final updated Guide to the Application • Comments on any additional information/ submissions received by D7 • Responses to any further information requested by the ExA for this deadline
16 April 2021	**Deadline 9** Deadline for receipt by the ExA of: • Comments on any additional information/submissions received • Responses to any further information requested by the ExA for this deadline • Statements of Final Position in respect of matters examined
21 April 2021	**Examination closed**

APPENDIX B: EXAMINATION LIBRARY

M54 to M6 Link Road Examination Library

Updated – 11/05/2021

This Examination Library relates to the M54 to M6 Link Road application. The library lists each document that has been submitted to the examination by any party and documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure's Planning website and a hyperlink is provided for each document. A unique reference is given to each document; these references will be used within the Report on the Implications for European Sites and will be used in the Examining Authority's Recommendation Report. The documents within the library are categorised either by document type or by the deadline to which they are submitted.

Please note the following:

- This is a working document and will be updated periodically as the examination progresses.
- 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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Adequacy of Consultation responses	AoC-xxx
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
Representations – by Deadline	
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Procedural Deadline D	PDD-xxx
Procedural Deadline E	PDE-xxx

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Adequacy of Consultation Responses	
AoC-001	Cannock Chase Council
AoC-002	Cheshire East Council
AoC-003	Cheshire West and Chester Council
AoC-004	City of Wolverhampton Council
AoC-005	Herefordshire County Council
AoC-006	Peak District National Park Authority
AoC-007	South Staffordshire Council
AoC-008	Staffordshire County Council
AoC-009	Warwickshire County Council

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Relevant Representations	
RR-001	Arrow County Supplies
RR-002	Eversheds Sutherland on behalf of Severn Trent Water Limited
RR-003	Steven Lacey
RR-004	Historic England
RR-005	Four Ashes Limited
RR-006	Staffordshire County Council
RR-007	The Canal and River Trust
RR-008	Osborne Clarke LLP on behalf of Western Power Distribution (West Midlands) PLC (Western Power Distribution (West Midland) PLC
RR-009	Public Health England
RR-010	Ardent Management on behalf of Cadent Gas Limited
RR-011	Hilton Parish Council
RR-012	BWB Consultating Ltd on behalf of M6 Diesel Services
RR-013	Nick Harris
RR-014	National Grid Electricity Transmission PLC and National Grid Ga
RR-015	CT Planning on behalf of South Staffordshire Water Plc
RR-016	Elizabeth Whitehouse
RR-017	Telent (NRTS)
RR-018	City of Wolverhampton Council
RR-019	Sarah Plant on behalf of South Staffordshire District Council
RR-020	B G Jones
RR-021	V Jones
RR-022	Hinson Parry on behalf of Messrs Killingworth
RR-023	Leslie Commins
RR-024	TDP (Property Development) Ltd
RR-025	Featherstone and Shareshill
RR-026	Atchams on behalf of Mr and Mrs Byard
RR-027	Paul Simkin
RR-028	Roythornes Solicitors on behalf of Persimmon Homes Limited (FAO Alastair Stewart)
RR-029	i – Transport LLP on behalf of St Francis Group
RR-030	Staffordshire Chambers of Commerce
RR-031	FieldFisher LLP on behalf of Allow Limited
RR-032	Daniel Williams
RR-033	Bagshaws LLP on behalf of Messrs I & A Simkin
RR-034	Bruton Knowles LLP on behalf of Messrs Nigel and Paul Simkin
RR-035	Bruton Knowles LLP on behalf of Mr and Mrs B Jones
RR-036	Bruton Knowles LLP on behalf of Mrs E Whitehouse and Mrs S L M Arblaster
RR-037	Natural England
RR-038	Shoosmiths LLP on behalf of Nurton Developments (Hilton) Limited
RR-039	Gavin Williamson MP
RR-040	BNP Paribas Real Estate on behalf of Royal Mail Group Limited
RR-041	Ruth Shepherd
RR-042	Staffordshire Wildlife Trust
RR-043	Telford and Wrekin Council
Procedural Decisions and Notifications from the Examining Authority	
PD-001	Section 51 advice to the Applicant

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PD-002	Section 55 Checklist
PD-003	Notification of Decision Letter
PD-004	Appointment of the Examining Authority Notice of appointment of the Examining Authority
PD-005	Rules 5 and 17 The Examining Authority has issued a Progress Note which set out requests for information, an assessment of principal issues, requests to parties and response to a change request from the Applicant
PD-006	Annex A to the Progress Note - Frequently Asked Questions
PD-007	Annex B to the Progress Note - Principal Issues
PD-008	Annex C to the Progress Note - Statement of Common Ground List
PD-009	Annex D to the Progress Note - Tasks
PD-010	The Examining Authority's written questions and requests for information (ExQ1) Issued on 20 July 2020
PD-011	Examining Authority's response to the notification of proposed scheme changes
PD-012	Rule 4, Rule 6, Rule 9, Rule 13 - Invitation to the Preliminary Meeting, draft Examination Timetable and notification of hearings
PD-013	Procedural Decision - Rule 6
PD-014	Rule 8 letter - notification of timetable for the examination
PD-015	Rule 8(3), 9 and 17 Notification
PD-016	Rules 9 and 13 - Notification of Hearings
PD-017	The Examining Authority's further written questions and requests for information (ExQ2) Issued on 4 December 2020
PD-018	Rule 8(3) and 9 Notification
PD-019	ExA Letter Accepting Changes to Land Plans Notification of decision to accept as part of the Application the proposed design changes submitted on 17 December 2020
PD-020	Rule 8 (3) and 9 Notification
PD-021	Rules 8(3) and 9 Notice of Postponement of Site Inspection and Change to Timetable
PD-022	Rule 8(3) and 9 Notification
PD-023	The Examining Authority's further written questions and requests for information (ExQ3) Issued on 29 January 2021
PD-024	Rule 8(3) and 9 Notification
PD-025	Examining Authority's Consultation Draft Development Consent Order Schedule of Recommended Amendments to the Applicant's draft Development Consent Order (DCO) submitted at Deadline 6
PD-026	Report on the Implications for European Sites (RIES) Issued by the Examining Authority - 26 February 2021
PD-027	Request for Further Information - Rule 17
PD-028	Rule 9 Notification
PD-029	Rule 9 Notification
PD-030	Request for Further Information - Rule 17
PD-031	Notification of completion of the Examining Authority's Examination
Additional Submissions	
AS-001	Ministry of Defence (MOD)

	Additional Submission – Accepted at the discretion of the Examining Authority
AS-002	Natural England Additional Submission – Accepted at the discretion of the Examining Authority
AS-003	Nurton Developments (Hilton) Limited Additional Submission – Updated representations on behalf of Nurton Developments (Hilton) Limited - Accepted at the discretion of the Examining Authority
AS-004	Highways England Additional Submission - Cover Letter - Response to Section 51 Advice Letter Dated 28th February and Application Errata - Accepted at the discretion of the Examining Authority
AS-005	Highways England Additional Submission - 1.5 Guide to the Documents to be Certified - Volume 1 -Accepted at the discretion of the Examining Authority
AS-006	Highways England Additional Submission - 2.1 Location Plan - Volume 2 - Accepted at the discretion of the Examining Authority
AS-007	Highways England Additional Submission - 2.2 Land Plans - Volume 2 - Accepted at the discretion of the Examining Authority
AS-008	Highways England Additional Submission - 2.3 Crown Land Plans - Volume 2 - Accepted at the discretion of the Examining Authority
AS-009	Highways England Additional Submission - 2.4 Works Plans - Volume 2 - Accepted at the discretion of the Examining Authority
AS-010	Highways England Additional Submission - 2.5 General Arrangement Plans - Volume 2 - Accepted at the discretion of the Examining Authority
AS-011	Highways England Additional Submission - 2.6 Special Category Land Plans - Volume 2 - Accepted at the discretion of the Examining Authority
AS-012	Highways England Additional Submission - 2.7 Streets, Rights of Way and Access Plans - Volume 2 - Accepted at the discretion of the Examining Authority
AS-013	Highways England Additional Submission - 2.8 Traffic Regulation Measures Plans - Volume 2 - Accepted at the discretion of the Examining Authority
AS-014	Highways England Additional Submission - 2.9 Classification of Roads Plans - Volume 2 - Accepted at the discretion of the Examining Authority
AS-015	Highways England Additional Submission - 2.11 Outline Drainage Works - Volume 2 - Accepted at the discretion of the Examining Authority
AS-016	Highways England Additional Submission - 4.1 Statement of Reasons (Clean) - Volume 4 - Accepted at the discretion of the Examining Authority
AS-017	Highways England

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	Additional Submission - 4.1 Statement of Reasons (Tracked Changes) - Volume 4 - Accepted at the discretion of the Examining Authority
AS-018	Highways England Additional Submission - 4.3 Book of Reference (Clean) - Volume 4 - Accepted at the discretion of the Examining Authority
AS-019	Highways England Additional Submission - 4.3 Book of Reference (Tracked Changes) - Volume 4 - Accepted at the discretion of the Examining Authority
AS-020	Highways England Additional Submission - 5.1 Consultation Report - Volume 5 (Clean) - Accepted at the discretion of the Examining Authority
AS-021	Highways England Additional Submission - 5.1 Consultation Report - Volume 5 (Tracked Changes) - Accepted at the discretion of the Examining Authority
AS-022	Highways England Additional Submission - 5.2 Consultation Report Annex P (Clean) - Volume 5 - Accepted at the discretion of the Examining Authority
AS-023	Highways England Additional Submission - 5.2 Consultation Report Annex P (Tracked Change) - Volume 5 - Accepted at the discretion of the Examining Authority
AS-024	Highways England Additional Submission - 6.1 Environmental Statement Chapter 8 – Biodiversity (Tracked Changes) -Volume 6 - Accepted at the discretion of the Examining Authority
AS-025	Highways England Additional Submission - 6.1 Environmental Statement Chapter 8 – Biodiversity (Clean) - Volume 6 Accepted at the discretion of the Examining Authority
AS-026	Highways England Additional Submission - 6.2 Environmental Statement Figure 2.8 The Scheme - Accepted at the discretion of the Examining Authority
AS-027	Highways England Additional Submission - 6.2 Environmental Statement Figure 13.1 - Accepted at the discretion of the Examining Authority
AS-028	Highways England Additional Submission - 6.2 Environmental Statement Figure 13.1A - Accepted at the discretion of the Examining Authority
AS-029	Highways England Additional Submission - 6.2 Environmental Statement Figure 13.1B - Accepted at the discretion of the Examining Authority
AS-030	Highways England Additional Submission - 6.2 Environmental Statement Figure 13.1C - Accepted at the discretion of the Examining Authority
AS-031	Highways England Additional Submission - 6.3 Environmental Statement Appendices - Appendix 8.2 Biodiversity Metric Calculations (Clean) - Volume 6 - Accepted at the discretion of the Examining Authority
AS-032	Highways England Additional Submission - 6.3 Environmental Statement Appendices - Appendix 8.2 Biodiversity Metric Calculations (Tracked Changes) - Volume 6 - Accepted at the discretion of the Examining Authority

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AS-033	Highways England Additional Submission - 6.3 Environmental Statement Appendices - Appendix 9.2 Agricultural Land Classification and Soil Resources (Clean) - Volume 6 - Accepted at the discretion of the Examining Authority
AS-034	Highways England Additional Submission - 6.3 Environmental Statement Appendices - Appendix 9.2 Agricultural Land Classification and Soil Resources (Tracked Changed) - Volume 6 - Accepted at the discretion of the Examining Authority
AS-035	Highways England Additional Submission - 6.9 Habitats Regulations Assessment - No Significant Effects Report (Clean) - Volume 6 - Accepted at the discretion of the Examining Authority
AS-036	Highways England Additional Submission - 6.9 Habitats Regulations Assessment - No Significant Effects Report (Tracked Changes) - Volume 6 - Accepted at the discretion of the Examining Authority
AS-037	Highways England Additional Submission - 7.2 Case for the Scheme and National Policy Statement Accordance Table - Volume 7 - Accepted at the discretion of the Examining Authority
AS-038	Highways England Additional Submission - 7.4 Transport Assessment Report (Clean) - Volume 7 - Accepted at the discretion of the Examining Authority
AS-039	Highways England Additional Submission - 7.4 Transport Assessment Report (Tracked Version) - Volume 7 - Accepted at the discretion of the Examining Authority
AS-040	The Coal Authority Additional Submission – Accepted at the discretion of the Examining Authority
AS-041	Highways England Additional Submission - 6.11 Outline Environmental Management Plan (Tracked Changes) - Volume 6 - Accepted at the discretion of the Examining Authority
AS-042	Highways England Additional Submission - 6.11 Outline Environmental Management Plan (Clean) - Volume 6 - Accepted at the discretion of the Examining Authority
AS-043	Highways England Additional Submission: Applicant's notification of proposed scheme changes. Accepted at the discretion of the Examining Authority
AS-044	Highways England Additional Submission - 1.5 Guide to the Application - Amended following DMRB update - Accepted at the discretion of the Examining Authority
AS-045	Highways England Additional Submission - 6.1 Environmental Statement Chapter 11 – Noise and Vibration (Tracked Changes) (Rev 2) - Amended following DMRB update - Accepted at the discretion of the Examining Authority
AS-046	Highways England Additional Submission - 6.1 Environmental Statement Chapter 11 – Noise and Vibration (Clean) (Rev 2) - Amended following DMRB update - Accepted at the discretion of the Examining Authority

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AS-047	Highways England Additional Submission - 6.3 Environmental Statement Appendices Appendix 4.5 Changes to Scope and Methodology (Clean) (Rev 2) - Amended following DMRB update - Accepted at the discretion of the Examining Authority
AS-048	Highways England Additional Submission - 6.3 Environmental Statement Appendices Appendix 4.5 Changes to Scope and Methodology (Tracked Changes) (Rev 2) - Amended following DMRB update - Accepted at the discretion of the Examining Authority
AS-049	Highways England Additional Submission - 6.3 Environmental Statement Appendices Appendix 11.3 Construction Phase Noise Predictions Monitoring (Clean) (Rev 2) - Amended following DMRB update -Accepted at the discretion of the Examining Authority
AS-050	Highways England Additional Submission - 6.3 Environmental Statement Appendices Appendix 11.3 Construction Phase Noise Predictions Monitoring (Tracked Changes) (Rev 2) - Amended following DMRB update - Accepted at the discretion of the Examining Authority
AS-051	Highways England Additional Submission - 6.3 Environmental Statement Appendices Appendix 11.4 Noise Modelling Details (Clean) (Rev 02) - Amended following DMRB update - Accepted at the discretion of the Examining Authority
AS-052	Highways England Additional Submission - 6.3 Environmental Statement Appendices Appendix 11.4 Noise Modelling Details (Tracked Changes) (Rev 02) - Amended following DMRB update - Accepted at the discretion of the Examining Authority
AS-053	Highways England Additional Submission - 6.3 Environmental Statement Appendices Appendix 11.5 Affected Routes Beyond 600 m - Amended following DMRB update - Accepted at the discretion of the Examining Authority
AS-054	Highways England Additional Submission - Figure 11.1 Noise Location Plan - Amended following DMRB update - Accepted at the discretion of the Examining Authority
AS-055	Highways England Additional Submission - Figure 11.2 Noise Affected Routes - Amended following DMRB update - Accepted at the discretion of the Examining Authority
AS-056	Highways England Additional Submission - Figure 11.3 Long Term Change In Traffic Noise Levels (DM2024 TO DM2039) - Amended following DMRB update - Accepted at the discretion of the Examining Authority
AS-057	Highways England Additional Submission - Figure 11.4 Short Term Change In Traffic Noise Levels (DM2024 TO DM2024) - Amended following DMRB update - Accepted at the discretion of the Examining Authority
AS-058	Highways England

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	Additional Submission - Figure 11.5 Long Term Change In Traffic Noise Levels (DM2024 TO DM2039) - Amended following DMRB update - Accepted at the discretion of the Examining Authority
AS-059	Highways England Additional Submission - 8.2 DMRB Updates and the Impact on the DCO Application - Amended following DMRB update - Accepted at the discretion of the Examining Authority
AS-059a	Highways England (Applicant's draft Accompanied Site Inspection Itinerary - Additional Submission – Response to Procedural Deadline A
AS-059b	Report of procedural submissions from persons attending the Preliminary Meeting Additional Submission - Response to Procedural Deadline A
AS-060	Report of additional procedural comments from persons attending the preliminary meeting Additional Submission -Supplementary report – Comments - Accepted at the discretion of the Examining
AS-061	Written Responses to Matters Discussed at Preliminary Meeting Part 1 Response to Procedural Deadline B
AS-062	Highways England Additional Submission - Request for a change to the accepted Application
AS-063	Highways England) Additional Submission - 1.5 Guide to the Application (Tracked Changes) (Ver P06) - Accepted at the discretion of the Examining Authority
AS-064	Highways England Additional Submission - 1.5 Guide to the Application (Clean) (Ver P06) - Accepted at the discretion of the Examining Authority
AS-065	Highways England Additional Submission - 2.2 Land Plans (Ver P03) - Accepted at the discretion of the Examining Authority
AS-066	Highways England Additional Submission - 2.4 Works Plans (Ver P03) - Accepted at the discretion of the Examining Authority
AS-067	Highways England Additional Submission -2.5 General Arrangement Plans (Ver P03) - Accepted at the discretion of the Examining Authority
AS-068	Highways England Additional Submission - 2.7 Streets, Rights of Way and Access Plans (Ver P03) - Accepted at the discretion of the Examining Authority
AS-069	Highways England Additional Submission - 2.8 Traffic Regulation Measures Plans (Ver P03) - Accepted at the discretion of the Examining Authority
AS-070	Highways England Additional Submission - 2.9 Classification of Roads Plans (Ver P03) - Accepted at the discretion of the Examining Authority
AS-071	Highways England Additional Submission - 2.10 Engineering Section Drawings (Ver P02) - Accepted at the discretion of the Examining Authority
AS-072	Highways England (Additional Submission - 2.11 Outline Drainage Works (Ver P03) - Accepted at the discretion of the Examining Authority

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AS-073	Highways England Additional Submission - 3.1 Draft Development Consent Order Validation Report - 08.10.20 - Accepted at the discretion of the Examining Authority
AS-074	Highways England Additional Submission - 3.1 Draft Development Consent Order (Tracked) (Ver 2) - Accepted at the discretion of the Examining Authority
AS-075	Highways England Additional Submission - 3.1 Draft Development Consent Order (Clean) (Ver 2) - Accepted at the discretion of the Examining Authority
AS-076	Highways England Additional Submission - 3.2 Explanatory Memorandum (Tracked) (Ver 2) - Accepted at the discretion of the Examining Authority
AS-077	Highways England Additional Submission - 3.2 Explanatory Memorandum (Clean) (Ver 2) - Accepted at the discretion of the Examining Authority
AS-078	Highways England Additional Submission - 4.1 Statement of Reasons (Tracked) (Ver P05) - Accepted at the discretion of the Examining Authority
AS--079	Highways England Additional Submission - 4.1 Statement of Reasons (Clean) (Ver P05) - Accepted at the discretion of the Examining Authority
AS-080	Highways England Additional Submission - 4.3 Book of Reference (Tracked) (Ver P06) - Accepted at the discretion of the Examining Authority
AS-081	Highways England Additional Submission - 4.3 Book of Reference (Clean) (Ver P06) - Accepted at the discretion of the Examining Authority
AS-082	Highways England Additional Submission - 6.1 Environmental Statement Chapter 8 – Biodiversity (Tracked) (Ver 3) - Accepted at the discretion of the Examining Authority
AS-083	Highways England Additional Submission - 6.1 Environmental Statement Chapter 8 – Biodiversity (Clean) (Ver 3) - Accepted at the discretion of the Examining Authority
AS-084	Highways England Additional Submission - 6.1 Environmental Statement Chapter 11 – Noise and Vibration (Tracked) (Ver 3) - Accepted at the discretion of the Examining Authority
AS-085	Highways England Additional Submission - 6.1 Environmental Statement Chapter 11 – Noise and Vibration (Clean) (Ver 3) - Accepted at the discretion of the Examining Authority
AS-086	Highways England Additional Submission - 6.2 Environmental Statement Figure 2.1 (Ver P15) - Accepted at the discretion of the Examining Authority
AS-087	Highways England Additional Submission - 6.2 Environmental Statement Figure 2.2 (Ver P15) - Accepted at the discretion of the Examining Authority
AS-088	Highways England

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	Additional Submission - 6.2 Environmental Statement Figure 2.3 (Ver P15) - Accepted at the discretion of the Examining Authority
AS-089	Highways England Additional Submission - 6.2 Environmental Statement Figure 2.4 (Ver P15) - Accepted at the discretion of the Examining Authority
AS-090	Highways England Additional Submission - 6.2 Environmental Statement Figure 2.5 (Ver P15) - Accepted at the discretion of the Examining Authority
AS-091	Highways England Additional Submission - 6.2 Environmental Statement Figure 2.6 (Ver P15) - Accepted at the discretion of the Examining Authority
AS-092	Highways England Additional Submission - 6.2 Environmental Statement Figure 2.7 (Ver P15) - Accepted at the discretion of the Examining Authority
AS-093	Highways England Additional Submission - 6.2 Environmental Statement Figure 2.9 (Ver P03) - Accepted at the discretion of the Examining Authority
AS-094	Highways England) Additional Submission - 6.2 Environmental Statement Figure 8.35 (Ver P01) - Accepted at the discretion of the Examining Authority
AS-095	Highways England Additional Submission - 6.2 Environmental Statement Figure 11.1 (Ver P05) - Accepted at the discretion of the Examining Authority
AS-096	Highways England Additional Submission - 6.2 Environmental Statement Figure 11.2 (Ver P05) - Accepted at the discretion of the Examining Authority
AS-097	Highways England Additional Submission - 6.2 Environmental Statement Figure 11.3 (Ver P05) - Accepted at the discretion of the Examining Authority
AS-098	Highways England Additional Submission - 6.2 Environmental Statement Figure 11.4 (Ver P05) - Accepted at the discretion of the Examining Authority
AS-099	Highways England Additional Submission - 6.2 Environmental Statement Figure 11.5 (Ver P05) - Accepted at the discretion of the Examining Authority
AS-100	Highways England Additional Submission - 6.3 Environmental Statement Appendix 7.1 Arboricultural Impact Assessment Report (Tracked) (Ver 2) - Accepted at the discretion of the Examining Authority
AS-101	Highways England Additional Submission - 6.3 Environmental Statement Appendix 7.1 Arboricultural Impact Assessment Report (Clean) (Ver 2) - Accepted at the discretion of the Examining Authority
AS-102	Highways England Additional Submission - 6.3 Environmental Statement Appendix 8.2 Biodiversity Metric Calculations (Tracked) (Ver 3) - Accepted at the discretion of the Examining Authority
AS-103	Highways England Additional Submission - 6.3 Environmental Statement Appendix 8.2 Biodiversity Metric Calculations (Clean) (Ver 3) - Accepted at the discretion of the Examining Authority

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AS-104	Highways England Additional Submission - 6.3 Environmental Statement Appendix 8.15 Great Crested Newt (2020) (Ver 1) - Accepted at the discretion of the Examining Authority
AS-105	Highways England Additional Submission - 6.3 Environmental Statement Appendix 8.16 Ancient Hedgerow Assessment (Ver 1) - Accepted at the discretion of the Examining Authority
AS-106	Highways England Additional Submission - 6.3 Environmental Statement Appendix 11.3 Construction Phase Noise Predictions Monitoring (Tracked) (Ver 3) - Accepted at the discretion of the Examining Authority
AS-107	Highways England) Additional Submission - 6.3 Environmental Statement Appendix 11.3 Construction Phase Noise Predictions Monitoring (Clean) (Ver 3) - Accepted at the discretion of the Examining Authority
AS-108	Highways England Additional Submission - 6.3 Environmental Statement Appendix 11.4 Noise Modelling Details (Tracked) (Ver 3) - Accepted at the discretion of the Examining Authority
AS-109	Highways England Additional Submission - 6.3 Environmental Statement Appendix 11.4 Noise Modelling Details (Clean) (Ver 3) - Accepted at the discretion of the Examining Authority
AS-110	Highways England Additional Submission - 6.8 TPO Impact/ Removal Plans (Tracked) (Ver 2) - Accepted at the discretion of the Examining Authority
AS-111	Highways England Additional Submission - 6.8 TPO Impact/ Removal Plans (Clean) (Ver 2) - Accepted at the discretion of the Examining Authority
AS-112	Highways England Additional Submission - 6.11 Outline Environmental Management Plan (Clean) (Ver 3) - Accepted at the discretion of the Examining Authority
AS-112a	Highways England Additional Submission - 6.11 Outline Environmental Management Plan (Tracked) (Ver 3) - Accepted at the discretion of the Examining Authority
AS-113	Highways England Additional Submission - 7.4 Transport Assessment Report (Tracked) (Ver P05) - Accepted at the discretion of the Examining Authority
AS-114	Highways England) Additional Submission - 7.4 Transport Assessment Report (Clean) (Ver P05) - Accepted at the discretion of the Examining Authority
AS-115	Highways England Additional Submission - 7.5 Outline Traffic Management Plan (Tracked) (Ver P04) - Accepted at the discretion of the Examining Authority
AS-116	Highways England Additional Submission - 7.5 Outline Traffic Management Plan (Clean) (Ver P04) - Accepted at the discretion of the Examining Authority
AS-117	Highways England Additional Submission - 8.5 Formal Request for Scheme Changes (Ver 1) - Accepted at the discretion of the Examining Authority

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AS-118	Highways England Additional Submission - 8.6 Environmental Statement Addendum: Proposed Scheme Changes October 2020 (Ver 1) - Accepted at the discretion of the Examining Authority
AS-119	Highways England Additional Submission - 8.7 Consultation Statement – Proposed Scheme Changes Appendices Part 1 (B and C) (Ver P02) - Accepted at the discretion of the Examining Authority
AS-120	Highways England Additional Submission - 8.7 Consultation Statement – Proposed Scheme Changes Main report and Appendix A (Ver P02) - Accepted at the discretion of the Examining Authority
AS-121	Highways England Additional Submission - 8.7 Consultation Statement – Proposed Scheme Changes Appendices Part 2 (D and E) (Ver P02) - Accepted at the discretion of the Examining Authority
AS-122	Pramesh Chandra Additional Submission accepted at the discretion of the Examining Authority
AS-123	Shoosmiths LLP on behalf of Nurton Developments (Hilton) Limited Letter dated 4 December 2020. Additional Submission accepted at the discretion of the Examining Authority
AS-124	Shakespeare Martineau LLP on behalf of South Staffordshire Water plc Letter dated 4 December 2020. Additional Submission accepted at the discretion of the Examining Authority
AS-125	Highways England Additional Submission - Request for a change to the accepted application
AS-126	Forestry Commission England Additional Submission accepted at the discretion of the Examining Authority
AS-127	Highways England Additional Submission - 2.2 Land Plans (Ver P04) - Accepted at the discretion of the Examining Authority
AS-128	Highways England Additional Submission - 4.1 Statement of Reasons - Clean (Ver P07) - Accepted at the discretion of the Examining Authority
AS-129	Highways England Additional Submission - 4.3 Book of Reference - Tracked (Ver P08) - Accepted at the discretion of the Examining Authority
AS-130	Highways England Additional Submission - 1.5 Guide to the Application - Tracked (Ver P10) - Accepted at the discretion of the Examining Authority
AS-131	Highways England Additional Submission - 4.1 Statement of Reasons - Tracked (Ver P07) - Accepted at the discretion of the Examining Authority
AS-132	Highways England Additional Submission - 1.5 Guide to the Application - Clean (Ver P10) - Accepted at the discretion of the Examining Authority
AS-133	Highways England Additional Submission - 4.3 Book of Reference - Clean (Ver P08) - Accepted at the discretion of the Examining Authority
AS-134	Highways England

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	Additional Submission - Accepted at the discretion of the Examining Authority
AS-135	Highways England Response to the ExA's Acceptance of Change Request 7 January 2021 and Agreement with Landowner
AS-136	Highways England Additional Submission - Request for a change to the accepted application
AS-137	Highways England Plan showing the General Arrangement for the Scheme overlaid on the revised Land Plans to illustrate why the 'additional land' is required - Accepted at the discretion of the Examining Authority
Events and Hearings	
Accompanied, Unaccompanied Site Inspections, Preliminary Meeting and Hearings	
EV-001	Note of Unaccompanied Site Inspection - 16 June 2020
EV-002	Reference not in use
EV-003	Highways England Open Floor Hearing Press Notice
EV-004	Recording of Preliminary Meeting Part 1 - Session 1 - 01 October 2020
EV-005	Recording of Preliminary Meeting Part 1 - Session 2 - 01 October 2020
EV-006	Agenda for Open Floor Hearing 1
EV-007	Agenda for Preliminary Meeting Part 2
EV-008	Recording of Preliminary Meeting Part 2 - 20 October 2020
EV-009	Recording of Open Floor Hearing 1 – 21 October 2020
EV-010	Preliminary Meeting Note
EV-011	Agenda for Issue Specific Hearing 1 Biodiversity and Cultural Heritage
EV-012	Agenda for Issue Specific Hearing 2 Traffic and Transport
EV-013	Agenda for Issue Specific Hearing 3 Draft Development Consent Order
EV-014	Agenda for Compulsory Acquisition Hearing 1 Compulsory Acquisition and Temporary Possession
EV-015	Recording of Issue Specific Hearing 1 (Biodiversity and Cultural Heritage) - Tuesday 8 December 2020 Part 1 of 2
EV-016	Recording of Issue Specific Hearing 1 (Biodiversity and Cultural Heritage) - Tuesday 8 December 2020 Part 2 of 2
EV-017	Recording of Issue Specific Hearing 2 (Traffic and Transport) - Tuesday 8 December 2020 Part 1 of 2
EV-018	Recording of Issue Specific Hearing 2 (Traffic and Transport) - Tuesday 8 December 2020 Part 2 of 2
EV-019	Recording of Issue Specific Hearing 3 (Draft Development Consent Order) - Wednesday 9 December 2020 Part 1 of 2
EV-020	Recording of Issue Specific Hearing 3 (Draft Development Consent Order) - Wednesday 9 December 2020

	Part 2 of 2
EV-021	Recording of Compulsory Acquisition Hearing 1 - Thursday 10 December 2020 Part 1 of 2
EV-022	Recording of Compulsory Acquisition Hearing 1 - Thursday 10 December 2020 Part 2 of 2
EV-023	Action Points from Issue Specific and Compulsory Acquisition Hearings held Tuesday 8, Wednesday 9 and Thursday 10 December 2020 (PDF, 101 KB) Issue Specific Hearing 1 (Biodiversity and Cultural Heritage), Issue Specific Hearing 2 (Traffic and Transport), Issue Specific Hearing 3 (Draft Development Consent Order) and Compulsory Acquisition Hearing 1
EV-024	Note of the ExA's Unaccompanied Site Inspection Tuesday 16 and Wednesday 17 March 2021
Representations	
Procedural Deadline C – 3 November 2020 • Notification by Statutory Parties of their wish to be considered as an IP by the ExA • Notification of wish to speak at an Open Floor Hearing (OFH2) • Notification of wish to make oral representations at an Issue Specific Hearings (ISH) together with indication of specific topics that the party wishes the ExA to discuss • Notification of wish to speak at a Compulsory Acquisition Hearing (CAHs) • Notification of wish to have future correspondence received Electronically	
PDC-001	Field Fisher LLP on behalf of Allow Limited Procedural Deadline C Submission
PDC-002	CT Planning on behalf of South Staffordshire Water plc Procedural Deadline C Submission
PDC-003	Shoosmiths LLP on behalf of Nurton Developments (Hilton) Limited Procedural Deadline C Submission
Procedural Deadline D – 17 November 2020 • Confirmation as to wish to participate or observe at Hearings scheduled for December 2020 • Notification of wish to attend, or part attend, an ASI should this be possible	
PDD-001	CT Planning on behalf of South Staffordshire Water plc Procedural Deadline D Submission
PDD-002	Haywood Planning Services on behalf of South Staffordshire Council Procedural Deadline D Submission
PDD-003	Shoosmiths LLP on behalf of Nurton Developments (Hilton) Limited Procedural Deadline D Submission
PDD-004	Bagshaws LLP on behalf of I & A Simkin Procedural Deadline D Submission
PDD-005	Fieldfisher LLP on behalf of Allow Ltd

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	Procedural Deadline D Submission - Email from Fieldfisher regarding Allow Ltd attending Hearings
PDD-006	Bagshaws LLP on behalf of Allow Ltd Procedural Deadline D Submission
PDD-007	Staffordshire Wildlife Trust Procedural Deadline D Submission - Accepted as a late Procedural Deadline D submission at the discretion of the Examining Authority
PDD-008	Natural England Procedural Deadline D - Accepted as a late Procedural Deadline D submission at the discretion of the Examining Authority
PDD-009	BWB Consulting on behalf of M6 Diesel Procedural Deadline D Submission - Accepted as a late Procedural Deadline D submission at the discretion of the Examining Authority
Procedural Deadline EA – 18 December 2020 • Confirmation as to wish to participate or observe at Hearings scheduled for January 2021 (should they take place)	
PDEA-001	Highways England Procedural Deadline EA Submission
Deadline 1 – 3 November 2020 • Responses to Written Questions, issued on 20 July 2020 [PD-010] • Comments on Applicant's change application of 29 May 2020 [AS- 004], accepted on 20 July 2020 [PD-005] • Comments on Additional Documents submitted by the Applicant and Other parties since the application was accepted [AS-001] to [AS-059] • Comments on Relevant Representations (RRs) • Summaries of all RRs exceeding 1500 words • Written Representations (WRs) • Summaries of all WRs exceeding 1500 words • Applicant's submission of Integrity matrices as to effects on European sites • Post Hearing submissions including written summaries following PM and OFH1 • Interested Party comments on Applicant's suggested ASI itinerary • Local Impact Reports (LIRs) (Annex B) • Statements of Common Ground (SoCG) requested by the ExA (Annex B) • Responses to any further information requested by the ExA for this deadline	
REP1-001	Western Power Distribution (West Midlands) plc Deadline 1 Submission - Responses to ExA's first written questions
REP1-002	Staffordshire County Council Deadline 1 Submission - Cover Email including information for Procedural Deadline C
REP1-003	Not Used
REP1-004	Staffordshire County Council Deadline 1 Submission - Draft SoCG
REP1-005	Staffordshire County Council Deadline 1 Submission - Written Representation
REP1-006	Staffordshire County Council

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	Deadline 1 Submission - Responses to ExA first written questions
REP1-007	Staffordshire County Council Deadline 1 Submission - Local Impact Report
REP1-008	Not Used
REP1-009	Not Used
REP1-010	Shoosmiths LLP on behalf of Nurton Developments (Hilton) Limited Summary of Relevant Representations
REP1-011	Shoosmiths LLP on behalf of Nurton Developments (Hilton) Limited Deadline 1 Submission - Response to ExA's first written questions
REP1-012	Natural England Description: Deadline 1 - Written Representation and responses to ExA's first written questions - Re-published at the discretion of the ExA as original file corrupted
REP1-013	Natural England Deadline 1 Submission - Summary of Written Representations
REP1-014	National Trust Deadline 1 Submission - Response to ExA's first written questions
REP1-015	National Grid Deadline 1 Submission - Written Representation
REP1-016	National Grid Deadline 1 Submission - Responses to ExA first written questions
REP1-017	Mann & Hummel Deadline 1 Submission - Written Reps Mann & Hummel
REP1-018	BWB Consulting Ltd on behalf of M6 Diesel Deadline 1 Submission - Covering email
REP1-019	BWB Consulting Ltd on behalf of M6 Diesel Deadline 1 Submission - Response to ExA's first written questions
REP1-020	Bagshaws LLP on behalf of I & A Simkin Deadline 1 Submission - Written Representation
REP1-021	Bagshaws LLP on behalf of I & A Simkin Deadline 1 Submission - Response to ExA's first written questions
REP1-022	Bagshaws LLP on behalf of I & A Simkin Deadline 1 Submission - Comments on the Statement of Common Ground (SoCG)
REP1-023	Bagshaws LLP on behalf of I & A Simkin Deadline 1 Submission - Draft Statement of Common Ground
REP1-024	Highways England Deadline 1 Submission - 8.8 P(D) Draft Statement of Common with Hilton, Featherstone & Brinsford and Shareshill Parish Councils (Version 2 (P05)). Accepted at the discretion of the ExA as original file corrupted
REP1-025	Highways England Deadline 1 Submission - M54 to M6 Link Road Scheme – Deadline 1 and Procedural Deadline C Cover Letter
REP1-026	Highways England Deadline 1 Submission - 8.8 P(A) Draft Statement of Common Ground with Environment Agency (Version 3 (P05))
REP1-027	Highways England Deadline 1 Submission - 4.1 Statement of Reasons - Clean (Version P06)
REP1-028	Highways England Deadline 1 Submission - 8.8 P(B) Draft Statement of Common Ground with Natural England (Version 4 (P05))

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REP1-029	Highways England Deadline 1 Submission - 8.8 LIU(O) Draft Statement of Common Ground with Severn Trent Water Limited (Version 2 (P02))
REP1-030	Highways England Deadline 1 Submission - 8.8 O(A) Draft Statement of Common Ground with M6 Diesel Services Limited (Version 2 (P03))
REP1-031	Highways England Deadline 1 Submission - 8.8 LIU(R) Draft Statement of Common Ground with Zayo (Version 1 (P01))
REP1-032	Highways England Deadline 1 Submission - 8.8 LIU(P) Draft Statement of Common Ground with South Staffordshire Water (Version 2 (P02))
REP1-033	Highways England Deadline 1 Submission - 8.8 O(D) Draft Statement of Common Ground with Staffordshire Wildlife Trust (Version 2 (P03))
REP1-034	Highways England Deadline 1 Submission - 8.8 LIU(L) Draft Statement of Common Ground with The National Trust (Version 2 (P03))
REP1-035	Highways England Deadline 1 Submission - 8.8 LIU(J) Draft Statement of Common Ground with Elizabeth Whitehouse & Stella Arblaster (Version 2 (P04))
REP1-036	Highways England Deadline 1 Submission - 8.10 Applicant responses to ExAs 1st Written Questions (Version 1)
REP1-037	Highways England Deadline 1 Submission - 8.8 O(C) Draft Statement of Common Ground with St Francis Group (Version 1 P03))
REP1-038	Highways England Deadline 1 Submission - 8.8 LIU(M) Draft Statement of Common Ground with Openreach Ltd (Version 1 (P01))
REP1-039	Highways England Deadline 1 Submission - 8.8 LIU(D) Draft Statement of Common Ground with Nigel Simkin & Paul Simkin (Version 2 (P03))
REP1-040	Highways England Deadline 1 Submission - 6.2 Environmental Statement Figure 7.19D (Rev P03 S8)
REP1-041	Highways England Deadline 1 Submission - 8.8 LIU(E) Draft Statement of Common Ground with Mark Commins & Tracey Commins (Version 2 (P03))
REP1-042	Highways England Deadline 1 Submission - 8.8 LA(A) Draft Statement of Common Ground with Staffordshire County Council (Version 1 (P02))
REP1-043	Highways England Deadline 1 Submission - 8.9 Applicant Response to Relevant Representations (Version 1)
REP1-044	Highways England Deadline 1 Submission - 6.2 Environmental Statement Figure 9.1 (Rev P02)
REP1-045	Highways England Deadline 1 Submission - 8.8 LIU(K) Draft Statement of Common Ground with Nurton Developments (Hilton) Limited (Version 2 (P04))
REP1-046	Highways England

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	Deadline 1 Submission - 8.8 LIU(C) Draft Statement of Common Ground with Robert Edward Rowe (Version 2 (P03))
REP1-047	Highways England Deadline 1 Submission - 8.8 LA(D) Draft Statement of Common Ground with Shropshire Council (Version P01)
REP1-048	Highways England Deadline 1 Submission - 8.8 O(B) Draft Statement of Common Ground with Four Ashes Limited (Version 2 (P02))
REP1-049	Highways England Deadline 1 Submission - 8.10 Response to First Written Questions Appendices (Version 1)
REP1-050	Highways England Deadline 1 Submission - 8.8 LIU(N) Draft Statement of Common Ground with Cadent Gas Limited (Version 1 (P01))
REP1-051	Highways England Deadline 1 Submission - 8.8 LIU(I) Draft Statement of Common Ground with Ian Simkin & Adrian Simkin (Version 1 (P02))
REP1-052	Highways England Deadline 1 Submission - 8.8 P(C) Draft Statement of Common Ground with Historic England (Version 3 (P04))
REP1-053	Highways England Deadline 1 Submission - 8.8 LA(C) Draft Statement of Common Ground with City of Wolverhampton Council (Version 2 (P03))
REP1-054	Highways England Deadline 1 Submission - 8.12 Outline Arboricultural Mitigation Strategy (Version 1)
REP1-055	Highways England Deadline 1 Submission - 8.8 LIU(G) Draft Statement of Common Ground with Michael Byard (Version 1 (P03))
REP1-056	Highways England Deadline 1 Submission - 4.1 Statement of Reasons - Tracked changes (Version P06)
REP1-057	Highways England Deadline 1 Submission - 8.11 Environmental Mitigation Approach (Version 1)
REP1-058	Highways England Deadline 1 Submission - 8.8 LIU(H) Draft Statement of Common Ground with Barry & Valerie Jones (Version 2 (P04))
REP1-059	Highways England Deadline 1 Submission - 8.8 LA(B) Draft Statement of Common Ground with South Staffordshire Council (Version 2 (P02))
REP1-060	Highways England Deadline 1 Submission - 8.8 LIU(B) Draft Statement of Common Ground with William Bibbey (Version 2 (P03))
REP1-061	Highways England Deadline 1 Submission - 1.5 Guide to the Application - Tracked (Version P07)
REP1-062	Highways England Deadline 1 Submission - 8.8 Draft Statement of Commonality for Statements of Common Ground (Version 1)
REP1-063	Highways England

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	Deadline 1 Submission - 8.13 Habitats Regulations Assessment - Integrity Matrices (Version 1)
REP1-064	Highways England Deadline 1 Submission - 8.8 LIU(S) Draft Statement of Common Ground with Vodafone Limited (Version 1 (P01))
REP1-065	Highways England Deadline 1 Submission - 8.8 LIU(Q) Draft Statement of Common Ground with Western Power Distribution (Version 1 (P01))
REP1-066	Highways England Deadline 1 Submission - 8.8 LIU(A) Draft Statement of Common Ground with Allow Limited (Version 2 (P03))
REP1-067	Highways England Deadline 1 Submission - 1.5 Guide to the Application - Clean (Version P07)
REP1-068	Highways England Deadline 1 Submission - 6.2 Environmental Statement Figure 7.22C (Rev P03 S8)
REP1-069	Not Used
REP1-070	Gavin Williamson CBE MP Deadline 1 Submission - G Williamson CBE MP Representation
REP1-071	Not Used
REP1-072	Environment Agency Deadline 1 Submission - Responses to ExA's first written questions
REP1-073	Environment Agency Deadline 1 Submission – Cover Email and information for Procedural Deadline C
REP1-074	CT Planning on behalf of South Staffordshire Water plc Deadline 1 Submission - Covering email
REP1-075	CT Planning on behalf of South Staffordshire Water plc Deadline 1 Submission - Response to ExA's first written questions
REP1-076	CT Planning on behalf of South Staffordshire Water plc Deadline 1 Submission - Written Representation
REP1-077	Cllr Robert Cope Deadline 1 Submission
REP1-078	City of Wolverhampton Council Deadline (D1) Submission - Response to ExA's first written questions
REP1-079	Cadent Gas Deadline 1 Submission - Response to ExA's first written questions
REP1-080	BWB Consulting Ltd on behalf of M6 Diesel Deadline 1 Submission - Written Representation
REP1-081	BWB Consulting Ltd on behalf of M6 Diesel Deadline 1 Submission - Request for ASI & USI
REP1-082	Bagshaws LLP on behalf of Allow Ltd Deadline 1 Submission - Written Representations - Appendix 2
REP1-083	Bagshaws LLP on behalf of Allow Ltd Deadline 1 Submission - Accompanied Site Inspection Itinerary Comments
REP1-084	Bagshaws LLP on behalf of Allow Ltd Deadline 1 Submission - Written Representations - Appendix 4 (Photomontage Junction 1 M54 roundabout)
REP1-085	Bagshaws LLP on behalf of Allow Ltd Deadline 1 Submission - Written Representation - Appendix 5 (including information for Procedural Deadline C)

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REP1-086	Bagshaws LLP on behalf of Allow Ltd Deadline 1 Submission - Written Representations - Appendix 3 (Figure 1, 1816 OSD)
REP1-087	Bagshaws LLP on behalf of Allow Ltd Deadline 1 Submission - Comments on SoCG
REP1-088	Bagshaws LLP on behalf of Allow Ltd Deadline 1 Submission - Written Representations - Appendix 1
REP1-089	Allow Ltd Deadline 1 Submission - Summary of Relevant Representations
REP1-090	Bagshaws LLP on behalf of Allow Ltd Deadline 1 Submission - Responses to ExA's first written questions
REP1-091	Bagshaws LLP on behalf of Allow Ltd Deadline 1 Submission - Written Representation
REP1-092	Bagshaws LLP on behalf of Allow Ltd Deadline 1 Submission - Written Representations - Appendix 3 (RPS Review of land acquisition at Hilton Park)
REP1-093	Bagshaws LLP on behalf of Allow Ltd Deadline (D1) Submission - Summary of Written Representations
REP1-094	Bagshaws LLP on behalf of Allow Ltd Deadline 1 Submission - Cover Email
REP1-095	Not Used
REP1-096	South Staffordshire Council Deadline 1 Submission - Covering email
REP1-097	South Staffordshire Council Deadline 1 Submission - Local Impact Report
REP1-098	South Staffordshire Council Deadline 1 Submission - responses to ExA's first written questions
Deadline 2 – 17 November 2020 • Comments on responses to the ExA's Written Questions • Applicant's first revised draft DCO • Responses to comments on RRs • Comments on any additional information/submissions received by D1 • Responses to any further information requested by the the ExA for this deadline including the question relating to Publicity	
REP2-001	Highways England Deadline 2 Submission - Deadline 2 Cover Letter
REP2-002	Highways England Deadline 2 Submission - 1.5 Guide to the Application - Tracked (version P08)
REP2-003	Highways England Deadline 2 Submission - 1.5 Guide to the Application - Clean (version P08)
REP2-004	Highways England Deadline 2 Submission - 3.1 Draft Development Consent Order Validation Report - 16.11.20
REP2-005	Highways England Deadline 2 Submission - 3.1 Draft Development Consent Order - Tracked (version 3)
REP2-006	Highways England

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	Deadline 2 Submission - 3.1 Draft Development Consent Order - Clean (version 3)
REP2-007	Highways England Deadline 2 Submission - 3.2 Explanatory Memorandum - Tracked (version 3)
REP2-008	Highways England Deadline 2 Submission - 3.2 Explanatory Memorandum - Clean (version 3)
REP2-009	Highways England Deadline 2 Submission - 8.14 Applicant Responses to Written Question Responses from Interested Parties
REP2-010	Bagshaws LLP on behalf of Allow Ltd) Deadline 2 Submission - comments on the Applicants Responses to Relevant Representations and additional comments in relation to the ExA's first Written Question
REP2-011	Bagshaws LLP on behalf of I & A Simkin Deadline 2 Submission - Comments on the Applicants Responses to Relevant Representations
REP2-012	BWB Consulting Ltd on behalf of M6 Diesel Deadline 2 Submission
REP2-013	CT Planning on behalf of South Staffordshire Water plc Deadline 2 Submission - Responses to Highways England Answers to ExAs First Written Questions
REP2-014	Daniel Williams Deadline 2 Submission
REP2-015	DWF Law LLP on behalf of Severn Trent Water Limited Deadline 2 Submission
REP2-016	Haywood Planning Services on behalf of South Staffordshire Council Deadline 2 Submission - Response to Examining Authority Written Questions
Deadline 3 – 24 November 2020 • Comments on WRs • Comments on SoCGs • Comments on LIRs • Comments on Applicant's first revised draft DCO • Comments on Integrity matrices as to effects on European sites • Submission by the Applicant of low resolution documents (see Annex F) • Comments on any additional information/submissions received by D2 • Responses to any further information requested by the ExA for this deadline	
REP3-001	Highways England Deadline 3 Submission - Covering Letter
REP3-002	Highways England Deadline 3 Submission - 1.5 Guide to the Application – Tracked (Version P09)
REP3-003	Highways England Deadline 3 Submission - 1.5 Guide to the Application - Clean (Version P09)
REP3-004	Highways England Deadline 3 Submission - 2.2 Land Plans - Key Sheet (Version P03) - Low Resolution
REP3-005	Highways England

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	Deadline 3 Submission - 2.2 Land Plans sheets 1 to 10 (Version P03) - Low Resolution
REP3-006	Highways England Deadline 3 Submission - 2.4 Works Plans - Key Sheet (Version P03) - Low Resolution
REP3-007	Highways England Deadline 3 Submission - 2.4 Works Plans sheets 1 to 10 (Version P03) - Low Resolution
REP3-008	Highways England Deadline 3 Submission - 2.5 General Arrangement Plans - Key Sheet (Version P03) - Low Resolution
REP3-009	Highways England Deadline 3 Submission - 2.5 General Arrangement Plans sheets 1 to 10 (Version P03) - Low Resolution
REP3-010	Highways England Deadline 3 Submission - 2.6 Special Category Land Plans - Key Sheet (Version P02) - Low Resolution
REP3-011	Highways England) Deadline 3 Submission - 2.6 Special Category Land Plans sheets 1 to 10 (Version P02) - Low Resolution
REP3-012	Highways England Deadline 3 Submission - 2.7 Streets, Rights of Way and Access Plans - Key Sheet (Version P03) - Low Resolution
REP3-013	Highways England Deadline 3 Submission - 2.7 Streets, Rights of Way and Access Plans sheets 1 to 10 (Version P03) - Low Resolution
REP3-014	Highways England Deadline 3 Submission - 2.8 Traffic Regulation Measures Plans - Key Sheet (Version P03) - Low Resolution
REP3-015	Highways England Deadline 3 Submission - 2.8 Traffic Regulation Measures Plans sheets 1 to 10 (Version P03) - Low Resolution
REP3-016	Highways England Deadline 3 Submission - 2.9 Classification of Roads Plans - Key Sheet (Version P03) - Low Resolution
REP3-017	Highways England Deadline 3 Submission - 2.9 Classification of Roads Plans sheets 1 to 10 (Version P03) - Low Resolution
REP3-018	Highways England Deadline 3 Submission - 2.10 Engineering Section Drawings (Version P02) - Low Resolution (part 1 of 2)
REP3-019	Highways England Deadline 3 Submission - 2.10 Engineering Section Drawings (Version P02) - Low Resolution (part 2 of 2)
REP3-020	Highways England Deadline 3 Submission - 2.11 Outline Drainage Works - Key Sheet (Version P03) - Low Resolution
REP3-021	Highways England Deadline 3 Submission - 2.11 Outline Drainage Works Sheets 1 to 10 (Version P03) - Low Resolution
REP3-022	Highways England

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	Deadline 3 Submission - 4.3 Book of Reference - Tracked (Version P07)
REP3-023	Highways England Deadline 3 Submission - 4.3 Book of Reference - Clean (Version P07)
REP3-024	Highways England Deadline 3 Submission - 6.2 Environmental Statement - Figure 2.8 The Scheme (version P03) - Low Resolution
REP3-025	Highways England Deadline 3 Submission - 6.2 Environment Statement - Figure 5.2 Air Quality Baseline - Page 1 to 10 (Version P02) - Low Resolution
REP3-026	Highways England Deadline 3 Submission - 6.2 Environment Statement - Figure 5.3 Air Quality Modelling (Operational) page 1 to 10 (Version P02) - Low Resolution
REP3-027	Highways England Deadline 3 Submission - 6.2 Environment Statement - Figure 6.7: Hilton Park 1796 (Version P02) - Low Resolution
REP3-028	Highways England Deadline 3 Submission - 6.2 Environmental Statement - Figure 8.1: Locations of European Sites (Version P04) - Low Resolution
REP3-029	Highways England Deadline 3 Submission - 6.2 Environmental Statement - Figure 13.1: Water Bodies and their Attributes (Version P04) - Low Resolution
REP3-030	Highways England Deadline 3 Submission - 6.2 Environmental Statement - Figure 13.1A: Water: Bodies and their Attributes Groundwater Resources (Version P01) - Low Resolution
REP3-031	Highways England Deadline 3 Submission - 6.2 Environmental Statement - Figure 13.2: Q95 Low Flow Estimation Locations (Version P01) - Low Resolution
REP3-032	Highways England Deadline 3 Submission - 6.2 Environmental Statement - Figure 15.1: Cumulative Zones of Influence and Other Developments (Version P04) - Low Resolution
REP3-033	Highways England Deadline 3 Submission - 6.7 Equality Impact Assessment - Tracked (Version 2)
REP3-034	Highways England Deadline 3 Submission - 6.7 Equality Impact Assessment – Clean (Version 2)
REP3-035	Highways England Deadline 3 Submission - 7.4 Transport Assessment Report - Tracked (Version P06)
REP3-036	Highways England Deadline 3 Submission - 7.4 Transport Assessment Report – Clean (Version P06)
REP3-037	Highways England Deadline 3 Submission - 8.15 Applicant Responses to Documents Received at Deadlines 1 and 2
REP3-038	Highways England Deadline 3 Submission - 8.16 Review of Woodland Mapping, Impact Assessment and Compensation - (Version 1)
REP3-039	Highways England

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	Deadline 3 Submission - 8.17 HGV Flows on Existing A460 - (Version 1)
REP3-040	BWB Consulting Ltd on behalf of M6 Diesel Deadline 3 submission - Comments on Written Representations from other parties, SoCGs from other parties, the Applicant's first revised draft DCO, and the Applicant's responses to the first written questions
REP3-041	Cadent Gas Limited Deadline 3 Submission - Comments on Statement of Common Ground (SoCG) (Amendments to Highways England's version of 5 November 2020)
REP3-042	Cadent Gas Limited Deadline 3 Submission - Comments on Statement of Common Ground (SoCG) (Clean)
REP3-043	Fieldfisher LLP on behalf of Allow Ltd Deadline 3 Submission - Comments on Applicant's first revised draft DCO
REP3-044	i-Transport LLP on behalf of St Francis Group Deadline 3 Submission - Comments on Statement of Common Ground (SoCG)
Late Submission	
REP3-045	Ministry of Defence (MOD) Deadline 3 Submission - Late submission accepted at the discretion of the Examining Authority
Deadline 3A – 01 December 2020 • Comments on the Changes accepted on 29 October 2020	
REP3A-001	Bagshaws LLP on behalf of Allow Ltd) Deadline 3A Submission - Comments on the Changes accepted on 29 October 2020
REP3A-002	Bagshaws LLP on behalf of I & A Simkin Deadline 3A Submission - Comments on the Changes accepted on 29 October 2020
REP3A-003	CT Planning on behalf of South Staffordshire Water plc Deadline 3A Submission - Comments on the Changes accepted on 29 October 2020
Deadline 4 – 08 January 2021 • Post December 2020 Hearing submissions including written submissions of oral case • Any revised/updated SoCG • Responses to the ExA's Further Written Questions • Applicant's revised draft DCO • Comments on any additional information/submissions received by D3 and D3A • Responses to any further information requested by the ExA for this deadline	
REP4-001	Highways England Deadline 4 Submission - Cover Letter
REP4-002	Highways England Deadline 4 Submission - 1.5 Guide to the Application - Clean (version P11)
REP4-003	Highways England Deadline 4 Submission - 1.5 Guide to the Application - Tracked (version P11)
REP4-004	Highways England

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	Deadline 4 Submission - 2.10 Engineering Section Drawings (version P03)
REP4-005	Highways England Deadline 4 Submission - 3.1 Draft Development Consent Order - Clean (version 4)
REP4-006	Highways England Deadline 4 Submission - 3.1 Draft Development Consent Order - Tracked (version 4)
REP4-007	Highways England Deadline 4 Submission - 3.1 Draft Development Consent Order Validation Report (version 4)
REP4-008	Highways England Deadline 4 Submission - 3.3 Consents and Agreements Position Statement - Clean (version P03)
REP4-009	Highways England Deadline 4 Submission - 3.3 Consents and Agreements Position Statement - Tracked (version P03)
REP4-010	Highways England Deadline 4 Submission - 6.11 Outline Environmental Management Plan - Clean (version 4)
REP4-011	Highways England Deadline 4 Submission - 6.11 Outline Environmental Management Plan - Tracked (version 4)
REP4-012	Highways England Deadline 4 Submission - 7.5 Outline Traffic Management Plan - Clean (Version P05)
REP4-013	Highways England Deadline 4 Submission - 7.5 Outline Traffic Management Plan - Tracked (Version P05)
REP4-014	Highways England Deadline 4 Submission - 8.8 Statement of Commonality for Statements of Common Ground - Clean (version P02)
REP4-015	Highways England Deadline 4 Submission - 8.8 Statement of Commonality for Statements of Common Ground - Tracked (version P02)
REP4-016	Highways England (Deadline 4 Submission - 8.8 LIU(B) Draft Statement of Common Ground with William Bibbey (version 3 (P04))
REP4-017	Highways England Deadline 4 Submission - 8.8 LIU(C) Draft Statement of Common Ground with Robert Edward Rowe (version 3 (P04))
REP4-018	Highways England Deadline 4 Submission - 8.8 LIU(E) Draft Statement of Common Ground with Mark Commins & Tracey Commins (version 3 (P04))
REP4-019	Highways England Deadline 4 Submission - 8.8 LIU(G) Draft Statement of Common Ground with Michael Byard (version 2 (P04))
REP4-020	Highways England Deadline 4 Submission - 8.8 LIU(I) Draft Statement of Common Ground with Ian Simkin & Adrian Simkin (version 3 (P04))
REP4-021	Highways England

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	Deadline 4 Submission - 8.8 LIU(K) Draft Statement of Common Ground with Nurton Developments (Hilton) Limited (version 4 (P06))
REP4-022	Highways England Deadline 4 Submission - 8.8 LIU(L) Draft Statement of Common Ground with The National Trust (version 4 (P05))
REP4-023	Highways England Deadline 4 Submission - 8.8LIU(P) Draft Statement of Common Ground with South Staffordshire Water (version 3 (P03))
REP4-024	Highways England Deadline 4 Submission - 8.8LIU(R) Statement of Common Ground with Zayo (version 2)
REP4-025	Highways England Deadline 4 Submission - 8.8 O(A) Draft Statement of Common Ground with M6 Diesel Services Limited (version 4 (P05))
REP4-026	Highways England Deadline 4 Submission - 8.8 LA(A) Draft Statement of Common Ground with Staffordshire County Council (version 3 (P04))
REP4-027	Highways England Deadline 4 Submission - 8.8 LA(B) Draft Statement of Common Ground with South Staffordshire Council (version 4 (P05))
REP4-028	Highways England Deadline 4 Submission - 8.8 O(D) Draft Statement of Common Ground with Staffordshire Wildlife Trust (version 4 (P06))
REP4-029	Highways England Deadline 4 Submission - 8.8P(C) Draft Statement of Common Ground with Historic England (version 5 (P06))
REP4-030	Highways England Deadline 4 Submission - 8.8 P(A) Draft Statement of Common Ground with Environment Agency (version 4 (P06)
REP4-031	Highways England Deadline 4 Submission - 8.8 P(B) Draft Statement of Common Ground with Natural England (version 6 (P08)
REP4-032	Highways England Deadline 4 Submission - 8.18 Written Scheme of Investigation for Archaeological Trial Trenching Evaluation
REP4-033	Highways England Deadline 4 Submission - 8.19 Applicant Responses to Examining Authority's Second Written Questions, Representations Made at Deadlines 2, 3 and 3a and Matters Raised During Hearings in December 2020
REP4-034	Highways England Deadline 4 Submission - 8.20 Review of Woodland Mapping, Impact Assessment and Compensation - Revised Design
REP4-035	Highways England Deadline 4 Submission - 8.21 Walking, Cycling and Horse-riding Routes at Junctions Technical Note
REP4-036	Highways England Deadline 4 Submission - 8.22 Assessment of Alternative Locations for Mitigation in Plot 5/2
REP4-037	Highways England Deadline 4 Submission - 8.23 Ancient Woodland Map Regression Oxden Leasow / Whitgreaves Wood North

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REP4-038	Historic England Deadline 4 Submission - Post December 2020 Hearing submission
REP4-039	Natural England Deadline 4 Submission - Cover Email
REP4-040	Natural England Deadline 4 Submission - Hearing Action Point 6 - Letter from Natural England confirming no significant effect on SAC
REP4-041	Natural England Deadline 4 Submission - response to Further Written Questions and requests for information (ExQ2)
REP4-042	Staffordshire County Council Deadline 4 Submission
REP4-043	CT Planning on behalf of South Staffordshire Water Deadline 4 Submission - Responses to Examining Authority's Further Written Questions (ExQ2)
REP4-044	Bagshaws LLP on behalf of Allow Ltd Deadline 4 Submission - Cover Email
REP4-045	Bagshaws LLP on behalf of Allow Ltd Deadline 4 Submission - Response to The Examining Authority's Further Written Questions and requests for information (ExQ2) issued on 4 December 2020
REP4-046	Bagshaws LLP on behalf of Allow Ltd Deadline 4 Submission - Schedule of Habitats and species locations in relation to Further Written Question 2.3.1
REP4-047	Bagshaws LLP on behalf of Allow Ltd Deadline 4 Submission - R (FCC Environment (UK) Ltd) v Secretary of State for Energy and Climate Change [2015] EWCA Civ 55 - in support of Written Submissions of Oral Case made at Compulsory Acquisition Hearing - 10 December 2020
REP4-048	Bagshaws LLP on behalf of Allow Ltd Deadline 4 Submission - Written Submissions of Oral Case made at Compulsory Acquisition Hearing - 10 December 2020
REP4-049	Cadent Gas Limited Deadline 4 Submission - Response to Examining Authority's (ExA) Second Round of Written Questions
REP4-050	Bagshaws LLP on behalf of I & A Simkin Deadline 4 Submission - Cover Email
REP4-051	Bagshaws LLP on behalf of I & A Simkin Deadline 4 Submission - Response to information requested by the ExA (Action Point No. 22) at Compulsory Acquisition Hearing - 10th December 2020
REP4-052	Bagshaws LLP on behalf of I & A Simkin Deadline 4 Submission - Written Submissions of Oral Case made at Compulsory Acquisition Hearing - 10 December 2020
REP4-053	BWB Consulting Ltd on behalf of M6 Diesel Deadline 4 Submission - Cover Email
REP4-054	BWB Consulting Ltd on behalf of M6 Diesel Deadline 4 Submission - Written Submission of Oral Case (ISH2)
REP4-055	BWB Consulting Ltd on behalf of M6 Diesel Deadline 4 Submission - Proposed Protective Provisions
REP4-056	Shoosmiths LLP on behalf of Nurton Developments (Hilton) Limited

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	Deadline 4 Submission - Post December 2020 Hearing submission
REP4-057	Haywood Planning Services on behalf of South Staffordshire Council Deadline 4 Submission - Responses to further written questions , including maps showing the extent of the 2018 SAD employment allocation for ROF Featherstone and extent of plots with outline permission and unpermitted land to the north of i54
Deadline 5 – 20 January 2021 • Comments on any revised/updated SoCG (if any) • Comments on Applicant's revised draft DCO (if any) • Comments on responses to ExA's further written questions (if issued) • Comments on any additional information/submissions received by D4 • Responses to any further information requested by the ExA for this deadline	
REP5-001	Highways England Deadline 5 Submission - Cover Letter
REP5-002	Highways England Deadline 5 Submission - 1.5 Guide to the Application - Clean (version P12)
REP5-003	Highways England Deadline 5 Submission - 1.5 Guide to the Application - Tracked (version P12)
REP5-004	Highways England Deadline 5 Submission - 8.24 Applicant Responses to Further Written Question Responses from Interested Parties and Other Representations Made at Deadline 4
REP5-005	Staffordshire County Council Deadline 5 Submission
REP5-006	Haywood Planning Services on behalf of South Staffordshire Council Deadline 5 Submission
REP5-007	Bagshaws LLP on behalf of Allow Ltd Deadline 5 Submission - Response to the Applicant's 8.20 Review of Woodland Mapping, Impact Assessment and Compensation – Revised Design
REP5-008	Bagshaws LLP on behalf of Allow Ltd Deadline 5 Submission - Comments upon the Applicant's 8.22 Technical Note
REP5-009	Bagshaws LLP on behalf of Allow Ltd Deadline 5 Submission - Comments on Applicant's Revised Draft DCO submitted at Deadline 4
REP5-010	BWB Consulting Ltd on behalf of M6 Diesel Deadline 5 Submission
REP5-011	Bagshaws LLP on behalf of I & A Simkin Deadline 5 Submission
REP5-012	Cllr Robert Cope Deadline 5 Submission
REP5-013	Daniel Williams Deadline 5 Submission
REP5-014	Pramesh Chandra Deadline 5 Submission (accepted at the discretion of the Examining Authority)
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• Comments on the suitability of virtual site inspection and necessary lead-in	
REP5A-001	Highways England Deadline 5A Submission - Comments on the suitability of virtual site inspection methods and necessary lead-in
REP5A-002	Bagshaws LLP on behalf of Allow Limited Deadline 5A Submission - Comments on the suitability of virtual site inspection methods and necessary lead-in
REP5A-003	BWB Consulting Ltd on behalf of M6 Diesel Deadline 5A Submission - Comments on the suitability of virtual site inspection methods and necessary lead-in
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REP6-001	Highways England Deadline 6 Submission - Cover Letter
REP6-002	Highways England Deadline 6 Submission - 1.5 Guide to the Application - Clean (version P13)
REP6-003	Highways England Deadline 6 Submission - 1.5 Guide to the Application – Tracked (version P13)
REP6-004	Highways England Deadline 6 Submission - 2.2 Land Plans (version P05)
REP6-005	Highways England Deadline 6 Submission - 2.7 Streets, Rights of Way and Access Plans Regulation (version P04)
REP6-006	Highways England Deadline 6 Submission - 3.1 Draft Development Consent Order - Clean (version 5)
REP6-007	Highways England Deadline 6 Submission - 3.1 Draft Development Consent Order - Tracked (version 5)
REP6-008	Highways England Deadline 6 Submission - 3.1 Draft Development Consent Order Validation Report (version 5)
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REP6-010	Highways England Deadline 6 Submission - 3.2 Explanatory Memorandum - Tracked (version 4)
REP6-011	Highways England Deadline 6 Submission - 3.3 Consents and Agreements Position Statement - Clean (version P04)
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REP6-018	Highways England Deadline 6 Submission 8.8 Statement of Commonality for Statements of Common Ground - Tracked (version 03)
REP6-019	Highways England Deadline 6 Submission - 8.8 LA(A) Draft Statement of Common Ground with Staffordshire County Council (version P06)
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REP6-024	Highways England Deadline 6 Submission - 8.8 P(D) Draft Statement of Common Ground with Hilton, Featherstone & Brinsford and Shareshill Parish Councils (version 7)
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REP6-033	Highways England Deadline 6 Submission - 8.8 LIU(J) Draft Statement of Common Ground with Elizabeth Whitehouse & Stella Arblaster (version P05)
REP6-034	Highways England Deadline 6 Submission - 8.8 LIU(K) Draft Statement of Common Ground with Nurton Developments (Hilton) Limited (version P07)
REP6-035	Highways England Deadline 6 Submission - 8.8 LIU(L) Statement of Common Ground with The National Trust (version 06)
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REP6-041	Haywood Planning Services on behalf of South Staffordshire Council Deadline 6 Submission - Responses to ExA's Third Written Question (ExQ3)
REP6-042	Environment Agency Deadline 6 Submission - Responses to ExA's Third Written Question (ExQ3)
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REP6-052	Natural England Deadline 6 Submission - Late submission for Deadline 6 accepted at the discretion of the Examining Authority
Deadline 6A – 12 March 2021 • Submission by the Applicant of the 360° photography and video footage requested by the ExA on 29 January 2021	
REP6A-001	Highways England Deadline 6A Submission - M6 Diesel AS24 Station Video - The Applicant's 360 degree video footage
REP6A-002	Highways England Deadline 6A Submission - 360° photography requested by the ExA
Deadline 7 – 26 March 2021 • Comments on responses to the ExA's further Written Questions • Comments on the RIES • Comments on the ExA's proposed schedule of changes to the draft DCO • Comments on any additional information/submissions received by D6 • Comments on the 360° photography and video footage received by D6A • Responses to any further information requested by the ExA for this deadline	
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REP7-002	Highways England Deadline 7 Submission - 1.5 Guide to the Application - Tracked (version P14)
REP7-003	Highways England Deadline 7 Submission - 1.5 Guide to the Application - Clean (version P14)
REP7-004	Highways England Deadline 7 Submission - 2.4 Works Plans (version P04)
REP7-005	Highways England Deadline 7 Submission - 2.5 General Arrangement Plans (version P04)
REP7-006	Highways England Deadline 7 Submission - 2.7 Streets, Rights of Way and Access Plans (version P05)
REP7-007	Highways England Deadline 7 Submission - 2.8 Traffic Regulation Measures Plans (version P04)
REP7-008	Highways England Deadline 7 Submission - 2.9 Classification of Roads Plans (version P04)
REP7-009	Highways England Deadline 7 Submission - 2.11 Outline Drainage Works (version P04)
REP7-010	Highways England Deadline 7 Submission - 3.1 Draft Development Consent Order - Tracked (version 6)
REP7-011	Highways England Deadline 7 Submission - 3.1 Draft Development Consent Order - Clean (version 6)

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REP7-015	Highways England Deadline 7 Submission - 4.1 Statement of Reasons - Clean (version P09)
REP7-016	Highways England Deadline 7 Submission - 6.2 - Environmental Statement: Figure 2.1 Environmental Masterplan - Overview (Rev P17)
REP7-017	Highways England Deadline 7 Submission - 6.2 - Environmental Statement: Figure 2.2 Environmental Masterplan - Keyplan (Rev P17)
REP7-018	Highways England Deadline 7 Submission - 6.2 - Environmental Statement: Figure 2.3 Environmental Masterplan Sheet 1 of 5 (Rev P17)
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REP7-021	Highways England Deadline 7 Submission - 6.2 - Environmental Statement: Figure 2.6 Environmental Masterplan Sheet 4 of 5 (Rev P17)
REP7-022	Highways England Deadline 7 Submission - 6.2 - Environmental Statement: Figure 2.7 Environmental Masterplan Sheet 5 of 5 (Rev P17)
REP7-023	Highways England Deadline 7 Submission - 6.8 TPO Impact/ Removal Plans - Tracked (version 3)
REP7-024	Highways England Deadline 7 Submission - 6.8 TPO Impact/ Removal Plans - Clean (version 3)
REP7-025	Highways England Deadline 7 Submission - 6.11 Outline Environmental Management Plan - Tracked (version 5 (P10))
REP7-026	Highways England Deadline 7 Submission - 6.11 Outline Environmental Management Plan - Clean (version 5 (P10))
REP7-027	Highways England Deadline 7 Submission - 8.8 LA(A) Statement of Common Ground with Staffordshire County Council (version 7 (P08))
REP7-028	Highways England Deadline 7 Submission - 8.8 LA(B) Statement of Common Ground with South Staffordshire Council (version 7 (P08))
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REP7-030	Highways England Deadline 7 Submission - 8.8P(C) Statement of Common Ground with Historic England (version 7 (P08))
REP7-031	Highways England Deadline 7 Submission - 8.8 P(D) Statement of Common Ground with Hilton, Featherstone & Brinsford and Shareshill Parish Councils (version 4 (P08))
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REP7-034	Highways England Deadline 7 Submission - 8.8 O(D) Statement of Common Ground with Staffordshire Wildlife Trust version 6 (P08))
REP7-035	Highways England Deadline 7 Submission - 8.26 Report on Archaeological Trial Trenching Evaluation (version P03)
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REP7-038	Bagshaws LLP on behalf of Allow Ltd Deadline 7 Submission - Comments on responses to the Examining Authority's Further Written Questions
REP7-039	Cadent Gas Limited Deadline 7 Submission
REP7-040	Daniel Williams Deadline 7 Submission - Comments on response to Deadline 6
REP7-041	BWB Consulting Ltd on behalf of M6 Diesel Deadline 7 Submission - Comments on Response to Deadline 6 and responses to the Examining Authority's Further Written Questions
REP7-042	Ministry of Defence (MOD) Deadline 7 Submission
REP7-043	CT Planning on behalf of South Staffordshire Water plc Deadline 7 Submission - Comments on Response to Deadline 5 and responses to the Examining Authority's Further Written Questions

Deadline 8 – 7 April 2021

- Responses to comments on the RIES
- Responses to comments on the ExA's proposed schedule of changes to the draft DCO
- Final DCO to be submitted by the Applicantin the SI template with the SI Template validation report (MS Word)
- Final updated Book of Reference
- Final SoCGs
- Final Statement of Commonality of SoCG
- Final Compulsory Acquisition Schedule

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• Final updated Guide to the Application • Comments on any additional information/submissions received by D7 • Responses to any further information requested by the ExA for this deadline	
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REP8-002	Highways England Deadline 8 Submission - 1.5 Guide to the Application - Tracked (version P15)
REP8-003	Highways England Deadline 8 Submission - 1.5 Guide to the Application - Clean (version P15)
REP8-004	Highways England Deadline 8 Submission - 3.1 Draft Development Consent Order - Tracked (version 7)
REP8-005	Highways England) Deadline 8 Submission - 3.1 Draft Development Consent Order - Clean (version 7)
REP8-006	Highways England Deadline 8 Submission - 7.5 Outline Traffic Management Plan - Tracked (version P06)
REP8-007	Highways England Deadline 8 Submission - 7.5 Outline Traffic Management Plan - Clean (version P06)
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REP8-011	Highways England Deadline 8 Submission - 8.8 LIU(A) Statement of Common Ground with Allow Limited (version 5 (P07))
REP8-012	Highways England Deadline 8 Submission - 8.8 LIU(B) Statement of Common Ground with William Bibbey (version 5 (P06))
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REP8-014	Highways England Deadline 8 Submission - 8.8 LIU(D) Statement of Common Ground with Nigel Simkin & Paul Simkin (version 4 (P05))
REP8-015	Highways England Deadline 8 Submission - 8.8 LIU(G) Statement of Common Ground with Michael Byard (version 4 (P06)
REP8-016	Highways England Deadline 8 Submission - 8.8 LIU(H) Statement of Common Ground with Barry & Valerie Jones (version 4 (P06))
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REP8-019	Highways England Deadline 8 Submission - 8.8 LIU(K) Statement of Common Ground with Nurton Developments (Hilton) Limited (version P07 (9))
REP8-020	Highways England Deadline 8 Submission - 8.8 LIU(N) Statement of Common Ground with Cadent Gas Limited (version 2 (P03))
REP8-021	Highways England Deadline 8 Submission - 8.8 LIU(O) Statement of Common Ground with Severn Trent Water Limited (version 2 (P03))
REP8-022	Highways England Deadline 8 Submission - 8.8 LIU(P) Statement of Common Ground with South Staffordshire Water (version 4 (P04))
REP8-023	Highways England Deadline 8 Submission - 8.8 LIU(Q) Statement of Common Ground with Western Power Distribution (version 2 (P02))
REP8-024	Highways England Deadline 8 Submission - 8.8 LIU(S) Statement of Common Ground with Vodafone Limited (version 2 (P02))
REP8-025	Highways England Deadline 8 Submission - 8.8 O(A) Statement of Common Ground with M6 Diesel Services Limited (version 6 (P07))
REP8-026	Highways England Deadline 8 Submission - 8.8 O(B) Statement of Common Ground with Four Ashes Limited (version P05 (5))
REP8-027	Highways England Deadline 8 Submission - 8.8 P(A) Statement of Common Ground with Environment Agency (version 7 (P09))
REP8-028	Highways England Deadline 8 Submission - 8.8 P(B) Statement of Common Ground with Natural England (version 10 (P14))
REP8-029	Highways England Deadline 8 Submission - 8.28 Applicant Responses to Deadline 7 Representations and Examining Authority Requests (version 1)
REP8-030	Highways England Deadline 8 Submission - 8.29 Draft Planning Obligation relating to Whitgreave's Wood (version 1)
REP8-031	Highways England Deadline 8 Submission - Validation Report
REP8-032	Cadent Gas Limited Deadline 8 Submission
REP8-033	CT Planning on behalf of South Staffordshire Water plc Deadline 8 Submission - Response to information requested by the ExA (letter of 19 March 2021)
REP8-034	Staffordshire County Council Deadline 8 Submission - Response to information requested by the ExA (letter of 19 March 2021)

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REP8-035	The Coal Authority Deadline 8 Submission - Comments on the Proposed Changes and Publication of 360 photography
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REP9-001	Highways England Deadline 9 Submission - Cover Letter
REP9-002	Highways England Deadline 9 Submission - 1.5 Guide to the Application - Tracked (version P16)
REP9-003	Highways England Deadline 9 Submission - 1.5 Guide to the Application - Clean (version P16)
REP9-004	Highways England Deadline 9 Submission - 8.30 Letter of No Impediment for Great Crested Newt. (version 1)
REP9-005	Bagshaws LLP on behalf of Allow Limited Deadline 9 Submission - Final position in respect of matters examined
REP9-006	Cadent Gas Limited Deadline 9 Submission
REP9-007	Daniel Williams Deadline 9 Submission
REP9-008	BWB Consulting Ltd on behalf of M6 Diesel Deadline 9 Submission - Comments on Applicant's document 8.28 submitted at Deadline 8 and Statements of Final Position in respect of matters examined
REP9-009	Ministry of Defence (MOD) Deadline 9 Submission
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OD-001	Highways England Regulation 9 Notice
OD-002	54M6 Regulation 32 Transboundary Screening
OD-003	Highways England Applicant's s56 notice of accepted application
OD-004	Highways England Certificates of Compliance – Cover Letter
OD-005	Highways England Section 56 Certificate
OD-006	Highways England Regulation 16 Certificate
OD-007	Regulation 32 Transboundary Re-screening
OD-008	Highways England Close of Examination Covering Letter
OD-009	Highways England 1.5 Guide to the Application - Clean (version P17)
OD-010	Highways England

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	1.5 Guide to the Application - Tracked (version P17)
OD-011	Highways England 8.29 Completed Planning Obligation relating to Whitgreave's Wood (version 3)
OD-012	National Grid Withdrawal of relevant representation - Accepted at the discretion of the Examining Authority

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APPENDIX C: LIST OF ABBREVIATIONS

APPENDIX C: LIST OF ABBREVIATIONS

Abbreviation or usage	Reference
A1BtC	A1 Birtley to Coal House Improvements
A585WHtS	A585 Windy Harbour to Skipool Improvement
AEP	Annual Exceedance Probability
Air Quality Regulations	The Air Quality Standards Regulation 2010 (as amended)
ALC	Agricultural Land Classification
Allow	Allow Limited (Ltd)
AP	Affected Person
APIS	Air Pollution Information System
AQMA	Air Quality Management Area
AQS	UK National Air Quality Strategy
ARN	Affected Road Network
ASI	Accompanied Site Inspection
ASR	South Staffordshire 2019 Air Quality Annual Status Report
ATC	Automatic Traffic Counter
BGS	British Geological Survey
Biodiversity Convention	United Nations Environmental Programme Convention on Biological Diversity 1992
BMV	Best and most versatile agricultural land
BoR	Book of Reference
CA	Compulsory Acquisition
CA Regulations	the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 as amended
Cadent	Cadent Gas Limited
CAH	Compulsory Acquisition Hearing
CEMP	Construction Environmental Management Plan
CftS	Case for the Scheme
CH_4	Methane

CL	Critical Load
cm	Centimetres
CNG	WHO Guidelines for Community Noise 1999
CO	Carbon monoxide
CO_2	carbon dioxide
Core Strategy	The South Staffordshire Local Plan Core Strategy, adopted 11 December 2012.
CRTN	Calculation of Road Traffic Noise
cSAC	Candidate Special Area of Conservation
CWC	City of Wolverhampton Council
D	Deadline
dB	Decibels
DCO	Development Consent Order
dDCO	Draft Development Consent Order
Decisions Regulations	Infrastructure Planning (Decisions) Regulations 2010 (as amended)
Defra	Department for Environment, Food and Rural Affairs
DfT	Department for Transport
DM	Do-Minimum
DMRB	Design Manual for Roads and Bridges
DoS	Degree of Saturation
DS	Do-Something
dSoCG	Draft Statement of Common Ground
EA	Environment Agency
ECHR	European Convention or the Protection of Human Rights and Fundamental Freedoms
EEA	European Economic Area
EIA	Environmental Impact Assessment
EIA Regulations	Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended)
EL	Examination Library
EM	Explanatory Memorandum

ENG	WHO Environmental Noise Guidelines for the European Region 2018
EPR	the Infrastructure Planning (Examination Procedure) Rules 2010
EqIA	Equality Impact Assessment
EqIA	Equality Impact Assessment
ES	Environmental Statement
EU	European Union
ExA	Examining Authority
ExQ1	First Written Questions
ExQ2	Second Written Questions
ExQ3	Third Written Questions
FRA	Flood Risk Assessment
Framework	National Planning Policy Framework
FY	Future Year (15 years after opening)
GAC	Generic Assessment Criteria
GCN	Great Crested newt
GHG	Greenhouse Gas
GLVIA3	Guidelines for Landscape and Visual; Impact Assessment third edition
ha	hectare
Habitats Regulations	Conservation of Habitats and Species Regulations 2017 (as amended)
HBMCE	Historic Buildings and Monuments Commission for England (commonly known as 'Historic England')
HDV	Heavy Duty Vehicle
HE	Highways England
HEDP	Highways England Delivery Plan
HEMP	Handover Environmental Management Plan
HESBP	Highways England Strategic Business Plan
HEWRAT	Highways England Water Risk Assessment Tool
HFCs	hydroflourocarbons
HGV	Heavy Goods Vehicle
HLA	Historic Landscape Area
HPI	Habitats of Principal Importance
HRA	Habitats Assessment Regulations

IAN	Interim Advice Note (associated with DMRB)
IEMA	Institute of Environmental Management and Assessment
IP	Interested Party
ISH	Issue Specific Hearing
ITR	Indirect Taxation Revenue
ITS	Integrated Transport Strategy
km	kilometres
km	kilometres
km²	square kilometre
L_{Aeq}	Equivalent Continuous Sound Pressure
LCT	Landscape Character Types
LEDs	Light Emitting Diodes
LEMP	Landscape and Ecology Management Plan
LFRMS	Local Flood Risk Management Strategy
LIR	Local Impact Report
LLFA	Lead Local Flood Authority
LNR	Local Nature Reserve
LOAEL	Lowest Observed Adverse Effect Level
LoD	Limits of Deviation
LSE	Likely Significant Effect
LV	Limit Value
LVIA	Landscape and Visual Impact Assessment
LWS	Local Wildlife Site
m	metre
m^2	square metres
m^3	cubic metres
MCC	Manual Classified Count
MHCLG	Ministry of Housing, Communities and Local Government
mm	millimetre
mph	miles per hour
MRTM	Midlands Regional Highway Model
MtCO2e	metric tonnes of carbon dioxide equivalent
N_2O	Nitrous oxide
National Trust	National Trust for Places of Historic Interest or Natural Beauty

NCA	National Character Area
NE	Natural England
NECRA	Natural Environment and Rural Communities Act 2006
NMU	Non-Motorised User (includes Walkers Cyclists and Horse riders)
NNG	WHO Night-time Noise guidelines for Europe 2009
NO_2	Nitrogen Dioxide
NOEL	No Observed Effect Level
NOx	Mono-nitrogen oxides
NPS	National Policy Statement
NPSE	Noise Policy Statement for England
NPSNN	National Policy Statement for National Networks
NRMM	Non-road mobile machinery
NSER	No Significant Effects Report
NSIP	Nationally Significant Infrastructure Project
Nurton	Nurton Developments (Hilton) Limited
OEMP	Outline Environmental Management Plan
OFH	Open Floor Hearing
OY	Opening Year
PA2008	Planning Act 2008 as amended
Parish Councils	Hilton, Featherstone & Brinsford and Shareshill Councils
PFCs	perfluorocarbons
PM	Preliminary Meeting
PM_{10}	Particulate matter of 10 micrometres or less in diameter
$PM_{2.5}$	Particulate matter of 2.5 micrometres or less in diameter
PPG	Planning Practice Guidance
PPV	Peak Particle Velocity
Proposed Development	M54 to M6 Link Road
PRoW	Public Right of Way
pSAC	Possible Special Area of Conservation
PSED	Public Sector Equality Duty
pSPA	Potential Special Protection Area

R	Requirement
Ramsar Convention	The Convention on Wetlands of International Importance
rDCO	Recommended DCO
REAC	Register of Environmental Actions and Commitments
REAC	Register of Environmental Actions and Commitments
RIES	Report on Implications for European Sites
RIG	Regionally Important Geological Site
RIS1	Road Investment Strategy: 2015/16-2019/20 Road Period
RIS2	Road Investment Strategy 2: 2020-2025
ROF Featherstone	Royal Ordnance Factory Featherstone
RP2	Second Road Period in RIS2
RR	Relevant Representation
s	section
SAC	Special Area of Conservation
SAD	Local Plan Site Allocations document, adopted 2018
SATURN	Simulation and Assignment of Traffic to Urban Road Networks developed by the Institute of Transport Studies, University of Leeds.
SBI	Site of Biological Importance
SCC	Staffordshire County Council
SCI	Sites of Community Importance
SF_6	Sulphur hexafluoride
SNCB	Statutory Nature Conservation Body
SO_2	Sulphur Dioxide
SOAEL	Significant Observed Adverse Effect Level
SoCG	Statement of Common Ground
SoR	Statement of Reasons
SoS	Secretary of State
SoST	Secretary of State for Transport
SPA	Special Protection Area
SPG	Supplementary Planning Guidance
SPZ	Source Protection Zone

SRN	Strategic Road Network
SSC	South Staffordshire Council
SSSI	Site of Special Scientific Interest
SSW	South Staffordshire Water Plc
STW	Severn Trent Water Ltd
SuDs	Sustainable Drainage Systems
SWT	Staffordshire Wildlife Trust
TAG	DfT's Transport Analysis Guidance
TAR	Transport Assessment Report
tCO_2e	tonnes of carbon dioxide equivalent
the Guide	The Guide to the Application [OD-009]
TP	Temporary Possession
UK	United Kingdom
UK Air Quality Strategy	Air Quality Strategy for England, Scotland, Wales and Northern Ireland
UNEP	United Nations Environment Programme
USI	Unaccompanied Site Inspection
VP	Viewpoint
vpd	Vehicles per day
VSC	Very Special Circumstances
Water Environment Regulations	Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (as amended)
WCA	Wildlife and Countryside Act 1981 (as amended)
WebTAG	Web Based Transport Analysis Guidance issued by DfT
WFD	Water Framework Directive (Council Directive 2000/60/EC)
WFDa	Water Framework Directive Assessment
WHO	World Health Organisation
WMI	West Midlands Interchange
WPD	Western Power Distribution Ltd
WR	Written Representations

WSI	Written Scheme of Investigation
ZoI	Zone of Influence
ZTV	Zone of Theoretical Visibility

APPENDIX D: THE RECOMMENDED DCO

STATUTORY INSTRUMENTS

[] No.

INFRASTRUCTURE PLANNING

The M54 to M6 Link Road Development Consent Order 20[ ]

Made

Coming into force

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

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

The panel, having considered the representations made and not withdrawn and having examined the application together with the accompanying documents, in accordance with section 74(2) of the 2008 Act, has submitted a report and recommendation to the Secretary of State.

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

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120, 122 and 123 of, and paragraphs 1 to 3, 10 to 15, 17, 19 to 23, 26, 33, 36 and 37 of Part 1 of Schedule 5 to, the 2008 Act, makes the following Order—

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the M54 to M6 Link Road Development Consent Order 20[ ] and comes into force on [ ] 20[ ].

Interpretation

2.—(1) In this Order—

"the 1961 Act" means the Land Compensation Act 1961(**d**);

"the 1965 Act" means the Compulsory Purchase Act 1965(**e**);

"the 1980 Act" means the Highways Act 1980(**f**);

"the 1981 Act" means the Compulsory Purchase (Vesting Declarations) Act 1981(**g**);

"the 1984 Act" means the Road Traffic Regulation Act 1984(**h**);

"the 1990 Act" means the Town and Country Planning Act 1990(**i**);

(**a**) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522 and S.I. 2013/755, SI. 2014/469, S.I. 2014/2381, S.I.2015/377, S.I. 2015/1682, S.I. 2017/524 and S.I. 2017/572.
(**b**) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).
(**c**) S.I. 2010/103, amended by S.I. 2012/635.
(**d**) 1961 c. 33.
(**e**) 1965 c. 56.
(**f**) 1980 c. 66.
(**g**) 1981 c. 66.
(**h**) 1984 c. 27.
(**i**) 1990 c. 8.

"the 1991 Act" means the New Roads and Street Works Act 1991(**a**);

"the 2004 Act" means the Traffic Management Act 2004(**b**);

"the 2008 Act" means the Planning Act 2008(**c**);

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

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

"authorised development" means the development described in Schedule 1 (authorised development) or any part of it, which is development within the meaning of section 32 (meaning of development) of the 2008 Act;

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

"British Telecommunications Plc" means the company registered in England and Wales, company number 01800000, whose registered address is 81 Newgate Street, London EC1A 7AJ);

"building" includes any structure or erection or any part of a building, structure or erection;

"Cadent Gas Ltd" means the company registered in England and Wales, company number 10080864, whose registered address is Ashbrook Court, Prologis Park, Central Boulevard, Coventry CV7 8PE;

"carriageway" has the same meaning as in the 1980 Act and includes part of a carriageway;

"classification of roads plans" means the plans of that description referred to in Schedule 10 (documents to be certified) certified by the Secretary of State as the classification of road 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 mitigation works, 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 and equipment, diversion and laying of underground apparatus 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 the 1980 Act and includes part of a cycle track(**d**);

"electronic transmission" means a communication transmitted—

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

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

"the engineering drawings and sections" means the drawings and sections listed in Schedule 10 (documents to be certified) and certified as the engineering drawings and sections by the Secretary of State for the purposes of this Order;

"environmental statement" means the document of that description submitted with the application for this Order and certified as the environmental statement by the Secretary of State for the purposes of this Order;

"footway" and "footpath" have the same meaning as in the 1980 Act and include part of a footway or footpath;

"highway", "highway authority" and "local highway authority" have the same meaning as in the 1980 Act and "highway" includes part of a highway;

(**a**) 1991 c. 22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c. 26).
(**b**) 2004 c.18.
(**c**) 2008 c. 29.
(**d**) The definition of "cycle track" (in section 329(1) of the 1980 Act) was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

"the land plans" means the plans listed in Schedule 10 (documents to be certified) and 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 6 (limits of deviation);

"maintain" in relation to the authorised development includes, to the extent assessed in the environmental statement, to inspect, repair, adjust, alter, remove or reconstruct and any derivative of "maintain" is to be construed accordingly;

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

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

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

"relevant planning authority" means in any given provision of this Order, the planning authority for the area to which the provision relates;

"Secretary of State" means the Secretary of State for Transport;

"Severn Trent Water Ltd" means the company registered in England and Wales, company number 02366686, whose registered office address is Severn Trent Centre, 2 St John's Street, Coventry, CV1 2LZ;

"South Staffordshire Plc" means the company registered in England and Wales, company number 04295398, whose registered office address is Green Lane, Walsall, West Midlands, WS2 7PD;

"special road" means a highway which is a special road in accordance with section 16 (general provisions as to special roads) of the 1980 Act or by virtue of an order granting development consent;

"statutory undertaker" means any statutory undertaker for the purposes of section 127(8), of the 2008 Act;

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

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

"streets, rights of way and access plans" means the plans listed in Schedule 10 (documents to be certified) and certified as the streets, rights of way and access plans by the Secretary of State for the purposes of this Order;

"traffic authority" has the same meaning as in Section 121A (traffic authorities) of the 1984 Act (**b**);

"tree preservation order/impact removal plans" means the drawings referenced in Schedule 10 (documents to be certified) and certified as the tree preservation order/impact removal plans by the Secretary of State;

"trunk road" means a highway which is a trunk road by virtue of—

(a) section 10 or 19(1) of the 1980 Act; or

(b) an order or direction under section 10 of that Act; or

(c) an order granting development consent; or

(d) any other enactment;

"undertaker" means Highways England Company Limited (Company No. 09346363) of Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;

(**a**) 1981 c. 67. The definition of "owner" was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1992 (c.34). There are other amendments to section 7 which are not relevant to the Order.

(**b**) As inserted by paragraph 70 of Schedule 8 to the 1991 Act, and subsequently amended by paragraphs 70 and 95 of Schedule 1 to the Infrastructure Act 2015 (c.7)

"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

"Western Power Distribution Plc" means the company registered in England and Wales, company number 09223384 whose registered address is Avonbank, Feeder Road, Bristol, Avon, BS2 0TB;

"the works plans" means the plans listed in Schedule 10 (documents to be certified) and 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 streets, rights of way and access plans or the classification of road plans.

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

(7) The provisions of the Neighbourhood Planning Act 2017(**a**), insofar as they relate to temporary possession of land under articles 29 and 30 of this Order, do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development and, within the maintenance period defined in article 30(11), any maintenance of any part of the authorised development.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

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

(3) Nothing in this Order prevents the carrying out of operations consisting of archaeological investigations, non-intrusive investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, and the temporary display of site notices or advertisements immediately upon this Order coming into force.

Maintenance of authorised development

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

(**a**) 2017 c. 20.

Maintenance of drainage works

5.—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article "drainage" has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991(**a**).

Limits of deviation

6. In carrying out the authorised development the undertaker may—

(a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation shown on those plans; and

(b) deviate vertically from the levels of the authorised development shown on the engineering drawings and sections to—

(i) in respect of the construction of any noise barrier, a maximum of 1 metre upwards or downwards; and

(ii) in respect of any other work comprised in the authorised development, to a maximum of 0.5 metres upwards or 0.5 metres 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 worse adverse environmental effects in comparison with those reported in the environmental statement.

Benefit of Order

7.—(1) Subject to paragraph (2) and article 8 (consent to transfer benefit of Order), 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 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

8.—(1) Subject to paragraph (4), the undertaker may—

(a) transfer to another person ("the transferee") any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or

(b) grant to another person ("the lessee") for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

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

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

(**a**) 1991 c.59.

(4) The consent of the Secretary of State is required for a transfer or grant under this article, except where the transfer or grant is made to—

(a) Western Power Distribution Plc for the purposes of undertaking Work Nos. 67(i) and 70;

(b) Severn Trent Water Ltd for the purposes of undertaking Work Nos. 67(iii) and 69(i);

(c) South Staffordshire Plc for the purposes of undertaking Work No. 69(i);

(d) British Telecommunications Plc (or a related or subsidiary company) for the purposes of undertaking Work No. 67(ii); and

(e) Cadent Gas Ltd for the purposes of undertaking Work No. 68.

PART 3

STREETS

Application of the New Roads and Street Works Act 1991 and the Traffic Management Act 2004

9.—(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 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) of that Act (which defines what highway authority works are major highway works); or

(b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 (dual carriageways and roundabouts)(**a**) of the 1980 Act or section 184 (vehicle crossings over footways and verges)(**b**) of that Act.

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

(3) The following provisions of Part 3 the 1991 Act (street works in England and Wales) do not apply in relation to any works executed under the powers of this Order—

section 56 (directions as to timing)(**c**);

section 56A (power to give directions as to placing of apparatus)(**d**);

section 58 (restrictions following substantial road works)(**e**);

section 58A (restriction on works following substantial street works)(**f**);

section 73A (power to require undertaker to re-surface street)(**g**);

section 73B (power to specify timing etc. of re-surfacing)(**h**);

section 73C (materials, workmanship and standard of re-surfacing)(**i**);

section 78A (contributions to costs of re-surfacing by undertaker)(**j**); and

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(**a**) Section 64 was amended by section 102 of Schedule 17 to the Local Government Act 1965 (c. 51) and Schedule 9 to the 1991 Act.

(**b**) Section 184 was amended by sections 35, 37, 38 and 46 of the Criminal Justice Act 1982 (c.48), section 4 of, and Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and Schedule 8 to the New Roads and Street Works Act 1991 (c. 22).

(**c**) Section 56 was amended by sections 40 and 43 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).

(**d**) Section 56A was inserted by section 44 of the Traffic Management Act 2004 (c. 18).

(**e**) Section 58 was amended by sections 40 and 51 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

(**f**) Section 58A was inserted by section 52 of the Traffic Management Act 2004 (c. 18).

(**g**) Section 73A was inserted by section 55 of the Traffic Management Act 2004 (c.18).

(**h**) Section 73B was inserted by section 55 of the Traffic Management Act 2004 (c.18).

(**i**) Section 73C was inserted by section 55 of the Traffic Management Act 2004 (c.18).

(**j**) Section 78A was inserted by section 57 of the Traffic Management Act 2004 (c.18).

Schedule 3A (restriction on works following substantial street works)(**a**).

(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 12 (temporary stopping up and restriction of use of streets), whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act(**b**) referred to in paragraph (4) are—

section 54 (advance notice of certain works)(**c**), subject to paragraph (6);

section 55 (notice of starting date of works)(**d**), subject to paragraph (6);

section 57 (notice of emergency works)(**e**);

section 59 (general duty of street authority to co-ordinate works)(**f**);

section 60 (general duty of undertakers to co-operate);

section 68 (facilities to be afforded to street authority);

section 69 (works likely to affect other apparatus in the street);

section 75 (inspection fees);

section 76 (liability for cost of temporary traffic regulation); and

section 77 (liability for cost of use of alternative route),

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

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) 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 10 (construction and maintenance of new, altered or diverted streets)—

(a) affects the operation of section 87 of the 1991 Act (prospectively maintainable highways) and means that the undertaker is by reason of any duty under that article to maintain a street or to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or

(b) has effect in relation to maintenance works which are street works within the meaning of the 1991 Act, as respects which the provisions of Part 3 of the 1991 Act apply

(8) No consent pursuant to any scheme made under Part 3 of the 2004 Act is required for any works executed under the powers of this Order.

Construction and maintenance of new, altered or diverted streets and other structures

10.—(1) Any street (other than a special road or 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 street lies and, unless otherwise agreed with the local highway authority, the street including any culverts or other structures laid under it, must be maintained by and at the expense of the local highway authority from its completion.

(2) Where a street (other than a special road or a trunk road) is altered or diverted under this Order, the altered or diverted part of the street must, when completed to the reasonable satisfaction of the street authority in whose area the street lies and, unless otherwise agreed with the local

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(**a**) Schedule 3A was inserted by Schedule 4 to the Traffic Management Act 2004 (c. 18).
(**b**) Sections 54, 55, 57, 60, 68 and 69 were amended by sections 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
(**c**) As also amended by section 49(1) of the Traffic Management Act 2004 (c. 18).
(**d**) As also amended by section 49(2) and 51(9) of the Traffic Management Act 2004 (c. 18).
(**e**) As also amended by section 52(3) of the Traffic Management Act 2004 (c. 18).
(**f**) As amended by section 42 of the Traffic Management Act 2004 (c. 18).

street authority, that part of the street, including any culverts or other structures laid under it, must be maintained by and at the expense of the local street authority from its completion.

(3) In the case of—

(a) a bridge constructed under this Order to carry a highway (other than a special road or a trunk road) over a special road or 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 and the remainder of the bridge, including the waterproofing membrane and structure below, must be maintained by and at the expense of the undertaker; and

(b) the drainage attenuation and treatment systems to be constructed pursuant to Work No. 58 those works must be maintained by and at the expense of the local highway authority;

(4) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street or other structure 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.

(5) For the purposes of a defence under paragraph (4), the court must in particular have regard to the following matters—

(a) the character of the street or structure and the traffic which was reasonably to be expected to use it;

(b) the standard of maintenance appropriate for a street or structure 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 or structure;

(d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street or structure to which the action relates was likely to cause dangers to users of the street or structure; and

(e) where the undertaker could not reasonably have been expected to repair that part of the street or structure 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 or structure to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

(6) The power of the undertaker to maintain the authorised development pursuant to article 4 (maintenance of authorised development) shall cease to apply to any streets and other structures which when completed must be maintained by and at the expense of the local highway authority pursuant to this article.

Classification of roads etc.

11.—(1) The roads described in Part 1 (special roads) of Schedule 3 (classification of roads etc.) are to be—

(a) classified as special roads for the purposes of any enactment or instrument which refers to highways classified as special roads; and

(b) provided for the use of traffic of Classes I and II of the classes of traffic set out in Schedule 4 of the 1980 Act.

(2) From the date on which the undertaker notifies the Secretary of State that the roads described in Part 1 (special roads) of Schedule 3 have been completed and are open for traffic—

(a) the undertaker is the highway authority for those roads; and

(b) they are classified as trunk roads for the purpose of any enactment or instrument which refers to highways classified as trunk roads.

(3) From the date on which the authorised development is open for traffic the roads described in Part 2 (trunk roads) of Schedule 3 are to become trunk roads as if they had become so by virtue of an order under section 10(2) (general provisions as to trunk roads) of the 1980 Act specifying that date as the date on which they were to become trunk roads.

(4) From the date on which the authorised development is open for traffic the roads described in Part 3 (classified roads) of Schedule 3 are to become classified roads for the purposes of any enactment or instrument which refers to highways classified as classified roads as if such classification has been made under section 12(3) (general provisions as to principal and classified roads) of the 1980 Act.

(5) From the date on which the authorised development is open for traffic the roads described in Part 4 (unclassified roads) of Schedule 3 are to become unclassified roads for the purpose of any enactment or instrument which refers to unclassified roads.

(6) From the date on which the roads specified in Part 5 (speed limits) of Schedule 3 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 (2) of that part along the lengths of the road identified in the corresponding row of column (1) of the Part.

(7) The public rights of way described in Part 6 (public rights of way) of Schedule 3 and identified in the streets, rights of way and access plans are to be constructed by the undertaker in the specified locations and open for use from—

(a) the date on which the authorised development is open for traffic; or

(b) such date as soon as reasonably practicable after the construction of the public right of way as may be agreed by the undertaker and the local highway authority.

(8) On a date to be determined by the undertaker, which shall be no later than three months after the authorised development is open for traffic, the order specified in column (3) in Part 7 (creation of new traffic regulation orders) of Schedule 3 is to be in force and no person is to drive a motor vehicle at a speed exceeding the limit in miles per hour specified in column (4) of that Part along the lengths of road identified in the corresponding row of column (2) of that Part.

(9) On such day as the undertaker may determine, which shall be no later than three months after the authorised development is open for traffic, the order specified in column (3) of Part 8 (variation of existing traffic regulation orders) of Schedule 3 is to be varied 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.

(10) The application of paragraphs (1) to (9) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters, including by an instrument made under the 1984 Act where the matter in question could have been included in an order made under that Act.

Temporary stopping up and restriction of use of streets

12.—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter, divert or restrict the use of any street 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 or diversion of a street under this article if there would otherwise be no such access.

(4) The undertaker must not temporarily stop up, alter or divert 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.

(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, public rights of way and private means of access

13.—(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, public rights of way and private means of access specified in column (1) of Parts 1, 2, 3, 4, 5, 6 and 7 of Schedule 4 (permanent stopping up of streets, public rights of way and private means of access) to the extent specified and described in column (2) of those parts of that Schedule.

(2) No street, public rights of way or private means of access specified in column (1) of Parts 1, 3 and 6 of Schedule 4 is to be wholly or partly stopped up under this article unless—

(a) the new street, public right of way or private means of access to be constructed and substituted for it, which is specified in column (3) of those Parts of that Schedule, is open for use and, in the case of a street has been completed to the reasonable satisfaction of the street authority; or

(b) a temporary alternative route for the passage of such traffic as could have used the street, public right of way or private means of access to be stopped up is first provided and, in the case of a street, is 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 street, public right of way or private means of access until the completion and opening of the new street, public right of way or private means of access in accordance with sub-paragraph (a).

(3) No street or public right of way specified in column (1) of Part 2 and 4 of Schedule 4 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 public right of way to be stopped up.

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

(a) the undertaker is in possession of the land; or

(b) there is no right of access to the land from the street or public right of way concerned; or

(c) there is reasonably convenient access to the land otherwise than from the street or public right of way 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) The undertaker may, in connection with the carrying out of the authorised development, alter the public right of way specified in column (1) of Part 5 of Schedule 4 as specified in column (2) of that Part.

(7) The undertaker may, in connection with the carrying out of the authorised development, provide or alter the private means of access specified in column (1) of Part 7 of Schedule 4 as specified in column (2) of that Part.

(8) 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.

(9) This article is subject to article 32 (apparatus and rights of statutory undertakers in stopped up streets).

Access to works

14. The undertaker may, for the purposes of the authorised development, form and layout 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

15.—(1) From the date on which the roads described in Part 1 of Schedule 3 (classification of roads, etc.) are open for traffic, except as provided in paragraph (2), no person is to cause or permit any vehicle to wait on any part of those roads except upon the direction of, or with the permission of, a constable or traffic officer in uniform.

(2) Nothing in paragraph (1) may apply—

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

(i) the removal of any obstruction to traffic;

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

(iii) the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the road of any sewer, main pipe, conduit, wire, cable or other apparatus for the supply of gas, water, electricity or any electronic communications apparatus as defined in Schedule 3A to the Communications Act 2003(**a**); or

(iv) any building operation or demolition;

(b) in relation to a vehicle being used—

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

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

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

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

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

(i) required by law to stop;

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

(iii) prevented from proceeding by circumstances outside the person's control.

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

(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.

(**a**) 2003 c. 21. Schedule 3A was inserted by section 4 of, and Schedule 1 to the Digital Economy Act 2017 (c.30).
(**b**) 1991 c. 56.
(**c**) 2000 c. 26.

(5) In this article "traffic officer" means an individual authorised to carry out assigned duties connected with, or intended to facilitate or to be conducive or incidental to the management of traffic on the relevant road network, or a person authorised by the Secretary of State in accordance with section 2 of the 2004 Act.

Traffic regulation

16.—(1) This article applies to roads in respect of which the undertaker is not the traffic authority.

(2) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld, the undertaker may, for the purposes of the authorised development—

(a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;

(b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;

(c) authorise the use as a parking place of any road;

(d) make provision as to the direction or priority of vehicular traffic on any road; and

(e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) The power conferred by paragraph (2) may be exercised at any time prior to the expiry of 12 months from the opening of the authorised development for public use but subject to paragraph (7) any prohibition, restriction or other provision made under paragraph (2) may have effect both before and after the expiry of that period.

(4) The undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (5).

(5) The undertaker must not exercise the powers conferred by paragraph (2) unless it has—

(a) given not less than—

(i) 12 weeks' notice in writing of its intention so to do in the case of a prohibition, restriction or other provision intended to have effect permanently; or

(ii) 4 weeks' notice in writing of its 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 its 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)(**a**) of the 1984 Act,

and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and

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(**a**) As amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(1) of, and paragraph 39 of Schedule 8 to, the 1991 Act.

(b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(**a**).

(7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers of paragraph (2) within a period of 24 months from the opening of the authorised development.

(8) Before exercising the powers of paragraph (2) the undertaker must consult such persons as it considers necessary and appropriate and must take into consideration any representations made to it by any such person.

(9) Expressions used in this article and in the 1984 Act shall have the same meaning in this article as in that Act.

(10) The powers conferred on the undertaker by this article with respect to any road have effect subject to any agreement entered into by the undertaker with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

(11) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (2) the traffic authority is deemed to have granted consent.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

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

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

(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 pursuant to 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 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, a sewerage undertaker or an urban development corporation; and

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(**a**) 2004 c. 18.
(**b**) S.I. 2016/1154.

(b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(**a**) have the same meaning as in that Act.

(8) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4)(a) fails to notify the undertaker of a decision within 28 days of receiving an application that person will be deemed to have granted consent or given approval, as the case may be.

Protective work to buildings

18.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

(a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or

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

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may 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

(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 42 (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

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(**a**) 1991 c. 57.

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**) of the 2008 Act (compensation in case where no right to claim in nuisance).

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

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

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

(b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

Authority to survey and investigate the land

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

(a) survey or investigate the land (including any watercourses, ground water, static water bodies or vegetation on the land);

(b) without limitation to the scope of sub-paragraph (a), make any excavations or trial holes and boreholes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and groundwater and remove soil and water samples and discharge water samples onto the land;

(c) without limitation to the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land, including making any excavations or trial holes on the land for such purposes; and

(d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes and boreholes.

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

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

(a) must, if so required, before or after entering the land, produce written evidence of their authority to do so; and

(b) may take onto the land such vehicles and equipment as are necessary to carry out the surveyor investigation or to make the trial holes and boreholes.

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

(a) in land located within a highway boundary for which the local highway authority is the highway authority without the consent of the local highway authority; or

(b) in a private street without the consent of the street authority, but such consent must not be unreasonably withheld.

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

(**a**) As amended by S.I. 2009/1307.

(6) If either a local highway authority or 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 a local highway authority; or

(b) under paragraph (4)(b) in the case of a street authority,

that authority will be deemed to have granted consent.

PART 5

POWERS OF ACQUISITION AND POSSESSION

Compulsory acquisition of land

20.—(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 23 (compulsory acquisition of rights and imposition of restrictive covenants) and paragraph (9) of article 29 (temporary use of land for carrying out the authorised development).

Compulsory acquisition of land – incorporation of the mineral code

21. Part 2 of Schedule 2 to the Acquisition of Land Act 1981(**a**) (minerals) is incorporated in this Order subject to the modification that for "the acquiring authority" substitute "the undertaker".

Time limit for exercise of authority to acquire land compulsorily

22.—(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 as modified by article 25 of this Order; and

(b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 26 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 29 (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 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

23.—(1) Subject to paragraphs (2) to (4) of this article, the undertaker may acquire such rights over the Order land, or impose restrictive covenants affecting the Order land, as may be required for any purpose for which that land may be acquired under article 20 (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 purpose specified in relation to that land in column (2) of that Schedule.

(**a**) 1981 c. 67.

(3) The power to impose restrictive covenants under paragraph (1) is exercisable only in respect of plots specified in column (1) of Schedule 5.

(4) Subject to Schedule 2A (counter-notice requiring purchase of land not in notice to treat) of the 1965 Act, as substituted by paragraph 5(8) of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants), where the undertaker acquires a right over land or the benefit of a restrictive covenant affecting land under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

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

(6) The undertaker's power to create rights under paragraph (1) includes the power to create rights for the benefit of third parties. Where a right is for the benefit of a third party that right shall on the exercise of the power of compulsory acquisition have effect for that party's benefit and be treated for all purposes as though it was vested in the third party directly.

Private rights over land

24.—(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) of the 1965 Act (power of entry)(**a**),

whichever is the earlier.

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

(a) as from the date of the acquisition of the right or the benefit of the restrictive covenant by the undertaker, whether compulsorily or by agreement; or

(b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over land owned by the undertaker that are within the Order limits 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 of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138(**b**) of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 31 (statutory undertakers) applies.

(**a**) Section 11(1) was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981, section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No. 1) and sections 186(1) and (2), 187 and 188 of the Housing and Planning Act 2016 (c.22).

(**b**) Section 138 was amended by section 23(1) and (4) of the Growth and Infrastructure Act 2013 (c.27) and S.I. 2017/1285.

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

(a) any notice given by the undertaker before—

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

(ii) the undertaker's appropriation of it;

(iii) the undertaker's entry onto it; or

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

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

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

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

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

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

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

(9) 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 Compulsory Purchase Act 1965

25.—(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) (extension of time limit during challenge)(**b**)—

(a) for "section 23 of the Acquisition of Land Act 1981 (application to the 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 22 (time limit for exercise of authority to acquire land compulsorily) of the M54 to M6 Link Road Development Consent Order 20[ ]".

(3) In section 11A (powers of entry; further notice of entry)(**c**) —

(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 22 (time limit for exercise of authority to acquire land compulsorily) of the M54 to M6 Link Road Development Consent Order 20[ ]".

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute "But see article 27(3) (acquisition of subsoil and airspace only) of the M54 to M6 Link Road Development Consent Order 20[ ], which excludes the acquisition of subsoil or airspace only from this Schedule"; and

(b) after paragraph 29, insert a new paragraph:

(**a**) Section 125 was amended by section 190 of, and paragraph 17 of Schedule 16 to, the Housing and Planning Act 2016 (c.22).

(**b**) Section 4A(1) was inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).

(**c**) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c.22).

"PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under articles 18 (protective work to buildings), 29 (temporary use of land for carrying out the authorised development) or 30 (temporary use of land for maintaining the authorised development) of the M54 to M6 Link Road Development Consent Order 20[ ]."

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

26.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as so applied, has effect with the modifications set out in this article.

(3) In section 1 (application of act) for subsection 2 substitute—

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

(4) In section 5 (earliest date for execution of declaration)(**a**), in subsection (2), omit the words from ", and this subsection" to the end.

(5) Omit section 5A (time limit for a general vesting declaration)(**b**).

(6) In section 5B(1) (extension of time limit during challenge)(**c**)—

(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 5A" substitute "the five year period mentioned in article 22 (time limit for exercise of authority to acquire land compulsorily) of the M54 to M6 Link Road Development Consent Order 20[ ]".

(7) In section 6 (notices after execution of declaration) in subsection (1)(b)(**d**) for "section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981" substitute "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)(**e**), omit "(as modified by section 4 of the Acquisition of Land Act 1981)".

(9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration)(**f**), omit paragraph 1(2).

(10) References to the 1965 Act in the 1981 Act are to be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 25 (modification of the Compulsory Purchase Act 1965) to the compulsory acquisition of land under this Order.

Acquisition of subsoil or airspace only

27.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of or of the airspace over the land referred to in paragraph (1) of article 20 (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.

(**a**) Section 5 was amended by Schedule 15 to the Housing and Planning Act 2016 (c. 22).
(**b**) Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016 (c. 22).
(**c**) Section 5B(1) was inserted by section 202(2) of the Housing and Planning Act 2016 (c. 22).
(**d**) Section 6 was amended by paragraph 7 of Schedule 15 to the Housing and Planning Act 2016 (c. 22) and section 4 of, and paragraph 52(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11).
(**e**) Section 7(1) was substituted by Schedule 18 to the Housing and Planning Act 2016 (c. 22).
(**f**) Schedule A1 was inserted by paragraph 6 of Part 1 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

(2) Where the undertaker acquires any part of, or rights in, the subsoil of or the airspace over 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 Compulsory Purchase Act 1965 as modified by article 25 of this Order;

(b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the Compulsory Purchase (Vesting Declarations) Act 1981; and

(c) Section 153(4A)(**a**) (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.

Rights under or over streets

28.—(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, will be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

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

Temporary use of land for carrying out the authorised development

29.—(1) The undertaker may, in connection with the carrying out of the authorised development—

(a) enter on and take temporary possession of—

(i) the land specified in column (1) of Schedule 7 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (2) of that Schedule relating to the part of the authorised development specified in column (3) of that Schedule; and

(ii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;

(b) remove any buildings and vegetation from that land;

(**a**) Subsection (4A) of section 153 was inserted by section 200(1) and (2) of the Housing and Planning Act 2016 (c.22).

(c) construct temporary works (including the provision of means of access) and buildings on that land; and

(d) construct any works on that land as are mentioned in Schedule 1 (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 may not, without the agreement of the owners of the land, remain in possession of any land under this article—

(a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Schedule 7, or

(b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section (4) of the 1981 Act in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the condition it was in on the date on which possession of the land was first taken by the undertaker or such other condition as may be agreed with 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; or

(d) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.

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

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

(7) Any dispute as to the satisfactory removal of temporary works and restoration of land under paragraph (4) does not prevent the undertaker giving up possession of the land.

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

(9) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i).

(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 (refusal to give possession to acquiring authority)(**a**) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory

(**a**) Section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

Temporary use of land for maintaining the authorised development

30.—(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; and

(b) 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 and explain the purpose for which entry is taken.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the condition it was in on the date on which possession of the land was first taken by the undertaker or such other condition as may be agreed with the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

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

(8) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (6).

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

(10) Section 13 (refusal to give possession to the acquiring authority) of the 1965 Act applies to the temporary use of land pursuant 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.

(11) In this article "the maintenance period", in relation to any part of the authorised development means the period of 5 years beginning with the date on which that part of the authorised development is first opened for use.

Statutory undertakers

31.—(1) Subject to the provisions of Schedule 9 (protective provisions), article 23 (compulsory acquisition of rights and imposition of restrictive covenants) 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, and remove or reposition apparatus belonging to, statutory undertakers over or within the Order land.

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

(a) Part 3 (street works in England and Wales) of the 1991 Act; and

(b) article 32 of this Order (apparatus and rights of statutory undertakers in stopped up streets).

Apparatus and rights of statutory undertakers in stopped up streets

32.—(1) Where a street is stopped up under article 13 (permanent stopping up and restriction of use of streets, public rights of way 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 13 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 statutory 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 statutory utility in or in connection with—

(a) the execution of the relocation works required in consequence of the stopping up of the street; and

(b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

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

(a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

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

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

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

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

by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

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

(a) the allowable costs of the relocation works are to be determined in accordance with section 85 of that Act (sharing of cost of necessary measures) and any regulations for the time being having effect under that section; and

(b) the allowable costs are to be borne by the 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

33.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 31 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 31, 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.

(3) This article does not have effect in relation to apparatus to which article 32 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 of the 1991 Act applies.

(4) In this article—

"public communications provider" has the same meaning as in section 151(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

34.—(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**) 2003 c. 21. There are amendments to this Act which are not relevant to this Order.
(**b**) 2003 c. 21. There are amendments to this Act which are not relevant to this Order.

(a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or

(b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

(4) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2), remove any hedgerow described in Part 1 of Schedule 8 (Hedgerows).

(5) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2), remove any hedgerow which is not described in Part 1 of Schedule 8 (Hedgerows) with the prior consent of the local authority.

(6) In carrying out any activity authorised by paragraph (4) and (5), the undertaker must pay compensation to any person for any loss or damage arising from such activity.

(7) In this article "hedgerow" has the same meaning as in the Hedgerow Regulations 1997(**a**) and includes important hedgerows.

Trees subject to tree preservation orders

35.—(1) The undertaker may fell or lop any tree described in Part 2 of Schedule 8 (Trees subject to tree preservation orders) or cut back its roots or undertake such other works if it reasonably believes it to be necessary in order to do so to prevent the tree or shrub—

(a) from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project; or

(b) from constituting a danger to passengers or other persons using the authorised project.

(2) In carrying out any activity authorised by paragraph (1)—

(a) the undertaker shall 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; and

(b) the duty contained in section 206(1) of the 1990 Act (replacement of trees) shall not apply.

(3) The authority given by paragraph (1) shall constitute 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, shall be determined under Part 1 of the 1961 Act.

PART 7

MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

36.—(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

(**a**) S.I. 1997/1160.

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) Accordingly, 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 Town and Country Planning Act 1990

37. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3) of the 1990 Act (cases in which land is to be treated as not being operational land for the purposes of that Act).

Defence to proceedings in respect of statutory nuisance

38.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(**a**) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

(a) the defendant shows that the nuisance—

(i) relates to premises used by the 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 site), or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974(**b**); or

(ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or

(b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 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.

Protection of interests

39. Schedule 9 (protective provisions) to the Order has effect.

(**a**) 1990 c. 43. There are amendments to this Act which are not relevant to this Order.

(**b**) 1974 c. 40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990 c. 43. There are other amendments to the 1974 Act which are not relevant to this Order.

Certification of documents, etc.

40.—(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 to be certified) to the Secretary of State for certification as true copies of those plans and documents.

(2) Where any plan or document set out in Schedule 10 (documents to be certified) is required 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.

(4) 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) a copy of each of the documents listed in Schedule 10 (documents to be certified) as may be amended in accordance with paragraph (2); and

(b) a register of those requirements contained in Part 1 of Schedule 2 of this Order (requirements) that provide for further approvals to be given by the Secretary of State.

(5) The register pursuant to sub-paragraph (4)(b) 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.

(6) The electronic record set out in paragraph (4) must be maintained by the undertaker for a period of 3 years following completion of the authorised development.

Service of notices

41.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

(a) by post;

(b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or

(c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(**a**) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and

(b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

(a) addressing it to that person by name or by the description of "owner", or as the case may be "occupier", of the land (describing it); and

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(**a**) 1978 c. 30.

(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 will be taken to be fulfilled only where—

(a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;

(b) the notice or document is capable of being accessed by the recipient;

(c) the notice or document is legible in all material respects; and

(d) in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender will provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

(a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and

(b) such revocation will be final and will take 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 will not be taken to exclude the employment of any method of service not expressly provided for by it.

(10) In this article "legible in all material respects" means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Arbitration

42. 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 Lands Chamber of the Upper 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.

Signed
Title
Date Department

SCHEDULES

SCHEDULE 1 Article 2

AUTHORISED DEVELOPMENT

In the administrative areas of South Staffordshire and Wolverhampton

A nationally significant infrastructure project as defined in sections 14 and 22 of the 2008 Act, and associated development as defined in section 115 of the 2008 Act, comprising:

Work No.1A – shown on sheet number 1 of the works plans and being the alteration of verge mounted advance directional signage along the M54 carriageway.

Work No.1B – shown on sheet number 1 of the works plans and being the alteration of verge mounted advance directional signage along the M54 carriageway.

Work No.1C – shown on sheet number 1 of the works plans and being the alteration of verge mounted advance directional signage along the M54 carriageway.

Work No.1D – shown on sheet number 2 of the works plans and being the alteration of verge mounted advance directional signage along the A449 carriageway.

Work No.1E – shown on sheet numbers 3 and 4 of the works plans and being the improvement of the eastbound carriageway of the M54 Motorway at the Junction 1 diverge (approximately 480 metres in length).

Work No.2 – shown on sheet number 4 of the works plans and being the construction of a free-flowing two lane carriageway from the M54 eastbound at Junction 1 to the link road (approximately 1,200 metres in length).

Work No.3 – shown on sheet numbers 3 and 4 of the works plans and being the improvement of the westbound carriageway of the M54 at the Junction 1 merge (approximately 600 metres in length).

Work No.4 – shown on sheet number 4 of the works plans and being the construction of a free-flowing two lane carriageway link from the link road to the M54 westbound at Junction 1 (approximately 1,270 metres in length).

Work No.5 – shown on sheet number 4 of the works plans and being the construction of a slip road from the M54 Junction 1 south roundabout to the M54 westbound merge slip road (approximately 340 metres in length).

Work No.6 – shown on sheet number 4 of the works plans and being the construction of a slip road from the M54 eastbound slip road at Junction 1 to the Featherstone Junction West Roundabout (approximately 475 metres in length).

Work No.7 – shown on sheet number 4 of the works plans and being the realignment of the A460 into the M54 Junction 1 south roundabout (approximately 185 metres in length).

Work No.8 – shown on sheet number 4 of the works plans and being the demolition of the existing M54 Junction 1 circulatory carriageway and the construction of the M54 Junction 1 south roundabout.

Work No.9 – shown on sheet number 4 of the works plans and being the realignment of the M54 Junction 1 westbound diverge slip road into the M54 Junction 1 south roundabout (approximately 315 metres in length).

Work No.10 – shown on sheet number 4 of the works plans and being the construction of a dual carriageway connector road between the Featherstone Junction east roundabout and M54 Junction 1 south roundabout (approximately 370 metres in length).

Work No.11 – shown on sheet number 4 of the works plans and being the stopping up of the existing A460 at M54 Junction 1 including the construction of a turning head facility and improvements at the junction between the A460 and The Avenue.

Work No.12 – shown on sheet number 4 of the works plans and being the realignment of the M54 Junction 1 eastbound merge slip into the Featherstone Junction east roundabout (approximately 845 metres in length).

Work No.13 – shown on sheet number 4 of the works plans and being the construction of the Featherstone Junction east roundabout.

Work No.14 – shown on sheet number 4 of the works plans and being the construction of a carriageway dumbbell link between the Featherstone Junction east roundabout and the Featherstone Junction west roundabout passing over the link road via a structure (approximately 100 metres in length).

Work No.15 – shown on sheet number 4 of the works plans and being the construction of the Featherstone Junction west roundabout.

Work No.16 – shown on sheet number 4 of the works plans and being the realignment of the existing A460 to the Featherstone Junction west roundabout (approximately 460 metres in length).

Work No.17 – shown on sheet number 4 of the works plans and being the realignment of the existing A460 and construction of a T-Junction on the realigned existing A460 (approximately 110 metres in length).

Work No.18 – works number no longer in use.

Work No.19 – works number no longer in use.

Work No.20 – shown on sheet number 4 of the works plans and being the construction of an access for Tower Hill Farm connecting to the Featherstone Junction east roundabout (approximately 100 metres in length).

Work No.21 – shown on sheet number 4 of the works plans and being the construction of a Hilton Park Access Track connecting to the Featherstone Junction east roundabout (approximately 390 metres in length).

Work No.22 – shown on sheet number 4 of the works plans and being the construction of the Featherstone Junction southbound diverge slip road (approximately 520 metres in length).

Work No.23 – shown on sheet number 4 of the works plans and being the construction of the Featherstone Junction northbound merge slip road (approximately 490 metres in length).

Work No.24 – shown on sheet numbers 4 and 5 of the works plans and being the closure of Dark Lane between the final property along Dark Lane and the Junction between Dark Lane and Hilton Lane including the construction of a turning head facility.

Work No.25 – shown on sheet numbers 4 to 6 of the works plans and being the construction of the link road northbound dual carriageway to M6 Junction 11 (approximately 1650 metres in length).

Work No.26 – shown on sheet numbers 4 to 6 of the works plans and being the construction of the link road southbound dual-carriageway from M6 Junction 11 (approximately 1600 metres in length).

Work No.27 – shown on sheet number 5 of the works plans and being the construction of a realigned Hilton Lane including a structure over the link road (approximately 300 metres in length).

Work No.28 – shown on sheet number 5 of the works plans and being the construction of an accommodation overbridge and realignment of access tracks to the south of Brookfield Farm (approximately 575 metres in length).

Work No.29 – shown on sheet number 6 of the works plans and being the realignment of the existing A460 to M6 Junction 11 (approximately 330 metres in length).

Work No.30 – shown on sheet number 6 of the works plans and being the realignment of Mill Lane (approximately 200 metres in length).

Work No.31 – shown on sheet number 4 of the works plans and being the construction of a new structure on the M54 at Junction 1 to facilitate the new junction arrangement under the motorway.

Work No.32 – shown on sheet numbers 5 and 6 of the works plans and being the realignment of the M6 Junction 11 northbound diverge slip road (approximately 320 metres in length).

Work No.33 – shown on sheet number 6 of the works plans and being the realignment of the M6 Junction 11 northbound merge slip road (approximately 620 metres in length).

Work No.34 – shown on sheet numbers 5 and 6 of the works plans and being the realignment of the M6 Junction 11 southbound merge slip road (approximately 610 metres in length).

Work No.35 – shown on sheet number 6 of the works plans and being the realignment of the M6 Junction 11 southbound diverge slip road (approximately 380 metres in length).

Work No.36 – shown on sheet number 6 of the works plans and being the demolition of the two existing structures at M6 Junction 11, removal of redundant sections of the existing circulatory carriageway and the construction of a new M6 Junction 11 circulatory carriageway, including the construction of two overbridges over the M6 and installation of five portal gantries around the circulatory carriageway and associated infrastructure works along the M6 carriageway to facilitate construction.

Work No.37 – shown on sheet number 6 of the works plans and being the realignment of the A462 to M6 Junction 11 (approximately 150 metres in length).

Work No.38 – shown on sheet number 6 of the works plans and being the realignment of the adjoining Wolverhampton Road to the realigned A462.

Work No.39 – shown on sheet number 6 of the works plans and being the realignment and widening of the A460 southbound by a single lane from the M6 Toll merge to M6 Junction 11 and widening of the A460 northbound by a single lane from M6 Junction 11 tapering back down to two lanes ahead of the M6 Toll overbridge.

Work No.40 – shown on sheet number 6 of the works plans and being the realignment of the adjoining Wolverhampton Road to the realigned A460.

Work No.41 – shown on sheet number 2 of the works plans and being the installation of a cantilever gantry at M54 Junction 2 in the eastbound verge and associated infrastructure works to facilitate construction.

Work No.42 – shown on sheet number 3 of the works plans and being the installation of a cantilever gantry in the existing M54 eastbound verge and associated infrastructure works to facilitate construction.

Work No.43 – shown on sheet number 3 of the works plans and being the installation of a cantilever gantry in the existing M54 eastbound verge and associated infrastructure works to facilitate construction.

Work No.44 – shown on sheet number 4 of the works plans and being the installation of a cantilever gantry on the M54 eastbound diverge slip road and associated infrastructure works to facilitate construction.

Work No.45 – shown on sheet number 4 of the works plans and being the construction of a culvert and realignment of Watercourse 2 in the vicinity of M54 Junction 1.

Work No.46 – shown on sheet number 4 of the works plans and being the construction of a culvert and realignment of Watercourse 3 adjacent to Dark Lane and associated works required to the existing drainage pools.

Work No.47 – shown on sheet number 5 of the works plans and being the construction of a culvert on Watercourse 4 adjacent to Brookfield Farm.

Work No.48 – shown on sheet number 6 of the works plans and being the construction of a structure under the link road on Watercourse 5 (Latherford Brook).

Work No.49 – shown on sheet number 6 of the works plans and being the alteration of a portal gantry across the M6 Junction 11 southbound merge and northbound diverge slip roads.

Work No.50 – shown on sheet number 6 of the works plans and being the alteration of a portal gantry over the M6 Junction 11 southbound diverge slip road.

Work No.51 – shown on sheet number 7 of the works plans and being the alteration of a portal gantry along the M6 southbound.

Work No.52 – shown on sheet number 7 of the works plans and being the alteration of a portal gantry along the M6 southbound.

Work No.53 – shown on sheet number 7 of the works plans and being the alteration of a portal along the M6 southbound.

Work No.54 – shown on sheet number 8 of the works plans and being the alteration of a portal gantry along the M6 southbound.

Work No.55A – shown on sheet number 9 of the works plans and being the alteration of a cantilever gantry along the M6 southbound.

Work No.55B – shown on sheet number 10 of the works plans and being the alteration of a cantilever gantry along the M6 southbound.

Work No.55C – shown on sheet number 10 of the works plans and being the alteration of a cantilever gantry along the M6 southbound.

Work No.56 – shown on sheet number 3 of the works plans and being the installation of drainage attenuation and treatment systems to the north west of M54 Junction 1. Works to include the installation of a balancing pond to provide attenuation and treatment with a new outfall connection to the existing ditch. Access for maintenance to be constructed off Brookhouse Lane.

Work No.57 – shown on sheet number 4 of the works plans and being the installation of drainage attenuation and treatment systems to the north east of M54 Junction 1. Works to include the installation of a balancing pond to provide attenuation and treatment with a new outfall connection to Watercourse 2. Access for maintenance to be constructed off the dual carriageway connector road.

Work No.58 – shown on sheet number 4 of the works plans and being the installation of drainage attenuation and treatment systems to the east of the existing A460. Works to include the installation of a balancing pond to provide attenuation and treatment with a new outfall connection to the existing drainage network. Access for maintenance to be constructed off the existing A460.

Work No.59 – shown on sheet number 5 of the works plans and being the installation of drainage attenuation and treatment systems to the south of Brookfield Farm. Works to include the installation of a balancing pond to provide attenuation and treatment with a new outfall connection to Watercourse 4. Access for maintenance to the balancing pond to be along existing track that connects to Hilton Lane and via new accommodation bridge.

Work No.60 – shown on sheet number 6 of the works plans and being the installation of drainage attenuation and treatment systems to the south of M6 Junction 11. Works to include the installation of a balancing pond to provide attenuation and treatment with new outfall connection into Watercourse 5 (Latherford Brook). Access for maintenance to be constructed off the realigned existing A460.

Work No.61 – shown on sheet number 4 of the works plans and being works to realign the existing Public Right of Way (bridleway) Featherstone 3 due to the construction of the new M54 Junction 1 (approximately 250 metres in length).

Work No.62 – shown on sheet numbers 4 and 5 of the works plans and being the construction of a new Public Right of Way (bridleway) connection between Dark Lane and Hilton Lane (approximately 320 metres in length).

Work No.63 – shown on sheet number 5 of the works plans and being works to realign the existing Public Right of Way (footway) Shareshill 5 due to the construction of the link road (approximately 260 metres in length).

Work No.64 – shown on sheet number 5 of the works plans and being works to realign the existing Public Right of Way (bridleway) Shareshill 1 due to the construction of the link road (approximately 750 metres in length).

Work No.65 – shown on sheet number 6 of the works plans and being works to realign the existing Public Rights of Way (footway) Shareshill 4, Saredon 8 and Saredon 1R/2214 due to the construction of the link road (approximately 270 metres in length).

Work No.66 – shown on sheet number 6 of the works plans and being works to realign the existing Public Right of Way Saredon 13 due to the realignment of the existing A460 (approximately 250 metres in length).

Work No.67 – shown on sheet number 4 of the works plans and being the diversion of utilities and associated infrastructure (including (i) electrical, (ii) telecommunications and (iii) potable water) to a new utilities corridor to the west of M54 Junction 1 (approximately 130 metres in length).

Work No.68 – shown on sheet number 4 of the works plans and being the diversion of a high pressure gas main and associated infrastructure due to the construction of the link road (approximately 1000 metres in length).

Work No.69 – shown on sheet numbers 4 and 5 of the works plans and being the diversion of a (i) water main, (ii) sewer, (iii) communications ducts and associated infrastructure due to the construction of the link road (approximately 500 metres in length).

Work No.70 – shown on sheet number 5 of the works plans and being the diversion of an overhead electricity cable and associated infrastructure due to the construction of the link road (approximately 220 metres in length).

Work No.71 – shown on sheet number 4 of the works plans and being the construction of a temporary site compound situated on land to the east of the existing A460 and the establishment of permanent environmental mitigation areas to the west of the link road including habitat creation (species rich grassland, woodland planting and individual trees) to mitigate for biodiversity loss.

Work No.72 – shown on sheet number 6 of the works plans and being the construction of a temporary site compound situated on land to the north west of M6 Junction 11 and establishment of permanent environmental mitigation areas including species rich grassland, species rich hedgerow, ecology pond and individual trees to mitigate for biodiversity loss.

Work No.73 – shown on sheet numbers 4 and 5 of the works plans and being the modification of the junction between the existing A460, New Road and Dark Lane and associated infrastructure including the removal of the right turn prohibition in to Dark Lane.

Work No.74 – shown on sheet number 5 of the works plans and being the construction of a borrow pit including the excavation, working and restoration to win material required for the construction of the authorised development.

Work No.75 – shown on sheet number 3 of the works plans and being the establishment of environmental mitigation areas. Habitat creation (hedgerow and species rich grassland) to mitigate for biodiversity loss.

Work No.76 – shown on sheet numbers 3 and 4 of the works plans and being the establishment of ancient woodland enhancement measures to compensate for ancient woodland loss.

Work No.77 – shown on sheet number 4 of the works plans and being the establishment of environmental mitigation areas between the free flow links. Habitat creation (woodland planting) to integrate the authorised development into the surrounding landscape and to mitigate for biodiversity loss.

Work No.78 – shown on sheet number 4 of the works plans and being the establishment of environmental mitigation. Habitat creation (ecology ponds and species rich grassland) to mitigate for biodiversity loss.

Work No.79 – shown on sheet number 4 of the works plans and being the establishment of environmental mitigation areas, habitat creation (woodland planting) for visual screening and to mitigate for biodiversity loss.

Work No.80 – shown on sheet number 4 of the works plans and being the establishment of environmental mitigation areas to the west of the link road. Habitat creation for visual screening and to mitigate for biodiversity loss and integrate the authorised development into the surrounding landscape. Woodland planting to screen views of the authorised development. Replacement of existing fence along Dark Lane.

Work No.81 – shown on sheet number 5 of the works plans and being the establishment of environmental mitigation to the west of the link road including habitat creation (woodland planting and ecology ponds) to mitigate for biodiversity loss.

Work No.82 – shown on sheet number 5 of the works plans and being habitat creation (woodland planting) to the east of the link road to provide visual screening and to mitigate for biodiversity loss.

Work No.83 – shown on sheet numbers 5 and 6 of the works plans and being the establishment of environmental mitigation to the east of the link road. Habitat creation (woodland planting and ecology ponds) to mitigate for biodiversity loss and compensate for the loss of ancient woodland.

Work No.84 – shown on sheet numbers 5 and 6 of the works plans and being the establishment of woodland planting south of the M6 Junction 11 to compensate for the loss of ancient woodland.

Work No.85 – works number no longer in use.

Work No.86 – shown on sheet numbers 4 and 5 of the works plans and being the establishment of woodland enhancement measures to compensate for biodiversity loss.

Work No.87 – shown on sheet numbers 5 and 6 of the works plans and being the establishment of woodland enhancement measures to compensate for biodiversity loss.

Work No.88 – shown on sheet number 5 of the works plans and being the establishment of woodland planting south of the M6 Junction 11 to compensate for the loss of ancient woodland.

Work No.89 – shown on sheet number 6 of the works plans and being the establishment of ancient woodland enhancement measures to compensate for ancient woodland loss.

Work No.90 – shown on sheet number 4 of the works plans and being the construction of an access from the realigned existing A460 to the petrol station and local businesses situated on the existing A460.

Work No.91 – shown on sheet number 4 of the works plans and being the construction of a new public right of way (footpath) connection between the existing A460 and the Featherstone Junction West Roundabout (approximately 150 metres in length).

In connection with the construction of any of those works, further development within the Order limits consisting of—

(a) alteration of the layout of any street permanently or temporarily, including but not limited to increasing the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street; altering the level or increasing the width of any such kerb, footpath, footway, cycle track or verge; and reducing the width of the carriageway of the street;

(b) works required for the strengthening, improvement, maintenance, or reconstruction of any street;

(c) works for the strengthening, alteration or demolition of any building;

(d) ramps, means of access, non-motorised links, footpaths, footways, bridleways, cycle tracks and crossing facilities;

(e) embankments, viaducts, aprons, abutments, shafts, foundations, retaining walls, drainage, outfalls, ditches, ponds, pollution control devices, wing walls, highway lighting, fencing and culverts;

(f) street works, including breaking up or opening a street, or any sewer, drain or tunnel under it; tunnelling or boring under a street;

(g) works to place, alter, divert, relocate, remove or maintain the position of apparatus, services, plant and other equipment in a street, or in other land, including mains, sewers, drains, pipes, lights and cables;

(h) works to alter the course of, or otherwise interfere with a watercourse;

(i) landscaping, noise 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;

(j) works for the benefit or protection of land affected by the authorised development;

(k) works to place, alter, remove or maintain road furniture;

(l) site preparation works, site clearance (including fencing, vegetation removal, demolition of existing structures and the creation of alternative footpaths); earthworks (including soils stripping and storage, site levelling);

(m) the felling of trees and hedgerows;

(n) establishment of site construction compounds, storage areas, temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction related buildings, welfare facilities, construction lighting, haulage roads and other machinery, apparatus, works and conveniences;

(o) 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

(p) such other works, working sites storage areas, works of demolition or works of whatever nature, as may be necessary or expedient for the purposes of, or for purposes associated with or ancillary to, the construction, operation or maintenance of the authorised development which do not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement.

SCHEDULE 2

Article 3

REQUIREMENTS

PART 1

REQUIREMENTS

Interpretation

1.—(1) In this Schedule—

"bank or public holiday" means Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971(**a**);

"contaminated land" has the same meaning as that given in section 78A of the Environmental Protection Act 1990(**b**);

"CEMP" means the construction environmental management plan;

"European protected species" has the same meaning as in regulation 42 (European protected species of animals) and 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017(**c**);

"HEMP" means the handover environmental management plan;

"lead local flood authority" has the same meaning as in the Flood and Water Management Act 2010;

"nationally protected species" means any species protected under the Wildlife and Countryside Act 1981(**d**);

"Natural England" means the body created by the National Environment and Rural Communities Act 2006 or any successor in function to it;

"OEMP" means the outline environmental management plan submitted with the application for this Order and certified as the OEMP by the Secretary of State for the purposes of this Order; and

"REAC" means the record of environmental actions and commitments (contained in the OEMP).

(2) With respect to any requirement which requires the authorised development to be carried out in accordance with the details or schemes or plans approved under this Schedule, the approved details or schemes or plans are taken to include any amendments that may subsequently be approved in writing.

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 in accordance 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 with the relevant planning authority and the relevant local highway authority on matters related to its functions, provided that the Secretary of State is satisfied that any amendments to the works plans and engineering drawings and sections showing departures from the preliminary scheme design

(**a**) 1971 c.80.
(**b**) 1990 c. 43 as amended by section 86(2) of the Water Act 2003 c. 37.
(**c**) S.I. 2017/1012.
(**d**) 1981 c. 69.

would not give rise to any materially new or materially worse adverse 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 works plans and engineering drawings and sections and the undertaker must make those amended details available in electronic form for inspection by members of the public.

Construction and handover environmental management plans

4.—(1) No part of the authorised development is to commence until a CEMP, substantially in accordance with the OEMP, for that part has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and, to the extent that it relates to a matter relevant to its function, the relevant local highway authority, Natural England and the Environment Agency.

(2) The CEMP must be written in accordance with ISO14001 and must—

(a) reflect the mitigation measures set out in the REAC;

(b) contain a record of all sensitive environmental features that have the potential to be affected by the construction of the proposed development;

(c) require adherence to working hours of 07:00–19:00 Mondays to Fridays and 08:00–16:00 on Saturday with no working on Sundays and bank or public holidays except for—

(i) 24 hours a day 7 days a week working to carry out the works at the M54 Junction 1 for a period of up to 3 weeks whilst the motorway is closed;

(ii) deliveries, movements to work, maintenance and general preparation works but not including running plant and machinery for a period of one hour either side of the above times;

(iii) night-time closures for road crossings and final surfacing tie-ins, and bridge demolition and installation;

(iv) any oversize deliveries or deliveries where daytime working would be excessively disruptive to normal traffic operation;

(v) junction works;

(vi) repair or maintenance of construction equipment;

(vii) removal of overhead power lines;

(viii) overnight traffic management measures;

(ix) works associated with traffic management and signal changes;

(x) cases of emergency; and

(xi) as otherwise agreed by the local authority in advance;

(d) include the following management plans—

(i) Biosecurity Management Plan;

(ii) Site Waste Management Plan;

(iii) Emergency Preparedness and Response Plan;

(iv) Archaeological Management Plan;

(v) Archaeological Mitigation Strategy;

(vi) Arboricultural Mitigation Strategy;

(vii) Fire Rescue and Translocation Strategy;

(viii) Landscape and Ecology Management Plan;

(ix) Noise and Vibration Management Plan;

(x) Soil Management Strategy (including a Soil Management Plan and Soil Handling Strategy);

(xi) Materials Management Plan;

(xii) Asbestos Management Plan;

(xiii) Water Management Plan;

(xiv) Traffic Management Plan (including a Site Access Plan, Site Travel Plan and Construction Workforce Travel Plan).

(3) The construction of the authorised development must be carried out in accordance with the approved CEMP.

(4) A HEMP must be developed and completed by the end of the construction, commissioning and handover stage of the authorised development, in accordance with the process set out in the approved CEMP.

(5) The HEMP must address the matters set out in the approved CEMP that are relevant to the operation and maintenance of the authorised development, and must contain—

(a) the environmental information needed for the future maintenance and operation of the authorised development;

(b) the long-term commitments to aftercare, monitoring and maintenance activities relating to the environmental features and mitigation measures that will be required to ensure the continued long-term effectiveness of the environmental mitigation measures and the prevention of unexpected environmental impacts during the operation of the authorised development; and

(c) a record of the consents, commitments and permissions resulting from liaison with statutory bodies.

(6) The authorised development must be operated and maintained in accordance with the HEMP.

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 on matters related to its function.

(2) The landscaping scheme must reflect the mitigation measures set out in the REAC and must be based on the illustrative environmental masterplan annexed to the environmental statement (application document 6.2).

(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; and

(e) implementation timetables for all landscaping works.

(4) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

(5) Any tree or shrub planted as part of the landscaping scheme that, within a period of 5 years after planting, is removed, dies or becomes in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless the Secretary of State, following consultation with the relevant planning authority on matters related to its function, gives consent to a variation.

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 undertaker 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 must be submitted to and approved in writing by the Secretary of State, following consultation 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 and programme.

Protected species

7.—(1) No part of the authorised development is to commence until for that part final pre-construction survey work has been carried out to establish whether European or nationally protected species are present on any of the land affected or likely to be affected by any part of the relevant works, or in any of the trees and shrubs to be lopped or felled as part of the relevant works.

(2) 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 sub-paragraph (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 with Natural England, and under any necessary licences.

Surface and foul water drainage

8.—(1) No part of the authorised development is to commence until for that part written details of the surface and foul water drainage system, reflecting 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 with the relevant lead local flood authority and the Environment Agency on matters related to their functions.

(2) The surface and foul water drainage system must be constructed in accordance with the approved details, unless otherwise agreed in writing by the Secretary of State following consultation with the relevant lead local flood authority and the Environment Agency on matters related to their functions, 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 worse adverse environmental effects in comparison with those reported in the environmental statement.

Archaeological remains

9.—(1) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be retained in situ and reported by way of a notice to the relevant planning authority as soon as reasonably practicable from the date they are identified.

(2) No construction operations are to take place within 10 metres of the remains referred to in sub-paragraph (1) for a period of 14 days from the date of any notice served under sub-paragraph (1) unless otherwise agreed in writing by the relevant planning authority.

(3) If the relevant planning authority determines in writing that the archaeological remains require further investigation, no construction operations are to take place within 10 metres of the remains until provision has been made for the further investigation and recording of the remains in accordance with details to be submitted in writing to, and approved in writing by, the relevant planning authority.

Fencing

10. Any permanent and temporary fencing and other means of enclosure for the authorised development must be constructed and installed in accordance with the OEMP except where any departures from the OEMP are agreed in writing by the Secretary of State in connection with the authorised development.

Signage to Saredon Filling Station

11. No part of the authorised development constituting Work No. 36 in Schedule 1 shall take place unless the undertaker has first consulted with the local highway authority and the proprietors of the Saredon Filling Station regarding a scheme for the signage of this Work, including provision of directional signage to the Saredon Filling Station. The submission to the Secretary State must include directional signage to the Saredon Filling Station and the approved signage must be installed in full before the relevant part of the authorised development becomes fully operational.

Weight Restriction Warning Signs

12. Before the authorised development is operational, two warning signs, of a type shown in diagram 818.4 (S12-28-22) as shown in Figure 5-3 of Chapter 3 of the Traffic Signs Manual (Regulatory Signs 2019 Edition) (or any equivalent sign in a subsequent edition) shall be installed at the junction of Cannock Road with the Featherstone west roundabout and at the junction of Cannock Road with the M6 junction 11 gyratory indicating warning of the weight restriction imposed pursuant to sub-paragraph (9) of Article 11 of this Order and these signs shall thereafter be maintained.

Details of consultation

13.—(1) With respect to any requirement which requires details to be submitted to the Secretary of State for approval under this Schedule following consultation with another party, the undertaker must provide such other party with not less than 14 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.

(2) At the time of submission to the Secretary of State for approval, the undertaker must provide a copy of the summary report referred to under sub-paragraph (1) to the relevant consultees referred to in the requirement in relation to which approval is being sought from the Secretary of State.

(3) The undertaker must ensure that any consultation responses are reflected in the details submitted to the Secretary of State for approval under this Schedule, but only where it is appropriate, reasonable and feasible to do so, taking into account considerations including, but not limited to, cost and engineering practicality.

(4) Where the consultation responses are not reflected in the details submitted to the Secretary of State for approval, the undertaker must state in the summary report referred to under sub-paragraph (1) the reasons why the consultation responses have not been reflected in the submitted details.

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under requirements

14.—(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 13; or

(c) such longer period as may be agreed between the parties.

(2) Subject to sub-paragraphs (3) and (4), 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 the Secretary of State requests further information pursuant to paragraph 13, and no further information has been submitted eight weeks from that day immediately following that on which the application was received by the Secretary of State, the application or (if applicable) the part of the application to which the request for further information relates is taken to have been refused by the Secretary of State.

(4) 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 worse 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

15.—(1) In relation to any part of an application made under this Schedule, the Secretary of State has the right to request such further information from the undertaker as is necessary to enable the Secretary of State to consider the application.

(2) In the event that the Secretary of State considers such further information to be necessary the Secretary of State must, within 21 business days of receipt of the application, notify the undertaker in writing specifying the further information required and (if applicable) to which part of the application it relates. In the event that the Secretary of State does not give such notification within that 21 business day period the Secretary of State is deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

(3) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as a separate application from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 12 (applications made under requirements) and in this paragraph.

(4) In this paragraph, "business day" means a day other than Saturday, Sunday or bank or public holiday.

Anticipatory steps towards compliance with any requirement

16. 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.

SCHEDULE 3

Articles 11 and 15

CLASSIFICATION OF ROADS, ETC.

PART 1

SPECIAL ROADS

(1) *Road*	*(2)* *Extent*
Proposed M54 Junction 1 free-flowing eastbound link	Between points 3/2 on sheet 3 and point 4/35 on sheet 4 of the classification of roads plans
Proposed M54 Junction 1 free-flowing westbound link	Between points 3/1 on sheet 3 and point 4/36 on sheet 4 of the classification of roads plans
Proposed Featherstone Junction northbound diverge slip road	Between points 4/1 on sheet 4 and point 4/2 on sheet 4 of the classification of roads plans
Proposed M54 Junction 1 westbound merge slip road	Between points 4/4 on sheet 4 and point 4/3 on sheet 4 of the classification of roads plans
Proposed realigned M54 Junction 1 westbound diverge slip road	Between points 4/8 on sheet 4 and point 4/9 on sheet 4 of the classification of roads plans
Proposed realigned M54 Junction 1 eastbound merge slip road	Between points 4/14 on sheet 4 and point 4/15 on sheet 4 of the classification of roads plans
Proposed realigned M6 Junction 11 northbound merge slip road	Between points 6/10 on sheet 6 and point 6/11 on sheet 6 of the classification of roads plans
Proposed realigned M6 Junction 11 southbound diverge slip road	Between points 6/12 on sheet 6 and point 6/13 on sheet 6 of the classification of roads plans
Proposed realigned M6 Junction 11 southbound merge slip road	Between points 5/8 on sheet 5 and point 6/14 on sheet 6 of the classification of roads plans
Proposed realigned M6 Junction 11 northbound diverge slip road	Between points 6/8 on sheet 6 and point 6/9 on sheet 6 of the classification of roads plans

PART 2

TRUNK ROADS

(1) *Road*	*(2)* *Extent*
Proposed Featherstone Junction west roundabout	Reference point 4/23 on sheet 4 of the classification of roads plans
Proposed Featherstone Junction overbridge	Between points 4/21 on sheet 4 and point 4/22 on sheet 4 of the classification of roads plans
Proposed Featherstone Junction northbound merge slip road	Between points 4/31 on sheet 4 and point 4/32 on sheet 4 of the classification of roads plans
Proposed Featherstone Junction southbound diverge slip road	Between points 4/33 on sheet 4 and point 4/34 on sheet 4 of the classification of roads plans
Proposed realigned A460 south	Between points 4/5 on sheet 4 and point 4/6 on sheet 4 of the classification of roads plans
Proposed M54 Junction 1 south roundabout	Reference point 4/7 on sheet 4 of the classification of roads plans
Proposed south-east roundabout connector	Between points 4/10 on sheet 4 and point 4/11 on sheet 4 of the classification of roads plans
Proposed Featherstone Junction east	Reference point 4/18 on sheet 4 of the

roundabout	classification of roads plans
Proposed dual-carriageway mainline link – northbound carriageway	Between points 4/35 on sheet 4 and point 6/1 on sheet 6 of the classification of roads plans
Proposed dual-carriageway mainline link – southbound carriageway	Between points 4/36 on sheet 4 and point 6/2 on sheet 6 of the classification of roads plans
Proposed Junction 11 roundabout	Reference point 6/7 on sheet 6 of the classification of roads plans
Proposed realigned A460	Between points 6/15 on sheet 6 and point 6/16 on sheet 6 of the classification of roads plans
Proposed realigned A462	Between points 6/17 on sheet 6 and point 6/18 on sheet 6 of the classification of roads plans

PART 3

CLASSIFIED ROADS

(1) *Road*	*(2)* *Extent*
Proposed realigned A460 north	Between points 4/24 on sheet 4 and point 4/25 on sheet 4 of the classification of roads plans
Existing A460	Between points 4/25 on sheet 4 and point 6/3 on sheet 6 of the classification of roads plans
Proposed realigned Hilton Lane	Between points 5/1 on sheet 5 and point 5/2 on sheet 5 of the classification of roads plans
Proposed realigned A460	Between points 6/3 on sheet 6 and point 6/4 on sheet 6 of the classification of roads plans

PART 4

UNCLASSIFIED ROADS

(1) *Road*	*(2)* *Extent*
Connection from proposed realigned A460 north to existing A460	Between points 4/26 and point 4/27 and 4/28 on sheet 4 of the classification of roads plans
Link between proposed realigned A460 north and connection from proposed realigned A460 north to existing A460	Between points 4/39 and point 4/40 on sheet 4 of the classification of roads plans
Dark Lane	Between points 4/37 on sheet 4 and point 4/38 on sheet 4 of the classification of roads plans
Realigned Mill Lane	Between points 6/5 on sheet 6 and point 6/6 on sheet 6 of the classification of roads plans
Proposed connection to Wolverhampton Road	Between points 6/19 on sheet 6 and point 6/20 on sheet 6 of the classification of roads plans
Proposed connection to A460 north of Junction 11	Between points 6/21 on sheet 6 and point 6/22 on sheet 6 of the classification of roads plans

PART 5

SPEED LIMITS

(1) *Road name and description*	*(2)* *Speed Limit*
Proposed M54 Junction 1 free-flowing eastbound link From the M54 along its length to where it meets the proposed dual-carriageway mainline link for a total distance of 915m As shown on sheet 3 and 4 of the traffic regulation measures plans	70 miles per hour
Proposed M54 Junction 1 free-flowing westbound link From the proposed dual-carriageway mainline link along its length to where it meets the M54 for a total distance of 1560m As shown on sheet 3 and 4 of the traffic regulation measures plans	70 miles per hour
Proposed Featherstone Junction northbound diverge slip road From the proposed dual-carriageway mainline link along its length to where it meets the M54 for a total distance of 585m As shown on sheet 3 and 4 of the traffic regulation measures plans	70 miles per hour
Proposed M54 Junction 1 westbound merge slip road From the Proposed M54 Junction 1 free-flowing eastbound link along its length to where it meets the proposed Featherstone Junction west roundabout for a total distance of 333m As shown on sheet 4 of the traffic regulation measures plans	70 miles per hour
Proposed realigned M54 Junction 1 westbound diverge slip road From the proposed M54 Junction 1 south roundabout along its length to a point 285m from where it meets the M54 for a total distance of 327m As shown on sheet 4 of the traffic regulation measures plans	70 miles per hour
Proposed Realigned M54 Junction 1 eastbound merge slip road From the proposed Featherstone Junction east roundabout along its length to where it meets the M54 for a total distance of 825m As shown on sheet 4 of the traffic regulation measures plans	70 miles per hour
Proposed Featherstone Junction west roundabout As shown on sheet 4 of the traffic regulation measures plans	40 miles per hour
Proposed Featherstone Junction overbridge From the proposed Featherstone Junction east roundabout along its length to where it meets the proposed Featherstone Junction west	40 miles per hour

roundabout for a total distance of 100m As shown on sheet 4 of the traffic regulation measures plans	
Proposed Featherstone Junction northbound merge slip road From the proposed Featherstone Junction west roundabout along its length to where it meets the proposed dual-carriageway mainline link for a total distance of 480m As shown on sheet 4 of the traffic regulation measures plans	70 miles per hour
Proposed Featherstone Junction southbound diverge slip road From the proposed Featherstone Junction east roundabout along its length to where it meets the proposed dual-carriageway mainline link for a total of 515m As shown on sheet 4 of the traffic regulation measures plans	70 miles per hour
Proposed realigned A460 south From the proposed M54 Junction 1 south roundabout along its length to a point 70m from the Hilton Cross roundabout for a total distance of 190m As shown on sheet 4 of the traffic regulation measures plans	40 miles per hour
Proposed M54 Junction 1 south roundabout As shown on sheet 4 of the traffic regulation measures plans	40 miles per hour
Proposed south-east roundabout connector From the proposed Featherstone Junction east roundabout along its length to where it meets the proposed M54 Junction 1 south roundabout for a total distance of 380m As shown on sheet 4 of the traffic regulation measures plans	40 miles per hour
Proposed Featherstone Junction east roundabout As shown on sheet 4 of the traffic regulation measures plans	40 miles per hour
Proposed realigned A460 north From the proposed Featherstone Junction west roundabout along its length to where it meets the junction with Dark Lane and The Avenue for a total distance of 462m As shown on sheet 4 of the traffic regulation measures plans	30 miles per hour
Connection from proposed realigned A460 north to existing A460 From the point of stopping up/turning head along its length to where it meets the proposed realigned A460 north for a total distance of 340m As shown on sheet 4 of the traffic regulation measures plans	30 miles per hour

Link between proposed realigned A460 north and connection from proposed realigned A460 north to existing A460 Along its length being a total distance of 90m As shown on sheet 4 of the traffic regulation measures plans	30 miles per hour
Proposed dual-carriageway mainline link – northbound carriageway From the proposed M54 Junction 1 free-flowing eastbound link along its length to where it meets the proposed M6 Junction 11 roundabout for a total distance of 2415m As shown on sheet 4, 5 and 6 of the traffic regulation measures plans	70 miles per hour
Proposed dual-carriageway mainline link – southbound carriageway From the proposed M54 Junction 1 free-flowing westbound link along its length to where it meets the proposed M6 Junction 11 roundabout for a total distance of 1890m As shown on sheet 4, 5 and 6 of the traffic regulation measures plans	70 miles per hour
Proposed realigned Hilton Lane From the Hilton Lane/existing A460 junction along its length to a point 816m east of the Hilton Lane/existing A460 junction for a total distance of 816m As shown on sheet 5 of the traffic regulation measures plans	30 miles per hour
Proposed realigned M6 Junction 11 northbound merge slip road From the proposed M6 unction 11 roundabout along its length to where it meets the M6 for a total distance of 610m As shown on sheet 6 of the traffic regulation measures plans	70 miles per hour
Proposed realigned M6 Junction 11 southbound diverge slip road From the proposed M6 Junction 11 roundabout along its length to where it meets the M6 for a total distance of 375m As shown on sheet 6 of the traffic regulation measures plans	70 miles per hour
Proposed realigned M6 Junction 11 southbound merge slip road From the proposed M6 Junction 11 roundabout along its length to where it meets the M6 for a total distance of 606m As shown on sheet 5 and 6 of the traffic regulation measures plans	70 miles per hour
Proposed realigned M6 Junction 11 northbound diverge slip road From the proposed M6 Junction 11 roundabout along its length to where it meets the M6 for a total distance of 247m	70 miles per hour

As shown on sheet 6 of the traffic regulation measures plans	
Proposed M6 Junction 11 roundabout As shown on sheet 6 of the traffic regulation measures plans	50 miles per hour
Proposed realigned A460 (north of M6 Junction 11) From the proposed M6 Junction 11 roundabout along its length to point 200m south-east of M6 Junction 11 for a total distance of 390m As shown on sheet 6 of the traffic regulation measures plans	50 miles per hour
Proposed realigned A462 From the proposed M6 Junction 11 roundabout along its length to a point 200m south-east of M6 Junction 11 for a total distance of 200m As shown on sheet 6 of the traffic regulation measures plans	60 miles per hour
Proposed realigned A460 (south of M6 Junction 11) From the proposed M6 Junction 11 roundabout along its length to a point 350m west of M6 Junction 11 for a total distance of 350m As shown on sheet 6 of the traffic regulation measures plans	50 miles per hour
Realigned Mill Lane From the junction with the proposed realigned A460 (south of M6 Junction 11) along its length for a total distance of 200m As shown on sheet 6 of the traffic regulation measures plans	60 miles per hour
Proposed connection to Wolverhampton Road From the Junction with the proposed realigned A460 (north of M6 Junction 11) along its length for a total distance of 30m As shown on sheet 6 of the traffic regulation measures plans	30 miles per hour
Proposed connection to Wolverhampton Road From the junction with the proposed realigned A462 along its length for a total distance of 50m As shown on sheet 6 of the traffic regulation measures plans	30 miles per hour

PART 6

PUBLIC RIGHTS OF WAY

(1) *Public right of way*	*(2)* *Extent*
Dark Lane (proposed Bridleway)	Between point 4/4 on sheet 4 and point 5/1 on sheet 5 of the streets, rights of way and access plans
Cannock Road (proposed footpath)	Between point 4/14 and point 4/15 on sheet 4 of

	the streets, rights of way and access plans

PART 7

CREATION OF NEW TRAFFIC REGULATION ORDERS

(1) *Area*	*(2)* *Road name and description*	*(3)* *Title of Order*	*(4)* *Speed limit*
Staffordshire County Council	Proposed realigned Hilton Lane From a point 816m east of the Hilton Lane/existing A460 junction to a point 1445m east of the Hilton Lane/existing A460 junction for a total distance of 629m As shown on sheet 5 of the traffic regulation measures plans	Hilton Lane Speed Order (40mph Speed Limit)	40 miles per hour

PART 8

VARIATION OF EXISTING TRAFFIC REGULATION ORDERS

(1) *Parish(es)*	*(2)* *Road name and number*	*(3)* *Title of Order*	*(4)* *Variation*
Hilton	A460 Cannock Road between points 4/37 and 5/8 as shown on the classification of roads plans.	The Staffordshire County Council (Hilton Lane, Dark Lane and Old Warstone Lane, Hilton) (Prohibition of Heavy Commercial Vehicles or over 7.5 Tonnes (Gross) Order 1991.	Shown as 4/37 and 5/8 on sheets 4 and 5 of the classification of roads plans.

SCHEDULE 4

Article 13

PERMANENT STOPPING UP OF STREETS, PUBLIC RIGHTS OF WAY AND PRIVATE MEANS OF ACCESS

PART 1

STREETS TO BE STOPPED UP AND FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

(1) *Street to be stopped up*	*(2)* *Extent of stopping up*	*(3)* *New street to be substituted or provided*
A460 Cannock Road west of M6 Junction 11	Existing section of public road, to be stopped up between points A/7 and A/8 shown on sheet 6 of the streets, rights of way and access plans	Between points A/9 and point A/10 on sheet 6 of the streets, rights of way and access plans
Mill Lane	Existing section of public road, to be stopped up between points A/11 and A/12 shown on sheet 6 of the streets, rights of way and access plans	Between points A/13 and point A/14 on sheet 6 to point 6/6 on sheet 6 of the streets, rights of way and access plans

PART 2

STREETS TO BE STOPPED UP AND FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

(1) *Streets to be stopped up*	*(2)* *Extent of stopping up*
Existing M54 Junction 1 eastbound merge slip road	Existing section of public road, to be stopped up between points A/1 and A/2 shown on sheet 4 of the streets, rights of way and access plans
Existing A460 connecting to north of existing M54 Junction 1 roundabout	Existing section of public road, to be stopped up between points A/3 and A/4 shown on sheet 4 of the streets, rights of way and access plans
Dark Lane	Existing section of public road, to be stopped up between points A/5 on sheet 4 and A/6 shown on sheet 5 of the streets, rights of way and access plans

PART 3

PUBLIC RIGHTS OF WAY TO BE STOPPED UP AND FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

(1) *Public right of way to be stopped up*	*(2)* *Extent of stopping up*	*(3)* *New highway to be substituted or provided*
Shareshill 5 Footpath adjacent	Existing public right of way	A new footpath between points

to Hilton Lane	between point 5/2 and 5/4 on sheet 5 of the streets, rights of way and access plans	5/2 and 5/12 on sheet 5, footpath to utilise Hilton Lane footway between points 5/12 and 5/3 on sheet 5 and a new footpath between points 5/3 and 5/4 on sheet 5 of the streets, rights of way and access plans

PART 4

PUBLIC RIGHTS OF WAY TO BE STOPPED UP AND FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

(1) *Public right of way to be stopped up*	*(2)* *Extent of stopping up*
Saredon 1R/2214 Footpath	Full length of 70m between points 6/4 and 6/6 on sheet 6 of the streets, rights of way and access plans

PART 5

ALTERATIONS TO PUBLIC RIGHTS OF WAY

(1) *Public Rights of Way to be altered*	*(2)* *Extent of alteration*
Featherstone 3 Bridleway south west of M54 Junction 1 between points 4/1 and 4/3 on sheet 4 of the street, rights of way and access plans	To be altered between points 4/1 and 4/2 on sheet 4 of the streets, rights of way and access plans
Shareshill 1 Bridleway adjacent Brookfield Farm between points 5/5 and 5/6 on sheet 5 of the streets, rights of way and access plans	To be diverted across the proposed Brookfield Farm overbridge between points 5/5 and 5/6 on sheet 5 of the streets, rights of way and access plans
Shareshill 4 Footpath at the south west corner of M6 Junction 11 between points 6/1 and 6/2 on sheet 6 of the streets, rights of way and access plans	To be diverted up the proposed link road embankment between points 6/1 and 6/3 on sheet 6 of the streets, rights of way and access plans
Saredon 8 Footpath at the south west corner of M6 Junction 11 between points 6/2 and 6/4 on sheet 6 of the streets, rights of way and access plans	To be diverted up the proposed link road embankment between points 6/3 and 6/5 on sheet 6 of the streets, rights of way and access plans
Saredon 13 Bridleway at the north east corner of M6 Junction 11 between points 6/7 and 6/8 on sheet 6 of the streets, rights of way and access plans	To be diverted adjacent to the A460 north east of M6 Junction 11 between points 6/8 and 6/9 on sheet 6 of the streets, rights of way and access plans

PART 6

PRIVATE MEANS OF ACCESS TO BE STOPPED UP AND FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

(1)	*(2)*	*(3)*

Private means of access to be stopped up	*Extent of stopping up*	*New private means of access to be substituted or provided*
Access track to Tower Hill Farm	Existing access track shown between points 4/5, 4/6 and 4/7 on sheet 4 of the streets, rights of way and access plans	Proposed new access from Featherstone Junction east roundabout from point 4/8 to point 4/9 on sheet 4 of the streets, rights of way and access plans
Access track to Hilton Park	Existing access track shown between points 4/10 and 4/11 on sheet 4 of the streets, rights of way and access plans	Proposed new access from Featherstone Junction east roundabout from point 4/11 to point 4/12 on sheet 4 of the streets, rights of way and access plans
Proposed Brookfield Farm overbridge access track	Between points 5/8 and 5/10 on sheet 5 of the streets, rights of way and access plans	Proposed new access from 5/8 to 5/9 and heading east from 5/9 to 5/7 and heading west from 5/9 to 5/10 on sheet 5 of the streets, rights of way and access plans

PART 7

PROVISION OR ALTERATIONS TO PRIVATE MEANS OF ACCESS

(1) *Private means of access to be provided or altered*	*(2)* *Extent of provision or alteration*
Existing access from the A460 identified at point 4/10 on sheet 4 of the streets, rights of way and access plans	Provide new means of access between points 4/10 and 4/13 shown on sheet 4 of the streets, rights of way and access plans

SCHEDULE 5

Article 23(2)

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

(1) *Plot Reference Number shown on Land Plans*	*(2)* *Purpose for which rights over land may be acquired*
Land Plans – Sheet 3	
3/2c, 3/2d, 3/6	To construct, operate, access and maintain a balancing pond to provide attenuation and treatment systems and a new outfall connection to the existing ditch. Maintenance access off Brookhouse Lane (Work No. 56)
Land Plans – Sheet 4	
4/17a	To construct, operate, access, maintain, protect and decommission a diversion to an existing high pressure gas main and associated infrastructure (Work No. 68)
4/20f	To construct, operate, access, maintain, protect and decommission a diversion to an existing high pressure gas main and associated infrastructure (Work No. 68)
4/20g	To construct the Hilton Park access track and to construct, operate, access and maintain a diversion of an existing high pressure gas main and associated infrastructure (Works No. 21 and 68)
Land Plans – Sheet 5	
5/7, 5/11e, 5/11f and 5/13	To construct, operate, access and maintain a balancing pond to provide attenuation and treatment systems to the south of Brookfield Farm and a new outfall connection to Watercourse 4. Maintenance access along an existing track that connects to Hilton Lane and via a new accommodation bridge (Work No. 59)
5/16	To construct, operate, access and maintain a culvert on Watercourse 4 adjacent to Brookfield Farm, a balancing pond to provide attenuation and treatment systems to the south of Brookfield Farm and a new outfall connection to Watercourse 4 as well as diversion of an overhead electricity cable and associated infrastructure. Maintenance access along an existing track that connects to Hilton Lane and via a new accommodation bridge. (Works No. 47, 59 and 70)
5/17	To construct, operate, access and maintain a diversion of an overhead electricity cable and associated infrastructure (Work No. 70)
Land Plans – Sheet 6	
6/31	To access land for works to realign the existing public right of way Saredon 13 (Work No. 66)

SCHEDULE 6

Article 23

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS AND IMPOSITION OF RESTRICTIVE COVENANTS

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 the 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 limiting paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act, after "if" substitute—

"(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 of the M54 to M6 Link Road Development Consent Order 20[ ]);

(b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 6 of the M54 to M6 Link Road Development Consent Order 20[ ]) to acquire an interest in the land; and

(c) the acquiring authority enters on and takes 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 limiting paragraph 1, the Land Compensation Act 1973(**a**) has effect subject to the modifications set out in sub-paragraphs (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 5(3)—

(a) for "land is acquired or taken from" substitute "a right or restrictive covenant over land is purchased from"; and

(b) for "acquired or taken from him" substitute "over which the right is exercisable or the restrictive covenant enforceable".

Application of the 1965 Act

4.—(1) Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 29 (modifications 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 (compulsory acquisition of rights and restrictive covenants)—

(a) with the modifications specified in paragraph 5; and

(b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows.

(**a**) 1973 c. 26.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (accordingly to the requirements of that context) as referring to, or as including references to—

(a) the right acquired or to be acquired, or the restrictive covenant imposed to be imposed; or

(b) the land over which the right is or is to be exercisable, or the restrictive covenant is or is to be enforceable.

(3) For section 7 (measure of compensation) 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 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, as from the date on which the acquiring authority has served notice to treat in respect of any right it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12(**b**) (penalty for unauthorised entry) and 13(**c**) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

(6) Section 20(**d**) (protection for interests of tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act is 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—

(**a**) 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 Schedule5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No.1) and S.I. 2009/1307.

(**b**) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23).

(**c**) 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 Tribunals, Courts and Enforcement Act 2007 (c. 15).

(**d**) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

"SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1. This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or 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 Compulsory Purchase (Vesting Declarations) Act 1981(**a**) as applied by article 26 (application of the Compulsory Purchase (Vesting Declarations) Act 1981) in respect of the land to which the notice to treat relates.

2. In this Schedule, "house" includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory ("the owner") may serve a counter-notice requiring the acquiring authority to purchase the owner's interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

(a) withdraw the notice to treat,

(b) accept the counter-notice, or

(c) refer the counter-notice to the Upper Tribunal.

6. The acquiring authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served ("the decision period").

7. If the acquiring authority decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

8. If the acquiring authority does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the acquiring authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by 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 its determination, the Upper Tribunal must take into account—

(**a**) 1981 c. 66, as amended by Part 7 of the Housing and Planning Act 2016 (c. 22).

(a) the effect of the acquisition of the right or the imposition of the covenant,

(b) the use to be made of the right or covenant proposed to be acquired or imposed, and

(c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

13. If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal."

SCHEDULE 7

Articles 29 and 30

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) *Plot Reference Number shown on Land Plans*	*(2)* *Purpose for which temporary possession may be taken*	*(3)* *Relevant part of the authorised development*
Land Plans – Sheet 3		
3/7a, 3/7b and 3/7c	Required to deliver ancient woodland enhancement measures	Work No. 76 as shown on sheets 3 and 4 of the works plans
Land Plans – Sheet 4		
4/1e and 4/9a	Required for alignment of the existing A460 into the M54 Junction 1 south roundabout	Work No. 7 as shown on sheet 4 of the works plans
4/1i	Required for the stopping up of the existing A460 and construction of a turning head facility	Work No. 11 as shown on sheet 4 of the works plans
4/2	Required to deliver ancient woodland enhancement measures	Work No. 76 as shown on sheets 3 and 4 of the works plans
4/8	Required for the diversion of utilities and association infrastructure to a new utilities' corridor	Work No. 67 as shown on sheet 4 of the works plans
4/13, 4/14a and 4/14c	Required for the alignment of the M54 Junction 1 eastbound merge slip road and the construction of an access for Tower Hill Farm connecting to the Featherstone Junction east roundabout	Work No. 12 and 20 as shown on sheet 4 of the works plans
4/14i	Required for the construction of a free-flowing two lane carriageway, the Featherstone Junction east roundabout, a dual carriageway dumbbell link, new private means of access, the Featherstone Junction southbound diverge slip road and the diversion of a high pressure gas main	Work No. 2, 4, 13, 14, 20, 21, 22, 68 as shown on sheet 4 of the works plans
4/17b, 4/18	Required for the diversion of a high pressure gas main	Work No. 68 as shown on sheet 4 of the works plans
4/20d	Required for habitat creation for visual screening and to mitigate for biodiversity loss and the installation of a replacement fence	Work No. 80 as shown on sheet 4 of the works plans
4/22	Required for the modification of an existing junction and removal of a right turn prohibition into Dark Lane	Work No. 73 as shown on sheets 4 and 5 of the works plans
Land Plans – Sheet 5		

5/1	Required for the modification of an existing junction and removal of a right turn prohibition into Dark Lane	Work No. 73 as shown on sheets 4 and 5 of the works plans
5/6	Required for the construction of new northbound and southbound dual carriageways to M6 Junction 11 the realignment of Hilton Lane and construction of an accommodation overbridge and realignment of access tracks to the south of Brookfield Farm	Work No. 25, 26, 27 and 28 as shown on sheets 4 to 6 of the works plans
5/10	Required for the construction of new northbound and southbound dual carriageways to M6 Junction 11, realignment of Hilton Lane and the realignment of public right of way Shareshill 5	Work No. 25, 26, 27 and 63 as shown on sheets 4 to 6 of the works plans
5/11a	Required for the construction of new northbound and southbound dual carriageways to M6 Junction11, realignment of Hilton Lane, construction of an accommodation overbridge and realignment of access tracks to the south of Brookfield Farm, installation of a new balancing pond and works to realign public right of way Shareshill 5	Work No. 25, 26, 27, 28, 59 and 63 as shown on sheet 5 of the works plans
5/11g	Required for the construction of a new northbound and southbound dual carriageways to M6 Junction 11, construction of an accommodation overbridge and realignment of access tracks to the south of Brookfield Farm and the diversion of an overhead electricity cable and associated infrastructure	Work No. 25, 26, 28 and 70 as shown on sheet 5 of the works plans
5/14	Required for the construction of northbound and southbound dual carriageways to M6 Junction 11 and an accommodation overbridge and realignment of access tracks	Works No. 25, 26 and 28 as shown on sheets 4 to 6 of the works plans
5/25	Required for the construction of new northbound and southbound dual carriageways to M6 Junction 11,	Work No. 25, 26, 27 and 74 as shown on sheet 4, 5 and 6 of the works plans

	realignment of Hilton Lane and the modification of the junction between the existing A460, New Road and Dark lane and the construction of a borrow pit including the excavation, working and restoration to win material required for the construction of the authorised development	
Land Plans – Sheet 6		
6/11b, 6/13, 6/18 and 6/19	Required to realign the M6 Junction 11 northbound merge slip road	Work No. 33 as shown on sheet 6 of the works plans
6/11k, 6/11l, 6/11m, 6/11n, 6/17r, 6/17q and 6/27	Required for the demolition and removal of existing M6 Junction 11 structures and redundant sections of existing circulatory carriageway. Also required for the construction of a new M6 Junction 11 circulatory carriageway and associated infrastructure, the realignment of Wolverhampton Road and the realignment and widening by a single lane of the A460 southbound and northbound	Work No. 36, 38, 39 and 40 as shown on sheet 6 of the works plans
6/12	Required to realign Mill Lane	Work No. 30 as shown on sheet 6 of the works plans
6/17f	Required for the demolition of existing structures at M6 Junction 11, and construction of new M6 Junction 11 circulatory carriageway including overbridges and portal gantries	Work No. 36 as shown on sheet 6 of the works plans
6/17g, 6/20 and 6/22a	Required for the realignment of the M6 Junction 11 southbound diverge slip road	Work No. 35 as shown on sheet 6 of the works plans
6/17h, 6/17i, 6/17j, 6/17k, 6/17m, 6/32a and 6/36	Required for the realignment and widening by a single lane of the A460 southbound and northbound	Work No. 39 as shown on sheet 6 of the works plans
6/25	Required for the realignment of the M6 Junction 11 southbound merge slip road, the demolition and removal of existing M6 Junction 11 structures and redundant sections of existing circulatory carriageway. Also required for the construction of a new M6 Junction 11 circulatory carriageway and associated infrastructure. Required for the	Work No. 34, 36 and 37 as shown on sheet 5 and 6 of the works plans

	realignment of the A462 to M6 Junction 11.	
6/37	Required for the realignment of the M6 Junction 11 southbound diverge slip road. Required for the demolition and removal of existing M6 Junction 11 structures and redundant sections of existing circulatory carriageway. Also required for the construction of a new M6 Junction 11 circulatory carriageway and associated infrastructure. Also required for the realignment and widening by a single lane of the A460 southbound and northbound and the realignment of the existing public right of way Saredon 13	Work No. 35, 36, 39 and 66 as shown on sheet 6 of the works plans

SCHEDULE 8

Articles 34 and 36

HEDGEROWS AND TREES

PART 1

HEDGEROWS

The hedgerow identifications in the table below are taken from Chapter 8: Biodiversity and Figure 8.3 of the environmental statement (application document 6.1)

(1) *Hedgerow*	*(2)* *Relevant part of the authorised development*	*(3)* *Important Hedgerow*
TN1 – Intact Hedge – Native Species – Rich	Work No. 66	No
TN8 – Intact Hedge – Native Species – Poor	Work No. 35	No
TN10 – Intact Hedge – Native Species – Rich	Work No. 35	No
TN11 – Intact Hedge – Native Species – Poor	Work No. 30	No
TN14 – Intact Hedge – Native Species – Rich	Work No. 30	No
TN20 – Defunct Hedge – Native Species -	Work No. 72	No
TN22 – Defunct Hedge – Native Species – Rich	Work No. 72	No
TN23 – Intact Hedge – Native Species – Rich	Work No. 72	Yes
TN29 – Intact Hedge – Native Species – Poor	Work No. 29	No
TN35 – Intact Hedge – Native Species – Poor	Work Nos. 36 and 37	No
TN37 – Defunct Hedge – Native Species – Poor	Work Nos. 34 and 85	No
TN39 – Intact Hedge – Native Species – Poor	Work Nos. 25, 26, 32 and 36	No
TN40 – Intact Hedge – Native Species – Poor	Work Nos. 25, 26, 32, and 36	No
TN41 – Intact Hedge – Native Species – Rich	Work Nos. 25, 26 and 48	Yes
TN68– Defunct Hedge – Native Species – Rich	Work Nos. 27 and 59	No
TN71 – Intact Hedge – Native Species – Poor	Work Nos. 25, 26 and 27	No
TN75 – Defunct Hedge – Native Species – Rich	Work Nos. 71	No

PART 2

TREES SUBJECT TO TREE PRESERVATION ORDERS

The tree plan references in the table below are taken from the tree preservation order impact/removal plans (application document 6.8)

(1) *Type of tree*	*(2)* *Relevant part of the authorised development*	*(3)* *TPO reference*
T168 – Ash (Fraxinus excelsior)	Work No. 86	TPO – 3/1957
T46 – Ash (Fraxinus excelsior)	Work No. 11	TPO – 3/1957
T60 – Ash (Fraxinus excelsior)	Work No. 17	TPO – 3/1957
T237 – Atlantic Cedar (Blue) (Cedrus libani atlantica Glauca)	Work Nos. 27 and 69	TPO – 3/1957
T146 – Beech (Fagus sylvatica)	Work No. 16	TPO – 3/1957
T222 – Beech (Fagus sylvatica)	Work No. 69	TPO – 3/1957
T94 – Beech (Fagus sylvatica)	Work No. 16	TPO – 3/1957
G369 – Common Alder (Alnus glutinosa)	Work Nos. 25 and 48	TPO – 56 and 58/1981
T152 – Common Alder (Alnus glutinosa)	Work Nos. 22 and 26	TPO – 3/1957
W342 – Common Alder (Alnus glutinosa), Ash (Fraxinus excelsior), Crack Willow (Salix fragilis), Common Oak (Quercus robur)	Work Nos. 25, 26, 48 and 65	TPO – 56 and 58/1981
G346 – Common Alder (Alnus glutinosa), Crack Willow (Salix fragilis), Hawthorn (Crataegus monogyna) Common Oak (Quercus robur)	Work No. 26	TPO – 56 and 58/1981
G119 – Common Alder (Alnus glutinosa), Sycamore (Acer pseudoplatanus), Downy Birch (Betula pubescens)	Work Nos. 2 and 23	TPO – 3/1957
T101 – Common Lime (Tilia X europaea)	Work No. 16	TPO – 3/1957
T102 – Common Lime (Tilia X europaea)	Work No. 16	TPO – 3/1957
T113 – Common Lime (Tilia X europaea)	Work No. 16	TPO – 3/1957
T120 – Common Lime (Tilia X europaea)	Work No. 16	TPO – 3/1957
T110 – Common Oak (Quercus robur)	Work No. 16	TPO – 3/1957
T130 – Common Oak (Quercus robur)	Work No. 16	TPO – 3/1957
T145 – Common Oak (Quercus robur)	Work Nos. 4, 22 and 46	TPO – 3/1957
T242 – Common Oak	Work Nos. 24, 26 and 27	TPO – 3/1957

(Quercus robur)		
T367 – Common Oak (Quercus robur)	Work Nos. 25 and 48	TPO – 56 and 58/1981
T72 – Common Oak (Quercus robur)	Work No. 17	TPO – 3/1957
T75 – Common Oak (Quercus robur)	Work No. 17	TPO – 3/1957
T77 – Common Oak (Quercus robur)	Work No. 17	TPO – 3/1957
T78 – Common Oak (Quercus robur)	Work No. 17	TPO – 3/1957
T79 – Common Oak (Quercus robur)	Work Nos. 16 and 17	TPO – 3/1957
T81 - Sycamore (Acer pseudoplatanus)	Works Nos. 17 and 18	TPO – 3/1957
T84 – Common Oak (Quercus robur)	Work Nos. 4 and 22	TPO – 3/1957
T87 – Common Oak (Quercus robur)	Work Nos. 16 and 18	TPO – 3/1957
T88 – Common Oak (Quercus robur)	Work Nos. 4 and 22	TPO – 3/1957
T90 – Common Oak (Quercus robur)	Work Nos. 16 and 18	TPO – 3/1957
T91 – Common Oak (Quercus robur)	Work Nos. 4 and 22	TPO – 3/1957
T92 – Common Oak (Quercus robur)	Work Nos. 16 and 18	TPO – 3/1957
W512 – Common Oak (Quercus robur), Ash (Fraxinus excelsior), Sycamore (Acer pseudoplatanus), Lime (Tilia Sp.), Beech (Fagus sylvatica)	Work Nos. 16, 17, 18, 19 and 71	TPO – 3/1957
G234 - Common Oak (Quercus robur), Sycamore (Acer pseudoplatanus), Hawthorn (Crataegus monogyna)	Work Nos. 24, 25, 26 and 27	TPO – 3/1957
T183– Common Oak (Quercus robur)	Works Nos. 24 and 69	TPO – 3/1957
G184 - Common Oak (Quercus robur), Sycamore (Acer pseudoplatanus), Holly (Ilex aquifolium), other	Work Nos. 24, 25, 26 and 62	TPO – 3/1957
T140 – Downy Birch (Betula pubescens)	Work Nos. 2, 23 and 46	TPO – 3/1957
G374 – Hawthorn (Crataegus monogyna), Common Alder (Alnus glutinosa)	Work No. 36	TPO – 56 and 58/1981
G240 – Hawthorn (Crataegus monogyna), Holly (Ilex aquifolium)	Work Nos. 24, 26 and 27	TPO – 3/1957
T95 – Sessile Oak (Quercus petraea)	Work Nos. 4 and 22	TPO – 3/1957

T209 – Sweet Chestnut (Castanea sativa)	Work No. 86	TPO – 3/1957
G153 – Sycamore (Acer pseudoplatanus)	Work No. 16	TPO – 3/1957
T111 – Sycamore (Acer pseudoplatanus)	Work No. 16	TPO – 3/1957
T112 – Sycamore (Acer pseudoplatanus)	Work No. 16	TPO – 3/1957
T195 – Sycamore (Acer pseudoplatanus)	Work No. 86	TPO – 3/1957
T197 – Sycamore (Acer pseudoplatanus)	Work No. 86	TPO – 3/1957
T225 – Sycamore (Acer pseudoplatanus)	Work No. 69	TPO – 3/1957
T239 – Sycamore (Acer pseudoplatanus)	Work No. 25	TPO – 3/1957
T257 – Sycamore (Acer pseudoplatanus)	Work No. 74	TPO – 3/1957
T44 – Sycamore (Acer pseudoplatanus)	Work Nos. 45 and 68	TPO – 3/1957
T81 – Sycamore (Acer pseudoplatanus)	Work Nos. 17 and 18	TPO – 3/1957
T98 – Sycamore (Acer pseudoplatanus)	Work Nos. 16 and 19	TPO – 3/1957
T99 – Sycamore (Acer pseudoplatanus)	Work No. 16	TPO – 3/1957
T138 – Sycamore (Acer pseudoplatanus)	Work Nos. 2, 23 and 46	TPO – 3/1957
G74 – Sycamore (Acer pseudoplatanus), Common Alder (Alnus glutinosa)	Work No. 17	TPO – 3/1957
G265 – Sycamore (Acer pseudoplatanus), Common Oak (Quercus robur), Ash (Fraxinus excelsior), Holly (Iles aquifolium)	Work Nos. 24, 25, 26, 27 and 62	TPO – 3/1957
W212 – Sycamore (Acer pseudoplatanus), Common Oak (Quercus robur), Holly (Iles aquifolium), Scots Pine (Pinus sylvestris)	Work Nos. 62 and 69	TPO – 3/1957
W159 - Sycamore (Acer pseudoplatanus), Downy Birch (Betula pubescens), Common Alder (Alnus glutinosa), Beech (Fagus sylvatica)	Work Nos. 2, 4, 22, 23, 24, 25, 26, 46 and 62	TPO – 3/1957
G232 - Sycamore (Acer pseudoplatanus), Holly (Ilex aquifolium), Yew (Taxus baccata), Common Oak (Quercus robur)	Work Nos. 24 and 27	TPO – 3/1957
T122 – White Poplar (Populus alba)	Work No. 4, 22 and 46	TPO – 3/1957
T201 – Whitebeam (Sorbus aria)	Work No. 86	TPO – 3/1957

T180 – Willow (Salix sp.)	Work No. 86	TPO – 3/1957
W96 – Yew (Taxus baccata), Sycamore (Acer pseudoplatanus), Silver Birch (Betula pendula), Common Oak (Quercus robur)	Work Nos. 2, 4, 22 and 23	TPO – 3/1957
G36 – Silver Birch (Betula pendula), Common Oak (Quercus robur), Hawthorn (Crataegus monogyna)	Work Nos. 6 and 68	TPO – 3/1957
W516 - Sycamore (Acer pseudoplatanus), Birch (Betula sp.), Common Oak (Quercus robur), Common Beech (Fagus sylvatica), Sweet Chestnut (Castanea sativa),	Works No. 3	TPO – 3/1957
T97 - *Scots Pine (Pinus sylvestris)*	Works Nos. 2 and 22	TPO – 3/1957
T135 - *Common Oak (Quercus robur)*	Work No. 16	TPO – 3/1957

SCHEDULE 9

Articles 31 and 39

PROTECTIVE PROVISIONS

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWAGE UNDERTAKERS

1.—(1) For the protection of the utility undertakers referred to in this Part of this Schedule the following provisions have effect, unless otherwise identified in another Part of this Schedule or agreed in writing between the undertaker and the utility undertaker concerned.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and the utility undertaker concerned, where the benefit of this Order is transferred or granted to another person under article 8 (consent to transfer benefit of Order), any agreement of the type mentioned in subparagraph (1) has effect as if it had been made between the utility undertaker concerned and the transferee or grantee (as the case may be).

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to the utility undertaker concerned (but see paragraph 11(3)(b)).

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 undertaker;

(b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter within the meaning of Part 1 of the Gas Act 1986(**b**) for the purposes of gas supply;

(c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by that undertaker for the purposes of water supply; and

(d) in the case of a sewerage undertaker—

(i) any drain or works vested in the undertaker under the Water Industry Act 1991(**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 a future date) of that Act(**d**),

and includes a sludge main, disposal main (within the meaning of section 219 (general inspection) 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;

(**a**) 1989 c. 29.

(**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 section 76 of the Utilities Act 2000 (c. 27).

(**c**) 1991 c. 56.

(**d**) 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, and Part 3 of Schedule 9 to, the Water Act 2003 and section 42(3) of the Flood and Water Management Act 2010 (c.29) and section 11(1) and (2) of, and paragraphs 2 and 91 of Schedule 7 to the Water Act 2014 (c.21).

"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;

"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 13 (permanent stopping up and restriction of use of streets, public rights of way 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 12 (temporary stopping up and restriction of use of streets), a utility undertaker is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Protective works to buildings

5. The undertaker, in the case of the powers conferred by article 18 (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 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 42 (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 42, and after the grant to the utility undertaker 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 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 42 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

9.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 7(2), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) 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 a utility undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case 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.

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) There must 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 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 42 (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 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 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), 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 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 undertaker,

(c) 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 –

(a) 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, or

(b) any part of the authorised development carried out by a utility undertaker in the exercise of any functions conferred by this Order pursuant to a transfer or grant under article 8 (consent to transfer benefit of Order).

(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 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.

Co-operation

12. Where in consequence of the proposed construction of any part of the authorised development, the undertaker or a utility undertaker requires the removal of apparatus under paragraph 7(2) or a utility undertaker makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker must use best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the utility undertaker's undertaking and each utility undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

13. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus 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

14. For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

15. In this Part of this Schedule—

"the 2003 Act" means the Communications Act 2003(**a**);

"electronic communications apparatus" has the same meaning as in the electronic communications code;

"the electronic communications code" has the same meaning as in Chapter 1 of Part 2 of the 2003 Act(**b**);

"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 of the 2003 Act; and

(b) an electronic communications network which the undertaker is providing or proposing to provide;

"electronic communications code operator" means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

"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 Schedule 3A Part 1 paragraph 7 of the 2003 Act;

"operator" means the operator of an electronic communications code network.

16. The exercise of the powers conferred by article 31 (statutory undertakers) is subject to Schedule 3A part 10 (undertaker's works affecting electronic communications apparatus) of the electronic communications code in the 2003 Act.

17.—(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 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.

(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 42 (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 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.

(**a**) 2003 c. 21.
(**b**) See section 106.

(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 CADENT GAS LTD AS GAS UNDERTAKER

Application

18. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

Interpretation

19. In this Part of this Schedule—

"alternative apparatus" means appropriate alternative apparatus to the reasonable satisfaction of Cadent to enable Cadent 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 Cadent for the purposes of Cadent's undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of Cadent for the purposes of Cadent's undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"Cadent" means Cadent Gas Limited and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

"Cadent's undertaking" means the rights, duties and obligations of Cadent Gas Limited as a public gas transporter within the meaning of Section 7 of the Gas Act 1986 (as amended by the Gas Act 1995);

"commence" has the same meaning as in article 2(1) of the Order and commencement shall be construed to have the same meaning save that for the purposes of this Part of the Schedule the terms commence and commencement include any below ground surveys, monitoring, work operations, remedial work in respect of any contamination or other adverse ground conditions, the receipt and erection of construction plant and equipment, and non-intrusive investigations for the purpose of assessing ground conditions,;

"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, enactments 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;

"facilities and rights" for construction and for maintenance include any appropriate working areas required to reasonably and safely undertake that construction or maintenance, and any necessary rights of access;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by Cadent (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, shall require the undertaker to submit for Cadent'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" for the purposes of this Part of the Schedule shall have effect as if Cadent's existing apparatus was authorised development and as if the term maintain includes protect and use, improve, landscape, preserve, decommission, refurbish or replace;

"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;

"rights" includes restrictive covenants and, in relation to decommissioned apparatus, the surrender of rights, release of liabilities and transfer of decommissioned apparatus;

"specified works" means any of the authorised development or activities (including maintenance) undertaken in association with the authorised development 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 sub-paragraph 24(2) (removal of apparatus) or otherwise;

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 24(2) (removal of apparatus) or otherwise; or

On Street Apparatus

20.—(1) This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act except for—

(a) paragraphs 21 (apparatus of Cadent in stopped up streets), 26 (retained apparatus: protection of Cadent), 27 (expenses) and 28 (indemnity); and

(b) where sub-paragraph (2) applies, paragraphs 24 (removal of apparatus) and 25 (facilities and rights for alternative apparatus).

(2) This sub-paragraph applies where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within the existing adopted public highway, notwithstanding that any diversion may be carried out under the provisions of Part 3 of the 1991 Act.

(3) Paragraph 27 (expenses) does 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 Cadent in such proportions as may be prescribed by any such regulations.

Apparatus of Cadent in stopped up streets

21.—(1) Where any street is stopped up under article 13 (*permanent stopping up and restriction of use of streets, public rights of way and private means of access*), if Cadent has any apparatus in the street or accessed via that street Cadent is entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to Cadent, or procure the granting to Cadent of, legal easements reasonably satisfactory to Cadent in respect of such apparatus and access to it prior to the stopping up of any such street or highway,

but nothing in this paragraph shall affect any right of the undertaker or of Cadent to require the removal of that apparatus under paragraph 24 (removal of apparatus).

(2) Notwithstanding the temporary stopping up, alteration, diversion or restriction of use of any street under the powers of article 12 (*temporary stopping up and restriction of use of streets*), Cadent 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 it would have been entitled to do immediately before such temporary stopping up, alteration, diversion or restriction of use in respect of any apparatus which at the time of the stopping up or diversion was in that street.

Protective works to buildings

22.— The undertaker, must exercise the powers conferred by article 18 (*protective work to buildings*) so as not to obstruct or render less convenient the access to any apparatus without the written consent of Cadent such consent not to be unreasonably withheld or delayed.

Acquisition of land

23.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any interest in land or appropriate, acquire, extinguish, interfere with or override any easement or other interest in land of Cadent otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out or maintenance of any part of the authorised development (or in such other timeframe as may be agreed between Cadent 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 Cadent or affect the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and it will be the responsibility of the undertaker to procure or 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 development or maintenance thereof.

(3) The undertaker and Cadent 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 Cadent and other enactments relied upon by Cadent 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 Cadent under paragraph 26 (retained apparatus: protection of Cadent) or any other paragraph of this Part of this Schedule, is not to be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement under sub-paragraph (1) that involves de-commissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement or other interest of Cadent in such decommissioned apparatus and release Cadent from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any Cadent right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 24 (removal of apparatus) do not apply, the undertaker must, unless Cadent agrees otherwise:

(a) retain any notice of Cadent's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and

(b) (where no such notice of Cadent's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of Cadent's easement, right or other interest in relation to such acquired land.

Removal of apparatus

24.—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 23 (acquisition of land), the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of Cadent to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation, and the facilities and rights referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of Cadent and in accordance with sub-paragraphs (2) to (5) inclusive.

(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 Cadent advance written notice of that requirement, together with a plan and section 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 Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its satisfaction (taking into account sub-paragraph 25(1) (facilities and rights for alternative apparatus) below) the necessary facilities and rights:

(a) for the construction of alternative apparatus; and

(b) subsequently for the maintenance of that apparatus.

(3) If 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, Cadent 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 assist the undertaker in obtaining 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 Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) 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 Cadent and the undertaker.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3), then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

25.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-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

Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed then the terms and conditions to which those facilities and rights are subject in the matter may be referred to arbitration in accordance with paragraph 33 (*arbitration*) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of Cadent

26.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Cadent 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 Cadent has given written approval of the plan so submitted (and the ground monitoring scheme if required).

(4) Any approval of Cadent given under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5) ; and

(b) must not be unreasonably withheld or delayed and Cadent must meaningfully engage with the undertaker within 28 days of the date of submission of the plan under sub-paragraph (1).

(5) Cadent may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage 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) (and ground monitoring scheme if required), as approved or as amended from time to time by agreement between the undertaker and Cadent; and

(b) all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works.

(7) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required prior to commencement.

(8) If Cadent, 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 18 to 20 and 23 to 25 apply as if the removal of the apparatus had been required by the undertaker under sub-paragraph 24(2) (removal of apparatus).

(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 (and ground monitoring scheme if required), 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 (and ground monitoring scheme if required).

(10) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development (including such an event attributable to its maintenance)—

(a) the undertaker must implement an appropriate ground mitigation scheme; and

(b) Cadent 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 (expenses).

(11) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works and must comply with the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances.

(12) In this paragraph, "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

27.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent on demand all charges, costs and expenses reasonably anticipated or reasonably incurred by Cadent 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 development including without limitation—

(a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by Cadent as a consequence of Cadent;

(i) using its own compulsory purchase powers to acquire any necessary rights under sub-paragraph 24(3) (removal of apparatus) if it elects to do so; or

(ii) exercising any compulsory purchase powers under this Order transferred to or benefitting Cadent;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;

(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;

(g) any watching brief pursuant to sub-paragraph 26(6) (retained apparatus: protection of Cadent).

(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.

Indemnity

28.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised development (including works carried out under article 18 (protective work to buildings)) 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 the undertaker) 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 development) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent 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 Cadent, the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and

(b) indemnify Cadent for any other expenses, loss, demands, proceedings, damages, claims, penalty, compensation or costs properly incurred by, paid by or recovered from Cadent, by reason or in consequence of any such damage or interruption or Cadent becoming liable to any third party as aforesaid other than arising from any default of Cadent.

(2) The fact that any act or thing may have been done by Cadent on behalf of the undertaker or in accordance with a plan approved by Cadent or in accordance with any requirement of Cadent or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless Cadent 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) shall impose 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 Cadent, its officers, servants, contractors or agents;

(b) any part of the authorised development carried out by Cadent in the exercise of any functions conferred by this Order pursuant to a grant or transfer under article 8; and

(c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable at the commencement of the relevant works referred to in sub-paragraph (1).

(4) Cadent 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.

Enactments and agreements

29. Except where in this Part of this Schedule provides otherwise or by agreement in writing between Cadent and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent 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

30.—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or Cadent requires the removal of apparatus under sub-paragraph 24(2) (removal of apparatus) or Cadent makes requirements for the protection or alteration of

apparatus under paragraph 26 (retained apparatus: protection of Cadent), 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 Cadent's undertaking and Cadent must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent's consent, agreement or approval is required in relation to plans, documents or other information submitted by Cadent or the taking of action by Cadent, it must not be unreasonably withheld or delayed.

Access

31. If in consequence of any agreement reached in accordance with sub-paragraph 23(1) (acquisition of land) or the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

32. Save for differences or disputes arising under sub-paragraphs 24(2) 24(4) (removal of apparatus) and 26(11) (retained apparatus protection of Cadent) any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 43 (*arbitration*).

Notices

33. Notwithstanding article 41 (service of notices) the plans submitted to Cadent by the undertaker pursuant to sub-paragraph 26(1) (retained apparatus protection of Cadent) must be sent to Cadent Gas Limited Plant Protection via email to **plantprotection@cadentgas.com** as well as by post to Plant Protection Limited, Cadent Gas limited, Brick Kiln Street, Hinckley, Leicestershire, LE10 0NA or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 4

FOR THE PROTECTION OF NATIONAL GRID AS ELECTRICITY UNDERTAKER

Application

34.—(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 8 (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 44(3)(b)).

Interpretation

35. In this Part of this Schedule—

"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 electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by National Grid 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 includes any associated development authorised by the 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 42 (*retained apparatus: protection*) 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;

"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 Electricity Transmission Plc or any successor as a licence holder within the meaning of Part 1 of the Electricity Act 1989;

"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 40(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 40(2) or otherwise.

36. Except for paragraphs 37 (*apparatus in stopped up streets*), 42 (*retained apparatus: protection*), 43 (*expenses*) and 44 (*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

37.—(1) Where any street is stopped up under article 13 (*permanent stopping up, restriction of use and construction of streets, public rights of way 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 40 (*removal of apparatus*) or the power of the undertaker, subject to compliance with this sub-paragraph, to carry out works under paragraph 42 (*retained apparatus: protection*).

(2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 12 (*temporary stopping up and restriction of use of streets*), National Grid 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

38.— The undertaker must exercise the powers conferred by article 18 (*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

39.—(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 42 (*retained apparatus: protection*) 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

40.—(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 41(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

41.—(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 41(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 48 (*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 electricity undertaker

42.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid a plan of the works to be executed and seek from National Grid details of the underground extent of their electricity tower foundations.

(2) In relation to works which will or may be situated on, over, under or within (i) 15 metres measured in any direction of any apparatus, or (ii) involve embankment works within 15 metres of any apparatus, 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;

(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;

(f) any intended maintenance regimes; and

(g) an assessment of risks of rise of earth issues.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing—

(a) details of any cable trench design including route, dimensions, clearance to pylon foundations;

(b) demonstration that pylon foundations will not be affected prior to, during and post construction;

(c) details of load bearing capacities of trenches;

(d) details of any cable installation methodology including access arrangements, jointing bays and backfill methodology;

(e) a written management plan for high voltage hazard during construction and ongoing maintenance of any cable route;

(f) written details of the operations and maintenance regime for any cable, including frequency and method of access;

(g) assessment of earth rise potential if reasonably required by National Grid's engineers; and

(h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of up to 26 tonnes in weight.

(4) The undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until National Grid has given written approval of the plan so submitted.

(5) Any approval of National Grid required under sub-paragraphs (4)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and,

(b) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, 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.

(7) Works executed under sub-paragraphs (2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and National Grid and in

accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) 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.

(8) Where under sub-paragraph (6) National Grid requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, 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).

(9) If National Grid in accordance with sub-paragraphs (6) or (8) 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 34 to 36 and 39 to 41 apply as if the removal of the apparatus had been required by the undertaker under paragraph 40(2).

(10) 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 apply to and in respect of the new plan.

(11) The undertaker will 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 (6), (7) and (8) 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

43.—(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 40(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 48 (*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

44.—(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 8 (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

45. 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

46.—(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 40(2) or National Grid makes requirements for the protection or alteration of apparatus under paragraph 42 (*retained apparatus: protection*), 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

47. If in consequence of the agreement reached in accordance with paragraph 39(1) (*acquisition of land*) 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

48. Save for differences or disputes arising under paragraph 40(2), 40(4) and 41(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 42 (*arbitration*).

Notices

49. Notwithstanding article 41 (service of notices), any plans submitted to National Grid by the undertaker pursuant to paragraph 42 must be sent to National Grid Plant Protection at plantprotection@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 5

FOR THE PROTECTION OF WESTERN POWER DISTRIBUTION LIMITED (WEST MIDLANDS) PLC AS ELECTRICITY UNDERTAKER

Application

50. For the protection of Western Power Distribution Limited (West Midlands) plc the following provisions, unless otherwise agreed in writing between the undertaker and Western Power Distribution Limited (West Midlands) plc, have effect.

Interpretation

51. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable WPD to fulfil its statutory functions in a manner not less efficient than previously and where the context requires includes any part of such alternative apparatus;

"alternative rights" means all and any necessary legal easements, leases, consents, or permissions required by WPD in order to permit or authorise a diversion and to permit or authorise WPD to lay, keep, operate, maintain, adjust, repair, alter, relay, renew, supplement, inspect, examine, test and remove the alternative apparatus;

"apparatus" means electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by WPD;

"diversion" means an alteration to the WPD Network in order to enable or facilitate the authorised development;

"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" or "plans" includes all designs, drawings, specifications, method statements, programmes, calculations, risk assessments and other documents that are reasonably necessary to properly and sufficiently describe and assess the works to be executed;

"specified work" means so much of any of the authorised development that is carried out within 6 metres of any apparatus;

"WPD" means Western Power Distribution (West Midlands) plc (company number 03600574) whose registered office is at Avonbank, Feeder Road, Bristol, BS2 0TB;

"WPD Network" means WPD's distribution network operated pursuant to its distribution licence issued pursuant to section 6 of the 1989 Act; and

other terms have the meaning given in article 2 (interpretation).

Precedence of 1991 Act in respect of apparatus in streets

52. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and WPD are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

No acquisition except by agreement

53. 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

54.—(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 apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule and any right of WPD to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, alternative rights acquired or granted for the alternative apparatus and the alternative apparatus is in operation and access to it has been provided if necessary to the reasonable satisfaction of WPD in accordance with sub-paragraphs (2) to (10) or with such alternative or supplementary provisions as the undertaker and WPD may agree between them.

(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, it must give to WPD 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.

(3) If as a consequence of the exercise of any of the powers conferred by this Order WPD reasonably needs to remove or divert any of its apparatus and the removal of that apparatus has not been required by the undertaker under sub-paragraph (2) then WPD must give to the undertaker 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 this Part has effect as if the removal or diversion of such apparatus had been required by the undertaker under sub-paragraph (2).

(4) If as a consequence of the removal or diversion of apparatus under sub-paragraph (2) or (3) alternative apparatus is to be constructed in land owned or controlled by the undertaker then the undertaker must afford to WPD the necessary facilities and alternative rights for the construction of alternative apparatus in the other land owned or controlled by the undertaker.

(5) If the undertaker or WPD requires to remove or divert any apparatus placed within the Order land and alternative apparatus is to be constructed in land not owned or controlled by the undertaker as a consequence of the removal or diversion of apparatus then WPD shall use its reasonable endeavours to obtain alternative rights in the land in which the alternative apparatus is to be constructed.

(6) If alternative apparatus is to be constructed in land not owned or controlled by the undertaker and WPD is unable to obtain such alternative rights as are mentioned in sub-paragraph (5), the undertaker and WPD shall consider whether there is an alternative engineering solution that can achieve the diversion without the need for the use of compulsory powers. Should such an alternative engineering solution not be practicable and deliverable in a reasonable timescale and at a reasonable cost (which shall be determined by the undertaker acting reasonably), WPD shall on the transfer of the benefit of the necessary provisions of this Order to WPD use the powers of compulsory acquisition set out in this Order or the Electricity Act 1989 to obtain the necessary

facilities and rights in the land in which the alternative apparatus is to be constructed in accordance with a timetable agreed between WPD and the undertaker.

(7) Any alternative apparatus required pursuant to sub-paragraphs (2) or (3) must be constructed in such manner and in such line or situation as may be agreed between WPD and the undertaker or in default of agreement settled in accordance with paragraph 59 (expert determination).

(8) WPD must, after the alternative apparatus to be provided or constructed has been agreed or settled pursuant to paragraph 59 (expert determination), and after the acquisition by or grant to WPD of any such facilities and alternative rights as are referred to in sub-paragraphs (2) to (6), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required to be removed under the provisions of this Part of this Schedule.

(9) Regardless of anything in sub-paragraph (8), if the undertaker gives notice in writing to WPD that it 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 WPD, must be executed by the undertaker—

(a) in accordance with plans and specifications and in such line or situation agreed between the undertaker and WPD, or, in default of agreement, determined in accordance with paragraph 59 (expert determination); and

(b) without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of WPD.

(10) Nothing in sub-paragraph (9) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus or alternative apparatus, or execute any filling around the apparatus or alternative apparatus (where the apparatus or alternative apparatus is laid in a trench) within 600 millimetres of the point of connection or disconnection.

Facilities and rights for alternative apparatus

55.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to WPD facilities and alternative rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and alternative rights are to be granted upon such terms and conditions as may be agreed between the undertaker and WPD or in default of agreement settled in accordance with paragraph 59 (expert determination).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in the land of the undertaker, the expert must—

(a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the undertaker;

(b) have regard to the terms and conditions, if any, applicable to the apparatus for which the alternative apparatus is to be substituted;

(c) have regard to WPD's ability to fulfil its service obligations and comply with its licence conditions; and

(d) have regard to the standard form rights WPD ordinarily secures for the type of alternative apparatus to be constructed in the circumstances similar to the authorised development.

(3) If the facilities and alternative rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and alternative rights are to be granted, are in the opinion of the expert less favourable on the whole to WPD 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 expert must make such provision for the payment of compensation by the undertaker to WPD as appears to the expert to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

56.—(1) Not less than 60 days before the undertaker intends to start the execution of any specified work where the removal of the apparatus in question has not been required under paragraph 54 (removal of apparatus), the undertaker shall submit to WPD a plan of the works to be executed. Any submission must note the time limits imposed on WPD under sub-paragraph (3) below.

(2) Subject to sub-paragraph (3) below the undertaker shall not commence any works to which sub-paragraph (1) applies until WPD has identified any reasonable requirements it has for the alteration or protection of the apparatus, or for securing access to it.

(3) If by the expiry of 60 days beginning with the date on which a plan under sub-paragraph (1) is submitted WPD has not advised the undertaker in writing of any reasonable requirements for the alteration or protection of the apparatus, or for securing access to it, it shall be deemed not to have any such requirements and the undertaker shall be at liberty to proceed with the works.

(4) The works referred to in sub-paragraph (1) must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with any reasonable requirements as may be notified in accordance with sub-paragraph (2) by WPD and WPD shall be entitled to watch and inspect the execution of those works.

(5) At all times when carrying out the authorised development the undertaker shall comply with WPD's Avoidance of Danger from Electricity Overhead Lines and Underground Cables (2014), the Energy Network Association's A Guide to the Safe Use of Mechanical Plant in the Vicinity of Electricity Overhead Lines (undated), the Health and Safety Executive's GS6 Avoiding Danger from Overhead Power Lines and the Health and Safety Executive's HSG47 Avoiding Danger from Underground Services (Third Addition) (2014) as the same may be replaced from time to time.

(6) If WPD, in accordance with sub–paragraph (2) and in consequence of the works proposed by the undertaker, reasonably requires the removal or diversion of any apparatus and gives written notice to the undertaker of that requirement, this Part of this Schedule applies as if the removal or diversion of the apparatus had been required by the undertaker under paragraph 54(2).

(7) Nothing in this paragraph 56 precludes the undertaker from submitting at any time or from time to time, but in no case less than 60 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.

(8) The undertaker is not required to comply with sub–paragraph (1) in a case of emergency but in that case it must give to WPD notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with any reasonable requirements stipulated by WPD under sub-paragraph (2) and with sub–paragraphs (4) and (5) in so far as is reasonably practicable in the circumstances. Nothing in this sub-paragraph prevents WPD from exercising its rights under sub-paragraph (6).

Expenses and costs

57.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to WPD the proper and reasonable expenses reasonably incurred by WPD in, or in connection with, the inspection, removal, diversion, alteration or protection of any apparatus, the construction of any alternative apparatus and the acquisition or grant of alternative rights for the alternative apparatus, arising as a result of the powers conferred upon the undertaker pursuant to this Order.

(2) The value of any apparatus removed under the provisions of this Part of this Schedule must be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule WPD requires that alternative apparatus of better type, of greater capacity, of greater dimensions or at a greater depth is necessary in substitution for existing apparatus which for WPD's network requirements is over and above what is necessary as a consequence of and for the purpose of the authorised development, WPD shall reduce the cost of such additional requirements from the amount payable by the undertaker pursuant to sub-paragraph (1).

(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 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 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.

58.—(1) Subject to sub-paragraph (2), if by reason or in consequence of the construction of any specified work or any subsidence resulting from any of those 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 WPD the undertaker is to—

(a) bear and pay the cost reasonably incurred by WPD in making good such damage or restoring the supply; and

(b) reimburse WPD for any other expenses, loss, damages, penalty or costs reasonably and properly incurred by WPD, 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 WPD, its officers, servants, contractors or agents.

(3) WPD 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 which, if it withholds such consent, is to have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) WPD's liability to the undertaker for negligence or breach of contract, in respect of each diversion, shall be limited to the value of that diversion and WPD shall not otherwise be liable to the undertaker for any losses or costs incurred by the undertaker resulting from delays to the authorised development as a result of its failure to undertake works to deliver any alternative apparatus.

Expert determination

59.—(1) Article 42 (arbitration) shall apply to any difference as to the legal interpretation of this Schedule and as provided for in sub–paragraph (7).

(2) Save as provided for in sub–paragraph (1) or sub–paragraph (7) any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers or the President of the Institution of RICS or the President of the Institution of Engineering and Technology (as relevant and agreed between WPD and the undertaker, both acting reasonably and without delay).

(3) All parties involved in settling any difference must use best endeavours to do so within 14 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 21 days of the notification of the dispute.

(4) The costs and fees of the expert and the costs of WPD and the undertaker are payable by the parties in such proportions as the expert may determine. In the absence of such determination the costs and fees of the expert are payable equally by the parties who shall each bear their own costs.

(5) The expert must—

(a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 14 days of the expert's appointment;

(b) permit a party to comment on the submissions made by the other party within 7 days of receipt of the submission;

(c) issue a decision within 14 days of receipt of the submissions under sub-paragraph (b); and

(d) give reasons for the decision.

(6) The expert must consider where relevant—

(a) the development outcome sought by the undertaker;

(b) the ability of the undertaker to achieve its outcome in a timely and cost-effective manner;

(c) the nature of the power sought to be exercised by the undertaker;

(d) the effectiveness, cost and reasonableness of proposals for mitigation arising from any party;

(e) WPD's service obligations and licence conditions; and

(f) any other important and relevant consideration.

(7) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 42.

SCHEDULE 10

Article 40

DOCUMENTS TO BE CERTIFIED

(1) *Document*	*(2)* *Document Reference*	*(3)* *Revision*
Book of Reference	TR010054/APP/4.3	P09
Environmental Statement	TR010054/APP/6.1, with updated Biodiversity Chapter 8 and Noise and Vibration Chapter 11	1
Environmental Statement Addendum	TR010054/APP/8.6	1
Outline Environmental Management Plan	TR010054/APP/6.11	5
Location Plan – Regulation 5(2)(o)	TR010054/APP/2.1	P04
Land Plans – Regulation 5(4)	TR010054/APP/2.2	P05
Works Plans – Regulation 5(4)	TR010054/APP/2.4	P04
General Arrangement Scheme Layout – Regulation 5(2)(o)	TR010054/APP/2.5	P04
Streets, Rights of Way and Access Plans – Regulation 5(4)	TR010054/APP/2.7	P05
Classification of Roads Plans	TR010054/APP/2.9	P04
Engineering Drawings and Sections – Regulations 5(2)(o), 5(4) and 6(2)	TR010054/APP/2.10	P03
Tree Preservation Order/Impact Removal Plans	TR010054/APP/6.8	3
Habitats Regulations Assessment	TR010054/APP/6.9	2
Statutory Nuisance Statement	TR010054/APP/6.10	1

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Highways England to undertake works to provide a new road to link the M54 at junction 1 and M6 at junction 11 Hilton Park, Wolverhampton, Staffordshire and carry out all associated works.

The Order permits Highways England to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

The Order also includes provisions in connection with the maintenance of the authorised development.

A copy of the plans, engineering drawings and sections, the book of reference, the environmental statement and the OEMP mentioned in this Order and certified in accordance with article 40 (certification of documents, etc.) of this Order may be inspected free of charge during normal working hours at Highways England. The Cube, 199 Wharfside Street, Birmingham, B1 1RN.

STATUTORY INSTRUMENTS

20[ ] No. [ ]

INFRASTRUCTURE PLANNING

The M54 to M6 Link Road Development Consent Order 20[ ]