The Planning Inspectorate
Yr Arolygiaeth Gynllunio

The Planning Act 2008

A417 Missing Link

Examining Authority's Report
of Findings and Conclusions

and

Recommendation to the Secretary of State for
Transport

Examining Authority

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16 August 2022

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OVERVIEW

File Ref: TR010056

The application, dated 28 May 2021, was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate on 1 June 2021.

The Applicant is National Highways (formerly Highways England).

The application was accepted for examination on 29 June 2021.

The examination of the application began on 16 November 2021 and was completed on 16 May 2022.

The development proposed comprises 3.4 miles (5.5km) of new, rural all-purpose dual carriageway for the A417. It would connect the existing A417 Brockworth bypass with the existing dual carriageway A417 south of Cowley. The section to the west of the existing Air Balloon roundabout would follow the existing A417 corridor, but to the south and east of this the Air Balloon roundabout would be removed and new junctions created near Ullenwood and at Shab Hill. The main corridor would be offline, away from the existing road corridor reconnecting with the A417 at a reconstructed Cowley junction.

The existing single carriageway A417 would be declassified and repurposed, partially to serve access to local settlements and partially to provide a multi-purpose surface for recreational users, alongside Common Land.

Summary of Recommendation:

The Examining Authority recommends that the Secretary of State should make the Order in the form attached.

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The Planning Inspectorate

ERRATA SHEET – A417 Missing Link - Ref TR010056

Examining authority's Report of Findings and Conclusions and Recommendation to the Secretary of State for Transport, dated 16 August 2022

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

Page No.	Paragraph	Error	Correction
8	1.4.32	The word "and" in the Bullet point relating to European Sites	Remove full stop at the end of second bullet point, insert a semi colon and the word "and".
12	1.9.2	Inconsistency in the use of SoS	Change to "SoST"
22	3.4.12	"Proscibes" in the first sentence	Change to "prescribes".
30	4.1.1	Full stops have been included after the bullet points	Please change to semi-colons after each one and insert the word "and" after Traffic and Transport and a full stop after Water Environment.
47	5.2.20	Full stops included after bullet points.	Insert semi-colons after each bullet point and the insert the word "and" in the penultimate bullet.
48	5.2.22	Full stops included after bullet points.	Insert semi-colons after each bullet point and the insert the word "and" in the penultimate bullet.
52	5.2.40	Full stops included after bullet points	Insert semi-colons after each bullet point and the insert the word "and" in the penultimate bullet.
53	5.2.41	Missing word in first sentence	Insert the word "to" after the word "regard" and before "all"
53	5.2.42	Full stops included after bullet points	Insert semi-colons after each bullet point and the insert the word "and" in the penultimate bullet.

Page No.	Paragraph	Error	Correction
61	5.3.19	Full stops included after bullet point	Insert semi-colons after each bullet point and the insert the word "and" in the penultimate bullet.
81	5.4.49	Full stops included after bullet point	Insert semi-colons after each bullet point and the insert the word "and" in the penultimate bullet.
91	5.4.95	Appears to be an additional word in the third sentence.	Change the words "of change of no change" to "of change or no change"?
93	5.4.102	Full stops included after bullet points	Insert semi-colons after each bullet point and the insert the word "and" in the penultimate bullet.
146	5.9.37	Appear to be a missing word in first sentence.	Replace the comma after "[RR-039]" and before "also" with a semi-colon.
164	Table 1	Error of distance for Cotswolds SAC	Replace with correct distance of 212m.
164	Table 1	Error of distance in relation to Forest of Dean	Replace with correct distance of 21.4km (13.29 miles).
164	Table 1	Error in relation to distance for North Meadow	Replace with correct distance of 21.4km (13.29 miles).
164	Table 1	Error in relation to the features for the Severn Estuary SAC	Remove the reference to migratory fish (salmon, eel, sea trout, Allis Shad) as these are not a qualifying feature of the SAC.
165	6.5.4	Unnecessary word in last sentence.	Remove the word "no" and replace with "a".
172	7.2.42	Wrong word in the last sentence.	Remove the word "without" and replace with the word "with".
180	7.3.40	Missing full stops in eg in third line.	Change "eg" to "e.g.".

1. INTRODUCTION

1.1. INTRODUCTION TO THE EXAMINATION

1.1.1. The application for the A417 Missing Link (the Proposed Development) reference TR010056 was submitted by Highways England (the Applicant) to the Planning Inspectorate on 28 May 2021 under section (s) 31 of the Planning Act 2008 (PA2008) and accepted for Examination under s55 of the PA2008 on 29 June 2021 [PD-002]. Subsequently, by letter dated 22 October 2021 [AS-034], the Applicant advised the Examining Authority that it changed its name to National Highways, having previously been Highways England. The letter confirmed that the remit of the organisation had not changed and it retained the same company registration number. In this report the Applicant is therefore referred to as National Highways.

1.1.2. The Proposed Development comprises 3.4 miles (5.5km) of new, rural all-purpose dual carriageway for the A417. It would connect the existing A417 Brockworth bypass with the existing dual carriageway A417 south of Cowley. The section to the west of the existing Air Balloon roundabout would follow the existing A417 corridor. To the south and east of this the Air Balloon roundabout would be removed and the A417 diverted away from the existing corridor down to a reconstructed junction at Cowley, with new junctions along the way at Ullenwood and at Shab Hill. The Proposed Development includes:

- a new junction at Ullenwood, connecting the A417 to the A436 and Leckhampton Hill;
- a new junction with slip roads at Shab Hill;
- a new junction at the Cowley roundabout;
- diversion of the Cotswold Way National Trail via a new overbridge;
- diversion of the Gloucestershire Way long distance footpath via a new wildlife crossing bridge;
- construction of overbridges at Cowley and Stockwell; and
- various landscape, temporary construction and access works.

1.1.3. The existing single carriageway A417 between the Cowley roundabout and the Air Balloon roundabout will be declassified and repurposed, partially to serve access to local settlements and partially to provide a multi-purpose surface for recreational users, alongside Common Land.

1.1.4. The location of the Proposed Development is shown in the Location Plans [APP-005], Environmental Statement (ES) Figure 1.1 [APP-050] and the Land Plans, final updated versions of which were received at Deadline (D) 8 [REP8-007]. The site lies within the administrative county of

Gloucestershire, the district of Cotswold and the borough of Tewkesbury. It is located within the Cotswolds Area of Outstanding Natural Beauty (AONB) and is wholly in England.

1.1.5. 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, now the Department for Levelling Up, Housing and Communities, in its decision to accept the Application for Examination in accordance with s55 of PA2008 [PD-002].

1.1.6. On this basis, the Planning Inspectorate agreed with the Applicant's view stated in the application form [APP-004] that the Proposed Development is an NSIP as it is wholly in England, the highway authority is National Highways, a strategic highways company, and the area of development is approximately 198.2 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 16 August 2021, Kenneth Stone and David Wallis were appointed as the Examining Authority (ExA) for the application under s61 and s65 of PA2008 [PD-004].

1.3. THE PERSONS INVOLVED IN THE EXAMINATION

1.3.1. The persons involved in the Examination were as follows:

- Persons who were entitled to be Interested Parties (IP) because they had made a Relevant Representation (RR) or were a statutory party who requested to become an IP.
- Affected Persons (AP) 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.

1.4. THE EXAMINATION AND PROCEDURAL DECISIONS

1.4.1. The Examination began on 16 November 2021 and concluded on 16 May 2022.

1.4.2. The principal components of, and events around, the Examination are summarised below. A fuller description, timescales and dates can be found in Appendix A.

The Preliminary Meeting

1.4.3. On 30 September 2021, we wrote to all IPs, statutory parties and other persons under Rule 6 of the Infrastructure Planning (Examination

[1] Confirmed in paragraph 1.3.5 of the Environmental Statement [APP-032]

Procedure) Rules 2010 (EPR) (the Rule 6 Letter) inviting them to the Preliminary Meeting (PM) [PD-005].

1.4.4. 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 PM Part 1, the recording of that would then be posted on the relevant website. This would allow any party to make Written Representations (WR) by Procedural Deadline B, which we could then take into account in finalising the Examination arrangements; or they could ask to attend the PM Part 2 virtually.

1.4.5. The letter outlined:

- the arrangements and agenda for the PM;
- an Initial Assessment of the Principal Issues (IAPI);
- the draft Examination Timetable;
- availability of RRs and application documents; and
- the ExA's procedural decisions.

1.4.6. PM (Part 1) took place on 2 November 2021 as a virtual event. A video recording [EV-003], a transcript of the meeting [EV-002], and a note of the meeting [EV-004] were published on the project webpage of the Planning Inspectorate's National Infrastructure website[2]. Following Procedural Deadline B, we considered the comments and representations that had been received [PDB-001, PDB-002, PDB-003, PDB-004 and PDB-005] and concluded that there were no procedural matters which needed to be explored orally. As a result, we did not reconvene the PM, formally closing through a written procedural decision included in the Rule 8 letter (letter issued under Rule 8 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) issued on 16 November 2021.

1.4.7. Our procedural decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [PD-007], dated 16 November 2021.

Key Procedural Decisions

1.4.8. Most of the procedural decisions set out in the Rule 8 Letter [PD-007] related to the procedure of the Examination and did not bear on our consideration of the planning merits of the Proposed Development. Further, they were generally complied with by the Applicant and relevant IPs. The decisions can be obtained from the Rule 8 Letter and so there is no need to reiterate them here.

1.4.9. At D3, the Applicant issued a letter giving notification of an intended change request [REP3-017]. We acknowledged this via letter [PD-013] and the formal change request was submitted at D4 [REP4-002]. The request contained a narrow set of issues, focusing on changes to CA and TP powers at a specific location designed to enable different mitigation to

[2] A417 Missing Link National Infrastructure website - https://infrastructure.planninginspectorate.gov.uk/projects/South%20West/A417-Missing-Link/

be applied to that address. We accepted this as a material change request on 16 February 2022, notifying the Applicant by letter [PD-014], and publishing a procedural decision on the website and notifying all IPs [PD-015].

1.4.10. The Applicant published notices regarding the proposed changes incorporating additional land in accordance with the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the CA Regulations) in local papers on 24 February 2022 and 3 March 2022 and the Planning Inspectorate made available an appropriate form for making RRs on the proposed changes available on the project webpage of the Planning Inspectorate's National Infrastructure Planning website from the 4 March 2022 until 3 April 2022. Upon completion of the RR period, we issued a Rule 8(3) letter with an amended Examination Timetable, hearing notifications, including a deadline for requests to attend a Compulsory Acquisition Hearing, Issue Specific Hearing and/ or an Open Floor Hearing at Deadline 7a, and an updated IAPI [PD-018], having regard to the CA Regulations.

1.4.11. The changes accepted into the Examination by us were subject to the submission of relevant evidence and reflected in the draft Development Consent Order (DCO). Following the change request, the Examination proceeded based on the application as revised.

Site Inspections

1.4.12. Site Inspections are held in PA2008 Examinations to ensure that the ExA has an adequate understanding of the Proposed Development within its site and surroundings and its physical and spatial effects.

1.4.13. Where the matters for inspection can be viewed from the public domain and there are no other considerations such as personal safety or the need for the identification of relevant features or processes, an Unaccompanied Site Inspection (USI) is held. 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 or, if considered appropriate by the ExA, an Access Required Site Inspection (ARSI) can be held where authority to enter private land is obtained and access provided but the visit is conducted as an USI.

1.4.14. With some regard to the Government's public health restrictions around the COVID-19 pandemic, we opted to undertake a blend of USIs and ARSIs. The ARSIs were to enable us to view those areas of private land subject to CA and TP powers, and it was not deemed necessary to be accompanied when investigating these plots. Such was confirmed in writing [PD-012].

1.4.15. We held the following USIs and ARSIs:

- USI1, 14 September 2021, to familiarise ourselves with the general area, surroundings and alignment of the Proposed Development A note of the inspection was published on the website [EV-001].

- USI2, 28 February 2022, to review the views at Crickley Hill Country Park and Barrow Wake not previously experienced in USI1 due to weather conditions, visiting Birdlip village and the surroundings including Ermin Road. The visit included accessing and viewing private land at Cuckoopen Barn Farm, Holly Brae, Alexander and Angell Ltd, Flyup 417 Bike Park and Fosse Farm. The highway and traffic conditions around Cowley Village and the surrounding road network were observed [EV-041].
- USI3, 1 March 2022, to access private land at National Star College and Shab Hill Farm. Both the ambient, audio and visual environments were experienced and noted [EV-042]. Given the sensitive nature of the National Star College, including vulnerable residents and students, we were chaperoned around the site, but did not engage in any discussion related to the merits of the Proposed Development.

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

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

Hearing Processes

1.4.17. 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 (Affected Persons) object and request to be heard at a Compulsory Acquisition Hearing (CAH); and / or
  - where IPs request to be heard at an Open Floor Hearing (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.

1.4.18. We held a number of hearings to ensure the thorough examination of the issues raised by the application.

1.4.19. Issue Specific Hearings (ISH) under s91 of PA2008 were held virtually using the Microsoft Teams platform.

1.4.20. The following ISHs were held on the subject matter of the draft Development Consent Order (dDCO):

- ISH1, 25 January 2022. The agenda [EV-006], recordings of the various sessions [EV-017 (session 1), EV-018 (session 2) and EV-019 (session 3)] and an Action Point Note [EV-036] covering this Hearing amongst others held that week, are available in the EL.
- ISH3 had been identified for the week commencing 28 February 2022 but was cancelled as we were satisfied that substantive answers had

been provided to that stage and further matters could be addressed in written questions and did not require further oral examination.

1.4.21. The following ISHs were held on the subject of Environmental Matters:

- ISH2, 27 January 2022. The agenda [EV-008], recordings of the various sessions [EV-032 (session 1), EV-033 (session 2), EV-034 (session 3) and EV-035 (session 4)] and an Action Point Note [EV-036] covering this hearing amongst others held that week, are available in the EL.
- ISH4, 3 March 2022. The agenda [EV-040], recordings of the various sessions [EV-044] (session 1) and EV-045 (session 2)] and an Action Point Note [EV-043] covering this hearing amongst are available in the EL.

1.4.22. These ISHs addressed the following subject matters:

- ISH2 covered matters related to the assessment of alternatives, biodiversity, ecology and the natural environment, climate change, cultural heritage, landscape and transport.
- ISH4 covered matters related to transport and geology and soils.

1.4.23. CAHs were held under s92 of PA2008, conducted virtually using the Microsoft Teams platform, as set out below:

- CAH1, 26 January 2022. The agenda [EV-007], recordings of the various sessions [EV-024 (session 1), EV-025 (session 2), EV-026 (session 3) and EV-027 (session 4)] and an Action Point Note [EV-036] covering this hearing amongst others held that week, are available in the EL.
- CAH2 had been identified for the week commencing 28 February 2022 but was cancelled as we were satisfied that all APs had been able to present their case at that stage in CAH1.
- CAH3, 29 April 2022. The agenda [EV-050], recordings [EV-054] and Action Point Note [EV-052] are within the EL. This additional CAH was necessitated by the Applicant's change request, and it provided a pragmatic opportunity to cover any remaining questions on outstanding matters and matters that arose late in the day related to CA.

1.4.24. All persons affected by CA and/ or TP proposals (Affected Persons or APs) were provided with an opportunity to be heard. We also used these hearings to examine the Applicant's case for CA and/ or TP in the round.

1.4.25. An Open Floor Hearing (OFH1) was held under s93 of the PA2008 and conducted as a virtual event using the Microsoft Teams platforms on 24 January 2022. A copy of the agenda [EV-005], recordings of the various sessions [EV-012 (session 1), and EV-013 (session 2)] and an Action Point Note [EV-036] covering this hearing amongst others undertaken that week is available in the EL. All IPs were provided with an opportunity to be heard on any important and relevant subject matter that they wished to raise.

1.4.26. In conjunction with CAH3, which was held principally to hear representations from any additional APs arising from the Applicant's change request, ISH5 and OFH2 were both programmed to be held. There were no additional APs, no additional IPs, or IPs who wished to comment on whether the change affected their case requesting to speak and, as such, the hearings contained no material relevant to the Examination.

1.4.27. All IPs who expressed a wish to be heard at the virtual hearings were given the opportunity to participate. IPs had the choice of participating by video using a computer, tablet or smart phone or orally using a telephone. The hearings were hosted in Microsoft Teams. There were no significant interruptions to the hearings and all agenda items were covered.

Written Processes

1.4.28. 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 Examination Library (EL) (Appendix B) and published online. Individual document references to the EL in this report are enclosed in square brackets [] and 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 our conclusions. We have considered all important and relevant matters arising from them.

1.4.29. 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.

1.4.30. Key written sources are set out further below.

Relevant Representations

1.4.31. One hundred and ten RRs were received by the Planning Inspectorate [RR-001 to RR-110]. 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 us. The issues that they raise are considered in Chapters 5 to 9 of this Report. Two further RRs [RR-111 and RR-112] were received following the re-opened RR period after the acceptance of the Applicant's change request. These were on behalf of Severn Trent Water and Gloucestershire Ramblers respectively. The parties were engaged with the Examination and the matters raised were fully considered.

Written Representations and Other Examination Documents

1.4.32. The Applicant and IPs were provided with opportunities to:

- make WRs (D1 and D7a);
- comment on WRs made by the Applicant and other IPs (D2 and D8);
- summarise their oral submissions at hearings in writing (D3, D5 and D9);
- make other written submissions requested or accepted by us; and
- comment on documents issued for consultation by us including:
    - A Report on the Implications for European Sites (RIES) [PD-019] published on 13 April 2022 by D8; and
    - A commentary on the dDCO [PD-020] published on 13 April 2022 by D8.
    - Comment on information requested by us under Rule 17 of the EPR at D2, D3, D4 and D8.

1.4.33. All WRs and other Examination documents have been fully considered by us. The issues that they raise are considered in Chapters 5 to 9 of this Report.

Local Impact Report

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

1.4.35. A combined LIR was received from Gloucestershire County Council, Cotswold District Council and Tewksbury Borough Council referring to themselves as 'The Joint Councils' [REP1-133].

1.4.36. The LIR has been taken fully into account in all relevant Chapters of this Report.

Statements of Common Ground

1.4.37. A Statement of Common Ground (SoCG) is a statement agreed between the applicant and one or more IPs, recording matters that are agreed between them.

1.4.38. By the end of the Examination, the following bodies had concluded SoCGs with the Applicant:

- Joint Councils [REP9-012];
- Environment Agency [REP9-013];
- Natural England [REP9-014];
- Historic England [REP9-015];
- Cotswold Conservation Board [REP9-016];
- Gloucestershire Wildlife Trust [REP9-017];
- National Trust [REP9-018];

- Walking, Cycling and Horse-riding technical working group [REP9-019];
- Cellnex [REP9-020]; and
- Coberley Parish Council [REP9-021].

1.4.39. The SoCGs have all been signed, albeit with some matters outstanding and which are recorded in the statements, and they have been taken fully into account in all relevant Chapters of this Report.

Written Questions

1.4.40. We asked two rounds of written questions:

- Our First Written Questions (ExQ1) [PD-008] were published alongside the Rule 8 Letter [PD-007], dated 16 November 2021, which included various procedural decisions, including related to the submission of responses to ExQ1.
- Our Second Written Questions (ExQ2) [PD-017] were issued on 17 March 2022.

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

- Rule 17 letter of 17 December 2021 [PD-009], which sought additional information in respect of archaeological considerations and cultural heritage matters.
- Rule 17 letter of 14 January 2022 [PD-010], which sought further information in relation to matters related to the Cotswold Way National Trail Diversion and the operation of Article 20 in the dDCO.
- Rule 17 letter of 25 April 2022 [PD-021], which sought clarification from Severn Trent Water Ltd as to its position on the dDCO and the Protective Provisions detailed within.
- Rule 17 letter of 25 April 2022 [PD-022], which sought further comments from IPs on the findings of the Secretary of State for Transport (SoST) in respect of the M54 to M6 link road DCO with specific focus on carbon emissions and assessment and certain provisions removed from the recommended Development Consent Order (rDCO).
- Rule 17 letter of 10 May 2022 [PD-023], which requested the Applicant submit the written confirmation of Natural Resources Wales agreement in respect of the Habitats Regulations Assessment screening report and updated screening which the Applicant had previously confirmed it had receipt of (but it had not submitted into the Examination).

1.4.42. All responses to ExQ1 and ExQ2 have been fully considered and taken into account in all relevant Chapters of this Report.

Requests to Join and Leave the Examination

1.4.43. The following persons who were not already IPs requested that we should enable them to join the Examination at or after the PM:

- Mrs Lisa Field made a request under s102A of the PA2008 to become an IP. Her request identified an interest in affected land and noted that she deals with all matters and correspondence related to the property on behalf of her husband (who was already an IP). Due to original correspondence sent to her husband being missed Mrs Field considered it necessary to become an IP in her own right so that she would also get direct communication and therefore avoid the risk of further correspondence being overlooked. We considered the information submitted by Mrs Field and were satisfied that she fell within one or more of the categories set out in s102B of the PA2008. She was therefore accepted as an IP in the Examination which was confirmed in a procedural decision issued on 8 November 2021 [PD-006].

1.4.44. No persons wrote to us to formally record the settlement of their issues or the withdrawal of their representations.

1.5. APPLICATION DOCUMENT TRACKER

1.5.1. When the application was submitted the Applicant included a document entitled Application Document Tracker [APP-002]. This was updated throughout the Pre-Examination and Examination period.

1.5.2. The purpose of this document is described in paragraph 5.1.3 of the Introduction to the Application [APP-001] as "*… a 'live' document which will track document versions as and when documents are updated. The tracker will be updated throughout the examination period and submitted at each deadline.*"

1.5.3. After the initial submission and the provision of version 1 [AS-035] under cover of the Applicant's letter dated 22 October 2021 [AS-034], there were ten revision versions of the Application Document Tracker submitted up to the close of the Examination.

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 14 May 2019, the Applicant submitted a Scoping Report to the SoS under Regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) (EIA) Regulations 2017 (the 'EIA Regulations') in order to request an opinion about the scope of the ES to be prepared (a Scoping Opinion)[3]. It follows that the Applicant is deemed to have notified the Secretary of State under Regulation 8(1)(b) of the EIA Regulations that it proposes to provide an ES in respect of the Proposed Development.

[3] This has not been given an EL reference number but can be found at https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010056/TR010056-000009-A417%20-%20Scoping%20Report.pdf

1.6.3. On 24 June 2021 the Planning Inspectorate provided a Scoping Opinion, a copy of which the Applicant provided with the application, and which is provided in the EL [APP-328]. Therefore, in accordance with Regulation 6(2)(a) of the EIA Regulations, the Proposed Development was determined to be EIA development, and the application was accompanied by an ES [APP-030 to APP-413] which includes appendices, figures and a non-technical summary.

1.6.4. On 7 September 2021 the Applicant provided the Planning Inspectorate with certificates confirming that s56 [OD-003] and s59 [OD-004] of PA2008 and Regulation 16 [OD-005] of the EIA Regulations had been complied with.

1.6.5. Consideration is given to the adequacy of the ES and matters arising from it in respect of specific issues in the relevant sections of Chapter 5 of this Report.

1.7. HABITATS REGULATIONS ASSESSMENT

1.7.1. The Proposed Development is development for which a Habitats Regulations Assessment (HRA) Reports have been provided [APP-414 and APP-415]. During the Examination the Applicant also provided updated HRA screening and integrity matrices for one European Site (Severn Estuary Ramsar) [REP3-015].

1.7.2. A RIES [PD-019] was published on 13 April 2022 and an opportunity for comments to be made on it was provided by D8.

1.7.3. Consideration is given to the adequacy of the HRA Reports, associated information and evidence and the matters arising from them in Chapter 6 of this Report.

1.8. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

1.8.1. By the end of the Examination, there were no matters subject to any separate formal undertakings, obligations and/ or agreements such that had been submitted into the Examination. All relevant considerations are addressed in this Report as bearing on the DCO.

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. The latest position on each of these is recorded in the latest Consents and Agreements Position Statement [REP8-023]:

- Badgers – A licence under s10 of the Protection of Badgers Act 1992.
- Bats – European Protected Species Licence under the Conservation of Habitats and Species Regulations 2017; s16 of the Wildlife and Countryside Act 1981.

- Great Crested Newts – Conservation of Habitats and Species Regulations 2017; a licence under s16 of the Wildlife and Countryside Act 1981.
- Roman Snails – s16 of the Wildlife and Countryside Act 1981.
- Natural England Assent – Consent to carry out works within a Site of Special Scientific Interest (SSSI) under s28E of the Wildlife and Countryside Act 1981.
- Translocation of fish – Authorisation to translocate fish prior to realignment of Norman's Brook under s27a exception permit under The Salmon and Freshwater Fisheries Act 1975 (Form FR2).
- Water Discharge Activities – Permit to discharge to surface water and/ or groundwater under Regulation 12 of the Environmental Permitting (England and Wales) Regulations 2016.
- Water Abstraction Licence – Abstraction of water under s24 and s25 of the Water Resources Act 1991.
- Flood Defence Byelaws – Consent or approval for the carrying out of works required under any relevant bylaws made under the Water Resources Act 1991.
- Land Drainage Consent – Ordinary Watercourse Land Drainage Consent: under s23 of The Land Drainage Act 1991.
- Trade Effluent Consent – under the Water Industry Act 1991
- Waste – Management and disposal of waste under the Environmental Permitting (England and Wales) Regulations 2016.
- Materials – Pollution Prevention and Control Act 1999, Environmental Permitting (England and Wales) Regulations 2016.
- Asbestos – Control of Asbestos Regulations 2012.
- Demolition – s80 notice under the Building Act 1984.
- Section 61 agreement – under s61 of the Control of Pollution Act 1974.

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

1.9.3. Three 'letters of no impediment' have been submitted by the Applicant [REP1-012]. These are from Natural England (NE) and confirm that on the basis of the information and proposals provided, NE sees no impediment to a licence being issued, should the DCO be granted, in respect of Bats, Badgers or Roman snails. The details of these are addressed in later Chapters as relevant.

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, and the processes used to carry out the Examination and make this Report.
- **Chapter 2** describes the site and its surrounds, the Proposed Development, its planning history and that of related projects.
- **Chapter 3** records the legal and policy context for the SoST's decision.

- **Chapter 4** sets out the planning issues that arose from the application and during the Examination.
- **Chapter 5** sets out the findings and conclusions in relation to the planning issues.
- **Chapter 6** considers effects on European Sites and HRA.
- **Chapter 7** sets out the balance of planning considerations arising from Chapters 4 and 5, in the light of the factual, legal and policy information in Chapters 1 to 3.
- **Chapter 8** sets out our examination of CA and TP proposals.
- **Chapter 9** considers the implications of the matters arising from the preceding Chapters for the DCO.
- **Chapter 10** summarises all relevant considerations and sets out our recommendation to the SoST.

1.10.2. This report is supported by the following Appendices:

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

2. THE SITE AND THE PROPOSAL

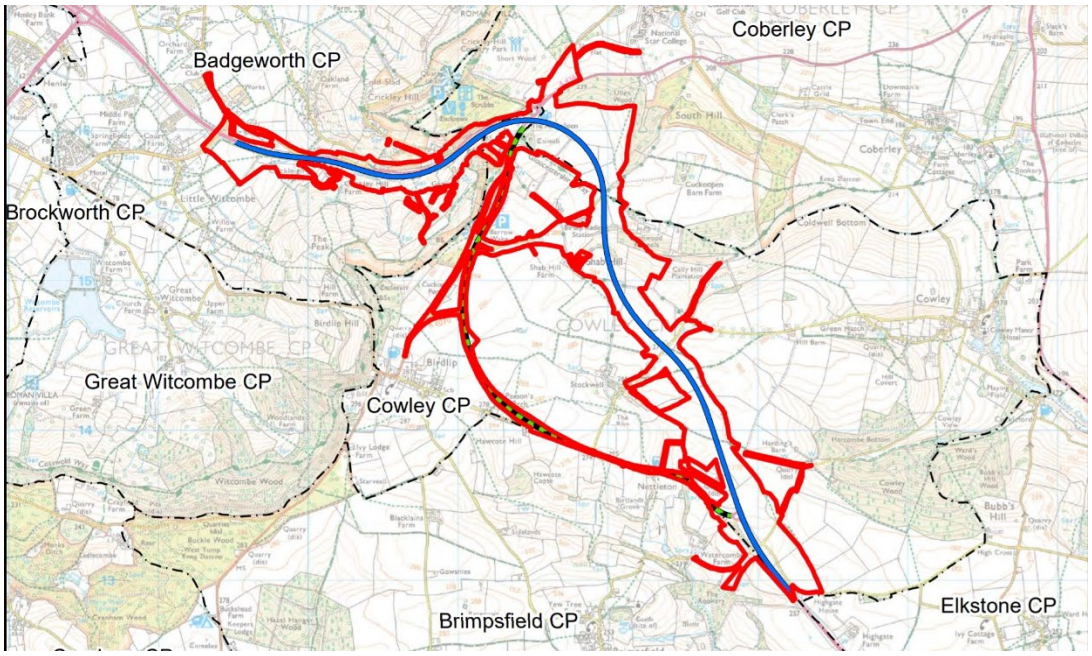
2.1. THE PROPOSED DEVELOPMENT SITE AND SETTING

Site Description

2.1.1. The application site is located within a predominantly rural setting wholly within the Cotswolds Area of Outstanding Natural Beauty (AONB), which has the highest status of protection in relation to landscape and scenic beauty. This part of the AONB comprises largely agricultural land with mature hedgerows and woodland distinctive of the AONB's character.

2.1.2. The Proposed Development would provide for a new stretch of dual carriageway on the A417 between Cirencester and Gloucester, including dualling the existing A417 west of the Air Balloon roundabout and constructing a new section diverting away from the existing alignment between the Air Balloon roundabout and Cowley roundabout. That part of the current alignment would be de-trunked, retained and repurposed for both local access and recreational activity. Land within the administrative areas of Gloucestershire County Council, Cotswold District Council and Tewkesbury Borough Council is included within the application. The location of the Proposed Development is shown in Figure 1 below, with the blue line denoting the proposed A417 Missing Link and the red line demarcating the Order Limits. Where appropriate this will be referred to as the 'application site'.

Figure 1 - The Proposed Development Site (from Applicant's Site Location Plan [APP-005])



2.1.3. The proposed route follows the existing alignment of the A417 outside of Brockworth before diverting north and eastwards with a new purpose-built roundabout, connecting to the A436. The route then crosses

farmland for the majority of its course, in an alignment between the villages of Stockwell and Cowley, before reconnecting to the existing A417 at the Cowley roundabout in the south. This effectively replaces the existing section of single carriageway A417 that currently dips, rises and curves south-west towards the village of Birdlip.

The Surroundings

2.1.4. The proposed Order Limits encompass a range of land use types. Whilst predominantly consisting of agricultural land, the site includes exposed rock faces, veteran trees, ancient woodland and the ridges of the Cotswolds AONB, which form the wider landscape setting.

2.1.5. There are few residences that directly abut the route of the existing or proposed route of the A417 where it passes through countryside between the Cowley and Air Balloon roundabouts, where there is sporadic and scattered occupation. However, there a number of small villages close to the route that are accessed directly from the A417 via local roads. The main villages are Cowley to the east, closer to the proposed route of the A417, and Birdlip, which sits just west of the existing A417 that is to be repurposed.

2.1.6. Commercial premises including private business and those typical of the rural environment are in proximity to the northern end of the Proposed Development site. There are few community buildings implicated by the Order Limits, but of note is the specialist educational institution known as the National Star College (Ullenwood Campus) which sits to the north-east of the proposed new Ullenwood junction (replacing the Air Balloon roundabout).

2.1.7. A number of assets of historic and natural importance are within or adjacent to the Order Limits. These assets include, but are not limited to:

- Cotswold Beechwoods Special Area of Conservation (SAC) (which includes the Cotswold Commons and Beechwoods SSSI);
- The Crickley Hill and Barrow Wake Site of Special Scientific Interest (SSSI) (which includes Common Land);
- Bushley Muzzard SSSI; and
- Emma's Grove scheduled monument (SM).

2.1.8. In addition, the Cotswold Way National Trail and the Gloucestershire Way long distance footpath both cross the Proposed Development Site. These facilitate non-motorised access in broadly all four compass directions through the surrounding landscape.

2.1.9. A more detailed description of the Proposed Development and the Proposed Development Site is provided in Chapter 2 of the Environmental Statement (ES), which can be found in Exam Library reference [APP-033].

2.2. THE APPLICATION AS MADE

2.2.1. The Applicant submitted an application for the construction, operation and maintenance of a new section of dual carriageway on the A417 between Cirencester and Gloucester, repurposing the existing single carriageway for both local access and recreational uses.

2.2.2. The development for which development consent is sought is set out in detail in Schedule 1 of the Applicant's draft Development Consent Order (DCO) [REP9-005]. This schedule lists proposed Works 1 to 36, and Associated Development.

2.2.3. The primary objectives of the Proposed Development are identified by the Applicant in The Case for the Scheme [APP-417] submitted with the application, summarised as:

- Relieve congestion on the A417 to provide faster and more reliable journey times.
- Improve the safety record on a dangerous stretch of the A417.
- Support local and regional economic growth.

2.2.4. To this end, the new section of highway would comprise 3.4 miles (5.5km) of dual carriageway from the Cowley roundabout in the south to Brockworth in the north-west, including dualling of the westbound carriageway from Ullenwood to Brockworth. A new junction at Ullenwood replacing the existing Air Balloon roundabout and a new slip-road junction at Shab Hill would be constructed.

2.2.5. The existing single carriageway stretch of the A417 between the Cowley roundabout and the Air Balloon roundabout would be repurposed in part to provide local access and in part to provide a multi-purpose surface for recreational users, alongside Common Land.

2.2.6. 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.

2.3. THE APPLICATION AS EXAMINED

2.3.1. Changes to the draft DCO and other key application documents were submitted during the course of the Examination. Many of the changes and updates sought to address points and questions raised by the Examining Authority (ExA), Interested Parties (IP) and Affected Persons (AP), and to reflect the evolution of detail and clarity.

2.3.2. The Applicant submitted a change request [REP4-002] that was accepted into the Examination [PD-014] on 17 February 2022. The change request related to changes to the scope and extent of both Compulsory Acquisition and Temporary Possession powers, focused on alleviating concerns with the business of Flyup 417 Bike Park (Flyup Limited). The changes made would allow the business' existing car park to be restored in full following construction of the Proposed Development and a separate driveway to be built to split customer traffic from domestic traffic. The

Applicant insisted the change was purely out of good will and that the Proposed Development would be acceptable without the change.

2.3.3. We are of the view that the application remains materially the same project following the changes, and that the Secretary of State would have the power under s114 of the PA2008 to make the recommended DCO incorporating the changes proposed during the Examination, if minded to, having regard to the development consent applied for. We are content that the changes would make no material difference to the outcome of the ES and Habitats Regulation Assessment (HRA) conclusions.

2.3.4. The documents that comprise the application at the close of the Examination are listed in the Applicant's application document tracker dated May 2022, as submitted at Deadline 9 [REP9-004].

2.4. RELEVANT PLANNING HISTORY

2.4.1. The Applicant submitted a summary of planning applications and permissions in each of the respective local authority areas. A full list is presented in Chapter 15 of the ES [APP-046], which was endorsed as being correct by the local authorities participating in the Examination.

2.4.2. The following is a summary of key permissions that are considered important and relevant to the Examination, which, where appropriate, are discussed in chapter 5 of this Report.

Tewkesbury Borough Council

2.4.3. A scheme to construct a mixed-use development of 1,500 units with extra care housing, community facilities and a variety of other uses was granted in 2012, with subsequent reserved matters approved. The development is recorded as not yet commenced.

2.4.4. A further residential scheme comprising 1,400 dwellings on allocated site 'BR1' in the Tewkesbury Borough Local Plan is recorded as being under construction in June 2019.

Cheltenham Borough Council

2.4.5. An application for 350 dwellings and a secondary school with six forms of entry was approved in May 2020.

Gloucester City Council

2.4.6. There are no relevant minerals and waste developments or allocations that are considered important and relevant.

3. LEGAL AND POLICY CONTEXT

3.1. THE PLANNING ACT 2008

3.1.1. The Planning Act 2008 (PA2008) is the principal legislation governing the Examination of an application for a Nationally Significant Infrastructure Project (NSIP) and the decision whether to grant development consent. The Proposed Development constitutes highway development that is for traffic expected to travel in excess of 50mph and the road occupies more than 12.5 hectares (ha) in area. On this basis, the Proposed Development falls to be an NSIP under s14(1)(h) and s22(4)(b) of the PA2008.

3.1.2. S104(3) of the PA2008 requires the Secretary of State (SoS) to decide the application in accordance with any relevant National Policy Statement (NPS) that has effect in relation to this application, subject to the exceptions in subsections 104(4) to (8) as follows:

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

3.1.3. S104(2) of the PA2008 sets out the matters to which the SoS must have regard in deciding an application submitted in accordance with the PA2008. In summary, the matters set out in s104(2) include any relevant NPSs, any Local Impact Report (LIR), any matters prescribed in relation to the development, and any other matters the Secretary of State thinks are both important and relevant to the decision.

3.1.4. S10 of the PA2008 places a statutory sustainable development duty on the SoS. The duty makes specific reference to having regard to the desirability of:

- mitigating and adapting to climate change; and
- achieving good design.

3.1.5. This Report sets out our findings, conclusions and recommendations taking these matters into account and applying the approach set out in s104 of the PA2008.

3.2. NATIONAL POLICY STATEMENT

3.2.1. We consider that, with regard to the purposes of s104(2)(a) of the PA2008, the National Policy Statement for National Networks (NPSNN) is relevant to the application.

3.2.2. The NPSNN was designated on 14 January 2015 for roads for which the Secretary of State for Transport is the highway authority and remains in force. It sets out the national policy for highways-related development and is relevant to this application because the Proposed Development comprises the construction and alteration of a highway where the speed limit for any class of vehicle is expected to be 50mph or greater, the area of development exceeds 12.5ha and National Highways is the highway authority.

3.2.3. The NPSNN sets out the need for and Government's policies to deliver development of NSIPs on the national road network in England. It states that the Government has concluded that at a strategic level there is a compelling need for the development of the national road network. It makes clear that subject to the detailed policies and protections within it, and the legal constraints set out in the PA2008, there is a presumption in favour of granting development consent for national network NSIPs that fall within the need for infrastructure established in the NPSNN.

3.2.4. The NPSNN also provides planning guidance for such projects and the basis for the Examination by the Examining Authority (ExA) and decisions by the SoS, covering a range of relevant topics. Individual policy requirements and tests arising from the NPSNN are addressed in Chapters 4 and 5 of this Report.

3.3. EUROPEAN LAW AND RELATED UK REGULATIONS

3.3.1. The UK left the European Union (EU) as a member state on 31 January 2020. The European Union (Withdrawal Agreement) Act of January 2020 provides for EU law to be retained as UK law.

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 been retained for consistency with the Examination documents. It will be a matter for the SoS to satisfy themself as to the position on retained law and obligations at the point of decision.

The Habitats Regulations

3.3.3. The Conservation of Habitats and Species Regulations 2017 are the principal means by which the Habitats Directive and the Birds Directive are transposed into the law of England and Wales. Assessment processes taking place pursuant to these regulations are referred to as Habitats Regulations Assessment.

3.3.4. These directives and regulations are relevant to this application in view of the presence of the Cotswolds Beechwoods Special Area of Conservation (SAC), the Wye Valley and Forest of Dean Bat Sites SAC, North Meadow and Clattinger Farm SAC, the Severn Estuary SAC, Special Protection Area and the Severn Estuary Ramsar site.

The Water Framework Directive

3.3.5. Directive 2000/60/EC established a framework for community action in the field of water policy (the Water Framework Directive or WFD) which 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.

3.3.6. The WFD is transposed into law in England and Wales by The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.

3.3.7. The WFD is relevant to the application as the Proposed Development affects tributaries of the River Churn and the River Frome, including Norman's Brook waterbodies.

Air Quality Directive and UK Air Quality Strategy

3.3.8. Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe entered into force on 11 June 2008. It set limit values (LV) for compliance and establishes control actions where the LVs 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} and $PM_{2.5}$), lead, benzene and carbon monoxide. The Air Quality Standards Regulations 2010 give direct statutory effect to the Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe.

3.3.9. The UK Air Quality Strategy establishes the UK framework for air quality improvements. The UK Air Quality Strategy establishes a long-term vision for improving air quality in the UK and offers options to reduce the risk to health and the environment from air pollution. Individual plans prepared beneath its framework provide more detailed actions to address LV exceedances for individual pollutants. In turn, these plans set the framework for action in specific local settings where LV exceedances are found, including the designation of Clean Air Zones and more localised Air Quality Management Areas (AQMA) where Air Quality Management Plans are prepared by local authorities.

3.3.10. The Proposed Development itself is not within an AQMA. However, there are two AQMAs within 200 metres (m) of the overall affected road network being the Birdlip AQMA and the Cheltenham AQMA.

3.4. OTHER LEGAL PROVISIONS

United Nations Environmental Programme Convention on Biological Diversity 1992

3.4.1. Responsibility for the UK contribution to the United Nations Environment Programme (UNEP) Convention on Biological Diversity lies with the Department for Environment Food and Rural Affairs (DEFRA) which

promotes the integration of biodiversity into policies, projects and programmes within Government and beyond.

3.4.2. As required by Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, the UNEP Convention on Biological Diversity 1992 has been taken into account in consideration of the likely impacts of the Proposed Development and of appropriate objectives and mechanisms for mitigation and compensation. The provisions on Environmental Impact Assessment (EIA) and transboundary matters with regard to impacts on biodiversity referred to in this Chapter, satisfies the requirements of Article 14 of the Convention (Impact Assessment and Minimizing Adverse Impacts).

3.4.3. This is of relevance to the biodiversity and ecological considerations and landscape and visual impacts which are discussed in Chapter 5 of this Report.

The Wildlife and Countryside Act 1981 (WACA1981)

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

3.4.5. The WACA 1981 is divided into four parts: Part l relating to the protection of wildlife, Part ll relating to designation of SSSIs and other designations, Part lll on public rights of way and Part lV containing miscellaneous provisions. If a species protected under Part l is likely to be affected by development, a protected species licence will be required from NE.

3.4.6. WACA 1981 is relevant to the application in view of the sites and species identified in Chapter 8 (Biodiversity) of the Environmental Statement (ES).

Natural Environment and Rural Communities Act 2006

3.4.7. This Act makes provision for bodies concerned with the natural environment and rural communities, including 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 consistent with the proper exercising of those functions, to the purpose of biodiversity. In complying with the biodiversity duty, regard must be had to the UNEP Convention on Biological Diversity.

3.4.8. We have had regard to this legislation and the biodiversity duty in Chapters 5 and 6 of this Report.

Noise Policy Statement for England

3.4.9. The Noise Policy Statement for England (NPSE) clarifies the underlying principles and aims in existing policy documents, legislation and guidance that relate to noise. The NPSE applies to all forms of noise.

3.4.10. The Explanatory Note within the NPSE provides guidance on defining significant adverse effects and adverse effects. One such concept identifies 'Lowest Observed Adverse Effect Level (LOAEL)' which is defined as the level above which adverse effects on health and quality of life can be detected. Other concepts identified are: Significant Observed Adverse Effect Level (SOAEL), which is the level above which significant adverse effects on health and quality of life occur, and No Observed Effect Level (NOEL) which is the level below which no effect can be detected.

3.4.11. When assessing the effects of development on noise, the aim should firstly be to avoid noise levels above the SOAEL, and to take all reasonable steps to mitigate and minimise noise effects where development noise levels are between LOAEL and SOAEL.

The Protection of Badgers Act 1992

3.4.12. 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 project webpage of the Planning Inspectorate's National Infrastructure Planning website. The implications of the Protection of Badgers Act are discussed in Chapter 5 of this Report.

The Hedgerow Regulations 1997

3.4.13. 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 [APP-356]. The implications of the Proposed Development on hedgerows are discussed at Chapter 5 of this report.

Climate Change Act 2008

3.4.14. S10(3)(a) of PA2008 requires the SoS to have regard to the desirability of mitigating, and adapting to, climate change in designating an NPS. This duty has been addressed throughout Chapter 5 of this Report. The Climate Change Act 2008 (CCA2008) also established statutory climate change projections.

3.4.15. Following the implementation of the Climate Change Act 2008 (2050 Target Amendment) Order 2019 it is the duty of the Government to

ensure that the net UK carbon account for the year 2050 is at least 100% lower than the 1990 baseline.

Equalities Act 2010

3.4.16. S149 of the Equalities Act 2010 (EA2010) established a duty (the Public Sector Equality Duty (PSED)) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The PSED is applicable to the ExA in the conduct of this Examination and reporting and to the SoS in decision-making. We had particular regard to the PSED in terms of holding virtual meetings, producing guidance and holding those meetings, ensuring participants were provided with hard copy correspondence, where requested, and in our conduct of site inspections to ensure full appreciation of the potential impacts of the Proposed Development on persons with protected characteristics.

Human Rights Act 1998

3.4.17. The Compulsory Acquisition of land can engage various relevant Articles under the Human Rights Act 1998. The implications of this are considered later in Chapter 8 of this Report.

The Infrastructure Planning (Decisions) Regulations 2010

3.4.18. The Infrastructure Planning (Decisions) Regulations 2010 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.

3.4.19. Regulation 3 requires, when deciding an application which affects a listed building (LB) or its setting, conservation areas (CA) or a scheduled monument (SM) or its setting the decision-maker must have regard to the desirability of preserving the LB or its setting or any features of special architectural or historic interest which it possesses, the desirability of preserving or enhancing the character or appearance of a CA and the desirability of preserving an affected SM or its setting.

Other Environmental Legislation

3.4.20. The following additional legislation contains relevant provisions that must be met and are considered, as done so throughout Section 5 of this Report:

- Water Resources Act 1991.
- The Environment Act 1995.
- The Water Resources (Abstraction and Impounding) Regulations 2006.
- Environmental Permitting (England and Wales) Regulations 2016.
- Pollution Prevention and Control Act 1999.
- Land Drainage Act 1991.
- Water Industry Act 1991.

3.5. MADE DEVELOPMENT CONSENT ORDERS

3.5.1. The draft Development Consent Order includes wording derived from other made Development Consent Orders as explained in the Explanatory Memorandum, the latest version of which is (Rev 3) [REP9-008]. These include:

- the M4 Motorway (Junctions 3 to 12) (Smart Motorway) Order 2016;
- the A30 Chiverton to Carland Cross Development Consent Order 2020;
- the A19/A184 Testo's Junction Alteration Development Consent Order 2018;
- the M20 Junction 10a Development Consent Order 2017; and
- the A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016.

3.5.2. We have taken all these Orders and precedent development approvals into account in our considerations.

3.6. TRANSBOUNDARY EFFECTS

3.6.1. The project is of local and regional impact. A transboundary screening under Regulation 32 of the 2017 EIA Regulations was undertaken on behalf of the SoS on 11 October 2019 following the Applicant's request for an EIA Scoping Opinion. No significant affects were identified which could impact on another European Economic Area member state in terms of extent, magnitude, probability, duration, frequency or reversibility.

3.6.2. The Regulation 32 duty is an ongoing duty, and on that basis, we have considered whether any facts have emerged to change these screening conclusions, up to the point of closure of the Examination. No mechanisms whereby any conceivable transboundary effects could occur emerged.

3.7. OTHER RELEVANT POLICY STATEMENTS

National Infrastructure Strategy

3.7.1. 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)

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

3.7.3. Under RIS2 the A417 Missing Link Road is shown as "*Committed for [Road Period] 2*" which covers the financial years 2020/ 21 to 2024/ 25.

Net Zero Strategy: Build Back Greener

3.7.4. Published in October 2021 and updated in April 2022, the Net Zero Strategy sets out the Government's aims and ambitions to end the UK's contribution to climate change.

Decarbonising Transport: A better, greener Britain

3.7.5. Known as the Transport Decarbonisation Plan, this strategy, published in July 2021, sets out the Government's commitments and the actions needed to decarbonise the entire transport system in the UK.

3.8. THE NATIONAL PLANNING POLICY FRAMEWORK

3.8.1. The National Planning Policy Framework July 2021 (NPPF) and its accompanying Planning Practice Guidance (PPG) set out the Government's planning policies for England and how these are expected to be applied, for the purposes of making Development Plans and deciding applications for planning permission and related determinations under the Town and Country Planning Act 1990 (as amended). Paragraph 5 of the NPPF makes it clear that it does not contain specific policies for NSIP decision-making as these are determined in accordance with the decision-making framework in the PA2008 as well as relevant NPSs and any other matters which are relevant, which may include the NPPF.

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

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

3.8.3. Although the NPPF has been revised three times since the NPSNN was published (December 2014), we have concluded that NPSNN paragraphs 1.17 to 1.20 remain as a complete statement of the relationship between the two documents.

3.8.4. NPPF policies have been considered in respect of all planning issues addressed in Chapters 4 and 5. They are drawn out there only where they identify different or additional considerations from those arising from the NPSNN.

3.9. LOCAL IMPACT REPORTS

3.9.1. A single combined Local Impact Report has been received from Gloucestershire County Council, Cotswold District Council and

Tewkesbury Borough Council (referred to as The Joint Councils) [REP1-133].

3.9.2. The issues raised within it are summarised in Chapter 4 and considered in further detail in relevant planning issue sections of Chapter 5.

3.10. THE DEVELOPMENT PLAN

3.10.1. The Applicant summarised the Development Plan position in Appendix 1.1 Planning Policy Framework [APP-315]. There were no dissenting voices from the respective local authorities and the LIR does not raise any additional policies or documents. The summary position regarding the Development Plan is set out below.

Gloucestershire County Council

3.10.2. The current Development Plan, and policies thereof, comprises:

- Minerals Local Plan for Gloucestershire (2018-2032) Adopted 2020
    - DM01 Amenity
    - DM02 Cumulative Impact
    - DM03 Transport
    - DM05 Water Resources
    - DM06 Biodiversity and Geodiversity
    - DM07 Soil Resources
    - DM08 Historic Environment
    - DM09 Landscape
    - MR01 Restoration
    - MS01 Non-mineral developments within Mineral Safeguarding Areas
    - MS02 Safeguarding mineral infrastructure
    - SR01 Maximising the use of secondary and recycled aggregates
- Gloucestershire County Council Waste Core Strategy Adopted 2012
    - WCS1 Presumption in Favour of Sustainable Development
    - WCS2 Waste Reduction
    - WCS10 Cumulative Impact
    - WCS12 Flood Risk
    - WCS14 Landscape
    - WCS15 Nature Conservation
    - WCS16 Historic Environment
    - WCS17 Design
    - WCS19 Sustainable Transport
- Gloucestershire County Council Waste Local Plan 2002-2012 Saved Policies Adopted 2004
    - Policy 1 Best Practicable Environmental Option
    - Policy 2 Regional Self-Sufficiency
    - Policy 3 Proximity Principle
    - Policy 6 Waste Management Facilities for Other Sites
    - Policy 21 Agricultural Improvements

- Policy 23 Internationally and Nationally Designated Sites for Nature Conservation
- Policy 24 Locally Designated Sites for Nature Conservation
- Policy 25 Conservation outside Designated Sites
- Policy 26 Areas of Outstanding Natural Beauty
- Policy 30 Listed Buildings and Conservation Areas
- Policy 31 Historic Heritage
- Policy 32 Agricultural Land
- Policy 33 Water Resources: Pollution Control
- Policy 34 Water Resources: Flood Control
- Policy 36 Waste Minimisation
- Policy 39 Transport
- Policy 40 Traffic
- Policy 41 Public Rights of Way
- Policy 43 After use
- Policy 45 Planning Obligations

- Gloucestershire's Local Transport Plan 2020-2041

  - Policy LTP PD 0.1 Reducing Carbon Emissions and Adapting to Climate Change
  - Policy LTP PD 0.2 Local Environment Protection
  - Policy LTP PD 0.3 Maximising Investment in a Sustainable Transport Network
  - Policy LTP PD 0.4 Integration with Land Use Planning and New Development
  - Policy LTP PD 0.5 Community Health and Wellbeing
  - Policy LTP PD 0.6 ThinkTravel- Influencing Travel Behaviour Change
  - Policy LTP PD 2.1 Gloucestershire's Cycle Network
  - Policy LTP PD 2.2 Cycle Asset Management
  - Policy LTP PD 2.3 Active Travel: Safety, Awareness and Confidence
  - Policy LTP PD 3.1 Gloucestershire's Freight Network
  - Policy LTP PD 4.1 Gloucestershire's Highway Network
  - Policy LTP PD 4.2 Highway Network Resilience
  - Policy LTP PD 4.3 Highway Maintenance
  - Policy LTP PD 4.4 Road Safety
  - Policy LTP PD 6.1 Gloucestershire's Pedestrian Network
  - Policy LTP PD 6.2 Rights of Way
  - Policy LTP PD 6.3 Pedestrian Asset Management
  - Policy LTP PD 6.4 Pedestrian Safety

Tewkesbury Borough Council

3.10.3. The current Development Plan, and policies thereof, comprises:

- The Joint Core Strategy 2011-2031 between Gloucester City Council, Cheltenham Borough Council and Tewkesbury Borough Council (adopted 2017)

  - Policy SD3 Sustainable Design and Construction
  - Policy SD6 Landscape
  - Policy SD7 The Cotswolds Area of Outstanding Natural Beauty

- Policy SD8 Historic Environment
- Policy SD9 Biodiversity
- Policy SD14 Health and Environmental Quality
- Policy INF1 Transport Network
- Policy INF2 Flood Risk Management
- Policy INF3 Green Infrastructure
- Policy INF4 Social and Community Infrastructure

- Tewkesbury Local Plan 2006-2011 Saved Policies Adopted 2006

  - Policy GNL1 General Design
  - Policy GNL3 Architectural Features
  - Policy TPT3 Pedestrian Networks
  - Policy TPT4 Footpath and Bridleway Protection in the Implementation of Highways Schemes
  - Policy TPT5 Cycle Network Enhancements
  - Policy HEN1 Conservation Areas – General
  - Policy HEN2 Conservation Areas – Setting and Impact
  - Policy HEN20 Scheduled Ancient Monuments
  - Policy HEN21 Archaeological Assessment
  - Policy HEN22 Archaeological Recordings
  - Policy HEN23 Management and Interpretation of Archaeological Sites
  - Policy EVT4 Air Quality
  - Policy LND1 Areas of Outstanding Natural Beauty
  - Policy TOR1 Tourism – General Policy
  - Policy RCN5 Recreational Rights of Way
  - Policy NCN3 Protection of Other Sites of Nature Conservation or Geological/Geomorphological Interest
  - Policy NCN7 Wildlife Corridors.

3.10.4. Both the Tewkesbury Borough Council Local Plan 2011-2031 Preferred Options published 2018 and the Tewkesbury Borough Plan 2011-2031 (submitted for examination May 2020) are listed by the Applicant as emerging. No changes in status were reported to the Examination.

Cotswold District Council

3.10.5. The current Development Plan, and policies thereof, comprises:

- Cotswold District Local Plan 2011-2031 Adopted 2018

  - Policy EN1 Built, Natural and Historic Environment
  - Policy EN2 Design of the Built and Natural Environment
  - Policy EN4 The Wider Natural and Historic Landscape
  - Policy EN5 Cotswolds Area of Outstanding Natural Beauty (AONB)
  - Policy EN7 Trees, Hedgerows and Woodlands
  - Policy EN8 Biodiversity and Geodiversity: Features, Habitats and Species
  - Policy EN9 Biodiversity and Geodiversity: Designated Sites
  - Policy EN10 Historic Environment: Designated Heritage Assets
  - Policy EN12 Historic Environment: Non-Designated Heritage Assets
  - Policy EN15 Pollution and Contaminated Land

- Policy INF3 Sustainable Transport
- Policy INF4 Highway Safety
- Policy INF7 Green Infrastructure

Cotswold Conservation Board (CCB)

3.10.6. The CCB has a statutory duty to prepare and review a management plan for the Cotswolds AONB. The current edition of the management plan was published in 2018 and covers a 5-year period to 2023. While considered a non-statutory planning document it is important and relevant for the assessment of this application, albeit its policies and guidance are reflected in planning policy adopted in the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (2011-2031) and the Cotswold District Council Local Plan (2011-2031).

3.10.7. In addition, the CCB has published a number of further documents with the objective of managing and guiding the protection and enhancement of features within the AONB. These include:

- Cotswolds AONB Landscape Character Assessment
- Cotswolds AONB Landscape Strategy and Guidelines for LCT 2 Escarpment, LCT 7 High Wold, LCT 8 High Wold Valley, and LCT 18 Settled Unwooded Vale
- Local Distinctiveness and Landscape Change Report (2005)
- Tranquillity Position Statement (2019)
- Cotswolds Dark Skies & Artificial Light Position Statement (2019)
- Tree Species and Provenance (2017)
- Transport (Revised 2013) and
- Management of Roadside Verges (2015)

3.10.8. Individual policies are referred to as required in Chapters 4 and 5 of this Report.

3.11. DESIGN MANUAL FOR ROADS AND BRIDGES

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

4. THE PLANNING ISSUES

4.1. MAIN ISSUES IN THE EXAMINATION

4.1.1. Our Initial Assessment of Principal Issues (IAPI) 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 with s56(a) of the PA2008 provided by the Applicant [OD-003] and was published as Annex C to our Rule 6 letter dated 30 September 2021 [PD-005]. The issues identified in the IAPI were not in any order of implied importance and were as follows:

- Air Quality and Emissions.
- Biodiversity, Ecology and Natural Environment.
- Compulsory Acquisition and/ or Temporary Possession.
- Cultural Heritage.
- Draft Development Consent Order.
- Landscape and Visual.
- Noise and Vibration.
- Socio-economic.
- Traffic and Transport.
- Water Environment.

4.1.2. The IAPI also noted that whilst the effects of the Proposed Development on (a) the achievement of sustainable development including the mitigation of, and adaption to, climate change and (b) in relation to human rights and equalities duties, are not listed as specific principal issues, we conducted all aspects of the Examination with these objectives in mind.

4.1.3. The IAPI was discussed at Part 1 of the Preliminary Meeting (PM) and a recording is available in the Examination Library (EL) [EV-003] and a note of the meeting produced [EV-004]. It was concluded that as the topics set out were general matters and not exhaustive lists any of the more detailed issues raised would be addressed within the context of the principal issues. No Interested Parties (IPs) dissented from that position. Part 2 of the PM was cancelled as no new matters or issues were raised in the subsequent comment period following Part 1.

4.1.4. Following our decision to accept the Applicant's proposal to amend the application and include 'additional land', and the subsequent receipt and consideration of further Relevant Representations (RRs) [RR-111 and RR-112], we confirmed in our Rule 8(3) letter [PD-018] that the principal issues remained as set out in our Rule 6 letter.

4.1.5. We have considered the principal issues that we identified in the Rule 6 letter as well as any additional matters raised by IPs during the course of the Examination. Our detailed findings and conclusions on all the relevant and important matters are set out in Chapter 5 of this Report, except for matters relating to Habitats Regulations Assessment (HRA), Compulsory Acquisition and the draft Development Consent Order (dDCO), which are

respectively contained in Chapters 6, 8 and 9. All representations, even if not explicitly mentioned, have been fully considered in reaching the conclusions set out.

4.2. ISSUES ARISING IN WRITTEN SUBMISSIONS

4.2.1. The key events in the Examination are summarised in Chapter 1 and set out more fully in Appendix A. In total there were one hundred and ten RRs (plus two further RRs following consultation on the amended scheme), one Local Impact report (LIR) from the Joint Councils, ten Statements of Common Ground (SoCG) and a number of other written submissions at the nine deadlines within the Examination Timetable.

4.2.2. Broadly speaking, all of the issues raised fell within the IAPI set out above and we go on to consider them in detail in Chapter 5 of this Report. A number of IPs raised concerns around the consideration of alternatives, in particular a number of Cowley residents expressed the view that an alternative, referred to as option 12, would be less environmentally damaging. The issue of the Applicant's assessment of alternatives was examined orally in Issue Specific Hearing 1 (ISH1) and through various written questions, and our general conclusions on this matter are to be found in section 4.5 below and further detail when considering the effect of the Proposed Development on the Cotswolds Area of Outstanding Natural Beauty (AONB) in the Landscape and Visual section, 5.6 below.

4.3. ISSUES ARISING IN THE LOCAL IMPACT REPORT

4.3.1. The LIR states that it seeks to present a broad view of the impacts on the local area. It mentions the key issues but does not seek to provide the detail of the Joint Councils' positions on the merits of the application which it is stated is provided in their Written Representation.

4.3.2. The LIR notes that the need for this scheme has been apparent for many years and notes the A417 is essential for the movement of people and goods within and through Gloucestershire and surrounding regions. The Joint Councils accept the Proposed Development is needed to address and reduce the risk of serious and fatal accidents. The Joint Councils consider that local communities would experience improved safety on local roads through a reduction in strategic traffic taking alternative routes to avoid delays on the A417.

4.3.3. The principal matters raised in the LIR submitted by the Joint Councils [REP1-133] relate to:

- Traffic, Transport and Highways;
- Air Quality;
- Cultural Heritage;
- Landscape and Visual Effects;
- Biodiversity;
- Geology and Soils;
- Material Assets and Waste;
- Noise and Vibration;

- Population and Human Health;
- Water Environment;
- Climate Change; and
- Draft Development Consent Order.

4.3.4. We have had full regard to the issues raised in the LIR, along with the other matters raised throughout the Examination, and address these in the relevant Chapters of this Report. Chapter 5 of this Report comprises our detailed consideration of each of the subject matters identified in relation to the Proposed Development with Chapter 6 setting out our assessment of HRA matters. Our overall conclusions on the planning balance of these issues are set out in Chapter 7. Our findings and conclusions are based on the relevant legal and policy framework, plus consideration of issues arising from the LIR, written submissions and those made orally at the hearings, as required by s104 of the PA2008.

4.4. CONFORMITY WITH THE NATIONAL POLICY STATEMENT

4.4.1. As a strategic road scheme, the National Policy Statement for National Networks (NPSNN) is the appropriate National Policy Statement against which to assess the Proposed Development. The NPSNN includes the following statements regarding the general need for development of the national networks:

- *"Well-connected and high-performing networks with sufficient capacity are vital to meet the country's long-term needs and support for a prosperous economy"* (paragraph 2.1).
- *"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"* (paragraph 2.2).
- *"Whilst advances in mobile technology are important and will influence travel demand, it is difficult to predict by how much. It is expected that technology, both from better information and date, and in vehicles (eg autonomous cars) to have a significant effect on how the network performs. However, we do not expect this to remove the need for development of the networks. In recent years advances in mobile IT, teleconferencing, email, the internet and social media have occurred alongside growth in travel demand on the national networks"* (paragraph 2.5).
- *"There is also a need for development on the national networks to support national and local economic growth and regeneration, particularly in the most disadvantaged areas"* (paragraph 2.6).
- *"The Government has therefore concluded that at a strategic level there is a compelling need for development of the national networks – both as individual networks and as an integrated system. The Examining Authority and the Secretary of State should therefore start their assessment of applications for infrastructure covered by this NPS on that basis"* (paragraph 2.10).

4.4.2. The NPSNN then goes on to comment on the specific need for development of the national road network. Paragraph 2.13 emphasises that a well-functioning strategic road network is critical in enabling safe and reliable journeys and the movement of goods in support of the national and regional economies. Ways in which traffic congestion constrains the economy and impacts negatively on quality of life include (paragraph 2.16):

- constraining existing economic activity by increasing costs to businesses damaging their competitiveness;
- a deterioration in the experience of road users, including frustration, stress and inconvenience;
- constraining job opportunities as workers have more difficulty accessing labour markets; and
- causing more environmental problems, with more emissions per vehicle and greater problems of blight and intrusion for people nearby.

4.4.3. Paragraph 2.18 states that the pressure on the road network is forecast to increase with economic growth, substantial increases in population and a fall in the cost of car travel from fuel efficiency improvements.

4.4.4. Table 1 of the NPSNN sets out options for addressing need, comprising maintenance and asset management, demand management and modal shift. However, it is recognised that maintenance and asset management will not enhance safety, tackle pressure on the network or unlock economic development. Demand management measures can make more efficient use of capacity while modal shift, which aims to encourage sustainable transport modes, may not be suitable given the nature of some journeys on the strategic road network.

4.4.5. Paragraph 2.22 notes that without improving the road network it will be difficult to support further economic development and growth. Consequently, at a strategic level there is a compelling need for development of the national road network. Paragraph 2.24 goes on to state the Government's policy on development of the strategic road network is not that of predicting traffic growth and then providing for that growth regardless. Individual schemes will be brought forward to tackle specific issues rather than to meet unconstrained traffic growth.

4.4.6. The Applicant's Case for the Scheme includes consideration of the Proposed Development's conformity with the NPSNN [APP-417]. In general, it concludes that the Proposed Development aligns with the strategic objectives of the NPSNN (paragraph 3.5.1) and complies with the requirements of the assessment principles and generic impacts of the NPSNN with the exception of specific topics on nationally designated sites, biodiversity, special category land and the historic environment (paragraph 6.4.1). The Case for the Scheme then reviews each of these exceptions and for each concludes that it complies with the NPSNN requirements (paragraphs 7.6.1, 8.6.1, 9.4.2 – 9.4.5 and 10.6.1) and that it has been developed to be in conformity with the NPSNN. The Applicant has also provided a NPSNN Accordance Table at Appendix A to the Case for the Scheme [APP-417] which provides a high-level

assessment of the Proposed Development's strategic alignment and conformity with the policies within the NPSNN.

4.4.7. The majority of IPs, including the Joint Councils, Cotswold Conservation Board (CCB) and the Statutory Consultees expressed their broad support in principle for the Proposed Development and did not raise any objections in terms of high-level conformity with the NPSNN.

4.4.8. A number of RRs and Written Representations raised concern about the environmental effects of the road including damage to the AONB, visual and landscape harm, harm to ecology and biodiversity and concerns regarding the historic environment but did not raise issues with conformity with the NPSNN directly. Representations also included concerns in terms of climate change and greenhouse gas (GHG) emissions. We have considered the representations regarding specific issues further in Chapter 5 of this Report in the relevant assessment of those issues.

4.4.9. We are satisfied that the Proposed Development generally conforms with the objectives of policies within the NPSNN. The compliance of the Proposed Development has been examined against specific NPSNN policy details and tests applicable to individual planning issues as set out in Chapter 5 of this Report.

4.5. CONSIDERATION OF ALTERNATIVES

4.5.1. Paragraphs 4.26 and 4.27 of the NPSNN deal with the assessment of alternatives. Paragraph 4.26 requires applicants to comply with all legal requirements and any policy requirements set out in the national policy statement and in particular, of relevance to this application, highlights:

- *"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…" and*
- *"There may also be policy requirements in this NPS, for example…Areas of Outstanding Natural Beauty."*

4.5.2. Paragraph 4.27 of the NPSNN states that "*All projects should also be subject to an options appraisal, which should consider viable modal alternatives*". It goes on to advise that national road schemes will have been subject to a proportionate options appraisal as part of the investment decision-making process. Further, it is not necessary for the Examining Authority (ExA) to reconsider that process if it is satisfied that the assessment has been undertaken. Paragraph 2.21 also advises that relying solely on alternatives such as demand management and modal shift "*is not viable or desirable as a means of managing need*".

Applicant's Approach

4.5.3. Schedule 4 of the Infrastructure Planning (Environmental Impact Assessment) (EIA) Regulations 2017 (the 'EIA Regulations') requires an Environmental Statement (ES) to provide "*A description of the*

reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects".

4.5.4. The Applicant's consideration of alternatives is set out in the ES in Chapter 3: Assessment of Alternatives [APP-034]. This outlines the main alternatives studied and how the environmental effects of options have been taken into account. It includes the process for assessing options and arriving at the preferred scheme. The ES is supported by, and the Chapter refers to, a number of other documents including a Scheme Assessment Report [APP-420], Route Options Consultation Report (March 2019) [APP-421], Combined Modelling and Appraisal Report [APP-422], Technical Appraisal Report [APP-425] and a Transport Report [APP-426].

4.5.5. A scheme for improvements to this section of the A417 has been in the pipeline for some time. Between 2001 and 2006 the then Highways Agency carried out assessments to consider options for improving the missing link section of the A417. This resulted in a scheme being developed that was referred to as the 'modified brown route'. However, this did not get included in the Government's Road Programme. In 2014 the scheme was identified as one of one hundred schemes in the Government's first five-year road investment programme (RIS1). As a result, the Applicant was able to commence the development of the current scheme and carry out initial project prioritisation and options identification work.

4.5.6. The Case for the Scheme [APP-417] describes the process and option testing including a do-nothing scenario and improving other modes of transport.

4.5.7. A do-nothing option was considered, however, the Applicant concluded that traffic growth forecasts identified that without intervention, the existing problems on the A417 associated with congestion, capacity, road safety and severance of Public Rights of Way (PRoW) would only be exacerbated.

4.5.8. The Case for the Scheme at section 2.2.3 – 2.2.4 describes the public transport improvements that were considered, including improving other modes of transport such as public transport, because it could reduce demand for road travel, therefore reducing congestion and improving safety through lower traffic volumes on the A417. However, the Applicant identified that the extent of traffic volume reduction that would be needed to deliver such benefits would be of such a scale (over 15,000 trips per day by 2039) that it would require a widespread, transformational change to existing public transport infrastructure and mode shift in order to be successful. Furthermore, the Applicant found that this option would not address other safety issues existing on the road that are not related to volumes of traffic, such as its gradient, alignment, poor forward visibility, and crossings required to be made at road level (rather than segregated). The Applicant concluded that the

extent of intervention required in rail, and the fact that it would still not address inherent safety issues of the road or serve all road users, meant that this option was not considered reasonable.

4.5.9. The information submitted in consideration of the assessment of alternative road schemes highlights the various sifting and feasibility studies and assessments that were undertaken. The Case for the Scheme highlights that a scheme-specific vision statement, with four scheme-specific objectives and a number of sub-objectives was developed following consultation with key stakeholders [Table 3-3 in APP-417]. Overall, the scheme vision identified that the scheme should be a landscape-led highway improvement scheme with the four objectives relating to developing a safe, resilient and efficient network, improving the natural environment and heritage, community and access and supporting economic growth.

4.5.10. Some 30 routes were identified at the initial stage with ten removed in an early sift related to engineering constraints reducing the total to 20. A range of alternative schemes were considered including tunnel and surface approaches along with a variety of different alignments. Six options were shortlisted and taken forward following a four-step sifting process resulting in four tunnel and two surface options being taken forward [APP-420 and APP-421]. These six options underwent a full assessment to identify which should be taken to public consultation. The four tunnel options outperformed the two surface options against most environmental social and economic criteria. However, this could only be achieved at substantially higher financial cost, such that the benefits would be disproportionate to the additional cost, and therefore they represented poor value for money. They would all be significantly above the upper cost limit identified for the project of £500 million, identified through Road Investment Strategy 2 (RIS2), and all provided for a Cost Benefit Ratio (CBR) of less than 1. On this basis the four tunnel options were excluded and the two surface options were taken forward to public consultation, referred to as options 30 and 12. In the Options Appraisal report option 30 was the preferred choice compared to option 12 because it would provide greater benefits in relation to air quality, road safety, journey times and value for money.

4.5.11. Option 30 has been evolved and developed into the scheme that is the subject of this application. Option 12 was based on an historic assessment from earlier proposals and was focused around dualling the existing line of the A417 with some deviation around the Air Balloon and Cowley junctions.

4.5.12. Following public consultation and further assessment of the two routes option 30 was chosen as the Preferred Route. Further scheme development has taken place since the announcement of the Preferred Route with evolving design development on the junction designs, carriageway segregation, and vertical and horizontal alignment.

Issues arising during the Examination

4.5.13. A number of IPs, primarily from Cowley Village, raised concerns with regard to the Assessment of Alternatives ([RR-002, RR-010, RR-013, RR-016, RR-029, RR-032, RR-048, RR-050, RR-051, RR-053, RR-054, RR-057] amongst others). They were concerned with the nature and extent of public engagement and consultation which had been carried out, leading to option 30 being chosen incorrectly over option 12, in their view. In their view option 12 was the more appropriate option and raised concerns, amongst other matters, about the fairness of the assessment process, the detail of the schemes that were considered and whether this was on a like for like basis, the effect on the landscape and general environmental impacts, the integrity and quality of the safety data, the necessity of the proposed speed limit, amount and size of junctions, and the overall cost.

4.5.14. During the Examination we asked a number of questions in our First Written Questions (ExQ1) [PD-008] and Second Written Questions (ExQ2) [PD-017] and raised queries at Issue Specific Hearing 2 [EV-008] related to the assessment of alternatives and the various matters raised by IPs. The Applicant and various IPs set out responses, greater detail and concerns in their submissions at various deadlines. The Applicant's response at Deadline (D) 1 [REP1-009] included two further reports that had been previously undertaken by the Applicant in addressing concerns raised by the CCB about the tunnel options and included a CCB Options Report and Cut and Cover Tunnel Feasibility Study [REP1-011]. A number of IPs maintained their objections throughout the Examination.

Conclusions

4.5.15. The NPSNN advises that relying solely on alternatives such as demand management and modal shift "*is not viable or desirable as a means of managing need*". On this basis, given the Applicant's assessment of the potential to effect a modal shift at a scale necessary to address the issues, it is not a reasonable option. Moreover, this would not address the critical safety issues. We are satisfied that the Applicant has undertaken sufficient assessment of non-road-based schemes.

4.5.16. In the context of the assessment of alternatives of road-based schemes the Applicant has undertaken a broad and thorough options appraisal considering some 30 schemes. The sifting process to reduce this to six and then to two is undertaken on a systematic and robust assessment process and has had significant regard to value for money. The NPSNN advises that national road schemes will have been subject to a proportionate options appraisal as part of the investment decision-making process. Further, that it is not necessary for the ExA to reconsider that process if it is satisfied that the assessment has been undertaken.

4.5.17. The Proposed Development has formed part of RIS1 and RIS2 wherein it has been identified as a 'committed' scheme. We are therefore satisfied

that in general terms the scheme has been subject to a proportionate options appraisal as part of the investment decision-making process.

4.5.18. Whilst there has been a number of concerns raised by local residents regarding matters such as the effect on landscape and ecology, there has been no substantive evidence to demonstrate the assessment process was flawed. The Proposed Development is for a highway scheme through the Cotswolds AONB and the effect of this is considered in greater detail below including whether alternative options would have less impact. However, on a high-level assessment all options for the A417 Missing Link would fall within the AONB and the various assessment reports acknowledge the significant adverse effects that either of option 12 or 30 would have.

4.5.19. Objectors raised detailed matters related to design changes to the schemes and whether they were being considered on a like for like basis. But at the time of the assessment of alternatives, the schemes were assessed on the basis of the development at that stage, which is a reasonable proposition. Some further scheme development has been undertaken in terms of detailed design, but the scheme remains within the cost envelope and upper budget and the Applicant has confirmed still represents good value for money with a positive CBR [REP3-011].

4.5.20. The Applicant has undertaken a detailed assessment of various criteria and applied a suitable and robust scoring mechanism. It has identified the harms and benefits of the two schemes and come to a balanced view that option 30 would be the most appropriate scheme to take forward as it would have greater benefits in terms of air quality, be a higher quality road, safer for road users, provide shorter journey times, delivering greater benefits and the best overall value for money. We agree with these conclusions and consider that these meet the requirements of the NPSNN.

4.6. CONFORMITY WITH DEVELOPMENT PLANS

4.6.1. Appendix B of the Applicant's Case for the Scheme [APP-417] sets out a review of the Proposed Development against adopted development plan policies in the area. Section 12 notes that local plan policies are not the policy basis against which Nationally Significant Infrastructure Projects (NSIPs) are considered but may contain policies which are material to decision-making. They are important and relevant matters in the context of considering individual issues and as such are considered in the relevant sections of the following Chapter when we consider the detailed issue-specific matters.

4.6.2. In terms of the potential impact on the wider area the Case for the Scheme at 7.3.36 - 7.3.38 identifies that the Joint Core Strategy (adopted 2017), which covers Gloucester City Council, Cheltenham Borough Council and Tewksbury Borough Council (and which is supported by Gloucestershire County Council) sets out strategic growth objectives for the wider area within which the Proposed Development is situated. In this regard it is pointed out that the Joint Core Strategy identifies a need

for 35,000 new homes across the three authority areas by 2031 including through 7 strategic allocations. Four of these allocations are located on the eastern and northern fringe of Gloucester and two further allocations are to the north-west of Cheltenham. The Applicant further identifies that two of the allocations are directly bounded by the A417 in the east of Gloucester city and which will deliver 2,600 homes.

4.6.3. The Joint Core Strategy states that the Local Transport Plan is the *"key strategy for delivery of essential transport infrastructure to support growth. The Gloucestershire County Council Local Transport Plan identifies the A417 Missing Link project as a priority scheme for 'maintaining a functioning highways network' in the County".* The Proposed Development is also identified in the Infrastructure Delivery Plan as well as in the Cotswold District Council Infrastructure Delivery Plan where it is recognised as a piece of critical infrastructure required to enable the delivery of growth within the district.

4.6.4. No overarching objections were received citing conflict with the adopted development plans, including from the Joint Councils, and we are satisfied that this represents the proportionate and appropriate position with regards to local policy.

4.7. APPLICATION OF OTHER POLICIES

4.7.1. The A417 Missing Link is identified in RIS2 as a 'committed scheme' for its second Road Period. This confirms the funding for the Proposed Development and would meet a need that has been identified and committed to within RIS2, contributing to achieving the Government's strategic vision for the Strategic Road Network (SRN).

4.7.2. The Proposed Development is located wholly within the Cotswolds AONB and within which policies of the CCB are relevant. These are primarily aimed at conserving and enhancing the natural beauty of the AONB. The application of relevant policies is considered at the relevant section of the Report below, 5.6.

4.8. ENVIRONMENTAL IMPACT ASSESSMENT

4.8.1. The Application is development for which an Environmental Impact Assessment (EIA) is required (EIA development) and it is supported by an Environmental Statement (ES) as is set out in section 1.6 above. The ES comprises 16 substantive chapters [APP-032 to APP-047] together with supporting figures [APP-050 – APP-314], appendices [APP-315 to APP-413] and a non-technical summary [APP-030].

4.8.2. During the Examination an Environmental Updates and Errata document was submitted. This was updated at various deadlines with the final document submitted at D4 [REP4-031], which identified and tabulated all the updates and errata submitted at previous deadlines.

4.8.3. The ES uses the Rochdale Envelope approach to provide assessment of environmental effects where there are design uncertainties. Article 8 of the recommended Development Consent Order (rDCO) (Appendix D to

this Report) defines the Limits of Deviation (LoD) for the horizontal and vertical alignment of the proposed carriageways. The ES assumes a worst-case scenario for environmental effects within these limits. This approach is supported by The Planning Inspectorate's Advice Note 9: Using the Rochdale Envelope.

4.8.4. The ES includes and is supported by an Environmental Management Plan (EMP) (Design Stage), the latest version of which is version 3 submitted at D6 [REP6-010]. The EMP is accompanied by annexes providing various management plans including Environmental Constraints, Construction Traffic, Landscape and Ecological, Materials, Public Rights of Way, Ground and Surface Water and Waste. The EMP also includes a Register of Environmental Actions and Commitments (REAC), which identifies the commitments and imposes requirements on the design, construction and operation of the Proposed Development. The rDCO requires the authorised development to be constructed in accordance with an EMP (construction stage) which is to be submitted before the authorised development is commenced.

4.8.5. During the Examination Climate Emergency Policy and Planning (CEPP) raised concerns regarding the adequacy of the ES in dealing with the assessment of GHG emissions and requested that the Examination be suspended pending a full and proper assessment of the issue in accordance with the EIA Regulations. This matter is addressed in the relevant consideration of GHG emissions in section 5.2 below. Overall, we have concluded that the assessment carried out was reasonable and proportionate and did not require the suspension of the Examination, with sufficient and adequate information submitted to enable us to reach reasoned conclusions and to produce a recommendation to the Secretary of State (SoS).

4.8.6. At the start of the Examination various IPs, including CCB, Historic England (HE), the Joint Councils (county archaeologist) and the National Trust (NT) raised issues with regard to the Applicant's approach to the assessment and methodology in the Cultural Heritage Chapter [APP-037] and in particular with regard to the potential effect on archaeology. By the close of the Examination and following the submission of the final version of the Detailed Archaeological Mitigation Strategy and Overarching Written Schemes of Investigation [REP8-022], those concerns of HE and the CCB had been substantially addressed or mitigated. One individual (Mr George Lambrick [REP6-043] retained significant concerns. The Joint Councils also remained concerned with the assessment and how historic landscape character had not been integrated into the overall cultural heritage assessment given that this was a landscape led approach. The detail of these matters is addressed in section 5.4 below.

4.8.7. Individual submissions raising subject-specific issues bearing on individual planning issues are addressed in Chapter 5 below as relevant and necessary. We are satisfied that the ES and associated information submitted by the Applicant during the Examination has provided an adequate identification and assessment of the environmental effects of

the Proposed Development. We have taken full account of all environmental information in the assessment of the application and our recommendation to the SoS.

4.9. HABITATS REGULATIONS ASSESSMENT (HRA)

4.9.1. HRA matters are fully addressed in Chapter 6 of this Report. This sets out the matters relevant to the Proposed Development and those relevant and important matters that are taken into account in formulating our recommendation.

4.9.2. We have considered all documentation relevant to HRA as required by paragraphs 4.22 to 4.25 of the NPSNN and have taken it into account in the conclusions reached in this Report, any relevant sections in the planning issues below and in the overall case for development consent. Furthermore, project design and mitigation proposals included in the ES and secured in the Applicant's preferred DCO have been fully considered for HRA purposes.

4.10. EQUALITIES

4.10.1. As set out above (paragraph 3.4.16) the Equalities Act introduced the Public Sector Equality Duty (PSED) which 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.

4.10.2. The PSED is for the decision-maker, in this case the Secretary of State for Transport (SoST). However, it also follows that we, in conducting and producing our recommendation, are also bound by the duty. To assist the SoST in making their determination we make the following comments.

4.10.3. The Applicant submitted an Equalities Impact Assessment (EqIA) report with the application, which was subsequently updated [REP3-006]. The assessment screens and analyses information on groups with protected characteristics and identifies whether the Proposed Development would have a positive, negative or neutral impact on groups with protected characteristics.

4.10.4. Whilst the report identifies that there are potentially groups that would be negatively affected including women (more likely to be affected by changes to walking diversions), younger people (again more likely affected by changes to walking routes), older people (principally due to construction impacts (changes in air quality) and operational impacts (on reaction times and driving)), and those with a disability resulting from both construction and operational affects impacting on access to facilities and health impacts from air quality. The report concludes that with embedded mitigation measures included in the Proposed Development and secured through the EMP these will provide benefits and help to minimise any adverse impacts upon groups with protected characteristics.

4.10.5. The embedded mitigation measures include but are not limited to the provision of additional crossing points on bridges and underpasses, changes to the PRoW network and alterations to the road network to reduce rat-running. These would address the effects on those groups that are more affected in terms of walking, cycling and horse-riding (WCH). The EMP also includes measures to maintain access to the National Star College and address noise and air quality matters around the college. The EqIA includes a series of recommendations which are to be employed to address any potential negative impacts, including the following:

Construction

- National Star College has been engaged with throughout the development of the scheme design. It will continue to be engaged with as the scheme progresses to ensure its concerns around temporary noise and air quality impacts on its students are considered.
- A clear plan of how access to community facilities (particularly National Star College) will be maintained throughout the construction period should be put in place and presented to these facilities. These access routes should be appropriate, maintain required safety standards, and minimise disruption.
- When work is required that affects the existing A417 and its side roads, a series of traffic and WCH route management measures will be implemented, and these will be provided in further detail. Any diversion routes would be clearly marked and signed during these periods and adequate notices would be given to road users and local residents via press notices and local newsletter distributions to be agreed with Gloucestershire County Council as appropriate, thereby helping mitigate impacts associated with driver uncertainty.
- Where access is affected to private properties and businesses, temporary alternative access would be provided as appropriate, to be agreed with the landowner and/ or tenant(s) as necessary.
- ES Appendix 2.1 EMP Annex F PRoW Management Plan (Document Reference 6.4) will be provided alongside the ES (Document Reference 6.2) which will detail planned temporary and permanent closure of PRoWs, temporary and permanent diversions and provision of new crossings/ routes as part of the scheme.
- Best practice construction methods would seek to minimise if not avoid indirect temporary effects on users of WCH routes, for example with dust suppression methods of construction.
- Clear, consistent and well-lit signage should be used to support wayfinding and alleviate any stress or confusion caused to drivers (particularly older people). Stakeholders indicated that diversions should be marked from Cirencester. This should be the case throughout the construction period and for a suitable amount of time when the scheme initially opens.

Operation

- Promotion of access rights along Dog Lane and Cold Slad Lane for WCH users to improve connectivity to the country park and beyond,

helping reduce the need for residents in Brockworth and its planned developments to travel by car.
- Off-carriageway and segregated provision for WCH including along the existing A417, to encourage active travel to community facilities including those in Birdlip.
- Safe crossings of new roundabouts and slip roads (eg A436).
- Conversion of parts of the existing A417 into a restricted byway accessible by WCH, including vulnerable user groups such as disabled people.
- Reduce movements at Cowley junction to help reduce rat-running and impacts of traffic on residents in Cowley and Brimpsfield.

4.10.6. Particular regard was had to the potential effects on the National Star College which is an education establishment for pupils and residents with significant special educational and physical needs. The EMP and REAC include measures to monitor and address any air quality or noise issues that arise during construction and secure continuous access to the school during construction. There is ongoing engagement with the college and the Applicant, and we are satisfied that full account has been had to the potential effects.

4.10.7. We have also considered and had regard to any reasonable adjustments required during the conduct of the Examination as requested or identified by any IPs and responded positively to any matters raised.

4.10.8. Throughout the Examination and in drafting our Report, we have had regard to the PSED.

5. FINDINGS AND CONCLUSIONS IN RELATION TO THE PLANNING ISSUES

5.1. INTRODUCTION

5.1.1. This Chapter considers important and relevant planning issues as identified in section 4.1 above. These are arranged in alphabetical order, implying no lesser or greater weight to the issue in the Examination process. Each issue has its own section, with conclusions drawn on a topic-by-topic basis, with a full summary and overall conclusions drawn on the case for development consent provided in Chapter 7 of this Report.

5.2. AIR QUALITY

Introduction

5.2.1. This section addresses the effects of the Proposed Development on air quality during the construction and operation phases and includes consideration of carbon emissions. The effects of air pollution on the natural environment are considered in detail in section 5.3 of this Report on biodiversity. Air quality was identified in the Initial Assessment of Principal Issues (IAPI) [PD-005, Appendix C].

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

Policy

5.2.3. Paragraph 2.16 of the National Policy Statement for National Networks (NPSNN) identifies that traffic congestion causes *"environmental problems, with more emissions per vehicle and greater problems of blight and intrusion for people nearby."*

5.2.4. Paragraph 3.7 says that the Government is committed to supporting the switch to ultra-low emission vehicles, which are anticipated to reach mass market volumes. Paragraph 3.8 states that the impact of road developments on aggregate emission levels is likely to be very small and that they need to be seen in the context of policies to meet legally binding air quality targets. It guides that:

"Total PM_{10} and NO_X might be expected to increase slightly, but this needs to be seen in the context of projected reductions in emissions over time. PM_{10} and NO_X are expected to decrease over the next decade or so as a result of tighter vehicle emission standards, then flatten, with further falls over time due to greater levels of electric and other ultra-low emission vehicles."

5.2.5. Paragraph 4.50 says that the Examining Authority (ExA) and the Secretary of State for Transport (SoST) should assess the potential impacts of processes, emissions or discharges to inform decision-making, but should work on the assumption that, in terms of control and enforcement, the relevant pollution control regime would be properly applied and enforced. Paragraph 4.56 says that consent should not be refused based on regulated impacts unless there is good reason to believe that relevant control permits, licenses or other consents will not subsequently be granted.

5.2.6. Section 5.3 of the NPSNN recognises that increases in emissions during construction and operation phases can result in worsening of local air quality affecting human health and habitats. Section 5.5 recognises road schemes create complex challenges with regards to air quality given the wide geographical area over which impacts can be felt.

5.2.7. Paragraph 5.10 requires consideration of air quality effects over the wider area likely to be affected and requires account to be taken of relevant statutory air quality thresholds set out in domestic and European legislation. Paragraph 5.11 notes that air quality considerations are likely to be particularly relevant in relation to Air Quality Management Areas (AQMA). Paragraph 5.12 requires air quality considerations to be given substantial weight where a project would lead to a significant air quality effect or where they lead to a deterioration in air quality in a zone/ agglomeration.

5.2.8. Binding mandatory limits for a range of key traffic-related pollutants are included in the Air Quality Standards Regulations 2010 (as amended) (AQS Regulations). The AQS Regulations set out the requirements for exposure reduction of $PM_{2.5}$ in the general population and the requirements for action to be taken when levels of air pollutants persistently exceed the limit values.

5.2.9. In respect of carbon emissions, section 104 of the Planning Act 2008 (PA2008) states that the SoST must decide an application for a national networks Nationally Significant Infrastructure Project (NSIP) in accordance with the National Policy Statement for National Networks (NPSNN) unless it is satisfied that to do so would, amongst other things, lead to the UK being in breach of its international obligations. As referred to in Section 3.3 of this Report, the Paris Agreement 2015 provides a framework for keeping global warming well below 2°C and was ratified by the UK Government in November 2016, after the NPSNN was designated in December 2014.

5.2.10. Paragraph 5.16 of the NPSNN refers to a system of five-year carbon budgets that set a trajectory to a cut in greenhouse gas (GHG) emissions by at least 80% by 2050 and says that *"carbon budgets and plans will include policies to reduce transport emissions, taking into account the impact of the Government's overall programme of new infrastructure as part of that."* The Climate Change Act 2008 (2050 Target Amendment) Order 2019 amends the Climate Change Act 2008 so as to state *"it is the*

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

5.2.11. Returning to the NPSNN, paragraphs 5.16 and 5.17 state that "*the impact of road development on aggregate levels of emissions is likely to be very small*" and that it is "*very unlikely that the impact of a road project will, in isolation, affect the ability of Government to meet its carbon reduction plan targets."* Paragraph 5.17 requires applicants for road projects to "*provide evidence of the carbon impact of the project and an assessment against the Government's carbon budgets".*

5.2.12. Paragraph 5.18 sets out that the Government's national carbon reduction strategy aims to ensure that any carbon increases from road development do not compromise its overall carbon reduction commitments. It considers that "*any increase in carbon emissions is not a reason to refuse development consent, unless the increase in carbon emissions resulting from the proposed scheme are so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets."*

5.2.13. Paragraph 5.19 requires evidence to be provided of mitigation measures "*incorporating engineering plans on configuration and layout and use of materials"*. It requires the SoS to "*consider the effectiveness of such mitigation measures in order to ensure that, in relation to design and construction, the carbon footprint is not unnecessarily high"* and states that "*the adequacy of the mitigation measures relating to design and construction will be a material factor in the decision-making process."*

The Case for the Applicant

Air Quality

5.2.14. The Applicant's assessment of air quality matters is primarily contained within Chapters 5 (Air Quality [APP-036]) and 15 (Cumulative Effects) [APP-046] of the Environmental Statement (ES). 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, and includes a construction phase dust assessment and an 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.

5.2.15. The assessment is undertaken in respect of the construction and operational phases and addresses mono-nitrogen Oxides (NOx), nitrogen dioxide (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 as locations where members of the public may be exposed to or affected by air quality impacts including residential properties, schools and internationally or nationally designated ecosystems, ancient woodland and veteran trees.

5.2.16. The Applicant sets out the relevant air quality standards and objectives set by the EU and transposed into UK law by the AQS Regulations and those implementing the UK National Air Quality Strategy. 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.

5.2.17. The Applicant states 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.

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

5.2.19. The Applicant notes there are no AQMAs within the application boundaries but identifies two within 200m of the ARN. The ES predicts no significant effects within these designations, with no effect on the UK's ability to comply with the air quality limit values.

5.2.20. 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 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.
- Air quality could be affected by any changes in the distances between sources of emissions and air quality sensitive receptors.

Greenhouse Gas Emissions (Climate)

5.2.21. ES Chapter 14 [APP-045] describes climate change effects and the assessment within the ES includes consideration of GHG emissions arising from the Proposed Development. 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 both the construction and operation of the Proposed Development.

5.2.22. GHG emissions outputs from the Applicant's 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 (HFC).
- Perfluorocarbons (PFC).

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

5.2.24. 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. End of life assessment of demolition and decommissioning was scoped out of the assessment as it was considered very unlikely that the Proposed Development would be demolished.

5.2.25. 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 Report [APP-426].

Assessment of Likely Significant Effects

5.2.26. With respect to air quality, the ES concludes that:

- for human receptors, construction effects would be temporary, neutral and not significant whilst operationally, the Applicant considers the Proposed Development would have a positive impact due to relieving congestion and moving the road away from key receptors;
- where the Proposed Development moves traffic closer to existing receptors the total annual mean NO_2 concentrations remain well below the objectives thus no specific mitigation or air quality action plans are required;
- no significant impacts have been identified for human health and therefore there is no requirement for future monitoring of air quality during the operational phase as a result of the Proposed Development; and

- the Applicant predicts the annual mean concentrations of PM_{10} and $PM_{2.5}$ to be below the air quality objective values for all receptors considered in both the construction and operation phase study area.

5.2.27. With respect to carbon emissions, the ES concludes that:

- construction would take place between 2023 and 2026, falling wholly within the fourth carbon budget, contributing 0.00380% of the fourth carbon budget;
- operation would contribute 0.00114% of the fourth carbon budget and 0.00355% of the fifth carbon budget respectively;
- operational emissions after the year 2032 would fall within the sixth carbon budget and beyond, that was legislated in June 2021, contributing 0.00717% of that budget [AS-051];
- over the course of 60 years, the Proposed Development would generate 12,578,522 tCO_2e, which would be 0.9 million tCO2e higher than a DM scenario;
- it is considered that this magnitude of emissions from the Proposed Development in isolation would not have a material impact on the ability of the UK Government to meet its carbon budgets, and therefore is not anticipated to give rise to a significant effect on climate; and
- no potential in-combination effects were considered significant.

5.2.28. The Applicant concludes that *"the GHG impact of the Scheme would not have a material impact on carbon reduction targets as set by the UK government"* and that *"these emissions are not deemed to be significant in the context of the relevant carbon budgets."*

Requirements

5.2.29. Within the draft Development Consent Order (dDCO) [REP9-005], Requirement 3 covers the production of and adherence to an Environmental Management Plan (EMP) by construction contractors. The EMP [REP6-010] sets out the relevant suite of mitigation measures for the reduction, prevention and monitoring of air pollution and emissions during the construction of the Proposed Development. These principally involve using industry best practice for dust management and controls for airborne pollutants.

5.2.30. Key mitigation measures during the construction phase include:

- monitoring air quality and airborne pollution at the National Star College, with remedial measures in place should thresholds be breached;
- adopting industry best practice to limit the release of construction dust and emissions arising from construction vehicles;
- the development and implementation of a plan to reduce energy consumption and associated carbon emissions, including the consideration of renewable and/ or low or zero carbon energy sources;

- the recording and reporting of energy consumption and materials use on an ongoing basis during the construction phase using the carbon tool;
- where practicable, the use of materials with lower embedded GHG and water consumption, sustainably sourced materials and recycled or secondary materials; and
- the planting of trees, shrubs and hedgerows as part of the landscape design to offset some of the carbon emissions associated with land use change and subsequent loss of carbon sink.

5.2.31. The National Trust (NT) suggested further controls in respect of carbon emissions including whether the Applicant would agree to a low carbon construction plan [REP1-098]. This was raised at Issue Specific Hearing 1 (ISH1) [EV-014] where it was debated if such a plan would be a requirement or an addition to the EMP. The Applicant responded that commitment CC7 within the EMP secured this, and as such there was no need to incorporate a new bespoke requirement into the dDCO [REP3-009].

Position of Interested Parties

5.2.32. A number of Relevant Representations (RRs) were received raising air quality and emissions following the submission of the application. Briefly, some examples of the issues raised were as follows:

- Public Health England raised no objections and did not wish to register an interest [RR-088].
- National Star College raised concern about impacts on sensitive students at the Ullenwood Campus as a result of air pollution from construction and operation [RR-039].
- Jane Williams (amongst others) raised the personal effects on quality of life through pollution and air quality deterioration [RR-052].
- John Franklin (amongst others) suggested reducing the design speed of the road to 50mph would reduce air pollution [RR-055].
- Norwich and Norfolk Friends of the Earth [RR-082], Lorcan Knox [RR-066] and Rahul Ahuja [RR-090] (amongst others) raised carbon emissions as a general concerning impact on climate change.
- Dr Andrew Boswell of Climate Emergency Policy and Practice (CEPP) raised objections regarding the release of carbon emissions and raised concerns regarding the methodology, assessment of cumulative emissions, absence of data and the potential not to comply with international obligations on climate change [RR-018].
- Thomas Wheeler [RR-107] and Transport Action Network [RR-109] (amongst others) raised objections to the increase in emissions affecting the ability to reach Net Zero, that the NPSNN needs to be reviewed as it is out of date, and that the impacts of the Proposed Development are underestimated.

ExA Considerations

Air Quality

5.2.33. We asked several written questions of the Applicant with regards to its assessment, methodology and findings in respect of air quality impacts [PD-008]. The Applicant provided satisfactory responses to these at Deadline (D) 1 [REP1-009] which resolved a large number of issues to the extent that no further examination of the issues was considered to be necessary. Targeted questions in respect of specific issues were raised [PD-017], with satisfactory answers provided by the Applicant at D6 [REP6-015].

PM_{10} and $PM_{2.5}$

5.2.34. The assessment of PM_{10} and $PM_{2.5}$ was scoped out at the ES scoping stage because the total concentrations in the study area are well below the relevant air quality objectives. No dissenting submissions were made regarding this, and we are satisfied that the Proposed Development accords with the NPSNN on this matter.

Air Quality Sensitive Receptors

5.2.35. No new exceedances of the annual mean N_2O objective are predicted at any location during the operational phase of the proposed development ([REP1-009] Appendix B). During the construction phase there would be no new exceedances and air quality would not worsen for the majority of residential and non-residential properties.

5.2.36. However, there would be the continuation of current exceedances within the existing Birdlip AQMA at the cottages adjacent to the existing Air Balloon roundabout ([REP1-009] question 1.2.9). The cottages are the closest to the existing alignment of the A417 and suffer an existing exceedance of N_2O as well as enduring poor air quality at present. The Applicant considered that, by moving the main carriageway of the A417 southward, further away from these properties, the Proposed Development would have some benefit to the air quality conditions at these cottages during operation. For construction, appropriate management measures in the EMP would ensure that the construction phase would not significantly worsen air quality for these nearest receptors.

5.2.37. The Applicant stated that continuous ambient dust monitoring during the construction phase would be undertaken in the grounds of the National Star College, as provided for in measures AQ13 and GP5 within the EMP [REP6-015]. This would ensure a pre-agreed threshold would not be exceeded and that dust mitigation was effective in preventing health effects upon the students at the Ullenwood Campus. We consider that such site-specific actions are appropriate and proportionate to maintain a responsive form of mitigation, ensuring protection for individuals that are most-sensitive to construction dust effects. Other human receptors would be sufficiently distanced from both the existing A417 and routing of the

Proposed Development so as to avoid any significantly adverse air quality impacts.

5.2.38. The Proposed Development would not prejudice the ability to meet national air quality standards, or the targets set within the relevant AQMAs. We are content that the implementation of air quality mitigation measures, would be secured within the Air Quality Management Plan to be approved as part of the EMP [REP6-010] under Requirement 3 of the dDCO. We are satisfied the Proposed Development would not cause an adverse effect on human health; a view supported by the comments of Public Health England [RR-088].

Greenhouse Gas Emissions

5.2.39. The issue of carbon emissions received a fair portion of Examination time including numerous written submissions, questioning [PD-008 and PD-017], exploration at Issue Specific Hearing 2 [EV-029 and EV-033] and requests for further information [PD-022].

5.2.40. The main opposing view to the Applicant's case was from CEPP, which made several detailed submissions to the Examination challenging various aspects of the Applicant's ES, methodology, evidence base and conclusions. These objections can be broadly summarised as follows:

- No cumulative assessment had been undertaken or presented in the ES, thus making the ES unlawful and the ExA should use Regulation 20 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 to suspend the Examination [REP1-027].
- The transport model used by the Applicant is not inherently cumulative [REP1-027].
- The Proposed Development, even on its own, would have a significant impact on the Government's ability to meet carbon emissions reductions targets during the course of its operation [REP2-020 and AS-066].
- The Applicant had not taken into account the Net Zero Strategy (NZS), Transport Decarbonisation Plan (TDP) or the Nationally Determined Contribution and had used an out-of-date emission factor toolkit [REP7-007].
- Having then taken the NZS and TDP into account at D8, the Applicant was wrong to rely upon these strategies which were subject to legal challenge, and it is premature to rely upon it and its objectives, as it is not inevitable that the strategies will deliver UK carbon budgets [REP8-035], [REP9-026].
- The project would go against the aims of reducing carbon emissions [REP8-035].
- The decision made by SoST on the M54 to M6 Link Road Development Consent Order (and M25 J10, M25 J28) did not support or justify the Proposed Development [REP8-035], [REP9-029].
- The Institute of Environmental Management Assessment (IEMA) is only a starting point of limited value in the Environmental Impact Assessment (EIA) process [REP9-029].

- The TDP sensitivity test undertaken is flawed and no weight or credibility can be given to the Applicant's projected carbon emissions reductions [REP9-029].

5.2.41. With regard all the above, we note that no other statutory body, even when prompted ([PD-017], question 2.2.2) had concerns regarding these matters including the Joint Councils [REP6-040]. The only outstanding concern of the Joint Councils regarding the funding or exploration of carbon mitigation measures [REP1-133] was resolved following amendments to the EMP [REP6-010].

5.2.42. Throughout the Examination, the Applicant provided documentation to support the defence of its case. The information was published in the Examination Library (EL) and was available for public scrutiny and consultation at all times. A summary of the Applicant's position at the close of the Examination includes the following:

- The ES follows the DMRB guidelines and fulfils the policy expectations of the NPSNN and complies with the EIA Regulations [REP2-012].
- There is no legal or policy requirement (under the NPSNN) to consider local or regional carbon budgets, nor can it be reasonable for National Highways to produce such a baseline [REP3-011].
- The transport model used in the evidence base takes into accounts all other relevant planned projects and schemes with planning permission within the host local authority areas, accounting for the traffic from those developments on the road, and takes into account regional growth rates, and is thus a robust and inherently cumulative assessment model [REP3-011].
- The carbon budgets are inherently cumulative across all sectors [REP3-011].
- National Highways has its own published strategies for offsetting carbon effects of highway development including tree planting and a greater uptake of electric vehicles, including the 2030/ 2040/ 2050 Net Zero highways plan, which includes a commitment to ensure its maintenance and construction activities become Net Zero by 2040 and road user emissions on the strategic road network become Net Zero by 2050 [REP1-009].
- In response to [PD-022], the SoST;s approach on the M54 to M6 Link Road DCO was sound, with the findings of the SoST on the M54 to M6 Link Road DCO regarding cumulative assessment both correct and sound [REP8-029].
- The NZS and the TDP provide new policy background since the ES was written, as recognised at D2 [REP2-011]. The Proposed Development is compliant with these and sensitivity tests for operational emissions demonstrate this is the case ([REP8-029] paragraphs 3.2.31 to 3.2.37).
- Using the updated Emissions Factor Toolkit version 11 (EFT) shows emissions of 604,203 tCO_2e which is 289,692 tCO_2e lower than that predicted in the ES, so ES does represent the worse-case scenario [REP8-029].
- There is a downward trajectory of emissions consistent with the NPSNN [REP8-029].

5.2.43. We are aware that a legal challenge has been lodged against the NZS and that this may have implications for other Government strategies [REP8-036]. However, the NZS and the co-dependant documents such as the TDP remain current Government policy, and are both important and relevant to the consideration of this application.

5.2.44. The Applicant's case was prepared prior to the publication of both the NZS and the TDP. The Applicant's case was predicated on the NPSNN and in particular paragraphs 3.8 and 5.17 that state:

"impact of road development on aggregate levels of emissions is likely to be very small. Impacts of road development need to be seen against significant projected reductions in carbon emissions,"

"It is very unlikely that the impact of a road project will, in isolation, affect the ability of Government to meet its carbon reduction plan targets."

5.2.45. Following submissions from CEPP [REP2-022] [REP7-007], which alleged deficiencies in the Applicant's evidence base because the NZS and TDP had not been factored into the ES, the Applicant provided a comprehensive submission at D8 [REP8-029] including sensitivity tests, use of an up-to-date EFT and consideration of the national strategies in detail. We acknowledge that CEPP subsequently criticised reliance on the NZS and the TDP following the legal challenge [REP8-035] but we consider that the submissions at D8 by the Applicant build upon the earlier evidence in the Examination and corroborate the approach taken to assessing carbon emissions. We are satisfied that there is an appropriate degree of conservatism applied to the calculations and that Interested Parties (IPs) have been given sufficient opportunity to comment on them.

5.2.46. Returning to the NPSNN paragraph 5.18, the Proposed Development is predicted to occupy 0.00717% of the sixth carbon budget in its operation phase. This is a minor contribution towards any legislated carbon budgets and is considered by the Applicant to be conservative given the potential uptake in electric vehicles in the interim years. The use of the EFT version 11 [REP8-029] demonstrates that the higher uptake in electric vehicles would notably reduce the forecast carbon emissions. We consider the assumptions to be robust on this basis and, whilst the Proposed Development would lead to an increase in carbon emissions compared to the DM scenario, these emissions would not be of a predicted scale that would bear on the achievement of the statutory carbon budget.

5.2.47. We are content that consenting the Proposed Development will not lead to a breach of the UK's international obligations in relation to the Paris Agreement or any domestic enactments or duties. We are satisfied that the ES prediction of the Proposed Development having a 0.9 million tCO_2e increase in emissions over and above the DM scenario represents a worst-case scenario, and that the small increase in emissions that will result from the Proposed Development can be managed within the

Government's overall strategy for meeting Net Zero. The updated predictions [REP8-029] lend reassurance that betterment on the worst-case scenario is probable.

5.2.48. With regards to cumulative assessment, we note the Applicant's position that other planned projects in the geographical area comprised of the three host local authorities are incorporated into the transport model [REP3-011], [REP8-029]. These planned projects are developments that contribute vehicles onto the local roads. We therefore recognise that the carbon emissions presented in the ES are representative of all carbon emissions likely to arise from the project and all those other projects planned to take place in the region. They are, in effect, the Proposed Development's emissions plus those emissions generated by the traffic arising from other developments in the study area.

5.2.49. Although not referred to explicitly in ES Chapter 15 [APP-046], we are satisfied that there has been a degree of cumulative assessment on a localised scale and the emissions projected include consideration of regional growth and demand for the road in general, through the traffic modelling undertaken. The traffic model can therefore be reasonably said to be inherently cumulative. In response to CEPP's objections to the conduct of the cumulative assessment within the ES, we acknowledge the SoST's view on the M54 to M6 Link Road DCO insofar as there is no single prescribed approach to assessing the cumulative impacts of carbon emissions. Following the methodology in the DMRB as the Applicant has done for the A417 Missing Link project is not, of itself, unacceptable.

5.2.50. We consider that the assessment is proportionate and reasonable in relation to the information the Applicant would have access to in order to enable the impacts of carbon to be understood and accounted for in the decision-making process. The information provided in the ES and throughout the course of the Examination was sufficient for the purposes of understanding the environmental effects and consequences of the development, and all IPs had the opportunity to comment upon it. We did not therefore feel it necessary to suspend the Examination as requested by CEPP [REP1-027].

5.2.51. In any event, when compared against the carbon budget as is required under the NPSNN paragraph 5.18, the project would not have a significant impact on the ability to meet the carbon reduction targets.

5.2.52. We are also satisfied that every reasonable opportunity to reduce the emissions arising during both construction and operation phases has been provided for by the Applicant within its Register of Environmental Actions and Commitments (REAC) integrated into the EMP [REP6-010]. Further development of the mitigation measures would be undertaken in preparation of the Air Quality Management Plan, prepared under the EMP at detailed design stage.

5.2.53. We are content that the Applicant has adequately assessed the likely significant effects of the Proposed Development on climate and its cumulative impacts on climate taking account of both construction and

operation as required by the 2017 EIA Regulations and this information has been taken into consideration when assessing whether development consent should be granted. We have taken careful consideration of the detailed objections from CEPP as well as concerns raised in generality by other IPs. Our clear conclusions are that the Proposed Development would not have a material impact on the ability of the Government to meet its carbon reduction targets as set out in the NZS.

Conclusions

5.2.54. We have had particular regard to the policies set out in the NPSNN in our consideration of the effects of the Proposed Development in relation to air quality and emissions.

Air Quality

5.2.55. We have received no substantive concerns from relevant pollution control authorities about their ability to regulate potential releases and are therefore content that paragraph 4.55 of the NPSNN is satisfied. For the purposes of paragraph 4.56 we have no good reason to believe that any relevant control permits, or licences or other consents would not subsequently be granted.

5.2.56. The Applicant has clearly considered vehicle emissions, how tighter emission standards are expected to reduce PM_{10} and NO_2 emissions, air quality effects over the wider area, relevant statutory air quality thresholds and AQMAs as required by paragraphs 2.16, 3.6-8, and 5.10-12 of the NPSNN. We are content with the Applicant's overall approach for air quality assessment and mitigation and for NO_2 monitoring during the operational phase.

5.2.57. We have seen no substantive evidence that gives us cause to doubt that the consideration of the study area, selection of receptors, baseline conditions, changes to vehicle emission rates, PM_{10}, $PM_{2.5}$, factors considered for the assessment of significant effects, or the overall assessment methodology are appropriate for the purposes of the assessment.

5.2.58. We are satisfied that proper consideration has been given to construction scenarios, emissions from construction machinery and that appropriate measures have been secured in the recommended Development Consent Order (rDCO) (Appendix D) and EMP [REP6-010] to address uncertainties, unforeseen events, communication and liaison requirements, vehicle emissions and dust mitigation and monitoring during the construction phase.

5.2.59. There are no outstanding air quality issues and we do not consider the matter of air quality to be an impediment to the granting of the DCO.

Carbon Emissions

5.2.60. NPSNN paragraph 5.18 states that any increase in carbon emissions should not be a reason to refuse development consent. We find that

proper consideration to carbon emissions has been given by the Applicant with regards the requirements and expectations of the NPSNN. The individual Proposed Development impact has been assessed at 0.00717% of the sixth carbon budget and we consider this to have been conducted in accordance with the requirement of NPSNN. It is, however, a negative aspect of the Proposed Development that it would lead to an increase in emissions of 0.9 million tCO_2e over and above the DM scenario, but there is a likelihood that reductions would occur and any increases in emissions may be tempered in the long term by electrification of vehicles on the network.

5.2.61. The increase in emissions does weigh against the Order being made. However, given that the Proposed Development, once operational, would only lead to a minor increase in emissions towards any of the legislated carbon budgets, it is unlikely that the project's emissions, in isolation, would be so significant as to affect the ability of the Government to meet its carbon reduction plan targets or international obligations.

5.2.62. We therefore conclude that:

- the Proposed Development complies with, and would not result in a breach of, the AQS Regulations;
- the Proposed Development would not lead to a worsening of air quality within any designated AQMA;
- the Proposed Development would not conflict with the policies within the NPSNN regarding carbon emissions release, nor significantly prejudice the trajectory towards Net Zero, but it will be a matter for the SoS to consider the impact of the legal challenge against the NZS;
- the matter of air quality weighs neutrally in the planning balance; and
- carbon emissions carry limited weight against the Order being made.

5.3. BIODIVERSITY

Introduction

5.3.1. This section considers the effects of the Proposed Development in relation to biodiversity, ecology and the natural environment. Matters in respect of the Habitats Regulations Assessment (HRA) are reported in chapter 6 of this Report and are principally contained in the separate Report on Implications for European Sites (RIES) [PD-019].

Policy

5.3.2. Paragraphs 5.20 to 5.38 of the NPSNN detail the basis for the Examination by the ExA and decisions by the SoST relating to biodiversity and ecological conservation.

5.3.3. Paragraph 5.22 states that *"Where the project is subject to EIA the applicant should ensure that the ES clearly sets out any likely significant effects on internationally, nationally and locally designated sites of ecological or geological conservation importance (including those outside England) on protected species and on habitats and other species identified as being of principal importance for the conservation of*

biodiversity and that the statement considers the full range of potential impacts on ecosystems."

5.3.4. Paragraph 5.35 states that "*Development should avoid significant harm to biodiversity and geological conservation interests, including through mitigation and consideration of reasonable alternatives. Where significant harm cannot be avoided or mitigated, as last resort, appropriate compensation should be sought.*"

5.3.5. NPSNN paragraph 5.33 states that "*development proposals potentially provide many opportunities for building in beneficial biodiversity or geological features as part of good design. When considering proposals, the SoS should consider whether the applicant has maximised such opportunities in and around developments."*

5.3.6. Paragraph 180 of the National Planning Policy Framework (NPPF) part (a) sets out that "*if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused*". Part (b) states that development on land "*within or outside a Site of Special Scientific Interest (SSSI), and which is likely to have an adverse effect on it, should not normally be permitted*". The only exception is where the benefits of the development in the location proposed 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. Part (c) states development "*resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists*."

The Case for the Applicant

5.3.7. The Applicant's assessment of biodiversity matters is primarily contained within Chapter 8 (Biodiversity) of the ES [APP-039]. The ES assesses potential effects on sites, habitats and species of conservation importance including indirect effects, following the assessment methodology set out in the DMRB LA104 and LA108. The assessment is supplemented with Chartered Institute of Ecology and Environmental Management Guidelines for Ecological Impact Assessment in the UK and Ireland where necessary, as well as professional judgment. A number of assets of national importance are affected by the Proposed Development and within the study area, namely:

- Cotswold Beeches Special Area of Conservation (SAC), which includes the Cotswold Commons and Beechwoods SSSI;
- Wye Vale and Forest of Dean SAC;
- North Meadow and Clattinger Farm SAC;
- Crickley Hill and Barrow Wake SSSI;
- Bushley Muzzard SSSI; and
- Leckhampton Hill and Charlton Kings Common SSSI.

5.3.8. A list of a further 18 environmental designations on a local, non-statutory level are presented in Table 8-8 of ES Chapter 8 [APP-039] that are

either within, adjacent to or within 2km of the Proposed Development. Assets of Ancient Woodland are set out in Table 8-9 of ES Chapter 8, with the most relevant and likely affected assets being Ullen Wood and the Cowley and Wards Woods. An area of woodland known as Emma's Grove central to the Proposed Development was not assessed as being ancient woodland despite having some indicator species.

5.3.9. The ES is supported by a number of technical appendices including a Phase 1 Habitat Survey [APP-196], survey results for protected species including bats, fish, Roman snails and barn owls as well as for tuffaceous vegetation [APP-197] to [APP-230]. The ES considers direct disturbance, during construction, and pollution disturbance (air, light, noise) once operational. A full list of surveys undertaken, and the relevant timings, is set out in Table 8-6 of the ES [APP-039].

5.3.10. With regard to the impact assessment of changes in air quality upon designated habitats, the Applicant sets out that the Air Pollution Information System website does not include a critical load for ancient woodland or veteran trees. The recommended values within nutrient nitrogen critical load ranges for use in air pollution impact assessments for broadleaved deciduous, coniferous and mixed woodland is 10-20kg N/ha/yr. This value has been used to inform the assessment for ancient woodland and veteran trees present within 200m of the ARN.

5.3.11. The worst-case scenario has been considered as the assessment takes account of the full extent of the Proposed Development within the dDCO boundary. The desk study identified five habitats of principal importance within the study area. These are lowland mixed deciduous woodland, lowland calcareous grassland and lowland meadow all of which occur within the dDCO boundary. Traditional orchard and wood pasture and parkland are also present within 1.2 miles (2km) of the Proposed Development.

Assessment of Likely Significant Effects

5.3.12. The Applicant acknowledges a number of effects that would be permanent and adverse, even after mitigation measures are implemented. The Applicant nonetheless points to positive aspects of the Proposed Development comprising replacement habitat on a much larger scale than the habitat being lost and features to assist in enhancing biodiversity locally.

5.3.13. The Applicant predicts no significant effects upon the Cotswold Beechwoods SAC. This is dealt with more specifically in Chapter 6 of this Report and in the accompanying RIES.

5.3.14. The Applicant anticipates a moderate adverse effect on the Barrow Wake area of the Crickley Hill and Barrow Wake SSSI, with habitat loss in the region of 1,400m^2 comprising calcareous grassland and broadleaved trees. However, the Applicant relies on the conversion of approximately 3,600m^2 of hardstanding (of which 1,000m^2 is within the SSSI boundary) into calcareous grassland as an embedded mitigation.

5.3.15. Whilst interrelated with human connectivity, the Applicant highlights that the green bridges, particularly the 37-metre-wide Gloucestershire Way crossing bridge (of which 25m would be established as calcareous grassland with two species rich hedgerows planted around it) as being an enhancement for wildlife conduit and habitat. Two other crossings over the A417 Missing Link are also relied upon as conduits for wildlife, namely the Stockwell overbridge and Cowley overbridge. Additional mitigation measures that would be secured through the dDCO include pollution management, noise and dust controls, limiting the use of artificial lighting and protection of retained habitat areas.

5.3.16. For the ancient woodland, the Applicant predicts permanent and adverse effects on Ullen Wood in the operational phase due to nitrogen deposition being a 10% increase (1.08kg) against the lower critical load for broadleaved woodland. The predicted increase in nitrogen deposition exceeds 0.4kg N/ha/yr across approximately 2.1ha of Ullen Wood, which comprises ancient semi-natural woodland. Permanent degradation of this area of habitat is predicted through a reduction in species richness and/ or changes in species composition. The ES reports that there are no feasible mitigation measures that would avoid or reduce this predicted increase in nitrogen deposition. Woodland planting is proposed around the edges of a field bordering Ullen Wood, currently used as grazing pasture, which would provide a buffer for the ancient woodland.

5.3.17. ES Chapter 8 Tables 8-21 and 8-22 [APP-039] set out a full description of the residual significant effects during construction and operation. However, aspects of note in the ES conclusions include:

(for construction stage)

- adverse effect on Crickley Hill and Barrow Wake SSSI due to loss of 0.14ha of calcareous grassland and wooded habitat;
- adverse effect due to loss of three veteran trees;
- adverse effect through loss of 17.21ha of semi-natural broadleaved woodland including at Emma's Grove;
- adverse effect on a petrifying spring with tufa formation through loss of Annex 1 habitat at the tributary of Norman's Brook;
- beneficial effect through planting of 24.65ha of new woodland;
- beneficial effect of converting existing hardstanding at Crickley Hill and Barrow Wake SSSI to calcareous grassland;
- beneficial effect by providing 75ha of habitat creation of which 72.5 would be calcareous grassland;
- beneficial effect of gaining an additional 9.59ha of broadleaved woodland habitat;
- for the majority of ecological receptors, the construction and operation phase effects in terms of air quality/ air pollution are predicted not to be significant;
- nitrogen deposition would result in the degradation of ancient woodland habitat; and
- permanent, significant and adverse effects for Ullen Wood ancient woodland and a number of veteran trees.

(for operation stage)

- adverse significant effect on Ullen Wood and upon a veteran beech tree from an increase nitrogen deposition from vehicle emissions; and
- adverse significant effects on barn owls through increased risk of traffic collisions arising from a severance of habitat.

Requirements

5.3.18. Measures to both control and mitigate the impacts upon biodiversity during construction as well as those governing the provision of new areas of habitat are set out in the Landscape and Ecological Management Plan (LEMP), forming Appendix D to the EMP [REP6-010]. The LEMP, via the EMP, is secured through Requirement 3 of the dDCO. In addition, a scheme of landscaping is required to be submitted under Requirement 5, with subsequent implementation and maintenance secured under Requirement 6. A failsafe to provide mitigation for any unidentified protected species encountered during construction is set out in Requirement 10.

The Position of Interested Parties

5.3.19. A number of representations were received raising the issue of biodiversity, ecology and the natural world. The main issues raised include the following:

- Natural England (NE) raised concern regarding mitigation and compensation measures, including the disapplication of sections within the Wildlife and Countryside Act 1981 [RR-080].
- NT questioned the calculation of biodiversity net gain and the potential for increased recreational pressure affecting the quality of habitats within the SSSI [RR-079].
- Gloucestershire Wildlife Trust (GWT) raised increased recreational pressure on existing assets by virtue of improved access for a variety of users [RR-042].
- The Forestry Commission [RR-038] and the Woodland Trust [RR-105] highlighted the impacts on ancient woodland and veteran trees.
- The GWT [RR-042], Rhianna Drury [RR-092] and Elizabeth Gaffer [RR-033] (amongst others) commented on irreversible damage to the SSSI with a net loss of habitat.
- Alexander and Angell Ltd questioned the efficacy of using its land to provide calcareous grassland [REP3-026] whilst Stephen Mendel [REP3-069], Ian Medlock [REP3-045] and Alison Besterman [REP3-027] highlighted concerns with the environmental mitigation strategy and land take for it.
- Stephen Mendel raised impacts on a beech woodland within land under his ownership [EV-029].
- David John Allen Field (and others) raised issues about private hedge loss and maintenance [RR-026].
- Mr R Goodwin raised concern regarding loss of rare birds, wildflowers and countryside [RR-075].
- Jonathan Baker voiced support for the green bridges and the enhancements on the old A417 route [RR-056].

5.3.20. A number of parties concluded Statements of Common Ground (SoCG) at the end of the Examination regarding biodiversity matters including the NT, NE, the Joint Councils and the GWT. These SoCGs are relied upon for identifying outstanding matters in the report below.

ExA Considerations

5.3.21. The main issues in dispute are:

- the effects of the Proposed Development upon SSSIs, both from construction and operation phases;
- the extent of effects on ancient woodland and the compensation secured;
- the extent and deliverability of environmental mitigation; and
- the effect upon nature conservation interests in the locality.

Effects on Cotswold Beechwoods Special Area of Conservation

5.3.22. Both the Applicant and NE were content that there would not be any direct effects of the Proposed Development upon the SAC [REP3-005].

5.3.23. More detailed considerations and conclusions are set out in Chapter 6 of this Report and the RIES [PD-019].

Effects on Crickley Hill and Barrow Wake SSSI

Construction Effects

5.3.24. Position statements were produced by the NT [REP6-034], NE [REP6-037] and the GWT [REP6-029] setting out the concerns of each regarding construction phase and operation phase effects. Common to all three were no remaining significant concerns regarding construction, following the Applicant's programme of mitigation stipulated in the LEMP [APP-321] forming part of the EMP [REP6-010]. This is the confirmed position within the IPs' SoCGs with the Applicant.

5.3.25. However, it is noted that the GWT maintained concerns up to the end of the Examination regarding the efficacy of mitigation, particularly that any habitat created would take a long time to establish and may not even be successful at the rate the Applicant predicts [REP9-017].

5.3.26. We note the Applicant's willingness and commitments in the EMP to manage and monitor the provision of habitat areas including calcareous grassland and broadleaved woodland, though consider a 100% success rate of establishing such habitat to be unrealistic, given the difficulties we were informed about during the Examination by the GWT and the comparative success on other DCO schemes that have been built-out [REP1-064], [REP1-065]. We consider that, whilst construction stage effects may be adequately mitigated to the extent they can be, the predicted moderate adverse effect on the SSSI through the direct loss of some 1,400m^2 of existing habitat goes against the emerging culture of environmental protection. We share the concerns of the GWT about the

immediate loss of the SSSI habitat and the subsequent longer timescale to attempt to recreate the same environmental conditions elsewhere.

5.3.27. Nonetheless, we are mindful that the SoCG with GWT, in particular, confirms agreement that the Proposed Development is needed and that the route chosen described as option 30 is the preferred surface route [REP9-017]. The loss of SSSI land is, therefore, an inevitable consequence of the route alignment.

5.3.28. NE also retained concerns at the end of the Examination regarding the provision of a new roundabout at the southern end of the Barrow Wake SSSI as it would require land to be taken from the SSSI and would not represent a measure to ensure conservation of the site [REP9-014]. The Applicant retained the roundabout and its initial designed layout at the close of the Examination, stating that this aspect of the Proposed Development would not result in the loss of any calcareous grassland, which is the main qualifying feature of the Barrow Wake SSSI.

5.3.29. From the site inspection undertaken [EV-041], we concur with the Applicant's assessment of the type of vegetation that is present where the roundabout would be constructed and consider that compensatory habitat of a similar ilk would not be difficult to replicate elsewhere within the wider mitigation strategy [APP-321]. There would however be a temporary degradation of the habitat around the margins of the Barrow Wake SSSI as a result of the roundabout being constructed, affecting its ecological balance.

Operation Effects

5.3.30. The Position Statements set out that the main concern once the Proposed Development becomes operational related to increased recreational pressure upon the SSSI causing detriment to the habitats therein [REP6-029], [REP6-034], [REP6-037]. The Joint Councils expressed neutrality on such issues [REP6-040].

5.3.31. The Applicant's case comprised several documents over the course of the Examination. Paragraphs 5.3.32 to 5.3.36 below set out the core points of the Applicant's arguments.

5.3.32. Existing Crickley Hill users who currently park at the country park, but who would instead park at Barrow Wake and access the country park via the Cotswold Way crossing to avoid parking charges, would not represent any increase in recreational pressure on the SSSI at Crickley Hill.

5.3.33. Visitors for whom free parking is a high priority would have the new option of parking provision associated with Air Balloon Way adjacent to the Golden Heart Pub. This location is over 3km in walking distance from Crickley Hill and is therefore likely to reduce the amount of time such visitors spend within the SSSI.

5.3.34. Provision of the Cotswold Way crossing may result in additional visits to Crickley Hill from visitors parking at Barrow Wake, but this does not mean that there must be increased recreational pressure on the SSSI.

This is because any increase is likely to be outweighed by existing visitors spending time away from the country park, facilitated by the Cotswold Way crossing, as described within National Highways response [REP2-012].

5.3.35. The amount of recreational pressure upon the SSSI is not only related to the absolute number of visitors, but also the amount of time that those visitors spend within the site. For visitors parking within the country park, the alternative and improved recreational provision within the Proposed Development (including the Cotswold Way crossing, the Air Balloon Way, Gloucestershire Way crossing and the connected other Public Rights of Way (PRoW) improvements) provides a range of options for attractive circular routes of different lengths that would be likely to encourage a majority of country park visitors to venture beyond the SSSI boundaries and spend more of their visit outside of the SSSI, thus reducing recreational pressure upon the SSSI habitats.

5.3.36. The Applicant considers that the perceived impacts of the Proposed Development on increasing visitor numbers to the area would not exacerbate the existing and ongoing management issues faced by the NT [REP7-005]. The Applicant does not therefore accept that the Proposed Development would increase visitor pressure to a level that would create a significant impact on the SSSI units and/ or its existing management regimes. The Applicant states that it is very unlikely that the Proposed Development by virtue of its nature and identified impacts as set out in the dDCO application documents would have a material impact on the baseline figure of 250,000 visitors annually. The Applicant sets out a number of measures as mitigation for reducing effects upon the SSSI and advocates these are robust ([REP7-005], paragraph 2.5.8).

5.3.37. The matter remained outstanding at the close of the Examination with GWT maintaining that Strategic Access Management and Monitoring provisions should be adopted in this instance [REP6-029], to mitigate and monitor the impact of recreational pressure.

5.3.38. We consider that, with the current lack of a connecting route, walkers that park at Barrow Wake are unlikely to cross the A417 to venture into Crickley Hill and vice versa. They are destinations in their own right rather than a single combined destination, which would effectively become the case with the crossing over the A417. In essence, there would be no deterrent for walkers from interacting with both units of the SSSI on a single visit. On this base level, we consider there is potential for greater walking activity across the whole of the SSSI in general as existing visitors would have greater accessibility to all areas.

5.3.39. Whilst the Applicant stresses that the repurposing of the A417 and enhancement of the PRoW thereon would serve to draw visitors away from the SSSI, we note that the destination feature in the locality for both Barrow Wake and Crickley Hill are the vast panoramic views to the west. It is unlikely that visitors on the newly provided recreational area would not wish to see the elevated views of the wider landscape, which are within the SSSI units.

5.3.40. We note the national importance of the Cotswold Way National Trail (CWNT) and that it suffers from severance at the current time. The trail would greatly benefit from being reconnected via the proposed bridge link between the SSSI units. Whether this, in itself, would generate higher numbers of visitors is conjecture to an extent, although we consider the potential would be higher.

5.3.41. We note there is a fine balance between improving rights of way, improving and promoting visitor experiences and protecting the flora and fauna of internationally important habitats. There is likely to be an increase in recreational activity as a result of the Proposed Development through the greater accessibility provided. However, we do not consider that the Proposed Development would result in the attraction of substantially or significantly larger numbers of visitors to the area in its own right, and not to the volumes or scale that would adversely increase the pressure on the existing natural resource.

5.3.42. We also note that the Applicant has suggested a package of measures (section 2.5 [REP7-005]) to limit the effects of any recreational pressure and these are contained in the EMP including PH1, PH6, BD49, BD53 and BD63. These measures should minimise the likelihood of temporary closures and fencing being erected to allow areas of the SSSI to recover, as is the stated approach from the NT [REP6-034].

Potential new SSSI in the Order Limits

5.3.43. Part of the environmental mitigation and enhancement strategy adopted by the Applicant includes the provision of calcareous grassland as a priority habitat. A proportion of this habitat would be created on land adjacent to and contiguous with the Barrow Wake unit of the SSSI and is likely, in the future, to develop characteristics in common with that SSSI.

5.3.44. We note that to deliver the calcareous grassland, the subject land would need to be compulsorily acquired. This matter is dealt with separately in Chapter 8 of this Report.

5.3.45. Notwithstanding concerns about the efficacy of the mitigation, there were no dissenting voices from IPs about the intention to provide calcareous grassland habitat in this location. Indeed, such provision was supported as a biodiversity enhancement. We consider the provision of calcareous grassland, with the potential for this to become an effective extension to the SSSI, to be a benefit of the Proposed Development, particularly for fauna and flora that thrive in that sort of environment.

5.3.46. We note that the Applicant is seeking disapplication of provisions within the Wildlife and Countryside Act 1981 (WACA 1981) that would allow it to work within any future potentially SSSI without recourse to NE. That matter is discussed in Chapter 9 of this Report.

5.3.47. Given the national shift towards greater environmental protection and biodiversity enhancement, we are encouraged by the Applicant's proposed environmental measures in this regard and that such measures are supported by IPs.

Ancient Woodland and Veteran Trees

5.3.48. It was confirmed early in the Examination that Emma's Grove did not constitute ancient woodland, and that the focus was, therefore, on Ullen Wood [REP1-009]. Since no other IPs raised a challenge to the Applicant's assessment and conclusions on Emma's Grove, we accept the position of the Applicant on this matter.

5.3.49. For Ullen Wood, air quality modelling shows a maximum increase in nitrogen deposition within the ancient woodland of 1.08kg N/ha/yr, which is a 10.8% increase against the lower critical load for broadleaved woodland at 10kg N/ha/yr. As a consequence, 2.1ha of the ancient semi-natural woodland would be subject to a level of increased nitrogen deposition from vehicle emissions that would be likely to result in a reduction in species richness and/ or changes to species composition of the habitat. The Applicant submitted that there are no feasible mitigation options to reduce the impacts of nitrogen deposition upon the ancient woodland [APP-039]. The proposed compensation forms a 6ha area of broadleaved woodland and scrub to be created to the east/ south-east of the Ullen Wood.

5.3.50. NE originally considered that the Proposed Development resulted in the loss of ancient woodland habitat [REP1-099], but later accepted that the term degradation was appropriate [EV-033]. NE acknowledged that the Proposed Development impacts were unavoidable with the chosen route, that mitigation is not possible, and therefore accepted the principle of compensation [REP1-099]. NE confirmed [REP3-005] that the compensation proposed in Annex D to the EMP (paragraph xlvii [APP-321]) would be appropriate in the circumstances.

5.3.51. The Woodland Trust [RR-105] and the GWT [REP1-065] expressed concern that only a 15m buffer was being provided between the edge of the construction works corridor and the edge of the ancient woodland, and that there would be encroachment within this 15m buffer at one specific point [APP-039]. The GWT requested that further measures to avoid airborne pollutants degrading the irreplaceable habitat should be adopted [REP3-040].

5.3.52. The Applicant provided a new commitment in the REAC (AQ14 and BD67 [REP4-035]) to monitor air quality and take remedial action if poorer air quality was detected but maintained that the route of the amended A417/ A436 could not be altered. The Applicant stated a greater buffer between the road and Ullen Wood would conflict with other ecological constraints, such as Emma's Grove woodland, as would any other alterations to the route in this location [REP2-012].

5.3.53. Table 8-10 in ES Chapter 8 [APP-039] lists those veteran trees within the Order Limits with Table 8-17 setting out those impacted by construction. The Proposed Development would result in the loss of three veteran trees due to their location within the proposed road alignment, thus deemed by the Applicant as unavoidable ([APP-039], paragraph 8.10.59). Another veteran beech would be subject to an increased level of nitrogen

deposition that would erode this feature. Mitigation would focus on relieving other threats and pressures to this veteran beech tree, with the aim of ensuring that the overall condition/ longevity of the tree is not affected.

5.3.54. Further evidence became available late in the Examination that a further veteran tree would be impacted by the Proposed Development at the premises of Flyup Limited [REP8-029]. The mitigation proposed was set out at the last deadline in the Examination ([REP9-026], section 4.4), so there was no opportunity for consultation or scrutiny upon the efficacy of the mitigation within the Examination Timetable. We do however note the objection from the Woodland Trust [REP9-033].

5.3.55. We note that the NPPF states that developments that result in the loss of irreplaceable habitats should be refused unless there are wholly exceptional reasons such as where the public benefit would clearly outweigh the loss or deterioration of habitat. The Proposed Development may have great public benefit, particularly for improving highway safety and saving human lives, but a significant area of ancient woodland amounting to 2.1ha would be degraded. The mitigation proposed, being the planting of a further area of woodland away from the Proposed Development, would not immediately make up for the degradation of the ancient woodland resource.

5.3.56. Furthermore, we consider that, whilst the loss of three veteran trees may be unavoidable due to alignment of the Proposed Development, the impacts upon the two other veteran trees identified are objectionable. The veteran tree at Flyup Limited would be central to the alignment of the new access track (Figure 4-1, [REP9-026]). Whilst the Applicant has stated there would be a 2.42m offset from the trunk of the veteran tree to the realigned track, this falls short of the 15m buffer recommended by the Woodland Trust [REP9-033]. Effects are therefore potentially adverse, and we have no substantive information to demonstrate otherwise.

5.3.57. The adverse effects on ancient woodland and veteran trees therefore weigh against the Proposed Development being granted.

Biodiversity Net Gain (BNG) and Essential Mitigation

5.3.58. The Applicant's base position was that the Environment Act 2021 commitments to BNG do not apply to this NSIP and there is no mandatory requirement to achieve this at this time [REP1-009]. The calculation within the ES predicts a net loss of biodiversity by 26.5% once mitigation and compensatory habitat is provided, although the Applicant notes that providing calcareous grassland scores low on the biodiversity metric [REP1-015]. A large proportion of the environmental mitigation proposed relies upon the provision of calcareous grassland, with similar provision of broadleaved woodland.

5.3.59. The NT, NE and the GWT advocated that more could be done to contribute towards BNG [REP1-099]. The Applicant maintained that all

essential mitigation relative to the Proposed Development had been incorporated into the Proposed Development's design and the BNG figure is low only because calcareous grassland itself scores low in the metric [REP3-011].

5.3.60. At Compulsory Acquisition Hearing (CAH) 1, Alexander and Angell Ltd challenged the acquisition of its land to provide calcareous grassland on the basis that the land consists of a clay soil and is thus unsuitable to support such habitat. The Applicant responded that the feasibility of importing limestone to create a calcareous substrate would be determined following further ground investigation post-DCO consent and that, if it was not feasible, wildflower rich grassland would be provided instead [REP3-010].

5.3.61. We queried this at ISH4 [EV-040] and the Applicant's response [REP5-009] was to confirm that the situation regarding the need for imported material was unique to the Alexander and Angell Ltd land only. The Applicant stated that delivering wildflower grassland would still deliver and fulfil the compensation requirement, which was primarily aimed at mitigation of bat habitat and foraging areas. NE stated a preference for wildflower grassland, though the Applicant's scheme-led design remains to provide calcareous grassland as a principle [REP6-035].

5.3.62. We note a significant proportion of the Applicant's environmental mitigation strategy involves the provision of new calcareous grassland and new woodland. Whilst the woodland is achievable, we are concerned about the element of risk, identified by GWT, in relying on the provision of unstable habitat that is hard to replicate. Evidence has been provided to the Examination to demonstrate it is a robust solution [REP1-009] that has examples of effectiveness both in the UK and worldwide, but whether 100% provision can be delivered is highly questionable.

5.3.63. We acknowledge that the provisions of the Environment Act 2021 that make BNG mandatory are not in effect for NSIPs for some time. However, the net loss of biodiversity is a concern that we consider both regrettable but unavoidable. Nonetheless, we consider that sufficient management, maintenance and monitoring processes are secured in the EMP to guide the delivery of the new and replacement habitats.

Green Bridges

5.3.64. We questioned the efficacy of the three green bridges in the Proposed Development design (questions 1.3.4 and 1.3.5, [PD-008]). NE confirmed that, subject to appropriate species-mix and monitoring, it was possible for calcareous grassland to be provided on a bridge environment and that the green bridges of the Gloucestershire Way crossing, Stockwell crossing, Cowley crossing, and the CWNT crossing were useful in reconnecting habitats [REP1-100].

5.3.65. GWT [REP1-064] raised concern that the bridges, whilst possible to support habitats, formed part of a wider high risk environmental strategy to create calcareous grassland that was not likely to have a 100%

success rate of establishment. The Applicant responded that wildlife crossings are a robust solution to protect, by reducing collision risk and habitat fragmentation, and provide for biodiversity, through the planting of the bridge deck which, in itself, would provide habitat for a range of species including invertebrates, reptiles and small mammals as well as bats and badgers [REP1-009]. Monitoring of grasslands would be secured by commitment BD45 within the EMP [REP6-010]. The detail and duration of management and monitoring plans would be developed for the final iteration of the EMP and Annex D LEMP [APP-321] towards the end of the construction of the authorised development.

5.3.66. IPs raised concern about the interface between human activity and the natural environment on bridges that are narrow, shared spaces [REP3-031 and REP3-066]. The Applicant responded to state that the design of Cowley and Stockwell overbridges was determined by taking into account the width of the vehicles that would be using the bridges (question 2.3.9, [REP6-016]). Hedgerow planting forms a dedicated part of the bridges, and the establishment, maintenance and ongoing monitoring aspects have been taken into account during the design process. In terms of the CWNT crossing, the Applicant confirmed that the overbridge would be suitable and available for NT to move its cattle stock across as required [REP2-012 and REP1-018].

5.3.67. In a similar vein, the Applicant clarified that the proposed Byway Open to All Traffic (BOAT) across Shab Hill would not have a negative interface with the natural environment, and that none of the proposed changes to the PRoW network are considered to conflict with the function of essential mitigation within new wildlife areas (question 2.3.1, [REP6-015]).

5.3.68. We are satisfied that the case for providing dual-purpose bridges serving both the natural environment and human needs is robust and that these elements of mitigation, forming part of a wider upgrading of the PRoW network, are acceptable.

Protected Species

5.3.69. NE initially raised projected losses in both habitat extent and continuity give rise to the need for suitable avoidance and mitigation measures (including relevant licence applications) together with compensation and enhancement [RR-080]. Nonetheless, at D1, NE confirmed that it had no outstanding concerns in relation to impacts on protected species, including bats, barn owls, great crested newts, otters, Roman snails, badgers, birds, invertebrates and fish [REP1-099]. The Applicant provided copies of letters of no impediment secured from NE with regards to bats, badgers and Roman snails at D1 [REP1-012].

5.3.70. NE also confirmed that it is satisfied that the proposed translocation of reptiles is being approached appropriately and that all other mitigation is supported (question 1.3.29 [PD-008 and REP1-099].

5.3.71. There were no substantive arguments submitted to the Examination to demonstrate the Applicant's approach to identifying and mitigating for protected species was incorrect or inadequate. We therefore accept the position reached between the Applicant and NE in this regard [REP9-014].

Aquatic Wildlife

5.3.72. ES Chapter 8 predicts permanent and irreversible damage to tuffaceous vegetation within watercourses as a result of the Proposed Development, amounting to a large significant adverse residual effect [APP-039]. Compensation through offsite enhancement measures is proposed, which the Applicant submits is a moderate beneficial effect [REP6-015]. Compensation sites outside of the Order Limits, being secured through private agreements, alongside tufa management plans are being pursued by the Applicant. In the unlikely event those sites are not forthcoming, the EMP commitment BD9 is sufficiently broad to enable the Applicant to identify and deliver an alternative site, in consultation with the relevant stakeholders. The Applicant sought to provide reassurance at the end of the Examination that the compensation sites were secure (section 4.2, [REP9-026]).

5.3.73. GWT confirmed that compensatory habitat secured via the EMP would be acceptable and that measures to ensure that adverse biodiversity impacts of the canalisation are avoided, mitigated and compensated would come forward at detailed design [REP6-028 and REP7-015]. NE confirmed it was satisfied with proposals where tuffaceous vegetation, protected under the Habitats Regulations, was impacted and that there were no comments to make at this stage [REP6-035].

5.3.74. With regards aquatic life, NE requested that the European eel was screened into the HRA screening matrices. NE requested that the Severn Estuary Ramsar was taken forward to Stage 2 to assess for adverse effects on integrity of the site due to new information which raised concerns that the Proposed Development may have an effect on European eel [REP1-100]. These were provided at D3 [REP3-015] and NE confirmed that there was no objection sustained on this ground [REP6-035] and that the Proposed Development provides a good opportunity to improve the Norman's Brook for eel and other species by removing barriers and restoring the watercourse to one with more natural hydrological functions, including flows and habitats [REP1-100].

5.3.75. In relation to fish in general, NE confirmed that measure BD28 within the EMP would ensure the sensitive timing of works to minimise disturbance, injury and mortality of species within Norman's Brook [REP1-100]. The relocation of fish to an unaffected reach of the brook would resolve any issues of noise and vibration effects. We note that this matter was agreed early on with the Environment Agency (EA) [REP3-005], that further detail would come forward within the EMP (point 15.1, [REP9-017]) and that no objections were remaining from statutory bodies with regards the impacts on fish at the close of the Examination.

Conclusions

5.3.76. The Proposed Development would result in:

- permanent and irreversible damage to tuffaceous vegetation;
- permanent and irreversible degradation of ancient woodland and veteran trees;
- permanent and irreversible loss of SSSI habitat; and
- potentially higher footfall and recreational pressure within the SSSI.

5.3.77. The Applicant acknowledges that, due to the route chosen and the nature of the Proposed Development, such losses and impacts are unavoidable, require mitigation and in some instances require compensation.

5.3.78. Compensation would be provided for the loss of tuffaceous vegetation, for which statutory bodies are content with the approach.

5.3.79. Mitigation would be provided for other habitat losses through the planting of additional broadleaved woodland adjacent to Ullen Wood, the formation of calcareous grassland across a wide area within the Order Limits with a proportion adjacent to the SSSI(s), and the creation of green bridges to reduce severance impacts between habitat types and areas. These measures would not mitigate the immediate loss of the internationally significant natural resources and would take a long time to develop into the quality of the existing habitat but would serve to provide new future habitat.

5.3.80. In accordance with the NPSNN and measured against section 5.3, the Applicant has identified the relevant environmental resources and quantified the impacts upon them. Harm cannot be avoided with the route chosen for this project. The Applicant has set out mitigation and, as a last resort, established means of compensation for habitat loss. Opportunities for enhancement have been maximised in our opinion.

5.3.81. When measured against paragraph 180 of the NPPF, which is important and relevant as relating to internationally recognised environment resources, the significant loss of established and matured habitat is a substantial impact. The mitigation and compensation for SSSI, whilst welcomed, would not produce the quality of habitat required for many years to come, reducing the weight that can be attributed to it.

5.3.82. When measured against the NPSNN paragraphs 5.25, 5.32 and 5.35, significant adverse harms cannot be avoided resulting in the loss of land and features within a SSSI and the deterioration, or indeed some loss, of irreplaceable habitats. Mitigation is necessary and compensation is proposed as a last resort. These harms weigh significantly and heavily against the Order being made.

5.3.83. The NPSNN is clear that the SoS should refuse consent where harm to the habitats or species and their habitats would result, unless the benefits of the development (including need) clearly outweigh that harm.

5.3.84. The Proposed Development comes with numerous benefits including improvements to road safety thus preserving human life, significant monetised benefits in journey time savings and delay reduction, reconnections of a severed PRoW network and an environmental mitigation package that involves replacement habitat that exceeds the amount being lost, albeit this does not achieve BNG and would take time to establish. These are significant benefits that are attributed to the Proposed Development and there is a recognised long-standing need for the project.

5.3.85. Given the national drive for the conservation, enhancement and growth of biodiversity, we are of the opinion that equal weight should be given to the harms and the benefits from the Proposed Development. Neither the harms nor the benefits clearly outweigh each other.

5.3.86. Overall, we conclude:

- the Proposed Development would cause significant harm to SSSI/ SSSIs within the Order Limits;
- the Proposed Development would cause loss and deterioration of irreplaceable habitat;
- a mitigation strategy, coupled with compensation, would provide increases in biodiversity in the future, though would not achieve BNG; and
- the requirement of the NPSNN and the NPPF is that harms should be clearly outweighed by the benefits and this balance is undertaken in the planning balance in Chapter 7.

5.4. CULTURAL HERITAGE

Introduction

5.4.1. This section considers the effect of the Proposed Development on cultural heritage. It includes consideration of matters related to designated and non-designated heritage assets, which in this case primarily comprise scheduled monuments, listed buildings, buried archaeological remains (including paleo-environmental material), historic landscape areas, conservation areas, registered parks and gardens and historic hedgerows and boundaries.

Policy

5.4.2. Paragraph 5.121 in 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.*"

5.4.3. 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."

5.4.4. 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."*

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

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

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

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

5.4.9. Paragraphs 5.133 and 5.134 deal with the approaches that should be undertaken depending on the level of harm. The former paragraph states

"*… where substantial harm or total loss of significance of a designated heritage asset, the SoS should refuse consent unless it can be demonstrated that the substantial harm or loss of significance is necessary in order to deliver substantial public benefits that outweigh that loss or harm*", or four specific criteria collectively apply. The latter paragraph states "*where the proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use*".

5.4.10. 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.*"

5.4.11. As noted above (section 3.8), the NPPF is likely to be an important and relevant consideration in decisions on NSIPs, but only to the extent that its policies are relevant to the project. The accompanying Planning Practice Guidance (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 NPPF.

5.4.12. The NPPF 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 189 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.

5.4.13. The NPPF sets out at paragraphs 199 to 208 matters when considering potential impacts and which includes, in very general terms relevant to this application, that great weight should be given to the asset's conservation (199), any harm should require clear and convincing justification (200) and where a proposal will lead to less than substantial harm this harm should be weighed against the public benefits of the proposal (202).

5.4.14. The NPPF also deals with non-designated heritage assets, at paragraph 203, 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.*"

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

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

5.4.17. As these matters relate to the consideration on significance, we consider that these are an appropriate way in which to consider the heritage aspects of the Proposed Development.

5.4.18. The Proposed Development is located with an area covered by a number of local development plans which contain various policies relevant to the consideration of the historic environment. These include policy SD8 in the Gloucestershire, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031 (adopted December 2017), Policies EN1, 10 and 12 in the Cotswold District Local Plan 2011 -2031, and policies HER2, 4 and 5 in the Tewkesbury Borough Local Plan 2011-2031. The Proposed Development also falls within the Cotswolds Area of Outstanding Natural Beauty (AONB) which is covered by the Cotswolds Area of Outstanding Natural Beauty Management Plan 2018 – 2023, that includes policy CE6 on the historic environment and cultural heritage. These policies generally require compliance with national policy and seek the conservation and preservation of designated and non-designated heritage assets.

The Case for the Applicant

5.4.19. The Applicant's assessment of cultural heritage is primarily contained within Chapter 6 (Cultural Heritage) of the ES [APP-037] and the associated figures and appendices. The Applicant notes that the assessment follows the methodology set out in the DMRB LA106 Cultural heritage assessment and LA104 Environmental assessment and monitoring. It is noted that whilst the chapter assesses impacts upon individual and groups of heritage resources that contribute to the AONB, impacts upon the AONB itself are assessed in ES Chapter 7 Landscape and Visual Effects [APP-038].

5.4.20. The study area, in respect of designated heritage assets, considered in the assessment comprises a buffer that extends 1km from the DCO boundary. One addition to this was made following the Applicant's site visit with Historic England (HE) and Gloucestershire County Council (GCC) when, although beyond 1km, the scheduled Leckhampton Camp and Tumulus was identified as potentially experiencing an effect as a result of the Proposed Development. Non-designated assets are considered within 300m of the DCO boundary.

5.4.21. The Applicant has identified the designated heritage assets that could be affected by the Proposed Development as:

- one designated asset within the study area, Emma's Grove, a Scheduled Monument (SM) containing a group of three round barrows;
- nine SMs, beyond the DCO boundary and within the study area (Coberley long barrow, Brimpsfield Castle, Brimpsfield Castle mound, Crickley Hill camp, Dryhill Roman villa, Moat and fishpond at Bentham Manor, Moated site and fishpond at Urrist Barn, 220m south-west of Yew Tree Farm, Crippets long barrow, 680m north-east of Dryhill Farm, two bowl barrows, known as Crippet's Wood round barrows, 560m and 590m north-east of Dryhill Farm);
- one SM that could be affected by the Proposed Development that lies outside of the study area (Leckhampton Camp and Tumulus);
- 50 listed buildings which are outside of the DCO boundary but within the study area (these comprise: two Grade I listed buildings - Church of St Michael and Church of St Mary, 1 Grade II* listed building - Dovecote circa 3m north of Bridge House, and 47 Grade II listed buildings);
- One registered park and garden (RPG) within the study area at the Grade II* listed Cowley Manor; and
- Two conservation areas, within the study area, at Cowley and Brimpsfield.

5.4.22. A full description and statement of value for each designated asset within the study area can be found in ES Appendix 6.1 Designated assets: value (sensitivity) [APP-340].

5.4.23. A further 255 non-designated assets are identified as being present within the study area, of which 116 (this is amended/ updated to 36 in the Updates and Errata [REP4-031]) are within the DCO boundary. Of these, 27 are sites recorded in the Gloucestershire Historic Environment Record (HER), and the others represent individual artefact find-spots recorded by the Portable Antiquities Scheme (PAS). The HER sites present relate to a range of periods, from prehistoric to mid-20th century, and include cropmarks, earthworks, a possible prehistoric barrow, remnants of medieval fields and trackways (hollow ways) and World War 2 military sites. Within the PAS record, finds of Roman copper coins predominate, although more unusual artefacts have also been found, including a Roman padlock bolt and a bronze and enamel brooch in the shape of a duck. The non-designated heritage assets are described in detail in ES Appendix 6.2 Archaeological Assessment [APP-341].

5.4.24. The Applicant provides a general description of historical development of human occupation and activity in the area running through various archaeological timescales at paragraphs 6.7.13 to 6.7.32. This includes some of the following:

5.4.25. The Applicant notes evidence of lower mid Palaeolithic human activity within the study area. The Applicant draws attention to the fact there is evidence that the study area was first domestically occupied during the Neolithic period with examples of defended settlements found at Crickley Hill and The Peak, north of Birdlip. It is also noted that the Gloucestershire landscape is also characterised with Bronze Age barrows

and although there are no barrows within the footprint of the Proposed Development, there are several within the study area. The development of the Crickley Hill Neolithic site continued into the Iron Age with the addition of a hill-top enclosure.

5.4.26. The Applicant confirms the major Roman military road, Ermine Street, linked the historic city of Gloucester (Colonia Glevum Nervensis) west of the study area, with Cirencester (Corinium Dobunnorum) to the south-west of the site in the 1st century AD. For much of its length the present day A417 follows the alignment of the Roman road, before deviating to the south of Stockwell and continuing its route through Birdlip towards Gloucester, directly south of the Proposed Development. It is further noted that the Gloucestershire landscape is scattered with Roman villas, including the 3rd – 5th century villa at Great Witcombe, within the study area.

5.4.27. The Applicant points out that there is no evidence within the study area of human activity in the early Medieval period, which is fitting with the overall trend across Gloucestershire of a decline in urban settlement with the end of Roman control.

5.4.28. Within the study area, the Applicant points to medieval evidence found on the northern slopes of Crickley Hill which were used for grazing by the people of the Brinkworth parish. Stockwell farm and north of Stockwell, the Grade II* listed parish church of Saint Giles, along with activity in the wider Cotswolds landscape such as at Brockworth provides further evidence of medieval occupation. The Applicant notes that the post-medieval period saw continued development of infrastructure within the study area, although it largely remained an agricultural landscape.

5.4.29. At the start of the 18th century there were ten houses at the settlement at Stockwell, however this was short-lived with most tenements noted as derelict by the end of the 18th century due to the enclosure of the surrounding open fields. By 1802 only the farmstead at Stockwell, which was rebuilt in the late 19th century, and a 17th century out-building remained. At Crickley Hill, quarrying and lime-burning took place from the 18th century into the early 19th century, creating the steep cliffs that now characterise the site.

5.4.30. In the 20th century it is highlighted that Gloucestershire was a key contributor to the war effort during World War 2. Brockworth in the west of the study area was a significant site with military aircraft industry factories and anti-aircraft defences. Within the study area at Shab Hill was a military radio station, elements of which survive today.

5.4.31. As part of the baseline the Applicant also makes reference to the Gloucestershire Historic Landscape Character assessment, which is taken as a foundation from which larger Historic Landscape Character Areas (HLCA) have been identified. The full findings of this assessment are set out in ES Appendix 6.3 Historic Landscape Characterisation [APP-342] and which divides the area up into 5 HLCAs.

5.4.32. A number of historic hedgerows and boundaries exist within the DCO boundary, and these are detailed in Appendix 6.2 of the ES [APP-341]. The Applicant identifies these as of regional importance in providing legibility to the historic landscape.

5.4.33. In terms of archaeology, the Applicant has undertaken a programme of trial trenching. The trenches were designed to target areas where geophysical survey had suggested the presence of archaeological remains, and areas where the geophysical survey suggested either no archaeological remains or features likely to be geological in origin. The Applicant notes that the trial trenching demonstrated a very high concordance between the geophysical survey results and the actual conditions on the ground. As a result, the Applicant has a high degree of confidence that the archaeological potential within the DCO boundary is understood to the degree required for an appropriate impact assessment to be carried out, and for comprehensive mitigation to be designed.

Assessment of likely significant effects

5.4.34. The Applicant has identified that the construction of the Proposed Development has the potential for adverse impacts upon cultural heritage including:

- partial or total removal of heritage resources, including archaeological remains, within the scheme footprint;
- compaction of archaeological deposits by construction traffic and structures;
- temporary impacts upon the settings of heritage resources;
- permanent impacts upon the setting of heritage resources;
- changes to key views and sight lines; and
- impacts to paleo-environmental deposits as a result of hydrological changes.

5.4.35. Operational impacts resulting from the Proposed Development have been identified as:

- changes to the settings of monuments, and
- changes to key views and sight lines.

5.4.36. The permanent construction impacts on designated heritage assets are identified in Tables 6-6 and 6-7 of the ES. Of the eleven SMs considered the Applicant identifies the Proposed Development would have a neutral significance of effect on four. There is a slight adverse significance of effect on six (Coberley long barrow, Crikley Hill Camp, Dryhill Roman Villa, Crippets long Barrow, two bowl barrows (known as Crippets wood round barrows), and Leckhampton Camp and Tumulus), however this is considered not significant in ES terms. The Applicant concludes these are predominantly affected by the Proposed Development which would represent a modern alteration to the wider rural landscape within which they sit and would change elements of their setting that contribute to their significance. This change would affect the ability to understand the assets in their wider context, and as a consequence their significance would be diminished.

5.4.37. In respect of the one remaining SM, the three bowl barrows known as Emma's Grove barrows, the Applicant concludes there would be a moderate adverse significance of effect which is a significant effect in ES terms. This results from the Proposed Development passing approximately 50m to the north of these barrows; the Proposed Development would alter the immediate setting of the barrows, although this would be ameliorated slightly by the removal of the existing A417 immediately to the west. The Proposed Development would represent a modern alteration to the wider rural landscape within which these barrows sit. This wider rural setting, which contains a number of other prehistoric funerary monuments, provides context to the barrow, of which the concept of movement through the landscape is a key aspect. The Proposed Development would create a physical barrier in the landscape that would be highly intrusive in the setting of the barrows and as a result adversely affect the significance of the resource.

5.4.38. Table 6-7 in the ES sets out the details of the effects on listed buildings. Of the 50 listed buildings, 49 are identified as experiencing a neutral significance of effect, primarily based on the conclusion that the Proposed Development would not alter the setting of these assets, and as a result there would be no impacts upon their significance. In terms of Shab Hill Farm, a Grade II listed building, it is concluded that although surrounded by trees, the setting of the building would be altered by the proximity of the Shab Hill junction to the east and the physical alteration of the historic access to the resource to accommodate the provision of a new connecting road from Shab Hill junction to Birdlip. The barn would be partially removed from its original landscape and fields. The Proposed Development would result in a partial loss of key characteristics of setting of the resource and would be detrimental to its significance. The Proposed Development is highly intrusive in the setting and as a result would adversely affect the significance of the asset.

5.4.39. Cowley Manor RPG lies to the east of the Proposed Development. The Applicant concludes that the RPG would be screened from the Proposed Development by topography and existing mature vegetation, and as such its setting would not alter as a result of either the construction or operation of the Proposed Development. This would result in a magnitude of impact of no change, and the resultant significance of effect on the RPG would therefore be neutral.

5.4.40. The Applicant has identified two conservation areas at Cowley (coinciding with the Cowley Manor RPG), and at Brimpsfield. The Applicant concludes that the Proposed Development would not be visible from either of the conservation areas, and neither of their settings would be altered. This would therefore result in a magnitude of change of no change, and the resultant significance of effect would therefore be neutral on both conservation areas.

5.4.41. In terms of non-designated heritage assets, the Applicant concludes that of the 36 that lie within the DCO boundary, 18 would be directly affected by the Proposed Development, seven of which are dealt with as buried archaeological remains below. Of the remaining 11 the Applicant records

a slight adverse significance of effect as the Proposed Development would result in the total loss of a low value resource, mitigated by preservation by record. This also includes the Air Balloon Public House but as a medium value asset the total loss would be mitigated by preservation by record by means of photographic and measured survey.

5.4.42. Of the five HCLAs identified, the Applicant concludes the Proposed Development would have a negligible effect on four, resulting in a neutral significance of effect. It is only in HLCA3: Agricultural landscape around Brimpsfield and Birdlip where the Proposed Development would have a moderate adverse effect resulting in a slight adverse significance of effect, according to the Applicant.

5.4.43. In terms of buried archaeological remains the Applicant's geophysical survey identified a number of areas of interest which were then further investigated with trial trenching. For the most part these were identified as of medium value and comprising settlement sites, prehistoric and Romano-British boundaries and furrows relating to post-Medieval field systems. Three areas had initially been identified as potentially including resources of schedulable quality and included buried cremated human remains, a settlement (broadly Romano-British in date) but with no substantial stone-built structures and a potential Romano-British roadside settlement where the trial trenching confirmed the features were associated with the settlement discovered during the construction of the existing A417. However, following the trial trenching these were concluded to be of medium value.

5.4.44. The Applicant concludes that overall, the Proposed Development would result in the total loss of any buried archaeological remains that lie entirely within its footprint, which would be a major magnitude of impact and would result in the partial loss of any buried archaeological remains that extend beyond its footprint which would also result in a major magnitude of impact. These would result in slight adverse significance of effects when mitigation has been applied.

5.4.45. The Applicant also notes that ES Chapter 13 (Road Drainage and the Water Environment) [APP-044] has concluded that there are no areas of the scheme in which waterlogged deposits would be adversely affected, and therefore the significance of effect of the Proposed Development on preserved paleo-environmental material would be neutral.

Requirements

5.4.46. Requirement 1 includes a definition of the 'DAMS and OWSI' as the Detailed Archaeological Mitigation Strategy and the Overarching Written Schemes of Investigation and identifies it as a document to be certified by the SoS. The DAMS and OWSI is included in Schedule 10 of the rDCO as a certified document.

5.4.47. Requirement 3 requires the preparation of an Environmental Management Plan (Construction Phase) which must be substantially in accordance with the Environmental Management Plan (design stage),

which is a certified document in Schedule 9 of the rDCO. The EMP (design stage) includes a REAC including matters related to cultural heritage and which secure various works and actions in accordance with the DAMS/ OWSI.

5.4.48. Requirement 9 requires the preparation of site-specific written schemes of investigation in accordance with DAMS/ OWSI and secures a programme of archaeological reporting, post-excavation and publication as required in the DAMS/ OWSI. Further, it addresses not previously identified remains requiring retention in situ or appropriate mitigation as set out in the DAMS/ OWSI.

The Position of Interested Parties

5.4.49. A number of substantive representations were received from IPs including various statutory parties, Council for British Archaeology [REP1-032], and George Lambrick [REP6-043], that raised detailed comments on the assessment process and other matters in relation to cultural heritage. Comments were also received from a number of individual IPs. Examples of the main issues raised include the following:

- The Joint Councils, HE, Cotswold Conservation Board (CCB), NT, and George Lambrick, amongst others suggested the Applicant should adopt a holistic approach to overall assessment including Historic Landscape Characterisation (HLC) [REP1-029, REP1-030, REP1-031, REP1-097, REP1-133, REP1-135, REP6-043 and RR-047].
- HE, the Joint Councils, CCB, NT, George Lambrick and others were concerned the Applicant had undertaken an inadequate assessment of the impact on archaeology [REP1-029, REP1-030, REP1-031, REP1-097, REP1-133, REP1-135, REP6-043 and RR-047].
- The effect of the Proposed Development on Crickley Hill Camp and its setting was raised by NT and Council for British Archaeology amongst others [REP1-032, REP1-098 and RR-047].
- Effect of the Proposed Development on Emma's Grove, a SM was raised by HE, NT and others [RR-047 and REP1-098].
- Loss of Air Balloon public house was raised by Gloucestershire Ramblers, Council for British Archaeology and George Lambrick amongst others [REP1-032, REP1-149, REP1-150 and REP6-043].
- Adam Dawson [REP1-016] and Andrew Dawson [REP1-020] amongst others raised a general concern regarding the effect of the Proposed Development on heritage.

5.4.50. The Applicant concluded SoCGs with a number of relevant bodies including the Joint Councils [REP9-012], HE [REP9-015], CCB [REP9-016] and NT [REP9-018], which are important and relevant matters in the consideration of this issue. Matters in respect of the historic environment were also considered at Issue Specific Hearing 2 and IPs written summaries of oral representations were provided at D3. These included, amongst others, representations from Richard Hamilton [REP3-062] and HE [REP3-043].

5.4.51. The issues raised and that were outstanding at the end of the Examination included:

- concerns regarding the overall assessment process, that it did not follow a holistic approach, including concerns that the approach taken to HLC was too broad;
- concerns in relation to the approach to and assessment of buried remains with potential for effects on not previously identified remains during the construction phase arising;
- a general concern at the loss of heritage and adverse effect on archaeology;
- potential effects on Cowley conservation area and historic features in the village, including 'the old bridge';
- the effect of the Proposed Development on Emma's Grove barrows, which is on the at-risk register, and its future maintenance and protection;
- the effect of the Proposed Development on the setting of Crickley Hill and views towards and between it and Peak Camp; and
- concerns regarding the loss of the Air Balloon public house, as a non-designated heritage asset.

ExA Considerations

5.4.52. The main issues of dispute that remained outstanding at the close of the Examination, or matters on which it is appropriate for us to provide our conclusions on, are:

- whether the general approach and assessment having regard to any holistic approach and HLC is appropriate;
- the effect of the Proposed Development on buried remains;
- the effect of the Proposed Development on Emma's Grove;
- the effect of the Proposed Development on the setting of Crickley Hill; and
- the effect of the Proposed Development on other designated and non-designated heritage assets.

General Approach

5.4.53. At the beginning of the Examination a number of IPs raised concerns related to the general approach adopted in terms of the consideration of matters related to cultural heritage. These included representations from HE, the Joint Councils, CCB and NT amongst others. Issues raised relating to archaeology and buried remains are addressed below in the following section. Here we focus on the issues raised that related to what the IPs referred to as a "holistic" approach and which also raised matters related to HLC.

5.4.54. By the close of the Examination the Joint Councils retained a general concern centred around the Applicant's overall methodology, as in its view the Applicant's assessment fails to be driven by a landscape-led approach utilising broad brush HLC when a much more holistic understanding of how landscape has developed over time is required. The Joint Councils are concerned there is no evidence that any of the available guidance old or new has been followed with regard to

understanding this landscape. Instead, in their view, the assessment draws very heavily on Gloucestershire's HLC, which itself is one of the earliest in the country and suffers for that. The division into massive land parcels drawn from this means that the assessment fails to dissect the landscape at a suitably finer grain. The Joint Councils' view was that the assessment needs to be able to apply the unit, parcel and element scale of approach. They were concerned that a general understanding of the historic development of the landscape within which the heritage assets sit and therefore forms part of their setting should provide a wider context and underpin the assessment process, concern being expressed that the DMRB approach did not give due weight to such consideration. CCB in its signed SoCG accepted that matters related to cultural heritage would be addressed by the Joint Councils although in its D4 submission [REP4-039] it had noted that the Cotswolds AONB contains a wealth of archaeological and historical features and associations, such that the past is ever present as part of the landscape where layers of history, geography and culture co-exist. Similar concerns were raised by Mr Lambrick, amongst other matters [REP6-043].

5.4.55. During the Examination we issued a Rule 17 request [PD-009] for further information which included requesting information related to the holistic approach to which the Applicant responded and addressed matters raised in our request as well as other issues related to cultural heritage raised by other IPs in their Written Representations of comments [REP2-015]. Issue Specific Hearing 2 also addressed heritage matters where we asked further questions. Responses were provided in the D3 submissions of the written summaries of the oral cases of the parties. The Applicant primarily referred back to its substantive response provide at D2 [REP2-015].

5.4.56. The Applicant's view was that the approach it has adopted is entirely compliant with DMRB LA106 and established practice and that it was not aware of any previous scheme for which holistic assessment has been requested by HE, or where this has been undertaken and it notes that there is also no published HE guidance for holistic assessment. Furthermore, the Applicant goes on to point out that DMRB was drafted in full consultation with HE and that this approach has been adopted on all highway projects and concerns have not previously been raised about it. The Applicant confirms that the ES Chapter 6 describes the value of heritage assets within the study area and assesses the impact of the Proposed Development on them. Moreover, the Applicant notes that the HLC data is further addressed in the Landscape and Visual Effects Chapter [APP-038].

5.4.57. The Applicant points out that HLC is considered in Appendix 6.3 [APP-342], the assessment of which it maintains is appropriate and recognises the key aspects of the historic landscape. It is of the view that a larger scale approach is essential for understanding and assessing the impacts of a major infrastructure scheme on the historic landscape as a whole. Too fine a grain, including individual archaeological sites, can result in not appreciating the extent to which historic activity is evident at a landscape scale.

5.4.58. We are satisfied that the Proposed Development has been assessed in accordance with DMRB LA106, that the Applicant has considered and assessed the significance of relevant heritage assets including the contribution made to their significance by their setting and which includes relationships with other assets in that setting. This is considered to be an appropriate and proportionate assessment in the context of the Proposed Development and meets the requirements of the NPSNN in respect of the Applicant's assessment at paragraphs 5.126 to 5.127. The Applicant has made a proportionate assessment of the historic environment and the significance of the assessed assets and the contribution of their setting to that significance. The consideration has included an HLC, which has been undertaken at a landscape scale, which given the scale and nature of the infrastructure proposed and the extent of its influence is considered to be an appropriate scale. In the final signed SoCG with HE there is no longer any outstanding issue related to HLC or holistic approach.

5.4.59. The Applicant has further noted, and we accept, that the Landscape and Visual chapter also considers matters related to the landscape characterisation and overall, the ES has reasonably assessed and had due regard to the historic landscape.

5.4.60. We are satisfied that the significance of heritage assets has been reasonably identified, including the contribution of their settings. The effect of the Proposed Development on those matters that contribute to the significance of the heritage assets and that they have been properly identified and assessed is not the subject of any outstanding matters in respect of such issues from any party in their SoCGs. On this basis we are satisfied that the approach and information contained in the ES, including the figures and appendices, as updated by the Environmental Statement – Updates and Errata [REP4-031], provides sufficient information to arrive at informed decisions in this regard and full account has been taken of relevant matters, including the wider landscape within which the assets sit, and which contributes to their setting and their significance.

Buried remains

5.4.61. The issues raised at the start of the Examination regarding the adequacy of and approach to the assessment of the archaeological resource was also a matter of significant concern raised by IPs. As noted above we issued a Rule 17 request for further information related to the approach and assessment of archaeology [PD-009] and included discussion on the issue in Issue Specific Hearing 2 [EV-008]. The Applicant's response to our Rule 17 request was provided at D2 [REP2-015] which was a substantive response to all heritage matters that had been raised by IPs in previous deadlines.

5.4.62. Concerns were expressed by a number of IPs including HE, the Joint Councils, NT and CCB with regard to the adequacy of the assessment on archaeology and the potential for significant effects on previously unidentified buried remains. These matters were to be addressed through the implementation of a DAMS/ OWSI which at that time was appended

to the EMP and secured through Requirement 3 of the dDCO. Much of the debate during the Examination has been around the content of the DAMS/ OWSI. At the conclusion of the Examination the DAMS/ OWSI has been extracted from the EMP and is now a certified document, as identified in Schedule 9 of the rDCO. Requirement 9 has been amended to refer directly to the implementation of and secures the requirements of the DAMS/ OWSI. There is general agreement with Requirement 9 and the DAMS/ OWSI from the main IPs [REP9-012 (point 6.5), REP9-015 (point 3.6), REP9-016 (point 13.2)]. The SoCG with HE confirms it is now satisfied and has agreed the DAMS/ OWSI with the Applicant and further that geoarchaeological works will be undertaken pre-construction as outlined and agreed within the DAMS/ OWSI. No outstanding matters relating to cultural heritage remain with HE. The SoCG with the Joint Councils also confirms that the DAMS/ OWSI addresses many of the concerns raised by the Joint Councils about the approach to archaeological investigation. Albeit they did comment that there remains a residual risk to project timescales arising from discovery of currently unknown archaeology and flexibility should be built into the construction timetable in response to this.

5.4.63. Given the positive engagement of the parties to the development of the DAMS/ OWSI and as to how it is to be secured through Requirement 9, the main IPs are of the view that the original concerns that were raised are addressed by the DAMS/ OWSI.

5.4.64. The Applicant had previously also confirmed in its response and mapping [REP3-016] of areas subject to archaeological search that significant areas of the Order land had been the subject of investigation, including through geophysical and trial trenching. The extent of coverage of such investigation amounted to in the region of 90% of the site being reasonably assessed and that there was a strong correlation between the geophysical and trial trenching results. Further geophysical results were provided towards the end of the Examination [REP8-027 and REP8-028] to cover more of those areas where previously access had been restricted. This adds to the background knowledge and detailed assessment and found no new significant issues. Given the nature of the works already undertaken and future works further secured through the DAMS/ OWSI we are satisfied that the Applicant has undertaken proportionate investigation, including where necessary field evaluation, in accordance with NPSNN paragraph 5.127. Furthermore Requirement 9 secures the DAMS/ OWSI and makes provision for any undiscovered heritage assets in accordance with NPSNN paragraph 5.142.

5.4.65. The Applicant has confirmed that dialogue between the parties will continue and that it is confident that there is sufficient time within the overall timetable to address any undiscovered remains, if that occurs, and that the approach to any such future discoveries is addressed in the DAMS/ OWSI and covered by Requirement 9.

5.4.66. A minor issue related to paleo-environmental remains was raised, however the Applicant confirmed at D2 [REP2-015], with reference to the hydrological assessment in Chapter 13 of the ES [APP-403] that there

are no areas of the Proposed Development in which paleo-environmental deposits would be adversely affected by hydrological changes.

Emma's Grove

5.4.67. Emma's Grove is a SM and includes three bowl barrows, situated below the crest of a hill, to the south-east of Crickley Hill. The Applicant's assessment of the significance of this asset is contained in Appendix 6.1 of the ES Designated Assets - Value (Sensitivity) [APP-340]. The Applicant notes that although the mounds have been disturbed, they survive well and will contain evidence for primary and secondary burials, along with grave goods, which will provide information about prehistoric funerary practices and about the size of the local community at that time. They note the barrow mounds will also preserve environmental information in the buried original ground surface, predating the construction of the barrows giving an insight into the landscape in which the monument was set, including environmental evidence in the form of organic remains, which will relate both to the barrows and the landscape within which they were constructed. The Applicant states the sequential construction of the barrows will provide an insight into changes in burial rituals and construction techniques over time. The open areas between the barrows are also significant as they will contain satellite burials, grave goods and other artefacts connected with the construction of the barrows, which will provide information about the monument's role within prehistoric society. The Applicant concludes that the potential for environmental and archaeological evidence gives the site archaeological interest.

5.4.68. The Applicant also considers the setting of the barrows and notes they are located immediately to the east of the Air Balloon roundabout and are hidden within a small copse. The Applicant describes the wider setting of the barrows comprises an undulating rural landscape, featuring a mixture of historic and modern fields, boundaries, tracks and woodlands. It notes the topography is such that long distance views are rare and this sense of hiddenness and discovery as an observer moves through the landscape, encountering other contemporary prehistoric monuments as they appear in view, is a key aspect of setting that adds to its significance. This 'mind visibility' is likely to have been important to the builders of the barrow, and therefore the significance of the barrow is sensitive to changes to the landform within this setting, regardless of whether these changes are visible.

5.4.69. Overall, the Applicant ascribed a high value to the sensitivity of the asset.

5.4.70. No IPs during the Examination dissented from or objected to the Applicant's overall description of the significance of the asset.

5.4.71. We are satisfied that this represents an accurate and reasonable description of the significance of this asset and the contribution that its setting makes to that significance.

5.4.72. In the ES Chapter 6 [APP-037] the Applicant confirms that Emma's Grove SM will be retained and protected through the provision of fencing during construction, which would ensure no accidental damage.

5.4.73. In assessing the effect of the Proposed Development, the Applicant notes that it passes approximately 50m to the north of the barrows, and would alter the immediate setting of the barrows, although this would be ameliorated slightly by the removal of the existing A417 immediately to the west. The Applicant accepts the Proposed Development would represent a modern alteration to the wider rural landscape within which the barrows sit. This wider rural setting, which contains a number of other prehistoric funerary monuments, provides context to the barrow, of which the concept of movement through the landscape is a key aspect. The Proposed Development would create a physical barrier in the landscape that would be highly intrusive in the setting of the barrows and as a result adversely affect the significance of the resource. The Applicant concludes this would equate to a moderate adverse effect.

5.4.74. In the SoCG with HE [REP9-015] the Applicant and HE agree that a sufficient distance should be provided between the cutting of the Proposed Development and Emma's Grove to protect the designated barrows and that the edge of cutting lies at a distance of 52m from the edge of the scheduled area at its nearest point and will not encroach further towards the barrows.

5.4.75. The SoCG also notes that HE welcomes the commitment within the EMP that Emma's Grove SM will be fenced off early during construction to ensure that no accidental damage occurs during the construction period as secured in the EMP under commitment CH5. The Applicant is committed to updating this commitment during the Examination to reflect the provision of appropriate access provisions as per enhancement requirement CH6 and remains committed to ongoing engagement with HE on this matter (as secured via EMP commitment GP8: stakeholder engagement.)

5.4.76. Moreover, the SoCG confirms Emma's Grove barrows mitigation/ enhancement (during construction) - The DAMS/ OWSI now includes a requirement to agree a method statement for protective measures for the clearance and re-planting of Emma's Grove. The planting measures are included in ES Figure 7.9 and 7.11 of the Environmental Masterplan and includes the following stages of work which would ensure that Emma's Grove barrows are removed from the at-risk register once completed to the satisfaction of HE.

5.4.77. Stages of works needed to remove barrows from at-risk register:

- Clear scrub vegetation.
- Assess damage caused by burrowing animals, if any.
- Burrowing animals; if rabbits, remove from site and block up entrances.
- If badgers are identified seek advice from ecologist and look to exclude them from the area.

- Assess trees within the scheduled area.
- Remove all trees that are within the earthwork, which are causing damage.
- If burrowing animal damage is extensive then more extreme measures will be needed to prevent them returning. This would involve meshing the barrows, but before that can happen the site would need to have a geophysical survey as the meshing would interfere with this.
- Reseed, if needed, with locally sourced grassland species.

5.4.78. The SoCG confirms HE is satisfied with this approach to mitigation and enhancement of Emma's Grove.

5.4.79. There were no other IPs that dissented from this position in respect of the works to and impact of the Proposed Development on Emma's Grove, and we are satisfied that the SM will be protected, albeit that there will be some harm to the asset due to the adverse effect on its setting.

5.4.80. HE has however retained some concerns in relation to the long-term management of the barrows and its immediate surroundings. The Applicant notes that it is its intention to continue to engage with HE on this matter which is reflected in commitment GP8 of the EMP [REP2-006]. These are listed in section 2.2 of the EMP. HE acknowledges this point. The area would only be taken for temporary possession to facilitate the construction of the Proposed Development and protect the SM during construction. The Applicant has indicated that it is in discussion with the landowner regarding future arrangements and ways to control future management and will continue to liaise with HE.

5.4.81. We are satisfied that the Applicant will secure and protect the SM during the construction phase, through the implementation of the EMP and requirements in the REAC, but that there will be residual harm to the significance of the asset due to harm to its setting. The Proposed Development will result in works which will potentially result in the asset being removed from the at-risk register, which is a positive benefit. Moreover, the removal of the existing A417 and placing the Proposed Development in cutting will reduce the operational effects of activity on Emma's Grove, which can also be concluded to be a positive enhancement for the experience of visitors to the monument. The ongoing maintenance remains outstanding, and which is therefore a continued risk. Overall, we conclude that there would be harm to the SM, that this harm would be less than substantial and therefore needs to be weighed against the public benefits of the proposal, including securing its optimum viable use. This balancing is undertaken in Chapter 7, in the Case for Development Consent, below.

Crickley Hill/ Peak Camp

5.4.82. Crickley Hill Camp is a SM, and the Applicant's description of its value or significance is contained in Appendix 6.1 [APP340] of the ES. The Applicant notes there is evidence of the first major occupation of Crickley Hill c. 3rd millennium BC with the remains of a causewayed enclosure at the top of the hill. It notes the site is comprised of two lines of interrupted ditches cut off the low knoll, accompanied by a bank built of stones taken from the ditch; two entrances; and pits and post-sockets that outline where structures would have stood. The phasing of the infilling of the ditches suggests a lengthy but intermittent use of the early site.

5.4.83. The Applicant goes on to state the use of the site continued into the Iron Age with the addition of a hill-top enclosure. The development of Crickley Hill in the 7th/ 6th century BC saw the addition of a new rampart and ditched enclosure abutting the previous Neolithic site. The occupation of the hillfort lasted no more than two generations before the site was abandoned. A second hillfort was constructed at the site around a century later with a central "*great*" roundhouse c. 50 feet in diameter, surrounded by sporadically placed smaller roundhouses and small square structures that were probably granaries or stores. The Applicant confirms Crickley Hill has archaeological interest due to the settlement remains known to be present.

5.4.84. In relation to the contribution its setting makes to its significance the Applicant points out that it sits in a prominent position on the edge of the Cotswold escarpment, and its setting is one of long views over the lowlands to the west, shorter views to the south, down onto the slopes of Crickley Hill itself, and to the south-east across Emma's Grove barrows. Crickley Hill sits opposite The Peak, a Neolithic enclosure contemporary with the earliest phases of activity at Crickley Hill. There is a clear connection between these monuments, that is likely to have involved an element of control over the space now containing the A417. This relationship contributes substantially to the significance of the resource. This setting takes in a wide range of modern intrusions, not least the city of Gloucester with its residential and light industrial outskirts, the M5 in the mid distance, and the A417 as it approaches and passes next to the site. Despite these intrusions, the setting of the site clearly demonstrates the situation of the Neolithic, Bronze Age and Iron Age phases of the site and as such makes a substantial contribution to the significance of the resource. This description was not challenged and we are satisfied that it represents a reasonable assessment of the assets' significance.

5.4.85. The Applicant confirms that in terms of the nature of the impact the widened A417 would be visible from Crickley Hill in views to the south and would alter some elements of the setting that contribute to its significance, in particular views towards the contemporary prehistoric site, The Peak. This change to its setting would affect the ability to understand Crickley Hill in its wider context, and as a consequence its significance would be diminished

5.4.86. In relation to Peak Camp, HE representation [REP1-139] raised the issue of Peak Camp being omitted from assessment, which the Applicant

included as an amendment to the ES in its Updates and Errata [REP4-031]. This update accepted HE's comments and both parties accept that the asset has a high value. The ES was updated to note that although it is not scheduled, Peak Camp is considered to be a resource of high value. Though currently wooded, Peak Camp was located to take advantage of views to the west from the escarpment, and towards a contemporary prehistoric enclosure on Crickley Hill. These views today contain modern infrastructure including the A417, M5 and other modern development that forms the urban curtilage of Gloucester to the west. Despite this, the location of Peak Camp, and views from it make a positive contribution to its significance.

5.4.87. The ES notes that the Proposed Development would change the form of the existing A417, to the north of Peak Camp, within the setting of the resource, and altering the relationship between it and Crickley Hill. This would equate to a minor adverse magnitude of impact that diminished the significance of the resource, resulting in a permanent slight adverse significance of effect.

5.4.88. Concern was expressed by various IPs that the Proposed Development would result in adverse effects to the setting of Crickley Hill and Peak Camp including the relationship between them. These matters were also discussed at Issue Specific Hearing 2. Concern was raised that works would reduce areas of woodland adjacent to the existing A417 and that the Proposed Development could result in a more intrusive form of development increasing views of the modern infrastructure and increasing disturbance from noise and activity. Suggestions were discussed around the potential for enhanced landscaping planting to improve screening. However, this has the potential to screen Crickley Hill from its setting and therefore result in adverse effects or harm to the setting. Furthermore, the intervisibility between Peak Camp and Crickley Hill contributes to their significance. The Proposed Development is low-lying and will be cut into the escarpment. Additional tree screening at road level would do little to screen the Proposed Development and would not significantly change the noise environment.

5.4.89. Whilst the Proposed Development will increase the scale and dimensions of the road corridor it is along an existing alignment and adds to an existing intrusive feature in the setting of these assets. The additional impact resultant from the increase in scale, width and depth will increase the intrusion of the Proposed Development which will have an adverse effect on the setting of these monuments. Given its low-lying nature however this will not directly interfere with or reduce intervisibility between the assets.

5.4.90. Overall, we are of the view that the Proposed Development will result in less than substantial harm to the Crickley Hill SM, due to the harm resultant from intrusion in its setting, which will need to be weighed in the balance against the public benefits of the scheme including securing its optimum use. Peak Camp is a non-designated heritage asset. It is not scheduled but it is concluded to be of high value. There would be some minor harm to the significance of the asset resulting from the intrusion of

the development in its setting and altering its relationship with Crickley Hill. This is a harm that needs to be weighed in the balance against the granting of consent and this is done in Chapter 7 below.

Other Designated Heritage Assets

5.4.91. The Proposed Development would have the potential to affect some 50 listed buildings within the study area. These are assessed within the ES and there have been no substantive issues raised with regard to the Applicant's overall conclusions. Of these, only Shab Hill Barn, a Grade II listed building, was identified as being adversely affected with the Proposed Development having a moderate adverse effect.

5.4.92. The barn stands in an area of gardens and grounds and is bounded by Cotswold stone walls. It is located high in the Cotswold Hills, within the Cotswolds AONB and has views over open farmland and along the secluded valley it is located within. Shab Hill Barn is one of a small handful of barns in this area that represent a change in agricultural practice in the late 18th/ early 19th century. This change has left us with the field patterns we now have. This makes up part of the landscape interest of this area. The barn's position relates to its historic relationship to the farmland in the valley. The rural agricultural setting of the barn contributes to its significance. The setting of the barn would be altered by the Proposed Development and in particular the Shab Hill junction, affecting the historic access to it. The Proposed Development would dislocate the barn from its original landscape and fields. The Proposed Development would result in the loss of key characteristics of the setting of the barn which would be detrimental to its significance. Given the proximity to the barn the result of traffic moving on the Proposed Development would increase the traffic noise experienced at the barn which would result in harm to the perceptual quality of its setting and the experience of visitors to the barn.

5.4.93. We conclude that the Proposed Development would result in less than substantial harm to this Grade II listed building resultant from intrusion in the setting both visual and through operation. As such this harm should be weighed against the public benefits of the Proposed Development, including securing any optimum viable use, and this is done below in Chapter 7 the Case for Development Consent.

5.4.94. The Proposed Development was considered to have a neutral effect on all other listed buildings and there were no dissenting issues raised to this assessment. We agree with the identification and descriptions of significance and effects as described in the ES and conclusion and we have no evidence before us to disagree.

5.4.95. The Applicant identified two conservation areas within the study area, Cowley and Brimpsfield. The Applicant concludes that the Proposed Development would not be visible from either of the conservation areas, and neither of their settings would be altered. This would therefore result in a magnitude of change of no change, and the resultant significance of effect would therefore be neutral on both conservation areas.

5.4.96. During consideration of heritage matters in Issue Specific Hearing 2 concerns were raised about the effect of the additional traffic through Cowley affecting the Cowley conservation area and the 'old bridge' within it. Further information was provided in Mr Hamilton's written summary of his oral evidence [REP3-062]. We agree with the Applicant that the Proposed Development would not be visible from the conservation area and would not result in direct effects on the character or appearance of the conservation area. The Joint Councils agreed with this position in response to our ExQ2 questions in their D6 submissions [REP6-40].

5.4.97. In the context of character, there is a potential change to the level of activity of vehicles that could have an effect but given our conclusions at 5.9.29, we are satisfied that there would be no effect on the character of the conservation area resultant from additional traffic movements. There is a broader issue of the effect on the context within which the conservation area sits but given the separation from the Proposed Development we are satisfied this will not affect the conservation area. The 'old bridge' is not a designated heritage asset; it could be considered to be a non-designated heritage asset but given the comments related to vehicle movements we conclude there would be no effect on this asset.

Other Non-designated Heritage Assets

5.4.98. The Air Balloon public house is proposed to be demolished as part of the Proposed Development. Concerns were raised by a number of IPs, including the Gloucestershire Ramblers [eg REP1-149, REP1-150, REP8-041, REP8-042] and George Lambrick [REP6-043] making reference to the importance of the public house for walkers in the area. The building is not a designated heritage asset; the Applicant identifies it as a non-designated resource and ascribes a medium value to it. When this is added to a major adverse effect due to its total loss the Applicant concludes that the significance of effect is slight adverse. The Applicant proposes mitigation for this by means of photographic record and measured survey, which we consider reasonable in this instance given that its loss is unavoidable due to the routing of the Proposed Development.

Conclusions

5.4.99. We are satisfied that the approach to the assessment of heritage matters adopted by the Applicant, including in relation to a holistic approach and HLC provides a sufficiently robust evidence base and assessment in association with the information submitted during the Examination to arrive at sound conclusions. We are further satisfied that the concerns expressed by various IPs in terms of the investigation and treatment of archaeological remains is addressed through the DAMS/ OWSI and Requirement 9. These matters are consistent with the advice in the NPSNN with which they comply.

5.4.100. We note that the Proposed Development will result in less than substantial harm to designated heritage assets including Emma's Grove and Crickley Hill scheduled monuments and Shab Hill Barn Grade II listed

building, and that therefore these matters will need to be balanced against the public benefits of the proposed Development, including securing their viable use. The Proposed Development will also result in harm to non-designated heritage assets including Peak Camp and the Air Balloon public house and these matters will need to be taken into account when determining the application. These matters will weigh against the grant of development consent.

5.4.101. We are satisfied that the DAMS/ OWSI commitments in the REAC and Requirement 9 provide for a robust protection and appropriate safeguard for heritage assets and undiscovered buried remains as detailed in the ES and accompanying documents.

5.4.102. 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 199 of the NPPF, 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 Infrastructure Planning (Decisions) Regulations 2010 we have had regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest which it possesses, have had regard to the desirability of preserving or enhancing the character or appearance of any conservation area and had regard to the desirability of preserving any scheduled monument or its setting. The overall balancing is undertaken in Chapter 7 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 Applicant's approach to the general assessment including the holistic approach and HLC is acceptable.
- The Applicant's archaeological assessment is reasonably proportionate and any concerns regarding its efficacy are suitably addressed by the DAMS/ OWSI.
- The Proposed Development will result in less than substantial harm to designated heritage assets including Emma's Grove and Crickley Hill Camp scheduled monuments and Shab Hill barn Grade II listed building, and that therefore these matters will need to be balanced against the public benefits of the scheme, including securing their viable use.
- The Proposed Development will result in harm to non-designated heritage assets including Peak Camp and the Air Balloon public house and these matters will need to be taken into account when determining the application. and
- The DAMS/ OWSI, commitments in the REAC and Requirement 9 provide for a robust protection and appropriate safeguard for heritage assets and undiscovered buried remains.

5.5. GEOLOGY AND SOILS

Introduction

5.5.1. This section considers geology, soils, material resources and contamination matters, including aspects of potential contaminants to groundwater.

Policy

5.5.2. The NPSNN explains that in deciding an application the SoS should focus on whether the development itself is an acceptable use of land in its own right, and on the impacts of that use, rather than the control processes, emissions and discharges themselves. The impact of these matters should inform decision-making, but the assumption should be that the relevant pollution control regime would be properly applied and enforced.

5.5.3. The NPSNN sets out that where necessary, land stability should be considered in respect of new development, as set out in the NPPF and supporting guidance. Proposals should be appropriate for the location, including preventing unacceptable risks from land stability. If land stability could be an issue, the applicant should seek appropriate technical and environmental expert advice to assess the likely consequences where subsidence is known or suspected. Applicants should ensure that any necessary investigations are undertaken to ascertain that their sites are and would remain stable or can be made so as part of the development. The site needs to be assessed in the context of surrounding areas where subsistence could threaten the development or damage neighbouring land or property.

5.5.4. The NPSNN notes that there are a range of mechanisms available to mitigate or minimise risks. These include avoiding areas of risk, ensuring proper design to cope with any hazards, or requiring ground improvement techniques.

5.5.5. Paragraphs 5.39 to 5.45 of the NPSNN contain relevant policy objectives in relation to waste management. The policy outlines the decision-making considerations, requiring the SoS to be satisfied that:

- waste will be properly managed on and off-site;
- waste will be dealt with by available infrastructure and will not have an adverse effect on the capacity of existing waste management facilities; and
- adequate measures have been taken to minimise the volume of waste arisings.

5.5.6. The NPPF, specifically paragraphs 178 and 179, requires planning decisions to ensure that a site is suitable for its new use including land remediation or impacts on the natural environment arising from land remediation. It explains that where a site is affected by contamination or land stability issues, responsibility for securing safe development rests with the developer/ landowner and that adequate site investigation information, prepared by a competent person, should be presented.

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5.5.7. Matters relating to geology and soils were addressed in ES Chapter 9 [APP-040] and for materials with waste management in ES Chapter 10 [APP-041].

5.5.8. The ES is accompanied by technical appendices including a Preliminary Ground Investigation Report [APP-381 to APP-386] and a Groundsure Enviro Insight Report [APP-387], which established the working baseline. The ES is informed by desktop studies in accordance with DMRB standard LA104 and LA109 as well as Phase 1 and Phase 2A investigations between 2019 and 2020.

5.5.9. The construction activities of the Proposed Development including the excavation process for the proposed cuttings, could affect the Crickley Hill and Barrow Wake SSSI designated geological site and result in the permanent loss or alteration of a small, but rare and nationally important, geological exposure located adjacent to the Proposed Development footprint. However, the scheme could also result in beneficial impacts through the generation of new exposures within the faces of the rock cuttings proposed in the vicinity of the Crickley Hill and Barrow Wake SSSI. This would provide an opportunity to obtain new information on geological formations present within the designated geological site. Other proposed cuttings along the Proposed Development (for example in the area of Shab Hill junction) could also open new rock exposures as new geological features or attributes.

5.5.10. In relation to potential contamination, as defined in Part IIA of Environmental Protection Act 1990, this has been assessed through the identification and assessment of pollutant linkages (contaminant-pathway-receptor relationships). Implicit in the guidance is the application of risk assessment to assess whether potential pollutant linkages may be significant. The development of a conceptual site model (CSM) for the Proposed Development has been undertaken in accordance with EA's advice on land contamination: risk management.

5.5.11. With respect to the handling of materials and deposition of waste arising from the construction of the Proposed Development, the Applicant reports an approach consistent with the waste hierarchy set out in the Waste (England and Wales) Regulations 2011. The assessment of the environmental effects associated with the use of material assets and the disposal or recovery of waste has been conducted in accordance with DMRB LA110 Material Assets and Waste as well as the Development Industry Code of Practice Version 2. The baseline conditions have been informed by desk-based studies and information from ground investigations, anticipating the following:

- The types and quantities of materials required for the scheme.
- Information on materials that contain secondary or recycled content.
- Information on any known sustainability credentials of materials to be consumed.
- The type and volume of materials that would be recovered from off-site sources for use of the scheme.
- The cut and fill balance.

- Details of on-site storage and stockpiling arrangements and any support logistical details.

Assessment of likely significant effects

5.5.12. A summary of the effects during construction is set out at Table 9-9 in ES Chapter 9 [APP-040]. The Applicant concludes that the Proposed Development has the potential to impact upon ground stability and to release pollutants into the environment. The Applicant states that impacts would be limited by the implementation of best practice measures to protect agricultural soil quality and to protect all receptors from contaminant run-off during construction and operation. The location of the construction compounds has been determined to prevent pollution, reduce waste and to encourage ease of use, and has taken into account environmental considerations including the potential for leakage and contamination. Storage of any suspected contaminated material prior to treatment or disposal off-site would be in a designated, bunded area on an impermeable surface, in line with the requirements set out in the EMP [REP6-010].

5.5.13. The Applicant's assessment of material resources matters is primarily contained within Chapter 10 (Material Resources) of the ES [APP-041]. The Proposed Development would potentially impact on a Minerals Reserve Area for sandstone and limestone, and an additional reserve for sand and gravel. The Proposed Development also has potential to impact on the dormant Birdlip Quarry, which has been unworked in the last 25 years.

5.5.14. The Proposed Development has the potential to generate large amounts of construction, demolition and excavation waste which may affect the capacity of Gloucestershire and the wider region's waste management infrastructure.

5.5.15. An earthworks surplus of 65,945m^3 has been identified as outlined in Table 10-15. This material is comprised of three types of material including clay, mudstone and limestone. Measures would be taken to reduce this excess material to the point that no surplus material would remain after the required cut and fill construction operations. These measures include:

- highway alignment changes to reduce cut volumes;
- changes to landscape earthworks cross section and slope design to increase placed fill volumes;
- changes to cut slope design and cross sections at locations in deep cutting to reduce cut volumes; and
- utilisation of excavated limestone materials in pavement construction.

5.5.16. The Applicant concludes that, based on the expected approach to managing materials and waste on the Proposed Development, it is not expected that the outcomes would adversely impact achievement of or alignment with NPSNN objectives. Significant effects are considered unlikely during the operation of the Proposed Development, from both the use of material assets and the disposal or recovery of waste.

Requirements

5.5.17. Any unforeseen contaminated land which is discovered would be subject to Requirement 8 in the dDCO [REP9-005]. It requires that the discovery be reported to the EA, and for the undertaker to complete a risk assessment in consultation with a number of organisations. Where the undertaker considers that remediation is necessary the Proposed Development would need to be approved by the SoS, following consultation with the EA. Finally, the Requirement would ensure that any approved remediation be carried out.

5.5.18. Materials and waste handling would be controlled through the Materials Management Plan [APP-322] and, to a lesser extent, the Soils Management Plan, both of which are secured via the EMP [REP6-010] secured under Requirement 3 in the dDCO.

The Position of Interested Parties

5.5.19. Representations in relation to agricultural land and processes are considered elsewhere in this Report or within Chapter 8 respectively. Of the other representations received, the following issues were raised:

- R W de Lisle Wells on radon carcinogenic gas being present on Shab Hill [RR-089].
- The EA on known karstic features in the locality requiring attention [RR-035].
- Hanson Quarry Products Europe Limited (Hanson) raised concern over drainage and infrastructure within its partially worked quarry as well as sterilisation of the resource [AS-063].
- The Joint Councils raised the issue with the amount of waste materials and surplus arising from the design of the cuttings as part of the road alignment potentially going to landfill [RR-004].

5.5.20. In their Local Impact Report (LIR), the Joint Councils did not identify any key local impacts on geology, and generally supported the approach of monitoring as well as the production of a Soils Management Plan [REP1-133]. The Joint Councils considered that the design of the Proposed Development had been developed with efforts made to reduce the volume of surplus material. Concerns were expressed regarding the assessment in relation to surplus material generated from highway construction, although the Joint Councils agreed with the assessment that the impacts during construction and operation would be slight and not significant.

ExA Considerations

5.5.21. The main issues in dispute are:

- whether mineral reserves would be unduly impacted upon or sterilised; and
- whether waste arising from construction would be adequately managed.

Ground conditions and Contamination

5.5.22. The EA confirmed that there were no immediate concerns about the prospect of granting any necessary environmental permits or licences, affirming that there were no outstanding issues on contamination arising from the Proposed Development and mitigation measures for karstic features were proportionate and appropriate [REP1-058]. All the appropriate assessments have been undertaken regarding the identification and mitigation (where required) for land contamination matters. The SoCG with the EA ratifies there are no issues on this matter [REP9-013]. No other IP provided substantiated evidence to the Examination to contradict that position.

5.5.23. We have no reason to dispute the position of common ground reached and are content that matters relating to contamination and pollution to groundwater have been adequately addressed.

Mineral Reserves

5.5.24. The Joint Councils confirmed in their LIR that there were no issues regarding geology or material assets (save for waste material, which is explored below) [REP1-133]. At ISH4 [EV-034 and REP5-016] the Joint Councils stated there were no concerns regarding potential sterilisation of mineral sites subject to receipt of technical information from the Applicant, which was duly clarified at D6, with the Applicant concluding no adverse effects on mineral safeguarding areas and any adverse effect would be outweighed by the case for the scheme as per paragraph 5.169 of the NPSNN ([REP6-014], part H). By the end of the Examination, the Joint Councils confirmed there were no outstanding issues regarding mineral reserves or mineral workings within or adjacent to the Order Limits that could not be resolved at detailed design stage [REP9-012].

5.5.25. Hanson raised concern about potential drainage and drainage features within the partially worked, and currently dormant, quarry close to the Cowley junction [AS-063]. At CAH3, Hanson confirmed that options to review the old minerals permission and reinvigorate the quarry were being considered and that a standoff distance between the Proposed Development and any workings within the quarry needed to be determined to ascertain how much mineral resource would be sterilised [EV-053 and REP8-034].

5.5.26. The Applicant clarified that the drainage ditch to the south-east of the quarry would drain any surface water arising from the quarry, and that the attenuation basin shown on the edge of the quarry would be connected by sub-surface pipes to other attenuation basins in proximity [REP5-008]. In CAH3, the Applicant stated that a standoff distance could not be determined at this stage and the engineering burden on this would fall to Hanson, since the Proposed Development would come forward first based on the information available to it at the time [EV-053]. At the end of the Examination, there was disagreement between the parties about the amount of mineral remaining that would be

sterilised, although overall it was common ground that the quarry would not be adversely affected by the Proposed Development [REP9-024].

5.5.27. We consider that the quarry is currently dormant, has been for some years and requires a new planning permission in order to reactivate. Hanson confirmed at CAH3 that there are no pending applications for such reactivation, and we have to consider the most up-to-date evidence within the Examination. In light of current information, we consider that the Proposed Development has given adequate assessment of the interface between the A417 Missing Link and the quarry, providing suitable mitigation to (a) minimise the amount of mineral resource interfered with and (b) to ensure drainage conditions are improved. Any subsequent applications for the quarry would need to take into account the Proposed Development, and DCO if made, at which time the geotechnical details would need to be agreed and resolved. We are satisfied that the Proposed Development would not unduly sterilise the mineral reserve.

Surplus waste material

5.5.28. The Joint Councils expressed concern in the LIR regarding surplus material arising from highway construction through the early part of the Examination [REP1-133]. The Applicant responded to suggest the quantities of waste material arising from the Proposed Development would be reduced as far as practicable and would only be truly known at detailed design [REP3-013]. The Joint Councils requested that the known surplus of waste should still form part of the assessment as required by the DMRB LA104 so as to give a realistic impression of the waste going to landfill or other local resources [REP5-016], but the Applicant responded to state the contractor would manage the waste materials fill and surplus balance at the detailed stage, and therefore it was not possible to identify specific measures, over and above what is included in the outline Materials Management Plan, at this time [REP5-009]. The SoCG with the Joint Councils confirms this matter was unresolved at the end of the Examination but would likely be resolved during detailed design stage (Table 5-1, point 10.1, [REP9-012]).

5.5.29. Alexander and Angell Ltd raised concern that its land holding currently comprised a clay soil that was unsuitable for supporting the Applicant's proposed environmental mitigation for calcareous grassland [EV-026]. The Applicant responded to state that the Proposed Development would yield a surplus of extracted limestone material, which would be imported to the Alexander and Angell Ltd site to form a limestone substrate to support the environmental mitigation [REP3-010]. The Applicant stated that the suitability of the land and soil for this would be assessed post-consent and the land may need to remain in a clay condition to support a different type of grassland. We queried the extent of any other land within the Order limits where extracted limestone would need to be deposited to enhance the existing ground conditions to support the proposed calcareous grassland [EV-040]. The Applicant responded that the land of Alexander and Angell Ltd would be the only land where a limestone substrate would need to be imported to facilitate calcareous

grassland provision, with the rest of the Proposed Development on an appropriate geology as referenced in [APP-234 and REP5-009].

5.5.30. Overall, we consider that the approach for managing materials is consistent with the waste hierarchy defined in the Waste Framework Directive (Directive 2008/98/EC). Adopting the waste hierarchy would significantly reduce the amount of material requiring off-site disposal and minimise potential impacts relating to movement of materials on to and off site. Reusing material claimed by the road's engineering works to support restoration or enhancement of land would also reduce the amount of waste material requiring landfill.

5.5.31. We consider that the measures in the EMP would be adequate to ensure known contamination is managed appropriately. It is also our view that Requirement 8, including its consultation and approval process, would secure adequate measures for managing currently unidentified contamination, if encountered. In addition, we are satisfied that the other measures in the EMP would be sufficient to minimise risk when works took place at, or near, contaminated land and to avoid adverse impacts during construction.

5.5.32. We are satisfied that appropriate soil handling and, when relevant, restoration would be adequately secured. Requirement 3 would secure the provision of a Soils Management Plan to sit alongside the Materials Management Plan that forms part of the EMP and we are content that sufficient coverage to deal with all relevant matters is provided.

5.5.33. No further issues relating to geology and soils arose during the Examination and we are satisfied that such matters are in general accordance with the relevant provisions of the NPSNN.

Conclusions

5.5.34. We conclude that:

- the Proposed Development would accord with the requirements of the NPSNN and the NPPF in respect of contaminated land, protection of groundwaters, geological stability and the management of material assets;
- the approach, methodology and conclusions of the Applicant are considered sound, and appropriate mitigation has been included within the EMP to handle any waste material arising and any contamination risk;
- the Proposed Development would not unduly sterilise mineral resources or cause adverse impacts to a designated working mineral site; and
- the matter of geology and soils do not weigh against the Order being made.

5.6. LANDSCAPE AND VISUAL

Introduction

5.6.1. This section deals with the effects of the Proposed Development on the landscape and its visual effects. In particular it deals with the effects on landscape character and the effects on visual receptors. As the Proposed Development is located within the Cotswolds Area of Outstanding Natural Beauty (AONB), this section of the report also addresses development within a nationally designated area.

Policy

5.6.2. Paragraphs 5.143 to 5.161 of the NPSNN identify the landscape and visual impacts decision-making considerations for the SoS to take into account.

5.6.3. 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"*.

5.6.4. The application site lies wholly within a nationally designated landscape, the Cotswolds AONB. Therefore paragraphs 5.150 to 5.153 are relevant. Paragraph 5.150 advises great weight should be given to conserving landscape and natural beauty in nationally designated areas and that such areas have specific statutory purposes which the SoS has a statutory duty to have regard to in decisions.

5.6.5. Paragraph 5.151 goes on to advise that the SoS "..*should refuse development consent in these areas except in exceptional circumstances and where it can be demonstrated that it is in the public interest*". It further advises that consideration of such applications should include an assessment of:

- "*the need for the development, including in terms of any national considerations, and the impact of consenting, or not consenting it, upon the local economy;*
- *the cost of, and scope for, developing elsewhere, outside the designated area, or meeting the need for it in some other way; and*
- *any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*"

5.6.6. Paragraph 5.152 advises that there is "*a strong presumption against any significant road widening… unless it can be shown there are compelling reasons for the new or enhanced capacity and with any benefits outweighing the costs very significantly*". It further states that planning of the Strategic Road Network should encourage routes that avoid National Parks, the Broads and AONB.

5.6.7. Where consent is given in such areas, paragraph 5.153 advises that the SoS should be satisfied that the applicant has ensured that the project will be carried out to high environmental standards and where possible includes measures to enhance other aspects of the environment, which

should be delivered through the imposition of appropriate requirements, where necessary.

5.6.8. 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"*.

5.6.9. 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"*

5.6.10. Further, as paragraph 5.160 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"*.

5.6.11. The NPPF, in paragraph 174, indicates that planning decisions should contribute to and enhance the natural and local environment by, amongst other matters, protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.

5.6.12. Paragraph 176 of the NPPF advises great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and AONB which have the highest status of protection in relation to these issues. Paragraph 177 goes on to note the considerations that should be had for applications in AONBs and states "*When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of: a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy; b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated".*

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5.6.13. Chapter 7 (Landscape and visual) of the ES [APP-038], along with the associated appendices [APP-348 to APP-354] and figures [APP-136 to APP-192] sets out the Applicant's assessment of landscape and visual

matters. It follows the assessment methodology set out in DMRB LA107 landscape and visual effects. The chapter refers to The Landscape Institute and Institute of Environmental Management and Assessment's Guidelines for Landscape and Visual Impact Assessment Third Edition (GLVIA3). The Applicant throughout the assessment of the Proposed Development refers to it as "*landscape-led design*" and for further information on this design approach they refer to The Case for the Scheme [APP-417], and the Design Summary Report [APP-423].

5.6.14. A 3km study area for the assessment of significant effects was determined having regard to a desk study, including a review of Ordnance Survey mapping, relevant landscape character assessments, including historic landscape character, and the identification of key landscape designations and the development of a 3D model derived from digital data and the creation of a Zone of Theoretical Visibility (ZTV).

5.6.15. In terms of overall landscape assessment, the Applicant notes that consideration has also been given to how the Proposed Development is likely to change the special qualities of the Cotswolds AONB; these are reported in Table 7-13 of the ES. The Proposed Development is not proposed to be lit however the Applicant has included, in the visual assessment, a qualitative assessment of predicted changes in light levels due to traffic movement along the route.

5.6.16. The visual assessment assumptions include reference to stockpiles of material being 10-15m in height and main office compounds one to two storeys in height during construction. These were queried during the Examination and the Applicant responded [REP6-015] to state measures L28 and L29 in the REAC to confirm maximum storey heights and stockpiles would adhere to industry standards and are typical on large infrastructure projects.

5.6.17. The Applicant sets out the baseline conditions at section 7.7 of Chapter 7 [APP-038] which includes reference to the special qualities of the AONB as listed in the Cotswolds AONB Management Plan. The Applicant confirms that agreement was reached with various consultees in respect of the use of the Cotswolds AONB Landscape Character Types (LCT) to base its assessment on and Table 7-7 sets out how they relate to the Cotswolds landscape character areas and the corresponding Gloucestershire vales landscape character types. The assessments also reference dark skies and tranquillity. In terms of visual receptors these were agreed with various consultees including representative viewpoints. No significant concerns were raised in respect of overall methodology as can be confirmed by the signed SoCGs from the Joint Councils, NE, CCB, NT and Coberley Parish Council [REP9-012, REP9-014, REP9-016, REP9-018 and REP9-021]. All either confirm that they agreed the methodology or did not raise objections to it.

5.6.18. NT and Coberley Parish Council did raise some specific points of concern in respect of viewpoints at Crickley Hill entrance and Ullenwood attenuation basins respectively, but these are specific issues rather than broader matters related to overall assessment methodology.

Assessment of likely significant effects

5.6.19. The Applicant's assessment of likely significant effects is undertaken in section 7.10 of the ES. An initial scoping of receptors, both landscape and visual is undertaken to identify those receptors on which likely significant effects may occur. Again, no issues were raised in relation to this scoping process. Table 7-8 sets out the key landscape components of the receptors, and the landscape character types that were scoped in are identified in Table 7-11, these were AONB LCT 2 escarpment, AONB LCT 7 High Wold, and AONB LCT 8 High Wold valley.

5.6.20. The landscape assessment is provided in Tables 7-13 to 7-16, with Table 7-13 providing specific commentary on changes to the AONB special qualities, their importance and whether they are adverse or beneficial. The Applicant concludes that the Proposed Development would have a range of changes on the character and special qualities of the Cotswolds AONB. In the short to medium term (up to the intended design year: year 15) these would generally be adverse in nature before the embedded and essential mitigation takes effect and the proposed enhancements are realised. In the long-term the Proposed Development would help to conserve and enhance the natural beauty of the AONB, providing enhancements to some of the special qualities.

5.6.21. In terms of the effects on the LCTs these are set out in Table 7-14, with Tables 7-15, 7-16 and 7-17 setting out a summary of the construction and operational effects at year 1 and year 15 respectively. These conclude that in respect of AONB LCT 2 the Proposed Development would have a large adverse significant effect during construction which would also be large adverse and significant at year 1 of operation, which would reduce to moderate adverse and significant at year 15 of operation. In terms of AONB LCT 7 the Proposed Development would result in a very large adverse significant effect during construction which would not reduce at year 1 of operation, but which would reduce to a moderate adverse significant effect by year 15. Finally in terms of AONB LCT 8 the Proposed Development would have a moderate adverse significant effect during construction and year 1 of operation and this would reduce to a slight adverse not significant effect by year 15 of operation.

5.6.22. The visual effects of the Proposed Development are set out in Tables 7-18 through to 7-35 in respect of each of the main receptors and taking account of the various representative views.

5.6.23. The Applicant summaries the effects in respect of construction and operational effects in the following manner. Construction activities would have a likely significant adverse temporary effect on the following visual receptors:

- Recreational users on the CWNT. Gloucestershire Way long distance footpath, byways, bridleways, and PRoW including at Barrow Wake, Emma's Grove and Crickley Hill, and in relation to Shab Hill, Stockwell and Nettleton Bottom.
- Communities including Nettleton Bottom, Shab Hill and Stockwell.

- Tourism receptors including visitors to the Cotswolds AONB, Great Witcombe Roman villa, Crickley Hill Country Park, Barrow Wake, Emma's Grove and Leckhampton Hill.

5.6.24. As a result of the Proposed Development at year 1, the Applicant concludes there would be adverse permanent significant effects experienced by the following visual receptors:

- Recreational users on the CWNT. Gloucestershire Way long distance footpath, byways, bridleways, and PRoW including at Barrow Wake, Emma's Grove and Crickley Hill, and in relation to Shab Hill and Stockwell.
- Visitors to the Crickley Hill Country Park, Great Witcombe Roman Villa, and Barrow Wake.
- Communities including Shab Hill and Stockwell.

5.6.25. As a result of the Proposed Development at year 15, the Applicant concludes there would be adverse permanent significant effects experienced by the following visual receptors:

- Recreational users on the CWNT.
- Visitors to the Crickley Hill Country Park and Barrow Wake.

5.6.26. Finally, the Applicant concludes that there would be non-significant beneficial effects experienced at the following receptors:

- Communities at Birdlip and Nettleton Bottom.

5.6.27. Overall, the Applicant concludes that the Proposed Development will give rise to significant adverse effects on both landscape and visual receptors.

5.6.28. The Applicant separately concludes on the effects of the Proposed Development on the special qualities of the AONB within the study area and concludes the following.

Permanent adverse effects on the special qualities of the Cotswolds AONB include:

- Cotswold escarpment, including views from and to the AONB, with the increased depth and width of cutting, and additional carriageway width.
- River valleys, due to infilling the head of the valley at Coldwell Bottom and the presence of Shab Hill junction.

Permanent beneficial effects on the special qualities of the Cotswolds AONB include:

- unifying character of the limestone geology, increasing its visible presence in the landscape through the cutting and use as a building material on the structure and extensive stone walling;
- high Wold long distance views, reducing the visual dominance of road infrastructure with the repurposing of the existing A417 and setting the scheme into the landscape, enclosing it with landscape bunding and Cotswold stone walling;

- distinctive dry-stone walls, providing extensive, additional new sections of dry-stone walling across the scheme;
- internationally important flower-rich grasslands, particularly limestone grasslands, providing large areas of calcareous grassland;
- internationally important ancient broadleaved woodland, particularly along the crest of the escarpment, providing additional areas of broadleaved woodland;
- variations in the colour of the stone from one part of the AONB to another which add a vital element of local distinctiveness, positively contributing to local distinctiveness with the use of Cotswold stone walling and cladding on structures;
- tranquillity of the area, with the removal of lit junctions and better integrated carriageway to reduce noise and visual disturbance;
- extensive dark sky area with the removal of lit junction and better integrated carriageway to reduce light spill from car headlights;
- accessible landscape for quiet recreation, improving recreational access with the provision and upgrading of PRoW, traffic free walking cycling and horse-riding (WCH) crossings via the Cotswold Way and Gloucestershire Way crossings.

Requirements

5.6.29. Requirement 3 prevents commencement of development until an EMP (construction stage) has been approved by the SoST. This must be in accordance with the EMP (design stage) which is a certified document in the rDCO. The EMP is to include various management plans including a Landscape and Ecological Management Plan which is supported by figures illustrating the landscape design proposals, the Environmental Masterplan. These matters are secured through the REAC within the EMP.

5.6.30. Requirement 5 requires a landscaping scheme to be submitted and approved, based on the Environmental Masterplan and Requirement 6 ensures all landscaping works are carried out in accordance with the landscaping scheme.

5.6.31. Requirement 7 requires the construction and installation of fencing and Requirement 11 addresses detailed design. Requiring detailed design to be undertaken in accordance with certified plans and the design principles set out in the Design Summary Report. Where there are any departures, these are to be approved by the SoST. The list of certified plans includes the works plans, general arrangements plans, the engineering drawings and sections and the structures engineering drawings and sections.

The Position of Interested Parties

5.6.32. A number of representations were received raising the issue of landscape and visual impact including effects on the AONB. The main issues raised during the Examination include the following:

- The Joint Councils in their LIR were concerned that the Proposed Development would result in a range of adverse changes to the character and special qualities of the AONB during construction and operation. They were concerned it would result in significant residual adverse effects on the escarpment and High Wold LCTs and on walkers along the CWNT and upon visitors to Crickley Hill and Barrow Wake [REP1-133].
- The Joint Councils support the landscape-led approach taken by the Applicant to develop a design which has the landscape, its characteristics and special qualities as the primary consideration, which reflects the expectations of Cotswold Local Plan policy EN1. They also acknowledge that the EMP includes the appropriate measures necessary to minimise impacts on landscape and visual receptors as far as possible, including a LEMP [REP1-133].
- The Joint Councils consider detailed designs of bridges and structures should be provided to support the application [REP1-133].
- NE confirms that it considers the scheme would not be detrimental to the purposes of the Cotswolds AONB and that it is satisfied the design of the scheme has fulfilled the requirement for high environmental standards (as set out in NPSNN at paragraph 5.153) and that the design includes measures which enhance aspects of the environment of the Cotswolds AONB [REP1-099].
- The NT in respect of the AONB, supports the scheme's "landscape led" vision and welcomes the Design Summary Report, although the scheme would still produce permanent adverse effects on the special qualities of the AONB. Regarding visual effects, NT considers that to fully assess the scheme, a better understanding of the visual appearance of the cutting would be helpful. NT also commented on the proposed changes to Leckhampton Hill at the entrance to Crickley Hill Country Park, lighting, drainage basins and fencing [REP1-098].
- The CCB considers that exceptional circumstances do apply, that the Proposed Development would be in the public interest, and that it does comply with the requirements of the NPSNN, with regard to development within an AONB. In terms of the overall balance of beneficial and adverse effects the CCB considers there would be a net beneficial effect on tranquillity, dark skies, natural heritage and recreational opportunities. But it considers that there will be net adverse effects on landscape quality and character, scenic beauty and cultural heritage. Furthermore, CCB considers that there will be a residual net adverse effect on the AONB but acknowledges that the Applicant has moderated the adverse effects to the extent that is practicable within the parameters of the scheme. The CCB also accepts that the Applicant has reviewed alternative options in sufficient detail and provided clear justification for the current scheme out preforming the alternatives [REP1-030 and REP1-031].
- A number of individual IPs expressed a general concern at the effect of the Proposed Development on the AONB in broad terms in the destruction of the countryside and many commented that Option 12 (an alternative alignment based around the existing A417 corridor) would be a less intrusive and damaging effect on the AONB. Examples included Amanda Naylor [REP1-143], Tim Knox [REP1-138], Susan Hamilton [REP1-132], Rahul Ahuja [REP1-129], Pascal Gysi [REP1-

125], Nicholas Reed [REP1-124], Caroline Miller [REP1-094], Megan Mather [REP1-084], Joanna Pearce [REP1-077], Edward Williams [REP1-057], Carol Gilbert [REP1-023] and Andrew Dawson [REP1-020].
- Some other specific concerns included Chris Mather and Cerys Mather who were concerned it could prevent the Cotswolds becoming a National Park [REP1-026 and REP1-025].

5.6.33. A number of SoCGs were signed by the conclusion of the Examination, including with the Joint Councils [REP9-012], NE [REP9-014], CCB [REP9-016], the NT [REP9-018] and Coberley Parish Council [REP9-021], which included sections dealing with landscape and visual matters. For the most part these were matters that were agreed between the parties and included agreement on the methodologies employed. There were only minor matters outstanding and nothing of substance objecting to the Proposed Development. These are taken into account in our considerations of the matters below.

ExA Considerations

5.6.34. The main issues of concern raised by IPs in the context of landscape and visual matters included a general concern that the Proposed Development would result in significant harm to the AONB. This was raised by many local residents in mostly generic terms. The Joint Councils, CCB and other statutory bodies also identified that harm would occur to the special qualities of the AONB and that there would be harm to landscape receptors and experienced by visual receptors. The Proposed Development is wholly located within a nationally designated area, as indeed were all the other options considered for the project, and the Applicant has relied upon what it has described as a landscape-led design approach to develop the proposals. This has led us to conclude on the following main issues:

- The landscape-led design approach and whether the proposal represents good design.
- The effect of the Proposed Development on landscape receptors.
- The effect of the Proposed Development on the visual amenity experienced by visual receptors.
- The effect of the Proposed Development on the AONB including whether there are exceptional circumstances and if it can be demonstrated it is in the public interest.

Landscape-led Design Approach

5.6.35. The Applicant has provided a Design Summary Report [APP-423] which describes how the Proposed Development is landscape-led and how it demonstrates 'good design' and avoids or mitigates landscape and visual effects.

5.6.36. The report sets out the Proposed Development's vision and what is meant by landscape-led. It sets out that this means that the landscape, its characteristics and special qualities are primary considerations in every decision that is made, with the proposals designed to meet the

character of the surrounding landscape rather than changing the landscape to fit the proposals.

5.6.37. The vision is underpinned by four objectives which in summary include:

- safe, resilient and efficient network: to create a high-quality resilient route that helps to resolve traffic problems and achieves reliable journey times;
- improving the natural environment and heritage: to maximise opportunities for landscape, historic and natural environment enhancement within the Cotswolds AONB and to reduce negative impacts;
- community and access: to enhance the quality of life for local residents and visitors by reducing traffic intrusion and pollution, discouraging rat-running through villages and substantially improving public access; and
- supporting economic growth: to facilitate economic growth, benefit local businesses and improve prosperity.

5.6.38. In the Case for the Scheme [APP-417] the Applicant provides, at Table 7-4, a comparison of a typical highways scheme and a landscape-led approach to mitigation. This sets out how a typical highway scheme approaches certain matters and how this landscape-led approach deals with those, including matters related to earthworks and false cuttings, noise mitigation, boundary treatment, drainage design etc. It sets out where in the embedded design of the Proposed Development and in the mitigation of effects how the Proposed Development takes account of the surrounding landscape and seeks to integrate the Proposed Development within it.

5.6.39. The Design Summary Report describes how the evolution of the Proposed Development has been the subject of design review by the Design Council on a number of occasions and which resulted in the Strategic Design Panel Progress Report 4 in March 2021, in making key recommendations and looking ahead to the Road Investment Strategy 2 (RIS2) delivery period, making special mention of the A417 Missing Link proposal as an exemplar for landscape-led design. This is in line with the advice in the NPSNN which advises that independent advice on the design aspects of a proposal should be considered, with footnote 63 advising that applicants can use the Design Council.

5.6.40. The Proposed Development has evolved over time and some of the adjustments have included the following:

- Amending its original vertical incline from 7% to 8% as it rises up the escarpment, reducing the amount of waste material and the impact on the escarpment.
- Redesigning of Shab Hill junction and access roads for the A436, to reduce area, improve accessibility and enable better integration.
- There is extensive use of dry-stone walling, to assist in integration into the landscape and improve the visual amenity of the area.
- The road surface across the High Wold has been sunk and the use of false cuttings and landscaped earth works have sought to reduce

visual intrusion, including reducing glare and impact from head lights on dark skies and to assist with noise mitigation.
- The Proposed Development is also supported by an Environmental Masterplan, part of the LEMP and which is secured through the EMP.

5.6.41. The main statutory bodies welcome the landscape-led approach adopted by the Applicant in general and support the overall principles, vision and objectives. This is confirmed in the various final signed SoCGs as referred to above.

5.6.42. One specific area that was subject of debate during the Examination related to the detailed design of the bridges and other crossing structures, with the Joint Councils and CCB amongst others suggesting that greater detail should be provided, or a Design Code submitted, in order for the project to truly be landscape-led given the AONB sensitivities. At D5, submissions from various bodies including CCB (which was prepared jointly with the Joint Councils, NT and GWT) [REP5-011] called for greater clarity on design. The Applicant replied at D6 [REP6-014] that a design code was not required and that the Design Summary Report would suffice, but nonetheless provided detailed Structures Engineering Drawings and Sections [REP6-006]. The provision of these additional detailed drawings, coupled with an adjustment of Requirement 11 to make reference to the new plans now forming certified documents, addressed the concerns of the parties as is demonstrated by the fact this was not identified as an outstanding issue in any of their final signed SoCGs.

5.6.43. We are satisfied that the Applicant has sought to have significant regard to the location and constraints in the design of the Proposed Development and has adopted a landscape-led design approach. The integration and additionality of features over and above the normal highway responses has embedded mitigation within the general layout and design of the Proposed Development. The Environmental Masterplan and extensive use of dry-stone walling and appropriate woodland planting and general landscaping in association with the variation in earthworks has resulted in a responsive development where appearance as well as functionality, fitness for purpose, sustainability and cost have been considered. The features incorporated in the design have resulted in enhancement as well as mitigation the details of which are set out in the ES Chapter 7 at paragraph 7.9.33*ff*. The enhancements and mitigation are secured through the design details and the EMP REAC, as well as the LEMP.

5.6.44. Overall, we conclude that the Proposed Development's landscape-led design approach results in it being in accordance with the criteria for "good design" as set out in the NPSNN paragraphs 4.28 to 4.35 and is in accordance with the NPPF.

Effect on Landscape

5.6.45. The effect on the landscape is assessed in relation to the AONB LCTs, the respective Landscape Character Areas are mapped in Figure 7.4 [APP-142 and APP-143]. This approach was agreed by consultees and the

general approach and assessment methodology is agreed and confirmed in the various SoCGs. The ES sets out the Applicant's approach to scoping in and out of the assessment based on the LCTs experiencing likely significant effects. This has resulted in the Applicant assessing the effect on three LCTs: LCT 2 escarpment, LCT 7 High Wold, and LCT 8 High Wold Valley. A summary of the landscape character of each is provided at 7.7.20*ff* of the ES.

5.6.46. The assessment of likely significant effects on the LCTs is set out at table 7-14 in the ES. At the west of the Proposed Development the road would connect to the existing dualled section of the A417 at the Brockworth bypass, and would rise up the escarpment on the alignment of the existing A417, where it would be within the LCT 2 escarpment landscape. The Proposed Development would result in the creation of a five lane (including crawler lane) road with central reservation and embankments cutting through the escarpment with associated impacts on loss of vegetation, the creation of the road and supporting infrastructure, and various other bridge and underpass structures. There would also be realignment of local roads and a tributary of Norman's Brook. Towards the top of the escarpment the Air Balloon public house and junction would be demolished, and a new Ullenwood junction and associated infrastructure created. This would result in substantial change, which the Applicant has identified as a large adverse significance of effect. Barrow Wake car park sits at the top of the escarpment and works to enclose the car park with walling and alterations to the road layout at its entrance would further impact views from and to the asset. There was no detailed dissention from this point of view, and we agree that this would be a significant adverse effect given the sensitivity of the receptor.

5.6.47. The operational effect at the point of opening would remain significant and adverse given that the exposed cutting, embankments and recently completed construction works would still be very evident scaring in the landscape. Tree planting and landscaping would have little beneficial effect at this point and the loss of mature landscaping would remain very evident. Over time as the landscaping proposals matured, the proposed tree planting and landscaping of the banks and the mellowing of the bright colour of the newly exposed rock faces would become more integrated and would assist in reducing the initial harsh appearance of the works. By year 15 the Applicant considers that the effect would have reduced to a moderate adverse significance of effect. We agree that although the sensitivity of the location remains very high that with the maturing of the landscaping the overall effect of the Proposed Development would be significantly reduced. The road retains a similar and historic alignment up the escarpment, albeit that it would be wider, deeper and greater in scale. Barrow Wake would be screened to some extent by the walling which would reduce the effect of the car park and its use, resulting in a beneficial change, and the changes to the road layout would be integrated with maturing landscaping resulting in a neutral effect on landscape character. Overall, we conclude that the Proposed Development would result in substantial harm to the landscape of LCT 2 escarpment and this should weigh against the grant of consent.

5.6.48. In terms of LCT 7 High Wold, this is an extensive area of the landscape character of the area and the Proposed Development runs through it from Ullenwood junction to Cowley junction where the Proposed Development joins the dualled section of the A417 at the western end of the application site. The Proposed Development goes off-line for the majority of this section and through open countryside. The redeveloped Ullenwood junction, the alignment of the main line, the development of Shab Hill junction, various bridges and crossings and a redesigned Cowley junction along with various construction compounds would have very significant effects on the wider area during construction.

5.6.49. The Applicant summarises the landscape features in the High Wold as comprising a dramatic expanse of gently undulating plateau, characterised by frequent open long-distance views, at paragraph 7.7.24 of Chapter 7 of the ES [APP-038]. The land use is primarily arable farming with large regular fields, bounded by degraded stone walls and hedgerows. Woodland cover is limited on the plateau except where the plateau is crossed by valleys where low lying woodland is present. The Applicant however also notes that part of the High Wold within the study area, located between Air Balloon roundabout and Stockwell, is not typical of the wider LCT, due to a combination of lower quality, detracting features such as conifer belts, degraded field boundaries and enclosed character, particularly north of Shab Hill. The area has tall hedgerows and tree belts which enclose this part of the Wold, reducing opportunities for intervisibility, compared to the more typical open, expansive character of the wider LCT, between Stockwell and Cowley. We agree that this is a reasonable and accurate summary of the location.

5.6.50. The major nature of the Proposed Development would be extremely intrusive and have a substantial impact. The Applicant categorises this as a very large adverse significance of effect during the construction period. The nature of the proposed works with the carriageway, drainage basins, cuttings, embankments, bridges and crossings would all remain very evident at the point of opening in year 1. Significant changes to landform through bunding and the introduction of new permanent features in the landscape, including bridges and other engineered bunds and cuttings etc, would all be readily evident along with the scarring associated with the recently completed works and construction compounds. The significance of effect would therefore remain very large.

5.6.51. As the Proposed Development matures it would become better integrated as according to the Applicant it would be generally enclosed by landscape bunding and maturing woodland vegetation, with woodland positively contributing to the special qualities of the AONB (internationally important broadleaved woodland). The bunding would complement the characteristic rolling landform, covered with calcareous grassland, and lined with Cotswold stone walls and small copses of trees. According to the Applicant's assessment new sections of walling would positively contribute to the special qualities of the AONB (unifying character of the limestone geology and distinctive dry-stone walls). These beneficial changes would be balanced with the permanent presence of a major highway, overbridges, Shab Hill and Cowley junctions and large drainage

basins. Vehicles would remain visible and audible to exposed parts of the Shab Hill junction and along the realigned B4070 and A436 roads, locally affecting the LCT. However, the majority of the road infrastructure would be set into the landscape using extensive landscape bunding, topped with dry-stone walling, providing some local enhancements to the local character. These features would screen the road and vehicle movements in wider views across the High Wold. The Applicant concludes that by year 15 the effect would reduce to a moderate adverse effect. There has been no significant challenge or disagreement to these propositions, and we accept that they are a reasonable assessment of the likely effects on this LCT. The Proposed Development would result in a moderate adverse harmful effect to LCT 7 High Wold and this should be weighed against the grant of consent.

5.6.52. Turning to LCT 8 High Wold Valleys, the Proposed Development at Shab Hill Junction cuts through a valley area. The construction of the Cotswold way crossing is in close proximity to the perimeter of the area and towards the southern end of the Proposed Development at Nettleton Bottom it is close to the edge of such a landscape type. The construction works associated with Shab Hill junction would fill in a valley head and would result in significant change to local landform. However, this is in a discrete location of the LCT and would only affect a confined area and have a limited effect on the wider LCT. As the landscape is very high sensitivity this still results in a moderate adverse significance of effect. The permanent effects associated with the construction and associated features would remain readily evident at year 1 of operation and would not be significantly reduced. By year 15 with maturing landscaping reduced scaring from the development the landscaped bunds and tree planting would reduce the effect of the impact. The Proposed Development would still be perceived and there would remain effects on tranquillity from associated activity from the use of the road. The Applicant suggests that this would reduce to a slight adverse effect and not significant. Given the sensitivity of the location, there is some concern with this conclusion however it would be on a confined section of the wider LCT and therefore we accept that it would not be significant in the context of the High Wold Valleys LCT. This would be a neutral factor, albeit the construction and early operational phase would be a negative factor that weighs against the grant of consent, although this is mitigated to some extent as it is time limited.

5.6.53. There was no significant dispute in the context of the broad assessment of the effects on landscape. Obviously as a significant infrastructure project in a sensitive environment it will have an impact and effect. The greatest effect will be during construction which would rise to a very large adverse effect. During operation, with the increasing maturity of the landscaping, the effect on landscape overall would be reduced to a moderate adverse significance of effect. In the context of a Proposed Development of this nature the Applicant has produced a landscape-led 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. However, given the sensitivity of the

landscape and the residual effects that remain the effect on the landscape remains and this weighs against the grant of consent.

Effect on Visual Amenity

5.6.54. The effect on visual amenity is addressed and assessed in relation to various receptor groups, including recreational receptors, community receptors and tourism receptors. Various representative viewpoints have been agreed in consultation in advance of the assessment process. With the exception of some limited additional requests from NT [REP1-098] and Coberley Parish Council [REP9-021], during the Examination there were no significant concerns raised with the location of viewpoints or indeed the assessment of visual effects. The viewpoints covered the appropriate locations and were reasonably representative and we visited those areas where significant effects were identified and where others had raised matters during our site visits, to ensure we were appropriately informed.

5.6.55. Whilst there were issues raised by various IPs concerning the visual impact of the Proposed Development on particular locations, including Crickley Hill, Barrow Wake, Emma's Grove and the open countryside on the High Wold there were no substantive issues raised with the Applicant's assessment of the likely significant effects in the ES. The nature of the concerns was expressed in general terms and in the context of significant infrastructure development in a particularly sensitive location, referencing its AONB status.

5.6.56. The Applicant concludes that construction activities would have a likely significant adverse temporary effect on the following visual receptors:

- Recreational users on the CWNT, Gloucestershire Way long distance footpath, byways, bridleways, and PRoWs including at Barrow Wake, Emma's Grove and Crickley Hill, and in relation to Shab Hill, Stockwell and Nettleton Bottom.
- Communities including Nettleton Bottom, Shab Hill and Stockwell.
- Tourism receptors including visitors to the Cotswolds AONB, Great Witcombe Roman villa, Crickley Hill Country Park, Barrow Wake, Emma's Grove and Leckhampton Hill.

5.6.57. The Applicant's general assessments of the significant effect on visual receptors are set out at paragraphs 5.6.24 to 5.6.26 above and these 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 with a very high sensitivity. It would therefore have significant harmful visual effects. The design of the Proposed Development has incorporated embedded mitigation in terms of route and engineering options (vertical alignment, use of cuttings and bunds) etc, and incorporates mitigation to reduce the overall effects (including tree planting landscaping, stone walls etc). 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.

5.6.58. We conclude that in respect of visual amenity the proposal would result in harm, and in accordance with NPSNN paragraph 5.158 the SoST will have to judge whether the visual effects on these sensitive receptors outweigh the benefits of the scheme. That balance, from our perspective, is undertaken in Chapter 7 in the Case for Development Consent and in which we would advise that substantial weight should be given to the harm to visual amenity.

Effect on Cotswolds AONB

5.6.59. During this section of the Report, we set out the effects of the Proposed Development on the special qualities of the AONB to provide a base line against which to assess and consider the overall effects on the AONB and to identify any harm that may arise. The NPSNN provides the policy tests against which an assessment of development within nationally designated areas needs to be undertaken at paragraphs 5.150 through to 5.153. In effect these can be categorised as a) an exceptional circumstances test (para 5.151), b) a compelling reasons test (paragraph 5.152) and c) a high environmental standards test (paragraph 5.153). We undertake the consideration of these matters in Chapter 7 as part of the overall planning balance. These tests are similarly repeated in the NPPF which does not therefore require a separate assessment as such. There is also a statutory duty for relevant authorities, which includes the SoS, to have regard to the purpose of conserving and enhancing the natural beauty of an AONB, which we have had regard to. The Applicant's case is set out in the Case for the Scheme [APP-417].

5.6.60. <u>Special Qualities of Cotswolds AONB</u>

5.6.61. Table 7-13 of the ES sets out a descriptive analysis of the likely changes to the special qualities of the AONB. The special qualities are taken from the Cotswolds AONB Management Plan 2018-2023. There is no dispute from any IPs regarding the special qualities of the AONB. The table also includes consideration of the effects on tranquillity and dark skies as defined by the Council for the Protection of Rural England (CPRE). The likely changes are described by reference to the phase of the development: construction or operation.

5.6.62. The likely effects as set out in that table are generally accepted. This has to be qualified as the SoCG with CCB includes matters where agreement is not reached and in which CCB provides a summary of the results of its assessment of the balance between benefits and adverse effects that contribute to the natural beauty of the Cotswolds which states "*The summary results of this assessment concluded:*

- *Landscape quality / character: net adverse effect, with some of these adverse effects potentially being significant.*
- *Scenic quality / beauty: net adverse effect, with these adverse effects potentially being significant in multiple locations.*
- *Relative tranquillity: net beneficial effect for both residents and users of public rights of way, particularly the Cotswold Way National Trail.*
- *Dark skies: net minor beneficial effect.*

- *Natural heritage: potential to provide a significant net-increase in the extent and connectivity of key priority habitats, particularly calcareous grassland (dependent on an effective, long term (30+ years) management regime); balanced against this is the significant adverse effects on a nationally important SSSI and the irreplaceable habitat of Ullenwood ancient woodland.*
- *Cultural heritage: net adverse effect, with some of these effects potentially being significant.*"

5.6.63. The CCB comments go on to note that "*As such, we do not consider that the scheme fulfils one of the three Scheme Design Principles of the Landscape-Led Vision, i.e. the scheme will not result in substantially more benefits than negative impacts for the Cotswold AONB. However, we do consider that the landscape-led approach that Highways England has followed (i.e. considering landscape in their design decisions) has resulted in a considerably better scheme than might have otherwise been the case*."

5.6.64. Overall, it is reasonable to conclude that the Proposed Development would have a range of changes on the character and special qualities of the Cotswolds AONB. In the short to medium term (up to the intended design year: year 15) these would generally be adverse in nature before the embedded and essential mitigation takes effect and the proposed enhancements are realised. However, the Applicant also concludes that in the long term the Proposed Development would help to conserve and enhance the natural beauty of the AONB, providing enhancements to some of the special qualities. Given the balance of conclusions this appears to be too positive an assessment. Whilst the effects would certainly reduce over time and the positive benefits realised increase over time there would still be a significant engineered feature that would traverse presently undisturbed areas of the AONB and this will remain which will manifest as an adverse effect in terms of the scenic quality and natural beauty of the area. It will certainly be reduced from construction and early years, and there will be increasing benefits as time goes by and there will be positive enhancements, but fundamentally there will be an adverse change affecting many of the special qualities. We have concluded that the Proposed Development would harm the landscape in its own right, which has heightened sensitivity and quality due to being AONB designated. The implications and whether such development is acceptable in the AONB and the effect on its governing principles are set out and balanced in detail within Chapter 7 of this Report.

Conclusions

5.6.65. In terms of the landscape and visual amenity matters we are satisfied that overall, the Proposed Development does represent good design and is in accordance with the NPSNN and NPPF.

5.6.66. We have concluded that as a significant infrastructure project it will have an impact and effect. The greatest effect will be during construction which would rise to a very large adverse effect. During operation, with the increasing maturity of the landscaping, the effect on landscape

overall would be reduced to a moderate adverse significance of effect. In the context of a Proposed Development of this nature the Applicant has produced a landscape-led 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. However, given the sensitivity of the landscape and the residual effects that remain the effect on the landscape remains and this weighs against the grant of consent.

5.6.67. In terms of visual amenity, we have concluded that the Proposed Development would result in harm and in accordance with NPSNN paragraph 5.158 the SoS will have to judge whether the visual effects on these sensitive receptors outweigh the benefits of the scheme. That balance, from our perspective, is undertaken in Chapter 7 in the Case for Development Consent and in which we would advise that substantial weight should be given to the harm to visual amenity.

5.6.68. The effect on the Cotswolds AONB has been a significant issue for the consideration of this major infrastructure development. In our view the Proposed Development will result in harm to the special qualities of the AONB and this needs to be considered in the context of the test in the NPSNN re exceptional circumstances, compelling reasons including whether the benefits outweigh the costs very significantly, and whether the Proposed Development will be carried out to a high environmental standard, including measures that would enhance the environment and these are secured through appropriate requirements. This we do in Chapter 7 below

5.6.69. In summary we conclude that:

- the Proposed Development does represent good design through its landscape-led design approach, and it is in accordance with the criteria for 'good design' as set out in the NPSNN paragraphs 4.28 to 4.35 and the NPPF;
- given the sensitivity of the landscape and the residual effects that remain the effect on the landscape remains moderately adverse by year 15 reducing from a very large adverse effect during construction and the early years of operation and this weighs against the grant of consent;
- the Proposed Development would result in material harm to visual amenity and in accordance with NPSNN paragraph 5.158 the SoS will have to judge whether the visual effects on these sensitive receptors outweigh the benefits of the scheme; in that balance we would advise that substantial weight should be given to the harm to visual amenity (our consideration of that balance is provided in chapter 7 below); and
- The assessments as to whether there are exceptional circumstances for the grant of consent for the scheme in the Cotswolds AONB; there are compelling reasons for the new road and its enhanced capacity, and the benefits outweigh the costs very significantly; and whether the scheme will be carried out to a high environmental standard, including measures that would enhance the environment and whether

these are secured through appropriate requirements as required in the NPSNN is undertaken in Chapter 7 below.

5.7. NOISE AND VIBRATION

Introduction

5.7.1. This section considers the effects of the Proposed Development in relation to noise and vibration, including the effects on tranquillity within the Cotswolds AONB.

Policy

5.7.2. NPSNN paragraphs 5.188 to 5.199 set out guidance and policy for undertaking the assessment of noise impacts. Paragraph 5.189 of the NPSNN sets out the matters to be included in a noise assessment including:

- describing the noise sources including likely usage;
- identification of noise sensitive premises and noise sensitive areas that may be affected;
- a prediction on how the noise environment will change with the proposed development;
- an assessment of the effect of predicted changes in the noise environment on any noise sensitive premises and noise sensitive areas; and
- measures to be employed in mitigating the effects of noise.

5.7.3. With regard to decision-making, paragraph 5.193 states that due regard must be given to the Noise Policy Statement for England (NPSE), the NPPF and associated planning guidance. Paragraph 5.194 goes on to say that the project should demonstrate good design through optimisation of layout and, where possible, the use of landscaping or noise barriers to reduce noise transmissions.

5.7.4. Paragraph 5.195 states the proposed development should meet the following aims:

- Avoid significant adverse impacts on health and quality of life.
- Mitigate and minimise other adverse impacts on health and quality of life.
- Contribute to improvements to health and quality of life through the effective management and control of noise where possible.

5.7.5. With regard to mitigation, paragraph 5.197 states that consideration should be given to whether measures are needed over and above those that form part of the application. Mitigation measures may include those relating to engineering to contain noise generated, materials (for example low noise road surfacing), layout (including screening) and administration (specifying acceptable noise limits).

5.7.6. The NPSE states that the Government's overall vision for noise is to promote good health and a good quality of life through the effective

management of noise within the context of Government policy on sustainable development.

5.7.7. The NPSE refers to the World Health Organisation 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.

5.7.8. 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.

5.7.9. 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).

5.7.10. 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).

The Case for the Applicant

5.7.11. The Applicant's assessment of noise and vibration matters is primarily contained within Chapter 11 (Noise and Vibration) of the ES [APP-042]. The chapter is supported by contour maps [APP-248 and APP-251], baseline surveys [APP-391] and noise predictions [APP-393].

5.7.12. The ES details that the assessment of both construction and operational road traffic noise has been undertaken in accordance with DMRB LA111, which has considered road traffic noise impacts in both the short-term (upon opening) and long-term (to the future design year of 2038). In addition to residential receptors, LA111 identifies a range of non-residential properties as noise sensitive, which should also be considered in the assessment. These include hospitals, healthcare facilities, education facilities, community facilities, designated quiet areas, international and national or statutorily designated sites, PRoWs and cultural heritage assets.

5.7.13. The noise assessment from the construction of the Proposed Development has been determined according to LA111 which makes reference to BS 5228–1:2009+A1:201417. This standard provides a procedure for predicting construction noise, along with information for its prevention and control. Construction activity would mainly take place during the daytime but there would be occasional work at night during full road closures. Examples of overnight working instances are stated by the Applicant as installing or removing traffic management measures or installing the temporary Bailey bridge for access to the crusher and

material stockpile compound. A night-time noise assessment has been undertaken for these activities for the closest receptors to where they would occur.

5.7.14. For operational noise, the Applicant states traffic noise level calculations were carried out according to LA111 which makes reference to the 'calculation of road traffic noise' methodology. Noise levels were calculated across a grid of receptor positions over the study area to produce contours of noise level exposure. The traffic data used in the model were those forecasted under the 'Do-Something' (DS) and 'Do-Minimum' (DM) scenarios in the opening year and those in the future assessment year (long term).

Assessment of Likely Significant Effects

5.7.15. ES Chapter 11 states that prior to the implementation of mitigation and enhancement measures which would be designed into the Proposed Development, there would be the potential for adverse and beneficial impacts to arise during both construction and operation. The Applicant submits that all reasonably practicable embedded and essential mitigation measures have been considered but no allowance has been made for these measures within the assessment as their practicability needs to be assessed further at the detailed design stage. One such mitigation measure for the operational phase is the use of a low-noise thin surface course system for the surface of the A417 Missing Link and its junctions. Other mitigation measures are listed in Table 11-16 in Chapter 11 [APP-042].

5.7.16. Direct temporary significant adverse construction noise would be anticipated at forty-five residential receptors and five non-residential receptors. It is likely that construction vibration levels generated by road surfacing activities at receptor locations close to the Proposed Development would result in moderate and major adverse impacts above the SOAEL for human annoyance. However, the duration of these impacts is estimated to be less than ten days, hence these effects are assessed as not significant. Building damage thresholds for vibration would be exceeded without appropriate mitigation in place.

5.7.17. Some evening and night-time construction works would also be required. Much of these instances would be occasional with each period associated with a limited area of works for a limited time period. During construction, some road closures and traffic regulation measures would be implemented giving rise to temporary increased traffic noise on the Affected Road Network. However, the Applicant states that these would constitute a small proportion of the full three-year construction programme. The effects of the proposed traffic diversions are stated as being not significant by the Applicant. The addition of 170 two-way trips onto the existing road network would therefore result in a negligible increase.

5.7.18. For operation of the Proposed Development, the ES states that there are a number of receptors, including those in noise important areas, that

would experience benefits from the re-routing of the A417. For those receptors where there are increases in noise exposure, embedded mitigation would seek to reduce the noise impacts to as low as practicable whereas some properties/ premises may be subject to site-specific noise insulation solutions. However, permanent adverse effects would remain on some footpath links including the Gloucestershire Way long distance footpath in the vicinity of the Proposed Development where the baseline noise levels are low.

5.7.19. The Applicant's view is that compliance with the NPSNN is achieved through mitigation measures including alignment, lower noise road surfacing and noise screening. Where significant adverse effects would remain, all appropriate measures have been applied as far as it is practicable and sustainable to do so to avoid, mitigate and reduce these effects.

Requirements

5.7.20. Measures to secure noise mitigation are secured through Requirement 13 to the dDCO, together with the commitments included in the REAC within the EMP [REP6-010]. Some of the commitments require specific monitoring to take place at specified properties, and an appropriate level of noise insulation to be fitted if construction and operational noise experienced is found to necessitate it.

The Position of Interested Parties

5.7.21. Several RRs were received concerning noise and vibration including as follows:

- National Star College on the impact of noise and vibration on its sensitive students both at internal and external spaces [RR-039].
- Coberley Parish Council raised increased road traffic noise closer to the parish [RR-019].
- Edward Hollingworth on increased noise and disturbance closer to the village of Cowley [RR-030].
- Paul Vogel on noise effects within the AONB [RR-085].
- Charlottle Hobkirk-Capps on effects on personal property, wellbeing and health [RR-014].
- Alistair Miller suggesting slower road speeds to reduce traffic noise [RR-072].
- R W de Lisle Wells on the need for bunds to protect residences [RR-089].

5.7.22. The Applicant provided comments on these which we have reviewed and consider adequately address a number of the IPs' concerns [REP1-008]. ExQ1 [PD-008] raised detailed questions in relation to noise and vibration and, in our opinion, the Applicant's responses provided satisfactory responses to these outstanding issues [REP1-009].

ExA Considerations

5.7.23. The main issues in dispute are:

- the effects upon residences in proximity to the Proposed Development and along the affected road network;
- effects upon tranquillity within the AONB;
- the noise and disturbance upon the village of Cowley; and
- the effects upon the National Star College and persons with protected characteristics.

Impacts on Residential Receptors

5.7.24. The SOAEL thresholds for construction noise and vibration are set out in Tables 11-3, 11-4, 11-7 and 11-10 of ES Chapter 11, that the Applicant states have been derived following DRMB LA111 and BS 5228-2:2009+A1:2014. There was no challenge of this methodology by any IP during the Examination, and we have no reason to question the reliance upon them.

5.7.25. There are 17 noise sensitive properties where noise levels are predicted to exceed the SOAEL with noise increases (ie impact as a result of the Proposed Development), but such exceedance would be limited to just over 1dB in the short term. The Applicant sets out that the Noise Insulation Regulations would not apply directly to these properties as eligibility for such insulation relates to dwellings not more than 300m from the new or altered scheme [REP1-009]. Any noise insulation would follow the specifications for insulation work in the Noise Insulation Regulations 1975. The residence associated with the business of Flyup Limited would be subject to significant daytime noise during construction and operation, hence the Applicant proposes secondary glazing, and an air quality ventilation compensation package for that property [REP9-024].

5.7.26. The Applicant submitted that any noise insulation works identified would be outside of the Order Limits, and the dDCO does not contain a provision which would enable access to land and/ or properties for the purposes of providing noise insulation ([REP1-009], question 1.9.5). The expectation in relation to these works would be that the parties affected would allow entry if they wish to have the insulation installed. In response to ExQ2 ([PD-017], question 2.9) the Applicant responded that noise insulation would be offered to those properties listed in paragraph 11.10.118 of ES Chapter 11 [APP-042] and that the noise increasing by 1dB at 17 properties would be indiscernible in any event. This latter point was agreed as acceptable with the Joint Councils [REP6-015].

5.7.27. Night-time noise impacts would be managed through the Noise and Vibration Management Plan which is secured by commitments GP5 and NV3 in the EMP [REP6-010]. The relevant measures include identifying likely noisy activities in the construction programme, the proposed noise mitigation measures, and a strategy for actively communicating this information to local communities. Night-time noise impacts would also be managed through Section 61 consent conditions where applicable.

5.7.28. Noise monitoring during construction would be undertaken at key sensitive receptors to ensure that mitigation works effectively. We note from the SoCG with the Joint Councils that there is agreement that

options for mitigating adverse effects of noise and vibration have been fully explored and there are no further measures, beyond the mitigation already secured in the EMP, for reducing the impacts [REP9-012]. We note that noise and vibration levels would remain high for the retained Air Balloon cottages, although marginally lower than existing levels following the proposed deviation of the A417 Missing Link away from the current alignment of the A417 in the vicinity.

5.7.29. Noise may increase from passing traffic to some residences on Leckhampton Hill, which would experience a predicted increase in vehicular use post-construction. However, the Joint Councils concur with the Applicant's findings that such effects would not be significant or adverse and, with no substantive evidence to the contrary, we are content to accept this position. The site-specific measures to alleviate noise impacts at Flyup Limited are noted and considered acceptable, taking into account that the predicted noise increase at the property being 1dB above the existing baseline only.

Impacts on Non-residential Receptors

5.7.30. The matters of noise and vibration on non-residential receptors were largely resolved early on by the Applicant and IPs, as reflected in the Statement of Commonality submitted at D3 ([REP3-005], Table 5-1). However, a couple of points remained live in the Examination.

5.7.31. The NT was concerned regarding the definition and extent of a low-noise thin course surface [REP1-097]. The Applicant provided information that the lower noise surface would be laid on all new and altered roads in the scheme, including the altered section alongside Crickley Hill, and is secured by dDCO Requirement 13. The noise performance of this new road surface, described in DMRB LA111 as the road surface influence (RSI), would be a correction of -3.5dB compared with a conventional hot rolled asphalt surface. The operational noise predictions have been carried out according to the established and well-validated methods required by DMRB. The prediction procedure does not assume acoustic screening provided solely by trees given the seasonal nature of leaf cover and the density of vegetation that would be required to provide attenuation. The SoCG signed with the NT confirms the Applicant's explanation resolved this issue (Table 4-1, point 10.1 [REP9-018]).

5.7.32. The only outstanding matter relating to construction noise and vibration at the end of the Examination related to the premises of the National Star College, particularly upon its student intake comprising students with protected characteristics. There was concern that noise and vibration would be experienced at the Ullenwood campus, affecting both internal and external spaces to the detriment of the educational, health and wellbeing needs of the students ([RR-078, REP1-068 and REP6-033]).

5.7.33. Initially the Applicant stated that the college was over 300m from the corridor of construction works, so vibration would be a negligible effect [REP1-009]. In respect of noise, the Applicant explained that agreement

would be reached with National Star College as to where there is potential for students to be disturbed by construction noise (as described in [APP-042] paragraph 11.10.37) and mitigation, likely in the form of mechanical ventilation, would be provided in relation to spaces within the college that are identified as being particularly noise sensitive. Despite the National Star College being outside the Order Limits, the Applicant confirmed the ongoing commitment to monitor noise and fit necessary mitigation under the REAC forming part of the EMP [REP6-010] secured under Requirement 3.

5.7.34. National Star College stated that mechanical ventilation could not be relied upon because the upkeep and management would be a costly exercise and may disrupt student life during service and maintenance of the plant [REP6-033]. Furthermore, there was great concern with noise on the external spaces around the college, such as sensory gardens, outdoor play spaces and farming areas used by the students. The Applicant stated that sound demonstrations had been carried out for the benefit of the college and that, as a result of these, National Highways made a commitment (NV8 in the EMP [REP6-010]) that the level of noise impact of construction work relative to ambient traffic noise won't exceed the levels in the noise demonstration [REP6-015]. This would provide a threshold against which National Highways would monitor. If the monitored level of construction noise relative to ambient traffic noise exceeds the levels in the sound demonstration and there are incidents of students being distressed by construction noise, or the college's staff raise a concern that the construction noise is highly likely to lead to such incidents, the contractor would review the dominant construction noise sources and make all efforts to reduce noise levels to those represented in the demonstration.

5.7.35. Following our site inspection to the college grounds [EV-042], we recognise the sensitivities for students at the campus and need for enjoyable space for both relaxation, mindfulness and for the de-escalation of situations. We appreciate that noise and disturbance in external spaces used for such purposes would cause difficulties and diminish the effectiveness of such spaces. We are nonetheless content that continuous monitoring by contractors combined with a direct liaison between the construction workers and the college would provide adequate opportunity to mitigate the worst effects. The commitments in the EMP to limit noise to certain thresholds during construction gives reassurance that the time-limited effects of construction would not significantly adversely affect the ambient environment of the college.

5.7.36. In terms of operation, we are aware of the likely effects of increased traffic noise upon the students in outdoor areas. The site inspection confirmed that the western areas of the campus closest to Leckhampton Hill are already subject to a relative constant in terms of noise from passing traffic. We do not consider that increasing the levels of traffic would result in any appreciable change in these background noise conditions so as to cause greater disturbance upon the campus.

Impacts on Tranquillity

5.7.37. Cotswolds AONB Management Plan 2018-2023 contains policies to protect the tranquillity of the AONB. Specifically, policy CE4 states two objectives: *"1. Proposals that are likely to impact on the tranquillity of the Cotswolds AONB should have regard to this tranquillity, by seeking to (i) avoid and (ii) reduce noise pollution and other aural and visual disturbance. 2. Measures should be taken to enhance the tranquillity of the Cotswolds AONB by (i) removing and (ii) reducing existing sources of noise pollution and other aural and visual disturbance."*

5.7.38. With reference to the Applicant's tranquillity mapping, no residential properties are located in a particularly sensitive high tranquillity area [APP-150 and APP-151].

5.7.39. The tranquillity assessment is undertaken as part of Landscape and Visual Effects chapter, which considers constructing the Proposed Development would cause adverse changes on tranquillity in a localised area of the AONB, as a result of the noisy, dusty, and visually prominent nature of the construction activity [APP-038]. In the context of landscaping, the Applicant states the Proposed Development seeks to avoid and reduce noise pollution and visual disturbance and remove or reduce existing sources of noise pollution and visual disturbance. It would achieve this by the majority of the Proposed Development sitting low in the landscape, enclosed by landscaped bunds and dug into false cuttings with Cotswold stone walls on top, all of which is intended to reduce noise pollution and visual disturbance by containing such effects to within the road corridor.

5.7.40. The CCB put forward a view that there was a net beneficial effect for both residents and users of the public rights of way system as a result of the Proposed Development [RR-021 and REP1-028]. The NT supported the use of dry-stone walls and acoustic fencing to reduce noise impacts, although noting that the road would affect the area's long-established tranquillity [REP1-098].

5.7.41. We consider that the Proposed Development would inevitably cause noise during the construction phase that would disturb the tranquillity of the locality. Construction would, however, be a temporary effect. The operational phase would introduce a permanent effect with an increased degree of road traffic noise. However, the design of the Proposed Development incorporates landscape and engineering works to lower the road and thus contain the effects to a localised level.

5.7.42. The area does already have an audio environment that disrupts the tranquillity of the AONB. The degree to which this would worsen as a result of the Proposed Development is not so significant as to cause conflict with the AONB Management Plan policies and certainly would not affect a wider or greater proportion of the AONB than is currently affected.

5.7.43. The operational corridor of the A417 Missing Link would be geographically closer to the village of Cowley than the present alignment of the A417. However, the noise assessments concluded that no properties on the edge of Cowley would be significantly affected by noise (paragraphs 11.6.12, 11.6.13 and Table 11-23, [APP-042]). We consider that there would not be a materially adverse effect on the noise conditions within that settlement.

Conclusions

5.7.44. We consider that:

- whilst there would be some short-term significant noise impacts during construction, appropriate measures to mitigate and minimise the adverse effects would be incorporated and implemented via the EMP;
- the Proposed Development complies with the NPSE;
- further detailed noise mitigation and adherence to best practice, in consultation with the relevant authorities, would be adequately provided for under Requirement 13 of the dDCO;
- the design of the scheme takes into account methods and measures to reduce the spread and experience of noise; and
- the Proposed Development would not cause significant adverse harm to residential or non-residential properties, nor to the tranquillity of the Cotswolds AONB, so results in a neutral weighting.

5.8. SOCIO-ECONOMICS

Introduction

5.8.1. This section considers the effects of the Proposed Development on economic and social matters including economic and employment implications during construction and operation, effects on local residents, businesses and communities as well as effects on land use including agricultural operations.

Policy

5.8.2. The NPSNN paragraph 3.3 requires any adverse environmental or social effects to be mitigated in line with principles set out in the NPPF and the Government's planning guidance. It recognises that severance can be a problem in some locations and that, where appropriate, applicants should seek to deliver improvements over the baseline position, that reduce community severance and improve accessibility and connectivity, particularly for non-motorised users.

5.8.3. Paragraph 3.17 states that there is a direct role for the national road network to play in helping pedestrians and cyclists. It goes on to state that the Government also expects applicants to identify opportunities to invest in infrastructure in locations where the national road network severs communities and acts as a barrier to cycling and walking, by correcting historic problems, retrofitting the latest solutions and ensuring that it is easy and safe for cyclists to use junctions.

5.8.4. Paragraphs 4.3 and 4.4 of the NPSNN explain that the potential benefits of proposed developments, including the facilitation of economic development, will be taken into account as part of the overall balance. Environmental, safety, social and economic benefits and adverse impacts, should be considered at national, regional and local levels.

5.8.5. Paragraph 4.79 recognises that national road networks have the potential to affect the health, well-being and quality of life of the population. Paragraph 4.80 states that new or enhanced infrastructure may have indirect health impacts including if it affects access to key public services, local transport, opportunities for cycling and walking or the use of open space.

5.8.6. Land use implications are addressed in paragraphs 5.162 to 5.185 of the NPSNN. The applicant should identify existing and proposed land uses near the Proposed Development and 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.

5.8.7. Paragraph 5.176 states that the decision-maker should take into account the economic and other benefits of the best and most versatile agricultural land. Little weight should be given to the loss of agricultural land in grades 3b, 4 and 5, except in areas where particular agricultural practices may themselves contribute to the quality and character of the environment or the local economy.

5.8.8. Paragraph 80 of the NPPF states that significant weight should be placed on the need to support economic growth and productivity, taking into account local business needs and wider opportunities for development.

The Case for the Applicant

5.8.9. Chapter 12 of the ES reports the outcome of the Applicant's assessment upon population and human health [APP-043]. This includes the effects upon:

- motorised travellers;
- walking, cycling and horse riding;
- rail travellers;
- community severance;
- community land;
- private land;
- local economy and employment;
- tourism and recreation; and
- human health.

5.8.10. The Applicant's assessment of the impact upon agriculture and farming is considered within Chapter 9 of the ES [APP-040].

5.8.11. Within its Case for the Scheme the Applicant sets out the economic benefits that it considers would result from the Proposed Development [APP-417]. It states that the additional capacity on this part of the A417 would contribute to reduced congestion and reduced delays in the vicinity

of the Proposed Development, leading to a significant decrease in lost productive time and a subsequent increase in business user and transport service provider benefits. The Applicant states that business users and transport service providers would significantly benefit from:

- reduced travel times;
- improved access for suppliers and customers; and
- reduced vehicle operating costs, such as fuel, vehicle maintenance and mileage, and related depreciation.

5.8.12. After accounting for impacts associated with delays during construction and maintenance, the Applicant forecasts that the combined monetised value of these benefits would be £305.8 million including benefits related to journey time improvements and improvements in accident rates.

5.8.13. The Applicant also states that the Proposed Development would support economic growth and development objectives for the wider region. It forms part of a wider Government initiative for growth in the southwest and aims to support economic growth.

5.8.14. Further social benefits would accrue from the additional capacity, alleviation of congestion and improvement of journey times for commuters and other users. The Applicant considers these to be significant benefits and forecasts their combined monetised benefits to be £140.3 million.

Assessment of Likely Significant Effects

5.8.15. A total of 16 agricultural holdings would be affected by the proposal as listed in Table 12-26 of ES Chapter 12 [APP-043], of which some are anticipated to have their overall viability affected due to the land take from those respective holdings. The ES states that the construction phase would result in a total of 32.03 hectares of best and most versatile agricultural land (subgrade 3a) being affected, of which 18.9 hectares would be taken permanently out of use [APP-040, APP-243 and APP-244]. The loss cannot be mitigated, and the effect is therefore stated to be permanent large adverse and significant.

5.8.16. A total of 75.26 hectares of grade 3b agricultural land would be affected, with only 5.9 hectares being reinstated to agricultural use following construction. Given the permanent nature of the effect, the loss of agricultural land cannot be mitigated, and this therefore leads to an overall effect on the soil resource (agricultural land classification (ALC) grade 3b agricultural land of medium value), which is permanent moderate adverse and significant.

5.8.17. The temporary land take because of the time-limited nature and following restoration is said to result in a temporary slight adverse effect. There are two holdings that would see over 60% of their land affected by the Proposed Development, which is highlighted by the Applicant as having a potential consequence on viability. There are no anticipated significant effects in terms of access or severance issues.

5.8.18. Table 12-22 in ES Chapter 12 lists five residential properties that would be directly affected during construction, either due to discernible changes in the environmental quality (minor, slight adverse effect) during construction or through direct acquisition and demolition (major, large adverse) [APP-043]. In relation to other settlements, which all lie outside of the dDCO boundary, the Applicant summarises effects as being the following:

- Birdlip would experience a slight beneficial change in attributes and environmental quality given the A417 would be redirected east and the existing A417 would be repurposed as a restricted byway with associated landscaping.
- Cowley would experience a slight adverse change in attributes and environmental quality given the A417 would be redirected east, and the new alignment would bring traffic closer to the settlement.
- Brimpsfield would experience a slight beneficial change in attributes and environmental quality given the A417 and new Cowley junction would help reduce the need for rat running through the village.

5.8.19. Specific community land and assets would be temporarily affected during construction, with some assets predicted to experience a moderate adverse construction effect (Table 12-24 [APP-043]). The Applicant predicts that none of the identified community assets would be directly affected during operation of the scheme with impacts associated with demolition or land take having occurred during the construction stage. A number of footpaths would be stopped up, though a proportion would have substitutes and the project aims to reduce severance through the bridging of the A417 Missing Link in several places (Schedule 4 dDCO, [REP9-005]).

5.8.20. A proportion of the construction workforce would be imported into the area, potentially bringing beneficial effects to local accommodation, businesses and trade sectors. However, benefits of the Proposed Development could continue to be experienced by the local labour force as result of skills and training learned from working on or as part of the supply chain servicing the Proposed Development's construction. The improved rights of way connectivity, combined with dedicated parking improvements at the Golden Heart public house, would be permanent tourism benefits arising from the Proposed Development.

5.8.21. Table 12-25 details the business and commercial premises likely to be affected during construction, including agricultural holdings [APP-043]. Amongst the range of effects, those of particular note and explored in the Examination include:

- significant adverse effect on the Air Balloon public house via demolition;
- significant adverse effect on Crickley Hill Tractors via demolition; and
- slight adverse effect on Flyup Limited via reconfiguration.

Requirements

5.8.22. The reinstatement of all temporarily affected grade 3a and 3b agricultural land would be in accordance with a Soil Management Plan incorporated into the EMP [REP6-010]. The Soil Management Plan is to be prepared at detailed design stage and is not before the Examination, though its key themes are set out in paragraph 4.3.8 of [APP-317], including stripping and separating of topsoil and subsoil and following the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites. The Applicant states that the agricultural soil temporarily displaced by the scheme would, after land restoration, generally be able to fulfil its primary soil functions on-site.

5.8.23. The implementation of a Construction Traffic Management Plan, forming Appendix B to the EMP [REP8-020] would provide mitigation for any effects of construction traffic on communities and neighbouring land uses. The EMP was amended at D4 to include the preparation of future management plans, including for construction worker travel and community engagement to be provided [REP4-028]. In response to question 1.10.2 [PD-008], the Applicant confirmed that a contractor may agree to undertake an Employment and Skills Plan (or equivalent), but this would be subject to post-Examination discussions [REP1-009].

The Position of Interested Parties

5.8.24. A number of representations were received questioning the overall economic benefit the Proposed Development would actually have to the region, principally raised in challenging the very nature of the project and its need. Such matters are dealt with in section 4.5 of this report. Where other representations relate to Compulsory Acquisition of farmland and compensation, these are dealt with in Chapter 8 of this Report, though we do not offer direct views on the amount of compensation, or the private deals being sought. In other respects, representations covered issues such as the following:

- The Cheltenham & Tewkesbury Cycling Campaign raised concern about the suitability of PRoWs and connectivity across the area [RR-015].
- Stephen Mendel [RR-098], Alison Besterman [RR-061], Alexander and Angell Limited [RR-036], B J and C E Ford [RR-069] and Ian Medlock [RR-070] drew attention to the viability of their respective farms and farming enterprises, including loss of best and most versatile agricultural land.
- The British Horse Society were concerned over access for horses [RR-006].
- The Gloucestershire Local Access Forum (amongst others) made a case for a further crossing between Bentham Lane and Grove Farm underpass [RR-040].
- Gloucestershire Ramblers requested a revisit of tunnel options, seeking to retain all above ground paths on their current alignments and retention of the Air Balloon public house, as well as raising concerns over connectivity in general [RR-041].
- Flyup Limited pointed to a potential loss of business as a result of works on both a temporary and permanent basis disrupting

operations and customer movements, thus affecting overall viability [RR-037].
- Royal Mail generally supported the scheme but requested specific mitigation measures to ensure delivery operations of the postal mail were not unduly interfered with [RR-005].
- James Hamilton raised effects on Cotswold Alpacas and other rural businesses [REP3-046].
- Stephen Mendel raised issues about the BOAT proposed [REP3-068].

ExA Considerations

5.8.25. The main issues in dispute are:

- whether the Proposed Development results in unavoidable or unjustified impacts on farming enterprises;
- whether the PRoW network would be enhanced or adversely affected, including nationally important footpath assets;
- the effects on local businesses and recreation; and
- whether environmental mitigation measures are balanced with social and economic factors.

Agricultural land

5.8.26. We are mindful of the strong feelings expressed by IPs whose livelihoods would potentially be affected by the Proposed Development. Compensation relating to the permanent loss of land from affected farm holdings is a matter of private negotiation and was not incorporated into the Applicant's assessments. Beyond this, the Applicant noted that there were no mitigation measures for the direct loss of agricultural land falling outside any private agreement [APP-040].

5.8.27. Most of the concerned IPs maintained their objections at the conclusion of the Examination in relation to their perception of effects on what is clearly a highly valued economic and landscape resource. We consider that the Applicant has undertaken a robust assessment of soils and the ALC implicated by the Proposed Development during the optioneering stage and the ES preparation. Appropriate mitigation measures are secured through the EMP [REP6-010] for the restoration of agricultural land taken temporarily and reasonable efforts have been made to avoid effects on best and most versatile agricultural land. This is confirmed by both NE and the Joint Councils in response to specific questioning on this point [REP6-035 and REP6-040]. We consider that the Proposed Development accords with relevant policy in both the NPSNN and the NPPF, with any unavoidable losses necessary in order for the much-needed project to be implemented.

5.8.28. We consider the Soil Resources Plan and Materials Management Plan to be an essential part of the mitigation and agree with the findings of the Applicant [APP-040]. Measures to overcome severance of farm holdings through crossings, tracks and dedicated access gates would be sufficient to limit wider effects on the operability of the farms post-construction.

Business and Tourism

Air Balloon Public House

5.8.29. Prior to the Examination, the Applicant had settled negotiations with the Air Balloon public house, which would see all buildings premises demolished and cleared to facilitate the Proposed Development [APP-043]. A few IPs sought to argue for retention of the Air Balloon public house, through different road design options including bridges and tunnels [REP1-071 and REP8-041]. The Applicant referred to the various options considered in ES Chapter 3 and that demolition of the public house was inevitable [APP-034]. We note that the public house has some cultural heritage value [REP1-033 and REP6-042] but no substantive evidence was presented to justify its retention, and no sustained objection was made by HE [REP9-015] (see paragraph 5.4.98 above).

Crickley Hill Tractors

5.8.30. Prior to the Examination, the Applicant had settled negotiations with Crickley Hill Tractors, which would see all buildings premises demolished and cleared to facilitate the Proposed Development. We note no objections were received from, or on behalf of, the company during the Examination period [APP-043].

Flyup Limited

5.8.31. Flyup Limited sits just south of the current stretch of the A417 between the Air Balloon roundabout and Brockworth. It consists of bike trails down varying gradients of slope, with a car park, visitor facilities, café and owners' dwelling at the entrance into that site. A proportion of the land along its northern boundary, at the site's relative flattest part, would be required for the widening of the A417 and associated embankment works.

5.8.32. Flyup Limited raised several concerns about the impacts on the viability of their enterprise, summarised as including [RR-037]:

- loss of car parking both temporarily and permanently;
- loss of connectivity between visitors arriving and the visitor facilities;
- safety and security of customers;
- the dwelling on site becoming an island between roads and accesses; and
- land take for planting impacts on the bike runs.

5.8.33. At D1 Flyup Limited requested measures in place where temporary buildings would be provided close to the proposed temporary car park for its business [REP1-062]. Either that or permanent buildings should be required, although concerns were expressed that there may be difficulties obtaining planning permission and as such the Applicant should provide them. The Joint Councils did not disclose any particular obstructions to the grant of any future application or proposal [REP6-040], though we do appreciate the business falls within an AONB.

5.8.34. At D3 the Applicant stated it was unable to provide permanent buildings as part of the dDCO but could fund the cost of an application [REP3-014].

At the same time, the Applicant submitted notification of a change request specifically in relation to the organisation of works and access at Flyup Limited [REP3-017]. The change was accepted into the Examination [PD-014] with further confirmation submitted to the Examination that a temporary building would be provided and erected by the Applicant adjacent to the proposed temporary car park to assist mitigating the effects on the operability of the business [REP5-007]. The changes would also allow the existing permanent car park to be retained, and for Flyup Limited to resume normal business operations post-construction. The Applicant reports that Flyup Limited asked for further alterations, but these were rejected [REP5-007].

5.8.35. We note that, following the change request, Flyup Limited did not make any further representations to the Examination or request attendance at CAH3. Nonetheless, a final landowner position statement received at D9 confirmed that some matters remained unagreed and outstanding [REP9-024], although the Applicant was seeking an alternative land management agreement outside of the DCO application process with the landowner.

5.8.36. We acknowledge that the Proposed Development would cause complications to the on-site operations for Flyup Limited, but these are not considered fatal for the business given the Applicant's changes to the application [REP4-007]. The changes have made allowances for a workable solution to be implemented, which we consider evidences the challenges to Flyup Limited are not insurmountable through the construction period. A rational and practical scheme of restoration is proposed, particularly with regards to parking arrangements, so the business can return to near-normal practices once the Proposed Development is operational. On this basis, the viability of the business would not be adversely affected in the long term and short-term effects can be managed.

Stockwell Farm Lettings

5.8.37. The Applicant reported that some eight residential properties used as holiday lettings would be subject to a slight adverse effect during construction because of road building activities, particularly when developing the Stockwell and Cowley overbridges [APP-043]. In response to ExQ2 2.10.4 [PD-017] about operational effects, the Applicant purported that a minor beneficial change for this business receptor would occur due to reduced traffic movements and improved air quality at the premises.

5.8.38. No specific objections were received regarding the effects on the viability of the holiday lettings before, during or after construction [REP3-027 and REP9-025]. In view of this, we consider that the Proposed Development would not have a significant adverse effect on this element of Stockwell

Farm's enterprise and the holiday lets would retain their current attractiveness.

Golden Heart

5.8.39. The Golden Heart public house is a grade II listed inn, sitting just south of the current alignment of the A417. The stretch of the A417 upon which the public house sits would be de-trunked but retained as a local highway serving local traffic. The Applicant considered that the public house would be a beneficiary of the proposals to create enhanced open space through the repurposing of the remainder of the A417 and, as a result, proposed additional parking in proximity to the public house for cars and horse boxes [APP-043]. At paragraphs 12.10.75 to 12.10.77 of ES Chapter 12, the Applicant reports positive communications with the owners and potential minor beneficial effects once the Proposed Development becomes operational [APP-043].

5.8.40. We note that no objections were received from any IP in this regard and consider the enhancement measures for the public house's accessibility to be a benefit of the Proposed Development, with the Proposed Development unlikely to impact upon its viability.

Cotswold Alpacas

5.8.41. At D3, an IP suggested adverse effects on the business known as Cotswold Alpacas, solely in relation to increased traffic upon local rural roads that the business frequents with tourists riding alpacas around the countryside [REP3-046]. We note the business was not one assessed in ES Chapter 12 [APP-043]. The owner stated that increased traffic through Cowley would directly affect the safety of the alpaca trekking [REP6-031]. The Applicant, in the context of transport-based evidence at D7, stated that the Proposed Development would result in a reduction in through traffic on the local roads in and around Cowley, thus making it safer for use by non-motorised users [REP7-005].

5.8.42. We consider that the business is operational at the current time notwithstanding the current levels of traffic experienced. With the forecast reduction in traffic as a result of the Proposed Development (see section 5.7 of this Report), there would not be any increased effects upon the business or the safety concerns for trekkers. On this basis, we consider that there would not be a significant adverse effect on the business, its attractiveness or viability.

Public Rights of Way (PRoW) and Access

5.8.43. A number of existing footpaths would be affected by the Proposed Development. The Applicant set out these paths in Table 12-16 in ES Chapter 12 [APP-043]. Many of the PRoWs within Table 12-16 are located within 250m of the Proposed Development and are likely to experience a direct effect as part of construction and/ or operation. The assessment of the effects on PRoWs are shown in Table 12-27, with the Applicant reporting both beneficial and adverse effects on the existing network. Routes of new paths, bridleways and byways are presented in

Table 12-28, with aims to reduce severance impacts and promote greater recreational accessibility through the countryside. Rights of Way and Access Plans were revised during the Examination, with the final version provided at D8 [REP8-008].

5.8.44. As identified in the PRoW Management Plan, which forms Appendix F to the EMP [APP-323], the total effects of the Proposed Development would be:

- 1 PRoW would be stopped up without a substitute, although alternative routes exist/ would be provided (Badgeworth bridleway 125);
- 18 PRoW would be stopped up with substitutes/ diversions provided;
- 19 PRoW would be created to help increase or improve connectivity;
- 3 PRoW would be reclassified (2 footpaths to bridleway, and 1 footpath to restricted byway); and
- 5 unclassified roads would be promoted for use of access rights to help increased or improve connectivity across the PRoW network (3 existing and 2 new routes).

5.8.45. The final SoCG between the Applicant and the Joint Councils confirms that discussions took place regarding the management and communication of diversions and closures, and appropriate measures are incorporated into the PRoW Management Plan [REP9-012].

5.8.46. The SoCG with the Walking, Cycling and Horse-Riding Technical Working Group (TWG) reported numerous areas of disagreement and all matters were unresolved at the end of the Examination [REP9-019]. We note however that, apart from a few limited instances where other IPs expressed concern in the SoCG, the majority of objections and opposition were made and sustained by the Gloucestershire Ramblers. We derive from the SoCG that other stakeholders in the working group, except where specifically identified as having objection, were content with the Proposed Development and its approach to PRoW management and mitigation.

5.8.47. The Applicant set out its responses to the Gloucestershire Ramblers' concerns at the end of the Examination [REP9-026]. We consider that the interference with the PRoW network has been explained and justified by the Applicant over the course of the Examination and that the Applicant has detailed appropriate steps and mitigation measures to ensure a continuity of the network as well as increased connectivity across the landscape.

5.8.48. In relation to a specific objection from the Gloucestershire Local Access Forum regarding the lack of a crossing between Bentham Lane and the proposed Grove Farm underpass [RR-040], the Applicant set out that no crossing would be provided for reasons of additional land take, additional cost and additional adverse environmental impacts when compared to the Proposed Development (question 1.11.10, [REP1-009]). This matter was unresolved at the end of the Examination [REP9-019], though we accept the Applicant's position regarding the geography and topography

constraints in this area, having carried out Unaccompanied Site Inspections (USIs) [EV-001 and EV-041].

The Cotswold Way National Trail (CWNT)

5.8.49. The CWNT currently enters the Order Limits through Crickley Hill Country Park, across the existing A417 at grade, down towards Barrow Wake and then follows a broadly south-westerly route away from the Order Limits. Users of the CWNT have to cross the A417 at road level at the Air Balloon roundabout, experiencing the traffic, congestion, noise and air pollution associated with it. The Applicant's proposal is to construct a new 5m wide bridge over the A417 to carry the CWNT and thus divert pedestrians safely away from traffic [APP-427].

5.8.50. Matters regarding the environmental and landscape effects of the bridge are considered in other sections of this Report. For the purposes of this chapter, the CWNT diversion proposal was broadly welcomed by all IPs as a recognised improvement and enhancement to the CWNT. However, Gloucestershire Ramblers wished the CWNT to be retained on its "*author's line*" alongside retention of the Air Balloon public house [REP5-005]. This was counterbalanced by the Cotswolds Conservation Board stating the proposal would solve the significant safety concerns with the current path alignment, with a net beneficial effect on user experience [RR-021].

5.8.51. The NT raised concern about the width of the bridge and its ability to manage multiple users, particularly movements of its own cattle [REP1-097]. The CWNT diversion report at paragraphs 2.3.5 and 2.3.6 confirms that the bridge could support seasonal cattle crossings and is wide enough to accommodate different users [APP-427].

5.8.52. The Joint Councils were concerned that insufficient information had been provided with regards to the CWNT diversion [REP3-018]. However, this matter was resolved at D6 following measure PH1 being secured in the EMP [REP6-010], which required a commitment to a Public Rights of Way Management Plan [REP6-040]. NE, the body normally with responsibility to designate national trails and any diversions thereto, submitted that sufficient information was before them, and they had no concerns regarding the nature or details of the diversion [REP6-036]. Amendments were made to the dDCO in response to NE's amenable position in this regard.

5.8.53. We consider that the alterations to the CWNT would be a benefit of the Proposed Development, reconnecting parts that are currently severed by the A417. Whilst users would not enjoy any great uplift in tranquillity, the safety aspects alone are significant. The bridge would enable an enhanced connectivity through the landscape and thus greater enjoyment, adding to the attractiveness of the trail to tourists and visitors alike. The slight realignment of the route for a short duration of its length would not adversely impact upon the significance, attractiveness or importance of the CWNT. The changes to the CWNT are secured through Article 20 in the rDCO.

The Gloucestershire Way Long Distance Footpath (GWLDF)

5.8.54. The GWLDF traverses the landscape in a broadly west to east alignment and crosses the current A417 at road level close to the Air Balloon roundabout. The proposal is to provide a 37m wide multi-purpose crossing that would carry the GWLDF, as well as providing connectivity for disrupted habitats ([APP-033], paragraph 2.6.32).

5.8.55. The Gloucestershire Ramblers objected to the diversion of the GWLDF over the proposed new bridge, stating that a 50-metre-wide bridge on the current route should be followed [REP1-069]. The position taken was that the GWLDF should be retained on its current alignment without deviation, with tunnels being employed to deliver the Proposed Development. Alternatives have already been discussed in Chapter 4.5 of this Report, but it is noteworthy that no other IPs raised any objection to the realignment of the GWDLF in principle, stating it would enhance safety, remove unsafe crossing points on the existing A417 and resolve severance issues [REP1-028 and REP1-133].

5.8.56. We consider that the proposed diversion of the GWLDF is minor and adds no appreciable distance to the length of the path. Rather than be an inconvenience, it would enhance the attractiveness of the path, prevent and overcome the severance of the current route, avoiding direct conflict between vehicles on the A417 and users of the path. In light of the diversion reconnecting with the existing route of the GWLDF on both sides of the Proposed Development, it is unlikely that significant trespass or disturbance issues above the existing baseline would occur.

Byway Open to All Traffic (BOAT)

5.8.57. Table 12-28 in ES Chapter 12 [APP-043] reports that a new BOAT would be created comprising a section of 417m to connect the proposed Shab Hill junction with unclassified road 50853, and a section of 277m to connect the 50853 and the 50944 together with Cowley Footpath 7. This was to compensate the loss of another unclassified road that carried all types of traffic. The new BOAT was opposed principally by Mr Stephen Mendel because of the potential for motorised vehicles to use the route, though objections were also raised regarding general noise, disturbance and inappropriate behaviour that may arise from the creation and designation of the route [REP3-068].

5.8.58. The Applicant [REP3-011] maintained that the BOAT was essential mitigation, providing for improved access where existing routes were being severed, and was a mitigation that was supported by the TWG with whom common ground had been reached on this point [REP9-019].

5.8.59. Mr and Mrs de Lisle Wells were concerned that the BOAT and associated paths around the Shab Hill junction would give rise to potential disturbance and trespass onto their land [RR-007]. The Applicant reported that the detailed design stage would consider any fencing and gates as part of ongoing discussions to ensure privacy [REP2-012].

5.8.60. Whilst the environmental and Compulsory Acquisition implications of the BOAT are considered elsewhere in this Report, for the purpose of this section we are satisfied that the proposed BOAT is necessary to mitigate the severance of other paths and routes in the locality. The BOAT would ensure continued access for various users, including disabled persons, across the landscape and to different parts of the existing network of local routes. Subject to detailed design, the BOAT and other alterations to the PRoW would not cause security or privacy concerns.

Repurposed A417 Carriageway

5.8.61. The existing stretch of the A417 from the Cowley junction to the Air Balloon roundabout would be de-trunked. A proportion, up to the Birdlip turning, would be retained as a local road providing access to nearby villages and hamlets whilst the remainder, between Birdlip and the Air Balloon roundabout, would be redeveloped to provide an open space. Within this would be a new restricted by-way of nearly 3km, with a spur of some 255m connecting to Barrow Wake car park (Table 12-28 [APP-043]).

5.8.62. The environmental effects of this are considered in Chapter 5.3 of this Report. Aside from those concerns, the proposal was generally well-received [RR-060], paragraph 3.9.16 [REP1-133] and appendix H [REP3-005]. We note that final arrangements for the de-trunking, handover and maintenance are to be agreed at detailed design stage with the Joint Councils [REP9-012].

5.8.63. We consider this a significant benefit of the Proposed Development that would improve access and connectivity in the locality and would support the local economy through an enhanced visitor offer. No substantive evidence has been submitted to the contrary.

Conclusions

5.8.64. We are satisfied that the findings of the ES are reasonable and that, where necessary, mitigation measures could be secured through the rDCO which are proportionate to the adverse effects that would result. The suite of management plans that would come forward under the EMP would secure managed mitigation in consultation with various stakeholders [REP6-010].

5.8.65. We agree that significant economic benefits would result from the Proposed Development due to the likely reduction in vehicle congestion. Further, albeit temporary, economic benefits would result from the proposed construction phase, both locally and outside the region. Whilst adverse effects would result during the construction process (including for agricultural use, health and quality of life) we are satisfied that they have been mitigated as far as is reasonably possible. The Applicant has sought to minimise effects on the best and most versatile agricultural land.

5.8.66. During operation there would be a long-term beneficial effect for walkers, cyclists and horse riders due to improved user safety, enhanced access

and improved community connectivity to the wider footpath network. No significant long-term adverse effects upon health, well-being and quality of life have been found to arise from the operation of the Proposed Development. Businesses, such as the Golden Heart (see 5.8.39), would potentially benefit from increased recreational activity in the area.

5.8.67. Overall, we conclude that:

- the Proposed Development would have beneficial effects for all PRoWs in the region including the CWNT and the GWLDF, improving connectivity and representing a marked improvement both in the quality of those routes and across the landscape as a whole;
- the Proposed Development would bring significant financial benefits to the area through construction and more efficient operation of the transport network;
- there would not be any adverse effects on business or tourism within the area post-mitigation;
- there would be adverse, but unavoidable, effects on agricultural land that have been sought to be minimised as far as practical in accordance with the NPSNN;
- the adverse socio-economic effects found to result during construction would not weigh significantly against the Order; and
- the positive economic and social benefits would weigh in favour of the Order being made.

5.9. TRAFFIC AND TRANSPORTATION

Introduction

5.9.1. This section considers the effects of the Proposed Development in relation to traffic and transport, including non-motorised users and PRoWs. PRoWs are also discussed in Section 5.8 of this Report in respect of socio-economics.

Policy

5.9.2. The NPSNN refers extensively to transportation and traffic policy requirements.

5.9.3. Paragraph 5.211 of the NPSNN states that the SoS should consider impacts on the local transport network and local transport policies, including those in local plans. Paragraphs 5.215 to 5.216 advise that mitigation should focus on promoting sustainable development and that, where development would worsen accessibility, such impacts should be mitigated as far as reasonably possible. In particular, there is a strong expectation that impacts on accessibility for Non-Motorised Users (NMUs) should be mitigated, as indicated in paragraph 3.17, which requires measures to ensure all reasonable endeavours are used to address the needs of cyclists and pedestrians in design.

5.9.4. Paragraph 4.6 of the NPSNN states applications for road projects should be supported by a local transport model to provide detail of the impacts, including an assessment of the benefits and costs. The modelling should

be proportionate to the scale of the scheme and include appropriate sensitivity analysis to consider the impact of uncertainty on project impacts.

5.9.5. Paragraphs 5.203 to 5.204 require the Applicant to have regard to established local policies for transport, consult with the relevant highway authority and take reasonable opportunities to support other transport modes in developing infrastructure.

5.9.6. Earlier in our Report (section 4.5) we set out in more detail on the policy considerations in the NPSNN relating to the need for improvements to the strategic road network. This includes paragraphs 2.12 to 2.14 of the NPSNN highlighting the importance of the strategic road network which provides critical links between areas enabling safe and reliable journeys and the movement of goods in support of national and regional economies.

5.9.7. It is important and relevant that the A417 Missing Link was identified as a transport policy priority to be resolved in both RIS1 and RIS2, with it being identified as a "*committed*" scheme in the latter.

The Case for the Applicant

5.9.8. The Applicant's assessment of traffic and transport effects is undertaken in a Transport Report that sits separately to the ES [APP-426]. Diagrams showing the study area for assessment of construction traffic [APP-073] and the extent of the affected road network [APP-074] are also provided. Haul routes are set out on a suite of plans [APP-056 and APP-061] accordingly.

5.9.9. The scheme traffic model is based on the Southwest Regional Traffic Model (SWRTM). The scheme base traffic model has undergone a calibration and validation process to ensure the required standards set out by the DfT in its Transport Appraisal Guidance (TAG) are met. Using the scheme base traffic model, scheme forecast traffic models have been developed for the opening year in 2026 and the design year in 2041. Additionally, two other forecast years were developed. All of the forecast scheme traffic models have been used to inform the design of the Proposed Development. The scheme traffic models have also informed the environmental assessment and economic appraisal of the Proposed Development.

5.9.10. The assessment for the Proposed Development reviews:

- current network performance;
- future network performance;
- road safety; and
- walking, cycling and horse riding NMU.

5.9.11. The Applicant sets out that traffic flows on the existing single carriageway stretch of the A417 are already in excess of recommended flows on single carriageway roads, resulting in delays of 20 minutes or more being common on the current network because of tailbacks,

principally at the Air Balloon roundabout. This results in some motorists diverting onto local roads, causing difficulties for neighbouring communities through rat-running on narrower country lanes. Poor visibility and challenging gradients also contribute to the disproportionately high number of serious and fatal accidents that are seen along this stretch of road.

5.9.12. The Transport Report predicts, with the Proposed Development in place, the route would be faster, more efficient and safer for the A417, resulting in 66 fewer deaths over its 60-year planned lifetime. The number of accidents, particularly those resulting in severe injuries, would decrease significantly. With a more efficiently functioning strategic road network, pressure on local roads would be relieved, resulting in less rat-running, less congestion and reduced potential for accidents on the local road network.

5.9.13. A Construction Traffic Management Plan (CTMP) is appended to the EMP [REP8-020]. This provides a framework for addressing the transport issues associated with the movement of construction traffic, including site access, routing, signage, heavy goods vehicles and abnormal invisible loads.

5.9.14. At D4, the Applicant committed to providing a Construction Worker Travel Plan as part of its future suite of management plans appended to the EMP [REP4-030].

Assessment of likely significant effects

5.9.15. The Transport Report concludes:

- the existing A417 is congested with traffic flow disrupted by the Air Balloon roundabout junction;
- the existing A417 has a poor safety record caused predominantly by a steep gradient hill, prominent bend, speed and bad weather;
- future network performance for the Proposed Development would bring reduced journey times during the peak hours and reduce congestion. Improving conditions on local roads as well as the strategic road network would occur due to the improved operational capacity;
- the Proposed Development achieves one of its key objectives of significantly improving safety by reducing the numbers of serious accidents, severe injuries and fatalities; and
- it is likely that NMUs would be directly impacted during the construction of the Proposed Development due to the need to temporarily close footpaths in the vicinity. Preliminary design stage improvements and benefits to the existing infrastructure for NMUs have been identified to be delivered through the implementation of the Proposed Development.

Requirements

5.9.16. Measures to mitigate the construction effects of the proposal are contained in the CTMP, that forms Annex B to the EMP secured under

Requirement 3 of the dDCO [REP6-010 and REP9-005]. Technical drawings of bridges and crossings would follow at detailed design, as set out in Requirement 11, though these would follow the concept drawings provided to the Examination at D6 [REP6-006].

The Position of Interested Parties

5.9.17. A large number of RRs were received concerning traffic and transportation. Where these relate to the Applicant's optioneering process and alternative road route solutions, these are considered in section 4.5 of this Report. In other respects, the main important and relevant issues include the following:

- Helen Chesmore (amongst others) stated the potential for damage to local roads during the construction period from increased use by diverted traffic and from road users avoiding roadworks [RR-046].
- Ralph Hampton [RR-091] and Gloucestershire Ramblers [RR-041] raised concern regarding the safety of NMUs and need for improvements to the PRoW and bridleway network.
- Carla Jackson queried the function of the new road layout at Ullenwood with effects on A436 and Leckhampton Hill [RR-009].
- David Allen John Field questioned the location and need for public lay-bys [RR-020].
- Alison Besterman [RR-061] and Joanna Pearce [REP2-030] (amongst others) challenged the provisions for Cowley Wood Lane and rat-running through Cowley village.
- Cowley and Birdlip Parish Council sought to demonstrate the unsuitability of local roads to accommodate more traffic [REP1-036 to REP1-052].
- Tim Knox [RR-108] and Joanna Pearce [REP1-076] (amongst others) raised road safety including road design speeds and inclement weather conditions.
- Royal Mail raised concern about the impact of the Proposed Development on its services [RR-005].
- The Joint Councils raised concern over the safety of the proposed Ullenwood roundabout junction, particularly as it was proposed to be unlit [RR-004].

ExA Considerations

5.9.18. The main issues in dispute were:

- whether construction effects would be appropriately managed;
- whether there would be harm on the local affected road network;
- the safety of the Proposed Development, its junction and the resulting condition of the local road network; and
- whether the effects on the PRoW network are proportionate and justified.

5.9.19. Whilst there was opposition to the chosen routing of the A417 Missing Link and the assertions made by the Applicant, there was relative

consensus that the current A417 was an unsafe and congested piece of highway that required improvement. The benefits of the Proposed Development, with forecast journey time savings, increased reliability and flow of the network, and with reduced risk of accidents and deaths, were generally not disputed by IPs. With 66 fewer fatalities and 201 fewer seriously injured casualties forecast with the Proposed Development in place, and the journey time improvements as set out in Table 3-3 [APP-417], we give substantial weight to these significant benefits. There was no substantive evidence presented to the Examination that disputed these benefits or would warrant any reduction in the weight we apportion to them.

Construction

5.9.20. The CTMP was updated throughout the course of the Examination in response to queries raised by IPs. The Joint Councils were content with the final version of this document, the phased nature of the construction period and that construction traffic would use the principal highways in the area in tandem with specifically laid haul roads to access the Proposed Development [REP9-012]. Whilst there were some concerns about the potential routing of construction traffic on the local highway network, we are satisfied those heavy goods vehicles (HGVs) and vehicles associated with the construction of the Proposed Development would be appropriately managed [REP2-030].

5.9.21. In response to concerns regarding how construction workers would travel to and from the Proposed Development, the Applicant committed to providing a Construction Worker Travel Plan at D4 [REP4-030]. We are conscious of the likely importation of workers from other areas [APP-043] but we are encouraged solutions would be adopted that would minimise disruption in the local area from workers travelling to and from the construction site.

5.9.22. Within the CTMP are proposed diversion routes to direct traffic during construction and when traffic management measures are in place. We queried the efficacy of these routes (question 2.11.4 of [PD-017]) and the Applicant responded to suggest the diversions were robust and already used to a degree when the current A417 is blocked [REP6-015].

5.9.23. We consider that, ultimately, it is likely that those individuals with local knowledge would use alternate means other than the diversion routes to navigate around areas where traffic management measures were in place to avoid delay. There would therefore be an anticipated increase in the amount of traffic on the local country roads during construction. It is however considered that reasonable measures would be taken to manage traffic during the construction period, including advanced warning signage and a scheduling of works that ensures minimal intervention with the existing flow of traffic on the A417. In any event, any consequential effects of diverting traffic would be time-limited in duration depending on the phasing of construction.

5.9.24. The Applicant amended the CTMP following receipt of further representation from Royal Mail [AS-069] so as to ensure advanced notice would be given of any traffic management measures and alternative routes. Although no formal response was received from Royal Mail by close of the Examination, we note that the changes made broadly accord with those requested.

Operation

Cowley Junction

5.9.25. Following construction of the proposed Cowley junction, the Applicant intends to stop up Cowley Wood Lane, making it a private gated means of access for the limited number of properties served by the lane, including agricultural businesses. Traffic seeking to travel between the village of Cowley and the proposed A417 would then be directed via Cowley Lane, through the hamlet of Stockwell, in a westerly direction. The Applicant forecasts that easterly movements along Cowley Lane would be very low and infrequent, with journeys returning to Cowley either via the A436 and A435 route (if heading southbound on the A417) or via the A435 direct (if heading northbound) [REP5-009].

5.9.26. The Joint Councils were content to leave condition surveys of local roads to a post-consent process and raised no concerns regarding the arrangements [REP3-018]. However, this matter was debated extensively over the course of the Examination with IPs concerned over:

- the reliability and presentation of traffic data [REP3-062 and REP4-056];
- the quality of Cowley Lane, including a lack of passing places [REP3-047 and REP3-070 to REP3-078]);
- the speed of traffic using the lane [REP3-046]; and
- increased traffic rat-running through the village and over local bridges [REP3-062].

5.9.27. Some confusion was introduced into the Examination by the Applicant in the presentation and interpretation of the traffic data relating to Cowley Lane and Cowley Wood Lane, prompting questions at ISH2 [EV-008] and ISH4 [EV-040]. The Applicant responded to clarify the findings of the Transport Report and to explain that, with the Proposed Development in place, the effects of rat-running traffic should decrease, thus making Cowley Lane safer [REP3-013 and REP5-009]. IPs were nonetheless left unconvinced by the predictions.

5.9.28. The Applicant considered that no additional surveying, assessment or modification to Cowley Lane was required given that it would function to only 5% of its capacity level [REP5-009], although IPs maintained that a qualitative assessment of Cowley Lane should be undertaken and that traffic avoiding west-bound congestion on the A436 would still divert through the village [EV-044]. On this latter point, the Applicant responded to iterate that the traffic modelling used in preparing the initial assessments took traffic, delay and routing from the A436 into account [REP5-009].

5.9.29. With regards to the stopping up of Cowley Wood Lane, a private means of access would be provided at the southern end within the Order Limits whilst options at the northern end (outside the Order Limits) to indicate restrictions would be discussed at detailed design stage [REP6-015]. The limited number of properties on Cowley Wood Lane, together with the agricultural enterprises that work on the surrounding land, would have a private means of access along this road facilitated by the purpose-built and gated entrance.

5.9.30. We are acutely aware of the concerns of villagers regarding the use of local highways and can empathise with the comments regarding the condition, surfacing and quality of both Cowley Lane and Cowley Wood Lane following our site inspections [EV-041 and EV-042]. Notwithstanding, the Proposed Development is forecast to result in less traffic using Cowley Lane than currently experienced or predicted in the DM scenario [REP3-013]. Coupled with the closure of Cowley Wood Lane, there would be a marked decrease in the amount of through traffic travelling into and out of the village, leaving mainly local traffic on the road.

5.9.31. The Applicant has put in place measures that, with the agreement of the Joint Councils [REP5-005], would ensure a safe and practical means of access for properties on Cowley Wood Lane, and the authorities are clear as to where maintenance responsibility lies in this respect [REP9-012].

5.9.32. On this basis, we are satisfied that the Proposed Development would not result in significant harm to these specific local roads once operational. This would improve the user experience and user safety of the road, particularly for NMUs and recreational pursuits.

Shab Hill Junction

5.9.33. Issues were raised regarding the size of the junction [REP1-138], the consequences of any crash or blockage causing the junction to close [REP4-048], the microclimate that causes thicker fog and snow on the higher ground [REP3-079] and problems with security and trespass as a result of redistributed traffic and pedestrians [REP1-022].

5.9.34. Matters regarding optioneering and junction design are set out in the consideration of alternatives earlier in this Report. In other cases, the Applicant provided satisfactory responses to the issues raised [REP1-009, REP3-010, REP3-011 and REP5-008]. With regards to the potential impacts of the Shab Hill junction being closed, the Applicant responded to state strategic diversion routes that are currently used would be encouraged, as set out in the CTMP [REP4-035]. With regards to the potential impacts of fog, snow and ice, the Applicant confirmed that the accident assessment for the Proposed Development is based on observed accident data for the A417 and the wider network covering the entire year and therefore periods when adverse weather occurs [REP4-035]. With regards security, the Applicant considered that the matter could be handled at detailed design stage without any lasting detriment to affected landowners [REP2-012].

5.9.35. We consider that the design and location of the proposed junction would be appropriate in this instance and provides a suitable and safe means of access and egress to the A417 Missing Link.

Ullenwood Junction and Leckhampton Hill

5.9.36. In response to the Joint Councils concerns in the LIR [REP1-133], the Applicant provided a technical note setting out the position regarding the impacts of increased traffic forecasted to use Leckhampton Hill with the Proposed Development in place [REP2-016]. In seeking to demonstrate that no specific mitigation was required to manage the increased traffic usage, the Applicant commented that with the Proposed Development in place, Leckhampton Hill would operate below capacity (paragraphs 2.5.9 to 2.5.11, [REP4-035]). The Joint Councils commented that capacity was not an issue per se, but more that the over 50% increase in traffic using Leckhampton Hill was not mitigated in any way [EV-044 and REP5-016]. The Applicant responded that no specific mitigation measures were needed in this location, and the environmental effects associated with the traffic increase were assessed in the ES [REP6-014]. At D7, the Joint Councils confirmed that any remaining concerns could be negotiated outside of the DCO process and, as such, there was no objection to the current dDCO application propositions [REP7-006]. We acknowledge this agreed position.

5.9.37. The National Star College wished its access off Leckhampton Hill to be free from blockage at all times for the welfare of staff and students [RR-039], also raising concerns regarding an accident blackspot on that highway [REP1-068]. We sought further clarification (question 2.11.1, [PD-017]) to which National Star College commented [REP6-033] that the junction between Ullenwood Road and Leckhampton Hill has limited visibility and the minor accidents currently experienced could become more frequent and more serious if traffic was to increase in the area. The Applicant responded to affirm that the CTMP would be produced in liaison with National Star College (measure PH7 of the EMP) and that whilst traffic flow would increase, it would not cause impediment to access [REP2-016].

5.9.38. The Ullenwood Junction would provide connections to Leckhampton Hill, the A436 and the realigned A417. The Transport Report demonstrates this would be a busy junction but that it would benefit from being physically separated from the main thoroughfare of the A417 compared to the existing congested Air Balloon roundabout [APP-426]. Whilst no objections were substantiated regarding the location or design of the roundabout itself, there was dispute over whether the junction should be illuminated in the interests of highway safety (paragraphs 3.3.4 to 3.3.7 [REP3-018]). The Applicant provided background to justify its initial position that no illumination was necessary and that no underground infrastructure would be provided to enable illumination at a future date [REP5-009 and REP6-015]. By the conclusion of the Examination the Joint Councils agreed that no infrastructure to provide lighting would be incorporated into the DCO and this was an acceptable approach [REP7-006 and REP9-012].

5.9.39. We note the benefit of separating out the traffic of the A417 from the A436 and local roads via the new junction. The increase in traffic along Leckhampton Hill towards Cheltenham, past the National Star College, is a concern, but we acknowledge that there is no allegation that the consequences of traffic from the Proposed Development are severe, having regard to paragraph 111 of the NPPF. We welcome the conclusion that the Ullenwood junction would be suitably designed so as not to require lighting, especially since such illumination would have other visual effects not considered in the ES. Overall, we have no reason to disagree with the Applicant's findings on this junction.

The B4070 and Birdlip

5.9.40. Cowley and Birdlip Parish Council raised concerns regarding the speed and frequency of vehicles using the current route of the B4070 from the existing A417, and that the amended route as part of the Proposed Development may give rise to an increase in both [REP3-022 and EV-031]. The Applicant responded to iterate that the Proposed Development would result in a decrease in the number of vehicles using local roads and confirmed that part of the B4070 is being realigned to have a narrow 6-metre-wide carriageway, which would have traffic calming effects and the speed limits [AS-041] are set out in the schedules to the dDCO [REP3-011]. No further challenge was received on this information, with measures to improve pedestrian safety proposed to be pursued at detailed design stage within the Order Limits [EV-031].

5.9.41. Concerns were raised from NE regarding the new mini-roundabout at the entrance to the Barrow Wake SSSI, with the Gloucestershire Ramblers highlighting issues with displaced parking in the local area [REP8-047 and REP9-014]. However, the Applicant maintained that the roundabout was a necessary feature in the carriageway, would benefit safety and that alternative parking provision could be found elsewhere within the Proposed Development, such as at the Golden Heart public house [REP9-026].

5.9.42. Notwithstanding the issues regarding diverted traffic expressed above, we are satisfied that proposed measures are in place to ensure the safety of all road users along the B4070. We also consider that traffic using local roads as a result of delays on the A417 would reduce with the Proposed Development in place, making the local highway network safer.

Lay-by Design

5.9.43. The Proposed Development would provide four lay-bys in total, two serving the eastbound direction and two serving the westbound. A pair would be constructed towards the eastern end of the development on the southern boundary of Holly Brae ([REP4-007] sheet 1), with the second pair just south of the Stockwell overbridge ([REP4-007] sheet 5). The position of the first-encountered eastward lay-by was challenged by Mr and Mrs Field [RR-020 and REP1-055]. Whilst the challenge was principally on the grounds of related Compulsory Acquisition, handled

separately within this Report, there were some fundamental planning concerns such as [REP8-032]:

- the need for the lay-by at all (whether full-size, emergency access only or if it could be removed altogether);
- the availability of other options such as the entrance to Cold Slad Lane further eastward or the widened hard shoulder being built as part of the Proposed Development's design; and
- conflict with the DMRB that states lay-bys should be positioned away from residential areas to avoid noise and visual intrusion.

5.9.44. The original application as submitted showed the lay-by as a full-size publicly accessible lay-by. However, the Examination was informed by both Mr and Mrs Field and the Applicant that discussions were taking place with the Applicant suggesting a reduction in the lay-by size or removing altogether [REP5-007]. However, the Applicant pulled back from these other options at D9 [REP9-026], stating the application as submitted showed the lay-by and it was a needed piece of infrastructure.

5.9.45. From a highway safety perspective, we consider that lay-bys in whatever form are necessary to ensure safe refuge for vehicles and temporary areas where drivers could be safely accommodated in the event of a breakdown. It would be unacceptable to expect the hard shoulder to be used for anything other than emergencies. Having undertaken site inspections to the area (Stage 8 [EV-041]), we do not believe that the entrance to Cold Slad Lane would serve as an efficient equivalent to a designed lay-by.

5.9.46. We note the argument that vehicles would likely break down heading eastward on the steeper incline section of the Proposed Development rather than at the foot of the hill where the lay-by is proposed. However, we also note the Applicant's technical response regarding the distances between lay-bys as justification for one in the said location [REP1-009]. We also note that, despite deviating from the guidance of the DMRB by situating the said lay-by immediately to the south of the curtilage of Mr and Mrs Field's domestic property, mitigation planting would be planted and maintained by the Applicant to reduce the effects of noise and visual intrusion.

5.9.47. We conclude that there is a need for lay-bys as part of the Proposed Development's design. In terms of the planning merits, we conclude there is nothing substantive to compel the Applicant to move or change the lay-by design. However, we welcome that discussions on this matter would continue if the dDCO was made, through detailed design stage.

Other Local Road Network Issues

5.9.48. At ISH4 [EV-044], the impacts of the Proposed Development upon the operation of the wider A417 in general were discussed following a suggestion that traffic would become backed up at other junctions, specifically the Barnwood and Longlevens junctions at Gloucester [REP3-031]. The Applicant provided evidence and further written reassurances that there would not be any significant effects on traffic flows, delays or

the overall functioning of other junctions on the A417 as a result of the current Proposed Development [REP5-009 and REP7-005]. We note that no substantive evidence was provided to the contrary and have no reason to dispute the Applicant's findings on this matter.

Public Rights of Way (PRoW)

5.9.49. The Applicant's case is that a number of footpaths and bridleways were severed when the original A417 was constructed [APP-043 and APP-426]. The Proposed Development would cause other PRoWs to be stopped up or diverted, some without substitute, but proposals for overbridges and crossings would provide remedy to overall connectivity within the area (Schedule 4, [REP9-005]).

5.9.50. The Gloucestershire Ramblers maintained objection to the closure, substitution and diversion of all PRoWs [REP1-071, REP1-150 and REP5-005]. We note however that, in the broader context, a number of organisations comprising the TWG were content with the proposals, as covered in the SoCG, notably that the TWG members generally agree that the PRoW Management Plan sets out sufficient and adequate mitigation and enhancement of all PRoWs [REP9-019].

5.9.51. The one outstanding issue at the end of the Examination [REP9-019] related to the need for the Proposed Development to provide one additional crossing of the A417 between Bentham Lane and the Grove Farm underpass. The Applicant had set out that the severance of paths would be mitigated via the crossing for the CWNT, and that any additional crossing in the location requested by the TWG would not be provided due to engineering risk, ecological and environmental impacts, and cost/ poor value for money [REP3-005].

5.9.52. We consider that interference with the PRoW network is both proportionate and reasonable in order to facilitate the Proposed Development. Alignments on minor footpaths and bridleways would be achieved without significant diversion or harm to the experience of those routes. More importantly, the principal paths of the CWNT and the GWLDF would be carried over the A417 carriageway, representing a marked improvement both in the quality of those routes and for connectivity across the landscape as a whole.

Byway Open to All Traffic (BOAT)

5.9.53. Table 12-28 of ES Chapter 12 sets out that a new BOAT would be created linking the Shab Hill junction to the unclassified road 50853, then further connections to unclassified road 50944 and Cowley Footpath 7 [APP-043]. The Applicant set out that the BOAT constituted essential mitigation for severance of an existing route that provides access to all highway users (including motorised users) [REP3-014].

5.9.54. Objections were made and sustained through to the end of the Examination to the BOAT firstly in terms of land take (dealt with in

Chapter 8 of this Report) and secondly on the basis of motorised users being anti-social and causing disturbance [REP3-068 and REP3-027].

5.9.55. We note that the BOAT was requested during consultation with the TWG (page 14 of Statement of Common Ground [REP3-005]) and that there were no objections to it from the TWG, except from the Gloucestershire Ramblers, that would have resulted in a different engineering design for the A417 being adopted altogether.

5.9.56. We consider that efforts have been made by the Applicant to overcome connectivity issues within the landscape and provide for enhanced access through the locality. We acknowledge that the potential for motorised users is a concern, but the BOAT would be mitigation for a severed route and would be of an equivalent level of accessibility, which is fair and proportionate. Proper adherence to the route, with any anti-social behaviour being dealt with by the proper authority, would not be harmful to the enjoyment of the locality or the conduct of agricultural operations.

Conclusions

5.9.57. We consider the greatest benefit of the Proposed Development would be its contribution to the safety of road users and the ease to congestion at peak times, principally at the current Air Balloon roundabout junction between the current A417 and the A436. The improvements to the efficiency of the A417 in this locality would lead to consequential easing of delays and rat-running on the local road network, with smoother free-flow of traffic as a result. The Proposed Development would significantly improve upon road safety locally and regionally, with less deaths and severe accidents forecast compared to the baseline situation and the do-minimum scenario. In accordance with the NPSNN, the need for the scheme has been justified and accessibility would be greatly enhanced.

5.9.58. In compliance with the NPSNN, the Applicant has used an appropriate transport model to provide detail of the impacts, including an assessment of the benefits and costs. The Applicant has demonstrated regard to established local policies for transport, responded positively during the Examination to requests from the local highway authority and has taken measures to support other transport modes in developing infrastructure.

5.9.59. We welcome the scheme's efforts to tackle historical severance issues from the original alignment of the A417, the enhancements to the PRoW network and the measures that deliver improved accessibility and safety for all road users in the vicinity.

5.9.60. Overall, we conclude that:

- the scheme would provide significant benefits for walkers, cyclists, horse-riders and NMUs;
- the Proposed Development would greatly improve the efficiency of transport network in the vicinity, including relieving congestion and vehicular nuisance on nearby rural villages;

- the Proposed Development would represent a significant improvement to the highway safety record of the road in this locality, resulting in reduced fatalities and serious accidents;
- the Proposed Development fulfils an identified need for transport improvement within the region and complies with the expectations of the NPSNN as regards to strategic network delivery;
- no severe residual effects would occur as a result of the Proposed Development, in compliance with the NPPF; and
- the matter of transportation weighs substantially in favour of the Order being made.

5.10. WATER ENVIRONMENT INCLUDING FLOODING

Introduction

5.10.1. This section considers the effects of the Proposed Development on the water environment including drainage, water quality, pollution, flood risk, and the Water Framework Directive (WFD). The effect of the proposal on water-based biodiversity and nature conservation interests is covered in Section 5.3.

Policy

5.10.2. The NPSNN recognises that the planning and pollution control systems are separate but complementary and the decisions taken under the PA2008 should not duplicate those made under the pollution control regime (paragraphs 4.49 to 4.51). The ExA and SoST should work on the assumption that the relevant pollution control regime will be properly applied and enforced. A similar approach should be taken in respect of land drainage and flood defence controls.

5.10.3. 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".*

5.10.4. When determining the application, paragraph 5.99 of the NPSNN states that the 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".*

5.10.5. 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".*

5.10.6. In terms of mitigation, paragraph 5.112 of the NPSNN indicates that 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.

5.10.7. Turning to water quality and resources paragraph 5.222 of the NPSNN states that 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 WFD commitments.

5.10.8. 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".*

5.10.9. In terms of mitigation, paragraph 5.227 of the NPSNN states both the ExA and the 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. Meanwhile paragraph 5.230 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.

The Case for the Applicant

5.10.10. Chapter 13 of the ES along with the associated figures and appendices set out the Applicant's case in respect of Road Drainage and the Water Environment [APP-044]. In particular, Appendix 13.3 [APP-399] provides a Flood Risk Assessment (FRA), Appendix 13.7 [APP-403] provides a Hydrogeological Impact Assessment and Appendix 13.10 [APP-406] provides a Drainage Strategy. Appendix 13.2 [APP-398] contains the WFD assessments, which considers specifically the impact on relevant WFD objectives for designated waterbodies in the study area.

5.10.11. The Applicant sets out that the methodology for the assessment of road drainage and the water environment follows that set out in the DMRB Volume 11, Section 3, Part 10, LA113 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 hydro-morphology of the watercourses in the study area. An assessment of the potential impacts of routine runoff on surface waters has also been undertaken following the Applicant's England Water Risk Assessment Tool version 2.0.4, 2019 methodology as described within DMRB LA113.

5.10.12. The FRA was based on the methods set out in DRMB HD45/09 and were intended to accord with the NPPF. The EA's designation of flood zones (FZ) was adopted. This is consistent with the NPPF and defines FZ1 as

very low risk, FZ2 as low risk and FZ3 as medium risk based on the annual probability that a flood event would occur.

5.10.13. A drainage solution including the use of sustainable drainage features and mechanical solutions to treat and attenuate the highway runoff prior to discharge. The application states that attenuation has been designed to ensure no flooding from the site in a 1 in 100 year plus 40% climate change rainfall event. The Drainage Strategy [APP-406] sets out the strategic location of attenuation basins across the Proposed Development's design and demonstrates that they are sufficient to manage the anticipated water run-off from the Proposed Development once operational.

5.10.14. Construction of the earth bunding alongside the widening of the A417 along the Crickley Hill stretch of highway would result in the diversion of the tributary of Norman's Brook, potentially into a watercourse elevated in relation to the current watercourse alignment. The alteration is considered necessary and unavoidable, so this watercourse has been assessed in the FRA and Hydrogeological Impact Assessment as part of the Applicant's conceptual model for hydrology in the area.

Assessment of likely significant effects

5.10.15. The Applicant considers that the activities related to the Proposed Development would not cause deterioration in the status of any WFD waterbodies or prevent them from achieving either "*Good Ecological Status*" or "*Good Ecological Potential*" by 2021 or 2027, following the mitigation described in the WFD Compliance Assessment [APP-398].

5.10.16. The Applicant has predicted that almost all of the effects arising from the Proposed Development would be capable of mitigation to a point where no adverse effects would remain. This includes that the proposal poses no risk to drinking water quality or indeed to water quality in general from either the construction or operational phases. The Proposed Development does however predict a moderately adverse effect, post-mitigation, on the existing Norman's Brook watercourse, which has a high value for potentially containing species protected under EU or UK legislation and is required to be realigned as part of the engineering works.

5.10.17. Attenuation basins, designed to be dry and not to permanently hold water, would serve to manage surface water run-off from the carriageway during rainfall events. No significant operational effects are predicted. However, it is recommended that a post-construction survey is undertaken of all new culverts to review the effectiveness of embedded mitigation and the function along the new diverted channel. If there is any evidence of excessive erosion or sedimentation further actions should be considered to remedy that impact in as sustainable a way as possible. No likely significant adverse effects are identified for flood risk.

Requirements

5.10.18. Surface and foul water drainage systems are required to be consulted on and agreed with the relevant statutory bodies prior to their implementation under Requirement 12. In other respects, Requirement 3 of the dDCO secures the EMP and its annexes, in this case Annex G, which is a ground and Surface Water Management Plan [APP-324]. The Applicant submits that the mitigation measures therein would reduce any adverse effects and ensure adequate management of environmental risks.

The Position of Interested Parties

5.10.19. A small number of representations were raised regarding the issue of flooding and drainage, with the main matters being raised being as follows:

- The EA [RR-035] and GWT [RR-042] requested attention to the effects on the tributary to Norman's Brook.
- Julia Lavington raised a legacy drainage issue with the existing A417 that should be resolved through the re-purposing process [RR-058].
- Cllr Julia Judd highlighted impacts on aquifers at Andoversford that contribute to the River Dunt and the need for investigation [RR-023].
- National Star College queried drainage outfalls and easements being located on its land [RR-039].
- Mr de Lisle Wells had concerns on the water table feeding local ponds and watercourses [RR-089].

5.10.20. The Applicant responded to the RRs [REP1-008] and provided reasonable responses to our satisfaction regarding the majority of concerns raised. It was confirmed that there would be no significant impacts via construction or operation of the Proposed Development predicted for the River Dunt or watercourses at Andoversford [REP1-009] and no further examination of this point was pursued or argued.

ExA Considerations

5.10.21. The main issues for the Examination are:

- whether the Proposed Development would affect public drinking water supply;
- whether there would be an increased risk of flooding;
- whether the drainage strategy is appropriate; and
- whether construction impacts on watercourses and aquatic forms are appropriate.

Water Quality

5.10.22. In response to question 1.12.9 of ExQ1 [PD-008], the EA expressed satisfaction that the Hydrogeological Impact Assessment proposed measures that would address any risk to Source Protection Zones delivering public drinking water. Monitoring would be required to measure any changes within the water environment during and post construction to ensure that the mitigation was working [REP1-058].

5.10.23. The EA confirmed its acceptance that potential contamination or pollution to watercourses were addressed appropriately by the Applicant and that mitigation measures were acceptable [REP1-058]. Concerns over karstic features in the geology underlying the Proposed Development, providing a pathway for contaminants to reach groundwater, could not be ruled out but use of inert grouting materials would be one appropriate option to protect such water sources.

5.10.24. We note that the construction works would largely take place dry so as not to require dewatering. Means to intercept and manage surface water run-off through the construction phase would be suitable in this regard. We acknowledge that SoCG received with the EA and Gloucestershire County Council (as part of the Joint Council submissions, acting as the Lead Local Flood Authority) consider all matters are resolved with regards to this aspect [REP9-012 and REP9-013].

5.10.25. We acknowledge that no substantiated evidence was submitted to the Examination with regards the Applicant's findings on the WFD [APP-398]. On the basis of the evidence before us we are satisfied the Proposed Development would not lead to or cause adverse effects on water quality in such protected water features.

Norman's Brook

5.10.26. The Proposed Development would lead to a diversion of a tributary of Norman's Brook on the section of carriageway being widened along Crickley Hill. The Applicant recognised this may result in the springs that currently supply the watercourse being disrupted, affecting the flows as a result (paragraph 13.8.8, [APP-044]). The realignment of the tributary of Norman's Brook would result in the loss of the existing watercourse and would introduce new water levels for the watercourse, coupled with a potential increase in its catchment area of up to 23ha following construction of the Shab Hill junction.

5.10.27. The spring-fed tributaries are ephemeral and are dependent upon and sensitive to changes in groundwater levels, demonstrating a direct hydraulic relationship between the two. There is, as recognised by the EA, a risk that the activity of building a new road across the Cotswold Jurassic limestone aquifers could affect the balance of groundwater flows and thus the quantity of water in the surface watercourses flowing into Norman's Brook [REP1-058].

5.10.28. Culverts are proposed as part of the Proposed Development to enable the carriageway to cross the existing watercourses. In other respects, the EA acknowledged that the Hydrogeological Impact Assessment combined with a sound conceptual understanding of the groundwater regime in the underlying aquifers and stated that ongoing groundwater and surface water monitoring would provide the necessary protection to all of the important water features [REP1-058]. Such monitoring is secured in the EMP [REP6-010]. We acknowledge the SoCG with the EA reflects a position that the realignment of the tributary of Norman's Brook can be managed without adverse effect to the flow or function of the

watercourse, subject to further detailed surveillance and monitoring [REP9-013].

5.10.29. The GWT was concerned about the stretch of the realigned tributary to Norman's Brook being partially canalised, which did not reflect an approach of re-naturalising watercourses [REP3-005]. It was reported however that agreement on the realignment had been reached at D5 [REP5-005] with the Landscape and Ecology Management Plan [APP-321] providing sufficient reassurance of appropriate method statements. We queried this [PD-017] and the Applicant's response confirmed the issue had been resolved, and that the detailed design stage of the development would, including consultation with the relevant bodies, ensure realignment of the brook would be handled sensitively [REP6-015].

5.10.30. Overall, we are satisfied those measures to realign watercourses as part of the Proposed Development are adequate and are assured mitigation as far as reasonably practicable is in place to monitor and remedy any adverse effects.

Flood Risk and Drainage

5.10.31. A number of attenuation basins are proposed within the scheme design, designed to be principally dry in nature, but to accommodate surface water in a rainfall event. In answer to ExQ1 [PD-008], the Applicant confirmed that the design basis for the basins was set out in the Drainage Report, and they have been strategically located based upon the topography and the vertical alignment of the Proposed Development and immediately upstream of an outfall to a watercourse or dry valley [APP-406]. The locations are designed to replicate wherever possible existing natural catchments and surface water flow paths and minimise the impact on the receiving water environment. The drainage strategy also took into account potential surface water from the neighbouring quarry and provided mitigation, relying on one of the attenuation ponds [REP8-032].

5.10.32. In the response to ExQ1, the Applicant notes that the highway drainage design addresses the risks of extreme weather events including allowances for climate change over the lifetime of the asset [REP1-009]. Flood risk both within the site and outside the site is assessed up to and including the 1 in 100-year return period event with a 40% allowance for climate change in accordance with national planning policy. The design also considers and makes allowance for the routing of flood water in an exceedance event (either due to an extreme weather event beyond the design event or a blockage).

5.10.33. The Applicant continues that the Shab Hill junction underbridge would have a continuous longitudinal fall from one soft verge. Longitudinal subsurface drainage within the hard verge and carriageway areas would collect any water penetrating the road/ verge surface. This system, typically comprising perforated subsurface pipes, would pass through the back of the abutments and connect to the adjacent highway drainage

ditches. On Stockwell overbridge, water absorbed by the soil in the soft verges and the gravel track would be collected by perforated drainage pipes placed at the low sides of the verges and gravel track.

5.10.34. No objections were raised from either the EA [REP1-058] nor from the Joint Councils [REP1-133], with Gloucestershire County Council willing to adopt and maintain the drainage systems within the Proposed Development subject to caveats and clear separation of responsibilities with the Applicant's own retained assets [REP1-134]. The Applicant would also seek to maintain some of the drainage infrastructure alongside and within the repurposed section of the existing A417 to assist with surface water management.

5.10.35. We are reassured that the Proposed Development has been designed to be safe during any flood event and that there should be no risk to life as a result of flood water on the highway.

National Star College

5.10.36. Concerns were raised regarding potential flooding as a result of a drainage pipe and easement across National Star's land, potentially preventing access to the college by an alternate emergency route [REP1-068 and orally EV-023]. The Applicant responded to state a permanent easement was no longer required following agreement with the EA that an infiltration-based mechanism would be acceptable [EV-023]. However, a temporary easement was still required during construction to manage pollutants and contaminants entering the run-off from construction works, which would flow into the attenuation basins located on the college's land for treatment prior to release into the general watercourses. The Applicant stated that in terms of flood risk, there should not be any flood risk downstream of the basins during construction.

5.10.37. However, National Star College retained concerns given the sensitivity of their users and the need for measures to be in place in case of emergency [REP6-033]. The Applicant sought to reassure those steps to mitigate construction stage drainage were robust, and that there should not be any lasting effects once the Proposed Development is operational [REP7-005].

5.10.38. Matters relating to the Compulsory Acquisition and Temporary Possession of land are discussed in Chapter 8 of this Report. At this stage though, we are satisfied that there is a need to manage the run-off arising from construction works within the vicinity of the National Star College and that the proposals would provide the necessary management. We are reassured that there would not be any increased flood risk to property or life as a result of the drainage works.

Repurposed A417

5.10.39. Concerns were raised that there had been drainage issues with the existing A417, particularly in the area of Parsons Pitch to the east of Birdlip [RR-058]. As part of the original Proposed Development, it was

intended to remove a proportion of the extant drainage infrastructure, although the Applicant expressed that there may be opportunity to retain this for future use (Q.1.12.13, [REP1-009]).

5.10.40. Both the Applicant and the Joint Councils agreed there would be benefit in leaving the existing drainage methods in place, serving the repurposed A417 both in its role as local access and for supporting non-motorised recreational traffic. A drainage plan submitted to the Examination confirmed the retention of existing outfalls and soakaways [APP-307]. The Applicant acknowledged that the reduction in hardstanding and traffic would aid alleviation of any perceived drainage issues being experienced at present. The finer details of drainage for the area proposed to be de-trunked are secured in the rDCO through Requirement 12, as stated by the Applicant [REP5-009].

5.10.41. We consider that the proposals to maintain existing drainage infrastructure, in combination with new informal vegetated systems (infiltration), are suitable in this instance. There would be a reduced risk of surface water flooding as a result of the alterations and the retention of highway drainage, whilst potentially excessive for the repurposed stretch of the A417, would support the natural drainage of the area in a storm event.

Conclusions

5.10.42. At the close of the Examination, the Joint Councils and the EA confirmed that they were in agreement with the Applicant in respect of the water environment and drainage matters [REP9-012 and REP9-013].

5.10.43. Whilst noting the positions of the IPs in this case, we consider that:

- the Applicant has taken opportunities where feasible to improve upon the quality of existing discharges where these are identified and shown to contribute towards WFD commitments;
- the Applicant has put forward satisfactory proposals to mitigate adverse effects on the water environment and these are appropriately secured through Requirements in the rDCO;
- the Applicant's assessment that no significant adverse effects on the water environment, save for that on the tributary of Norman's Brook, would result during either the construction or operation of the Proposed Development is agreed upon;
- the measures to manage and mitigate the realignment of Norman's Brook are acceptable; and
- taking all these matters into consideration we conclude that the Applicant has fulfilled the requirements of the NPSNN, and that water environment matters do not weigh against the Order being made.

6. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

6.1. INTRODUCTION

6.1.1. This Chapter sets out our analysis and conclusions relevant to the Habitats Regulations Assessment (HRA). This will assist the Secretary of State for Transport (SoST), as the Competent Authority, in performing their duties under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).

6.1.2. This Chapter is structured as follows:

- Section 6.2: Matters considered during the Examination;
- Section 6.3: Findings in relation to Likely Significant Effects on the UK National Site Network and other European sites;
- Section 6.4: Findings in relation to Adverse Effects on Integrity;
- Section 6.5: HRA conclusions.

6.1.3. In accordance with the precautionary principle embedded in the Habitats Regulations, consent for the Proposed Development may be granted only after having ascertained that it will not adversely affect the integrity of European site(s)[4] and no reasonable scientific doubt remains[5].

6.1.4. We have been mindful throughout the Examination of the need to ensure that the SoST has such information as may reasonably be required to carry out their duties as the Competent Authority. We have sought evidence from the Applicant and the relevant Interested Parties (IPs), including Natural England (NE) as the Appropriate Nature Conservation Body (ANCB), through written questions and Issue Specific Hearings (ISHs).

[4] For the purposes of this chapter, in line with the Habitats Regulations and relevant Government policy, the term "European sites" includes Special Areas of Conservation (SAC), candidate SACs, possible SACs, Special Protection Areas (SPA), potential SPAs, Sites of Community Importance, listed and proposed Ramsar sites and sites identified or required as compensatory measures for adverse effects on any of these sites. For ease of reading, this chapter also collectively uses the term "European site" for 'European sites' defined in the Conservation of Habitats and Species Regulations 2017 and 'European Marine Sites' defined in the Conservation of Offshore Marine Habitats and Species Regulations 2017, unless otherwise stated. "UK National Site Network" refers to SACs and SPAs belonging to the United Kingdom already designated under the Directives and any further sites designated under the Habitats Regulations.

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

6.1.5. We produced a Report on the Implications for European Sites (RIES) [PD-019] which compiled, documented, and signposted HRA-relevant information provided in the Development Consent Order (DCO) application and Examination representations up to Deadline (D) 6 (30 March 2022). The RIES was issued to set out our understanding on 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 13 April 2022 and 6 May 2022. Comments were received from the Applicant [REP8-029] at D8 (6 May 2022). These comments have been taken into account in the drafting of this Chapter.

6.1.6. Our recommendation is that the RIES, and consultation on it, may be relied upon as an appropriate body of information to enable the Secretary of State (SoS) to fulfil their duties of consultation under Regulation 63(3) of the Habitats Regulations should the SoST wish to do so.

Proposed Development Description and HRA Implications

6.1.7. The Proposed Development is described in Chapter 2 of this Report.

6.1.8. The spatial relationship between the Order Limits of the Proposed Development and European sites is shown on Appendix B of [APP-414].

6.1.9. The Proposed Development is not directly connected with, or necessary to, the management of a European site. Therefore, the SoST must make an 'appropriate assessment' of the implications of the Proposed Development on potentially affected European sites in light of their Conservation Objectives.

6.1.10. The Applicant's assessment of effects is presented in the following documents:

- 6.5 Environmental Statement: Habitats Regulations Assessment: Screening Report [APP-414] (hereafter referred to as 'the HRA Screening Report').
- 6.5 Environmental Statement: Habitats Regulations Assessment: Statement to Inform Appropriate Assessment [APP-415] (hereafter referred to as 'the HRA SIAA').
- 8.24 HRA Matrices – Severn Estuary Ramsar Site [REP3-015].

6.2. SUMMARY of HRA MATTERS CONSIDERED DURING The EXAMINATION

6.2.1. We sought clarification as to whether the Applicant's HRA Screening Report [APP-414] had relied on precautionary measures which intended to avoid or reduce effects to conclude no likely significant effects on the qualifying features of the Cotswold Beechwoods SAC and to demonstrate that there would be no Adverse Effect on the Integrity (AEoI) of the designated site. We sought clarification from both the Applicant and NE at our First Written Questions (ExQ1) (question 1.3.41 [PD-008]).

6.2.2. The Applicant provided a response to this question at D1 [REP1- 009] and stated that the precautionary mitigation measures would include the provision of additional signage/ interpretation boards to control and guide recreational use of the Cotswold Beechwoods SAC. In their submission at Deadline 1, NE [REP1-100] stated that it considered that the additional precautionary mitigation measures are necessary to reach a conclusion of no adverse effects on the integrity of the Cotswold Beechwoods SAC.

6.2.3. At D1, NE [REP1-099] stated that due to developing evidence regarding functionally linked watercourses of the Severn Estuary, it now considers that the Proposed Development could have an adverse effect on European eels which are a qualifying feature of the Severn Estuary Ramsar. As such, we requested updated matrices to account for the change in position from NE that the Severn Estuary Ramsar should be assessed for AEoI. In response to this, at D3, the Applicant submitted updated screening and integrity matrices for the Severn Estuary Ramsar [REP3-015].

6.3. FINDINGS IN RELATION TO LIKELY SIGNIFICANT EFFECTS (LSE)

6.3.1. Under Regulation 63 of the Habitats Regulations the Competent Authority must consider whether a development will have Likely Significant Effects (LSE) on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test is to identify the need for an 'appropriate assessment' (AA) and the activities, sites or plans and projects to be included for further consideration in the AA.

6.3.2. The HRA Screening Report [APP-414] explains that European sites to be scoped into the assessment were determined based on whether the Proposed Development met the threshold criteria contained within Design Manual for Roads and Bridges (DMRB) LA115 as follows:

- The Proposed Development is within 2km (1.24 miles) of a European Site or functionally linked land.
- The Proposed Development is within 30km (18.6 miles) of a SAC, where bats are noted as one of the qualifying features.
- The Proposed Development crosses or lies adjacent to, upstream of, or downstream of, a watercourse which is designated in part or wholly as a European Site.
- The Proposed Development has a potential hydrological or hydrogeological linkage to a European site containing a groundwater dependent terrestrial ecosystem which triggers the assessment of European sites in accordance with DMRB LA113 Road Drainage and the Water Environment (Revision 1) (Ref 1-11).
- The Proposed Development has an affected road network (ARN) which triggers the criteria for assessment of European sites, as set out in DMRB LA105 Air Quality (Revision 0) (Ref 1-12).

6.3.3. The screening assessment undertaken identified potential for likely significant effect pathways between the Proposed Development on six

European sites. These sites and their features are shown below in Table 1.

Table 1: Qualifying Features of European Sites

Name of European sites	Features
Cotswold Beechwoods SAC 291m west	*Asperulo Fagetum* beech forests on neutral to rich soils
	Semi-natural dry grasslands and scrubland facies on calcareous substrates (*FestucoBrometalia*)
Wye Valley and Forest of Dean Bat Sites SAC 13.7 miles west	Lesser horseshoe bat
	Greater horseshoe bat
North Meadow and Clattinger Farm SAC 12.4 miles southeast	Lowland hay meadows (*Alopecurus pratensis, Sanguisorba officinalis*)
	Fritillary (*Fritillaria meleagris*)
Severn Estuary SAC Approximately 11 miles west	Estuaries
	Mudflats and sandflats not covered by seawater at low tide
	Atlantic salt meadows
	Sandbanks which are slightly covered by sea water all the time
	Reefs
	Migratory fish (sea lamprey, river lamprey, twaite shad)
	Migratory fish (salmon, eel, sea trout, Allis shad)
Severn Estuary Ramsar Approximately 11 miles west	Estuaries
	Mudflats and sandflats not covered by seawater at low tide
	Sandbanks which are slightly covered by sea water all the time
	Reefs

	Migratory fish (sea lamprey, river lamprey, twaite shad)
	Migratory fish (salmon, eel, sea trout, Allis shad)
	Estuaries
	Atlantic salt meadows; Internationally important populations of waterfowl
	Assemblage of nationally important populations of waterfowl
Severn Estuary SPA Approximately 11 miles west	Internationally important wintering populations (Berwick's swan)
	Internationally important migratory populations (common shelduck, gadwall, dunlin, common redshank, greater white fronted goose)
	Internationally important waterfowl assemblage

6.3.4. The Applicant concluded in its HRA Screening Report [APP-414] that the Proposed Development would not have LSE alone or in combination with the following five European sites:

- Wye Valley and Forest of Dean Bat Sites SAC.
- North Meadow and Clattinger Farm SAC.
- Severn Estuary SAC.
- Severn Estuary Ramsar site.
- Severn Estuary SPA.

6.3.5. With regard to the Cotswold Beechwoods SAC, the Applicant concluded that due to the potential for increased recreational pressure on this European site, LSE could not be ruled out.

6.3.6. NE agreed with the conclusions of the HRA Screening Report that LSE could not be screened out for the Cotswold Beechwoods SAC and agreed with the Applicant's approach to take this European site forward to Stage 2.

6.3.7. NE requested that the Applicant progress the Severn Estuary Ramsar site to Stage 2 assessment of AEoI. The Applicant submitted updated screening matrices for the Severn Estuary Ramsar at D3 [REP3-015].

6.3.8. In its submissions, NE did not identify any other UK European site or European site features that could be affected by the Proposed Development.

6.3.9. We are satisfied that the correct European sites and qualifying features have been identified for the purposes of the assessment, and that all potential impacts which could give rise to significant effects have been identified.

6.4. FINDINGS IN RELATION TO ADVERSE EFFECTS ON THE INTERGITY

Cotswold Beechwoods SAC

6.4.1. The HRA SIAA [APP-415] provided further information regarding the potential for increased recreational pressure on the Cotswold Beechwoods SAC. Part of the Proposed Development will include a crossing to reconnect walking and cycling routes along the Cotswold Way which is currently severed by the A417.

6.4.2. The Applicant concluded that with the incorporation of mitigation measures (signage diverting users away from the European site and information boards) the Proposed Development will not adversely affect the integrity of the Cotswold Beechwoods SAC.

Severn Estuary Ramsar

6.4.3. In response to the request from NE to progress the Severn Estuary Ramsar site to Stage 2, the Applicant submitted updated integrity matrices for the Severn Estuary Ramsar at D3 [REP3-015].

6.4.4. The potential for adverse effects on European eel (a qualifying feature of the Severn Estuary Ramsar) were identified by the Applicant due to a temporary reduction in habitat area during the construction phase.

6.4.5. The Applicant concluded that the Proposed Development would not adversely affect the integrity of the Severn Estuary Ramsar due to a number of mitigation measures that would be employed. The mitigation measures comprise:

- pre-construction fish surveys and a fish translocation prior to realignment of the tributary of Norman's Brook to ensure that the fish assemblage is protected from construction impacts;
- sensitive timing and methodologies for works involving the tributary of Norman's Brook realignment would be implemented to avoid killing or injury of fish (including eggs laid in spawning habitats) and preconstruction fish translocation; and
- detailed design of the new river habitat within the diverted channel of the tributary of Norman's Brook to return the watercourse to a more natural form, improving conditions for fish passage compared to the existing channel that is modified by numerous weirs. This would improve the potential of the watercourse to support European eel.

6.4.6. The first two mitigation measures described above are included within the Environmental Management Plan (EMP) [APP-321] (ref BD6 and BD28 respectively) which is secured at Requirement 3 of the DCO. The mitigation measures regarding the design of the new river habitat are fully described in the Landscape and Ecological Management Plan [APP-321] which is contained in the EMP and secured at Requirement 3 of the DCO.

6.4.7. The Applicant's conclusions in relation to the sites and features shown in the Applicant's integrity matrices [APP-415 and REP3-015] were not disputed by any IPs and NE confirmed at D6 that they were satisfied with the HRA matrices produced [REP6-035]. The Applicant confirmed that agreement of the conclusions of the HRA Screening Report and HRA SIAA had been received from Natural Resources Wales [REP8-029]. Evidence of this agreement was provided at D9 [REP9-026].

6.4.8. Our findings are that, subject to the mitigation measures to be secured in the recommended DCO (rDCO), an AEoI resulting from the assessed impact-effect pathways from the Proposed Development can be excluded alone or in combination with other plans or projects for each of the European sites.

6.5. HRA CONCLUSIONS

6.5.1. The Proposed Development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the project with respect to adverse effects on potentially affected sites must be assessed by the SoST.

6.5.2. Six European sites and their qualifying features were considered in the Applicant's assessment of LSE (as shown above in paragraph 6.3.3). LSEs were identified for the Cotswold Beechwoods SAC and the Severn Estuary Ramsar site both from the Proposed Development alone and in-combination with other plans or projects.

6.5.3. We are satisfied that the correct European sites and qualifying features have been identified for the purposes of the assessment, and that all potential impacts which could give rise to significant effects have been identified.

6.5.4. Our findings are that, subject to the mitigation measures to be secured in the rDCO, AEoI on Cotswold Beechwoods SAC and Severn Estuary Ramsar from the Proposed Development can be excluded alone or in combination with other plans or projects for each of the European sites. There is no requirement for the SoST to undertake further Appropriate Assessment in this instance.

7. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

7.1. INTRODUCTION

7.1.1. We conclude on the case for development consent in this Chapter. Chapter 8 then focuses on the Applicant's proposals for Compulsory Acquisition and related matters. This is followed by our consideration of the draft Development Consent Order (DCO) in Chapter 9. An overall recommendation as to whether or not development consent should be granted for the Proposed Development is set out in Chapter 10.

7.1.2. This Chapter brings together the Proposed Development described in Chapter 2, the legal and policy context set out in Chapter 3, and the matters, issues and findings determined in relation the planning issues explored in Chapters 4 to 5. Whilst the Habitats Regulations Assessment (HRA) has been considered separately in Chapter 6, relevant matters are taken fully into account.

7.1.3. Examination Library references are not included in this summary, but the full references are available from the corresponding sections of Chapters 2 to 6.

7.2. THE PLANNING BALANCE

Matters to be taken into account

7.2.1. The statutory framework for deciding Nationally Significant Infrastructure Project (NSIP) applications where there is a relevant designated National Policy Statement (NPS) is set out in section (s) 104 of the Planning Act 2008 (PA2008). In deciding the application, the Secretary of State (SoS) must have regard to:

- any National Policy Statement (NPS) which has effect in relation to development of the description to which the application relates (a relevant NPS);
- the appropriate marine documents (if any) determined in accordance with s59 of the Marine and Coastal Access Act 2009;
- any Local Impact Report (LIR) (within the meaning given by s60(3) of the PA2008) submitted to the SoS before the deadline specified in a notice under s60(2);
- any matters prescribed in relation to development of the description to which the application relates; and
- any other matters which the SoS thinks are both important and relevant to the SoS's decision.

7.2.2. Given the Proposed Development is highway infrastructure and a 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.

7.2.3. Section 4 of the NPSNN addresses assessment principles. Paragraph 4.2 states *"Subject to the detailed policies and protections in this NPS, and the legal constraints set out in the Planning Act, there is a presumption in favour of granting development consent for national networks NSIPs that fall within the need for infrastructure established in this NPS".*

7.2.4. 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."

7.2.5. Our conclusions follow from our consideration of all evidence presented to the Examination, including the application documents, the Environmental Statement (ES), the HRA, the 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 SoST's decision, including Development Plan policies, the Net Zero Strategy (NZS) and the Transport Decarbonisation Plan (TDP).

SUMMARY OF MAIN PLANNING ISSUES

Need for the Development

7.2.6. The need for dualling of the A417 between Cirencester and Gloucester was identified in the 1990s. There has been an ongoing recognition for such improvements to be undertaken, with the project's inclusion and support from, amongst other strategies, the Road Investment Strategy 2015/16 to 2019/20 (RIS1) and the Road Investment Strategy 2020 to 2025 (RIS2). The key strategic aim of the improvements was to open up and support economic growth in the south-west. The Proposed Development is the first formal application to achieve this strategic aim, having undergone a lengthy route appraisal process and optioneering exercise.

7.2.7. The objectives for the Proposed Development have been identified as the following:

- Relieve traffic congestion on the A417, the A436 and the local road network surrounding them.
- Improve reliability of the road network with decreased journey times.
- Reduce the number of deaths and seriously injured casualties resulting from accidents on this stretch of the strategic road network.
- Reduce volumes of through-traffic in villages with greater resilience built into the strategic road network.

- Supporting economic growth locally and regionally through improved traffic flow.

7.2.8. We have concluded in Section 5.9 of this Report, relating to transportation, that the Proposed Development would meet its traffic and transport objectives. This would provide substantial benefit for all users of the highway and communities in close proximity to the Proposed Development.

7.2.9. The Joint Councils of Gloucester City Council, Tewkesbury Borough Council and Cotswold District Council strongly support the A417 Missing Link as it will take pressure off the strategic and local highway network, greatly improve road safety and provide economic benefits wider afield.

7.2.10. 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.

7.2.11. 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. We consider the Proposed Development benefits from the presumption in favour of development set out in the NPSNN.

Air Quality

7.2.12. 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.

7.2.13. We have concluded that the Proposed Development would not compromise or prejudice the ability of the Government to meet the Air Quality Standards Regulations 2010, nor would it result in any breaches of national or international targets regarding air quality. There would not be any worsening of air quality within any Air Quality Management Area.

7.2.14. We are satisfied that construction-based air pollutants and dust are adequately accounted for and mitigated within the Environmental Management Plan (EMP) secured under Requirement 3 of the recommended (rDCO) (Appendix D). Whilst some locations would experience increases in pollution, these would be at levels that are so small or imperceptible so as not to cause breaches of relevant statutory air quality thresholds.

7.2.15. We are satisfied that the Proposed Development has adequately been assessed with regards to its carbon emission impacts, and that only a minor contribution would be made towards the fourth, fifth and sixth

carbon budgets. In our view the negative increased release of carbon emissions, whilst 0.9 million tonnes of carbon dioxide equivalent higher than the do-minimum scenario, would not materially impact on the ability of the Government to meet its carbon reduction targets or to prejudice the trajectory towards Net Zero. The SoST will need to consider this conclusion in light of court findings on the NZS which occurred after the close of the Examination.

7.2.16. Taking all matters into consideration, we conclude that air quality matters weigh neutrally in the planning balance, whilst the matter of carbon emissions have limited weight against the Order being made.

Biodiversity

7.2.17. We conclude that the Proposed Development would cause substantial harm to Sites of Special Scientific Interest (SSSI) land within the Order Limits, would cause loss of veteran trees and result in the deterioration of ancient woodland (irreplaceable habitat). There are also impacts upon other habitats, including the loss of tuffaceous vegetation in Norman's Brook that is unavoidable and requires off-site compensation.

7.2.18. We are of the opinion that the extensive mitigation, enhancement and compensation package would deliver habitat in the future, although would take time to establish and mature to a level to truly remedy the immediate and harmful loss.

7.2.19. We conclude that both direct and indirect effects are unavoidable with the route chosen. The harm to biodiversity and ecology assets weighs against the Order being made and we give them substantial weight. Therefore, development consent should not be granted unless the need for, and benefits of, the Proposed Development would clearly outweigh the loss.

Cultural Heritage

7.2.20. We have had regard to the desirability of preserving designated heritage assets, including scheduled monuments, 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. We conclude that the Applicant's general approach to the assessment of heritage assets, non-designated heritage assets and buried archaeological remains is proportionate and appropriate, in line with the requirements of both the NPSNN and the National Planning Policy Framework (NPPF).

7.2.21. Great weight should be given to any heritage asset's conservation, with the more important the asset the greater the weight, having regard to the matters identified in Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010 and in accordance with paragraph 5.131 of the NPSNN. This is further reflected in paragraph 199 of the NPPF. Great weight and importance should be given to any harm to a heritage asset in the overall balance.

7.2.22. We have concluded that the Proposed Development would result in less than substantial harm to Emma's Grove and Crickley Hill scheduled monuments, and Shab Hill barn Grade II listed building, as well as harm to non-designated heritage assets including Peak Camp and the Air Balloon public house.

7.2.23. The NPSNN requires that the less than substantial harm to designated heritage assets we have identified should be weighed against the public benefit of the development, and the harm to non-designated assets should be weighed in the balance, recognising that the greater the harm the greater the justification that will be needed. In this instance we conclude that the benefits of the Proposed Development clearly outweigh the less than substantial harm to the designated heritage assets and harm to the non-designated assets arising, so heritage matters do not weigh against the Order being made and are therefore neutral in the overall balance.

Geology and Soils

7.2.24. We have taken into account the need to protect human life and natural resources from contamination, including groundwater and the geology surrounding the Proposed Development. We conclude the Applicant's approach to be proportionate and the EMP secured under Requirement 3 of the rDCO (Appendix D) to provide adequate security through management plans to prevent undue pollution from occurring.

7.2.25. We conclude that the Applicant has given adequate consideration to the use of mineral resources and the handling of waste arising from the Proposed Development, with appropriate safeguards in place to manage any unforeseen impacts. Therefore, the matters of geology and soils do not weigh against the Order being made and are therefore neutral in the overall balance.

Landscape and visual impact

7.2.26. 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 Area of Outstanding Natural Beauty (AONB) landscape or to the amenity of visual receptors. The overall value of the landscape is very high given its AONB status and that it is reasonable to judge the effects against this baseline. These harms weigh substantially against the Order being made.

7.2.27. However, we have to consider whether there are exceptional circumstances for the grant of consent for the Proposed Development in the Cotswolds AONB; whether there are compelling reasons for the new road and its enhanced capacity; and whether the benefits outweigh the costs very significantly. This is done in our overall conclusions following stating our conclusions on all other matters as these are required to draw on to arrive at the overall conclusion in respect of the effect on the AONB and the acceptability of development within it. We are however satisfied

that that the Applicant has sought to minimise harm to the landscape and provided reasonable mitigation where possible.

Noise and vibration

7.2.28. We conclude that the Applicant's approach to noise and vibration assessment is generally acceptable and in line with the NPSNN.

7.2.29. The proposed embedded and other mitigation secured through Requirements 3 and 13 of the rDCO (Appendix D) 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.

7.2.30. We conclude that the Proposed Development complies with the Noise Policy Statement for England. It would not cause significant adverse harm to residential or non-residential properties and would not adversely affect the tranquillity of the AONB. This matter weighs neutrally in the case for the Order to be made.

Socioeconomics

7.2.31. We are satisfied that the findings of the ES are reasonable and that, where necessary, mitigation measures could be secured through the rDCO which are proportionate to any adverse effects that would result.

7.2.32. We note that the Proposed Development would result in direct loss of employment opportunities at both the Air Balloon public house and Crickley Hill Tractors, 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.

7.2.33. We have found that there would be adverse, but unavoidable, impacts on agricultural land but that the Applicant has adequately explored options to minimise these as far as practicable in accordance with the NPSNN.

7.2.34. We conclude that the positive social and economic benefits arising would weigh in favour of the Order being made.

Transport

7.2.35. We conclude that the Proposed Development would deliver a significant benefit to the strategic road network to which we attach substantial weight.

7.2.36. We have found that the Proposed Development would improve the efficiency of the transport network in the vicinity, extending beyond strategic roads to bring about benefits to local rural roads as well. The alterations to the Public Rights of Way network would resolve past severance issues, provide attractive and beneficial crossings over the A417 and would otherwise improve connectivity across the landscape.

7.2.37. We conclude that any adverse residual effects remaining from the Proposed Development would not amount to being severe as referenced in the NPPF.

7.2.38. Taking all these matters into consideration we conclude that traffic and transportation matters weigh substantially in favour of the Order being made.

Water Environment

7.2.39. We are satisfied that the Proposed Development would meet the appropriate tests in the NSPNN with regard to flood risk. We conclude the drainage strategy for handling, managing and disposing of surface water would be sufficient for purpose and the Proposed Development would be safe for its lifetime and would not increase the risk of flooding elsewhere.

7.2.40. 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.

7.2.41. We conclude the Applicant has put forward satisfactory proposals to mitigate adverse effects on the water environment and these are appropriately secured through the Requirements in the rDCO (Appendix D). Taking all these matters into consideration, we conclude that matters relating to the water environment are neutral in the case for the Order being made.

Habitats Regulations Assessment

7.2.42. We have found that there would be no likely significant effects of the Proposed Development on five European sites or their qualifying features and that the Proposed Development would not adversely affect the integrity of the Cotswold Beeches SAC or the Severn Estuary Ramsar site. Relevant mitigation is embedded in the Proposed Development and secured through the rDCO. We are satisfied that the Proposed Development can proceed without an appropriate assessment being undertaken by the SoST.

7.3. OVERALL CONCLUSIONS

7.3.1. Paragraph 4.2 of the NPSNN states, subject to the detailed policies and protections within it, and the legal constraints set out in the PA2008, there is a presumption in favour of granting development consent for national networks NSIPs that fall within the need for infrastructure established within the NPSNN.

7.3.2. In reaching conclusions on the case for the Proposed Development, we have had regard to s104 of the PA2008, the NPSNN as the relevant NPS, the NPPF, the LIR and all other matters which we consider are both important and relevant to the SoST's decision, including local development plan policies, the TDP and NZS. 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.

7.3.3. The Proposed Development would make an important contribution to the improvement and enhancement of the existing strategic road network, improving journey times and more importantly, safety for road users, meeting one of the key objectives of the NPSNN. Accordingly, we attach substantial weight to the transport benefits of the Proposed Development. We have found that substantial economic benefits would result from the Proposed Development, along with other benefits in terms of overall improvements for road safety.

7.3.4. Paragraph 3.4 of the NPSNN recognises that some developments will have some adverse local impacts including on noise, emissions, landscape/ visual amenity, biodiversity and cultural heritage. It states that whilst applicants should deliver developments in accordance with Government policy and in an environmentally sensitive way, including considering opportunities to deliver environmental benefits, some adverse local effects of development may remain.

7.3.5. We list below the issues where we conclude that any adverse impacts would be minor or where we are satisfied that the impacts would be sufficiently minimised and/ or mitigated, such that they would not weigh against the Order being made and are therefore of neutral weight in the overall balance:

- Air Quality.
- Noise and Vibration.
- Water Environment.

7.3.6. We have considered the impacts based on the worst-case scenario as assessed in the ES. We have identified areas where adverse effects would result and remain and be to an extent where they would weigh against the Order being made. These are identified below along with the weighting we have attributed to them:

- Biodiversity, substantial weight against.
- Carbon Emissions, limited weight against.
- Cultural Heritage, harm but that is outweighed by benefits of the Proposed Development, and therefore neutral weight overall.
- Landscape and Visual Impacts, substantial weight against.

7.3.7. 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 EMP (construction stage) and subsequent EMP (end of construction stage) includes a comprehensive list of mitigation

and management measures during the construction process to minimise the harm. A final EMP (design stage) was submitted at Deadline 6.

7.3.8. 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.

7.3.9. 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.

7.3.10. Having reached these conclusions, we now consider the overall effect on the AONB taking on board the impacts and effects of the development and our conclusions there on before arriving at a final conclusion.

Effect on Cotswolds AONB

7.3.11. We have identified the effects on the AONB from paragraph 5.6.59 onwards above. It is in this context that we must consider the NPSNN policy tests against which an assessment of development within nationally designated areas needs to be undertaken as identified at paragraphs 5.150 through to 5.153. In effect these can be categorised as a) an exceptional circumstances test (para 5.151), b) a compelling reasons test (paragraph 5.152) and c) high environmental standards test (paragraph 5.153). There is also a statutory duty for relevant authorities, which includes the SoS, to have regard to the purpose of conserving and enhancing the natural beauty of an AONB, which we have had regard to. The Applicant's case is set out in the Case for the Scheme [APP-417].

a) *Exceptional Circumstances*

7.3.12. Paragraph 5.151 of the NPSNN advises that "*The Secretary of State should refuse development consent in these areas except in exceptional circumstances and where it can be demonstrated that it is in the public interest. Consideration of such applications should include an assessment of:*

- *the need for the development, including in terms of any national considerations, and the impact of consenting, or not consenting it, upon the local economy;*
- *the cost of, and scope for, developing elsewhere, outside the designated area, or meeting the need for it in some other way; and*
- *any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated."*

7.3.13. The strategic need for the Proposed Development as part of the national road network is considered at paragraphs 4.4.1 to 4.4.9 above where it is concluded that it fulfills and complements the strategic need. The Applicant has evidenced the journey time delays and accident rates which have resulted in the Proposed Development coming forward and

these are set out in various reports including the Transport Report [APP-426], Technical Appraisal Report [APP-425], the Combined Modelling and Appraisal Report [APP-422] and the Case for the Scheme [APP-417]. The Proposed Development addresses and substantially improves the safety of the highway network significantly improving upon deaths and serious accidents and resulting in substantial improvements to journey times. We have concluded above, in the traffic and transport section, that these are the greatest benefits of the Proposed Development and attribute substantial weight to them.

7.3.14. The Proposed Development is included in RIS2 as a committed scheme further underpinning its national importance to the strategic road network. If the Proposed Development did not go ahead the present situation would worsen and contribute to growing congestion, deteriorating journey times and reliability, likely increases in adverse road safety conditions and poor efficiency, with the consequent impacts on the local economy and communities. The Proposed Development achieves a score against a quantitative measure, the Cost Benefit Ratio (CBR), that demonstrates the Proposed Development is medium value for money in terms of the Department for Transport's (DfT) value for money framework and indicates that the benefits outweigh the costs in this financial assessment.

7.3.15. In this context it is concluded that the Proposed Development meets the first bullet point in para 5.151 of the NPSNN.

7.3.16. Moving on to consider the second bullet point the SoS should consider the cost and scope of "*development elsewhere, outside the designated area, or meeting the need for it in some other way*". This section of the A417 is wholly located within the Cotswolds AONB and it would therefore be impossible to avoid development within the AONB for a scheme based on improvement to the existing A417. In order to avoid development within the AONB consideration would have to be directed towards alternative modes of transport or alternative routes. The alternative route options considered have included these matters and are detailed in the ES Chapter 3 and other reports. Our general assessment of alternatives is undertaken in section 4.5 above and which included consideration of alternative modes and routes and concluded that those were not realistic options that would not address the safety, journey times, journey reliability and congestion issues and so were discounted.

7.3.17. The consideration of alternatives also considered smaller scale interventions, other routes and tunnel options. Smaller scale interventions have been discounted as these did not provide the necessary benefits, and the long history of considering options for the route has demonstrated that these do not come forward through funding or other constraints and that a major road scheme was the most viable option. The tunnel options explored came with substantial costs the Applicant reports in the region of £1 billion. This is substantially above the cap set for the scheme by DfT which is £500 million. Each tunnel option considered returned a CBR below 1 indicating that for each pound

spent there would be a return of less than £1 in benefits and was therefore poor value for money.

7.3.18. The appraisal process therefore focused on two surface road options. That which evolved into the Proposed Development, referred to as option 30, and that which was developed from a previously assessed scheme and which focused on the alignment of the existing A417, and which was referred to as option 12.

7.3.19. This was one of the areas where the Examination had significant input from local residents who sought to advocate option 12 as a less damaging option and provided a better solution. The issues raised resulted from option 30 coming off-line through open countryside and closer to Cowley village, rather than adopting the present alignment of the A417 and running further west away from Cowley. Cowley residents were particularly aggrieved at what they perceived as a lack of engagement and consultation from the Applicant.

7.3.20. Whilst the Applicant's alleged lack of direct engagement with Cowley residents is unfortunate, it does not undermine the assessment of the impacts of the development. The ES clearly demonstrates the likely significant effects of the Proposed Development, and these are assessed and considered in chapter 5 of this Report. In general, it is concluded that there would not be significant environmental or traffic effects on the village of Cowley or its residents. The Scheme Assessment Report [APP-420], Technical Appraisal Report [APP-425], Combined Modelling and Appraisal report [APP-422] and ES Chapter 3 Assessment of Alternatives [APP-034] provide details on how the assessment process was undertaken.

7.3.21. There was significant public support provided for option 30 during public consultation and the various assessments demonstrate that both schemes would result in significant adverse landscape and visual effects. There were benefits ascribed to option 30 which included improvements in air quality, the proximity to escarpment edge being moved away and other matters. Whilst the many objections sought to unpick much of the assessment process and queried some of the basic assumptions in the underlying documents, they did not provide direct evidence of greater benefits or harms than the Proposed Development much of the commentary being based on opinion and assertion rather than evidence or seeking to question the Applicant's processes. The Applicant responded to questions raised in our First Written Questions (ExQ1) and Second Written Questions (ExQ2); when the matter was discussed at ISH2; and in responses to various deadline submissions. We are satisfied with the Applicant's responses and agree that reasonable alternatives were explored and that option 30 was the best option to take forward.

7.3.22. On that basis we are satisfied that the cost and scope of developing elsewhere outside the designated area or meeting the need in some other way has been fully and robustly explored and no other suitable alternatives have been identified.

7.3.23. The third bullet point of paragraph 5.151 of the NPSNN requires consideration of "*any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated"*.

7.3.24. The ES assesses the likely significant effects resultant from the Proposed Development. Elsewhere in this Report we have considered and concluded in respect of the effects of the Proposed Development both adverse and positive. In general terms the Applicant notes that the ES summarises those likely significant adverse effects are identified during both construction and operation in relation to cultural heritage; landscape and visual effects; biodiversity; and noise and vibration. However, it points out that significant beneficial effects are also identified in relation to these topics, with the exception of cultural heritage. Significant adverse effects are also identified in respect of geology and soils, population and human health, road drainage and the water environment, albeit these are only likely during the construction of the Proposed Development. In overall terms we have generally agreed with these conclusions as can be noted in other sections of this report and the harms to the special qualities of the AONB as highlighted above.

7.3.25. In terms of the extent to which the detrimental effects could be moderated we agree with the Applicant that many of the adverse effects, and the most significant and impactful, are during the construction phase and early operational phase of the development when construction activity and scarring is at its greatest. The intensity of effect in terms of quantity and significance will reduce over time with the maturation of the landscaping and mitigation measures that have been incorporated within the Proposed Development. The embedded and design changes and employment of the landscape-led approach has assisted in mitigating or reducing impacts as can be seen by the changes to the vertical alignment as the road rises up the escarpment, the constrained junction design at Shab Hill, the use of cuttings and false cuttings with bunding to integrate the Proposed Development in the landscape reducing its visual prominence and reducing the effects of car headlights etc on dark skies and tranquillity and the extensive use of Cotswold stone walling, exposing of rock face and significant woodland planting. These mitigate and enhance important features in the area moderating the extent of the environmental effects.

7.3.26. The quote from the Cotswold Conservation Board (CCB) in its SoCG with the Applicant is particularly important in this regard where it notes that "…*we do consider that the landscape-led approach that Highways England has followed (i.e. considering landscape in their design decisions) has resulted in a considerably better scheme than might have otherwise been the case."*

7.3.27. To conclude in terms of paragraph 5.151 of the NPSNN we are satisfied that there is a strong case made out for the need for the development, including at a national level, and that the Proposed Development would deliver economic benefit to the local and wider area. In their final position statement at the close of the Examination the Joint Councils

[REP9-027] state "*The Joint Councils are strongly in favour of and support the proposal by National Highways to deliver the long-needed A417 Missing Link Scheme. The A417 is an essential strategic route relied upon for the movement of people and goods within and through Gloucestershire and the surrounding regions. The section of the A417 between Cowley and Crickley Hill is the only remaining single carriageway section of the A417, it has a very poor safety record and is a bottleneck for strategic traffic which causes extensive congestion and rat running in the area.*"

7.3.28. The Applicant has demonstrated that there is no realistic option to develop outside the AONB, introduce changes that could impact modal shift or introduce small scale interventions to address the issues that have been highlighted in respect of this section of the A417 which is wholly within the AONB. They have considered alternative options, including tunnels and other route alignments, but these have been discounted as significantly exceeding budget, represent poor value for money or that the present route alignment is the most appropriate with the least overall impacts and greatest benefits. Whilst adverse residual environmental effects cannot be avoided, given the sensitivity of the locality, the Applicant's adoption of the landscape-led approach, and the proposed mitigation and enhancement measures has sought to moderate these adverse effects as far as practical and possible.

7.3.29. For these reasons we conclude that there are exceptional circumstances for the Proposed Development within the Cotswolds AONB, a nationally designated area, in accordance with paragraph 5.151 of the NPSNN.

b) *Compelling Reasons*

7.3.30. Paragraph 5.152 of the NPSNN states "*There is a strong presumption against any significant road widening or the building of new roads and strategic rail freight interchanges in a National Park, the Broads and Areas of Outstanding Natural Beauty, unless it can be shown there are compelling reasons for the new or enhanced capacity and with any benefits outweighing the costs very significantly. Planning of the Strategic Road Network should encourage routes that avoid National Parks, the Broads and Areas of Outstanding Natural Beauty*".

7.3.31. The Applicant therefore needs to demonstrate that there are compelling reasons for the Proposed Development and show that any benefits outweigh the costs very significantly.

7.3.32. The Applicant summarises and highlights the costs and benefits of the Proposed Development in the Case for the Scheme [APP-417] at paragraphs 7.4.4 through to 7.4.11. The Applicant identifies both costs of the 'Do-Something' (DS) scenario as well as the costs associated with no enhancements on the A417. In effect the do-nothing position would result in a worsening road safety record, no improvements in improving design standards of the road network, increasing congestion, and deteriorating journey times and journey time reliability and continuing or potentially increasing rat-running through local villages. The costs of

doing something result from the adverse effects from construction and operational effects and which are discussed in Chapter 5 of this Report. The costs would decrease over time as the landscaping and mitigation measures matured and the scaring of the Proposed Development integrated into the landscape.

7.3.33. Balanced against these costs are significant benefits in both environmental and wider benefits. The significant improvements to road safety including 66 fewer deaths and 201 fewer serious accidents over the assessment period, improvement to the design and standards of the highway, and segregation of vehicles and other road uses reducing potential conflict and improving the experience for other users. Reduction in rat-running and the provision of the Air Balloon Way (a motor traffic free route) provide improvements to the network. The natural environment would see 6.8 miles of new Cotswold dry-stone walls; 5.61 miles of new hedgerows; 25.57ha of new native woodland; 4.34ha of new scrub, eg small bushes and trees; 7.6ha of new species-rich neutral grassland; and 75.41ha of new/ restored limestone grassland.

7.3.34. The introduction of green crossings, stepping stones, exposure of geological features etc all contribute positively. The Applicant notes the Proposed Development would enhance the special qualities of tranquillity and dark skies of the AONB as the road carriageway would be sunk into the landscape reducing noise pollution, light spill and skyglow as a result. This would also remove the visual disturbance of moving vehicles across this part of the AONB. Moreover, it is suggested that increased tranquillity would be experienced at Crickley Hill as a result of the reduced gradient of the road meaning vehicles would be able to cross the escarpment with less effort and less engine noise.

7.3.35. Community and access benefits would result from the segregation of walkers, new routes across the road (both bridges and underpasses), enhancement of walking routes in the area and improvements in noise. The Applicant also sets out the monetised benefits and economic benefits of the Proposed Development with transport user benefits of £255.8 million, wider economic benefits of £140.3 million, forecast business user journey time reliability benefits of £39.9 million, commuting and other user journey time reliability benefits of £30.6 million, significant accident benefits valued at £64.9 million and delivery of priority infrastructure required to enable delivery of the Joint Core Strategy's plans for strategic economic growth and housing development in Gloucestershire.

7.3.36. We are of the view that there are compelling reasons for the Proposed Development not least in terms of safety, improved capacity and journey time improvements. There are significant problems on the existing network and the Joint Councils, as stated previously, are strongly in favour of and support the proposed development. CCB, with its role and function related to conserving and enhancing the natural beauty of an AONB (as we have also had regard to as the statutory duty requires) is of the view that "…*we do not consider that the scheme fulfils one of the three Scheme Design Principles of the Landscape-Led Vision, i.e. the scheme will not result in substantially more benefits than negative*

impacts for the Cotswold AONB". However, they go on to identify other considerations and conclude that "*we consider that exceptional circumstances do apply and that the scheme would be in the public interest*" and that "*we consider that the scheme does comply with the requirements of the NPSNN, with regards to development in an AONB".*

7.3.37. Overall, in terms of paragraph 5.152 of the NPSNN we are firmly of the view that the benefits of the scheme do outweigh the costs very significantly when taken in the round including taking account of the adverse effects on the AONB and its special qualities.

c) *High Environmental Standards*

7.3.38. Paragraph 5.153 of the NPSNN states "*Where consent is given in these areas, the Secretary of State should be satisfied that the applicant has ensured that the project will be carried out to high environmental standards and where possible includes measures to enhance other aspects of the environment. Where necessary, the Secretary of State should consider the imposition of appropriate requirements to ensure these standards are delivered.*"

7.3.39. All statutory parties have supported the landscape-led approach adopted by the Applicant. The Applicant has demonstrated how design changes during the consideration of alternatives, and through design evolution, have resulted in changes to the Proposed Development. Table 7-7 in the Case for the Scheme [APP-417] sets out the additionality that has been added to the Proposed Development over and above what would normally be included in a 'normal' highways scheme in a less sensitive location. The Design Summary Report [APP-423] further sets out how the Proposed Development has had regard to the landscape and location in terms of addressing issues and evolving the design.

7.3.40. The Proposed Development, although not providing a Biodiversity Net Gain (BNG), has sought to focus on priority and important habitats that contribute to the landscape and special qualities of the AONB, eg calcareous grassland, native woodland including extending Ullen Wood ancient woodland, amongst others. See section 5.3 above on biodiversity. The Proposed Development also provides geological exposures which will assist in greater understanding of the geology of the area, improved Public Rights of Way (PRoW) and improvements to Emma's Grove scheduled monument (SM) in order to remove it from the at-risk register.

7.3.41. Mitigation and enhancement are secured through the EMP, Landscape and Ecological Management Plan (LEMP), Landscape Masterplan and requirements in the rDCO. On this basis we are satisfied that the Proposed Development would be carried out to high environmental standards and that such matters are appropriately secured through the rDCO.

Conclusions on Effect on Cotswolds AONB

7.3.42. Overall, we are confident that there are exceptional circumstances for the grant of consent for the Proposed Development in the Cotswolds AONB; there are compelling reasons for the new road and its enhanced capacity, and the benefits outweigh the costs very significantly; and the Proposed Development will be carried out to a high environmental standard, including measures that would enhance the environment and these are secured through appropriate requirements.

Overall Conclusion on the Case for Development Consent

7.3.43. Our overall conclusion is that we find that the benefits of the Proposed Development, particularly in terms of addressing existing congestion, improving safety, saving lives 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, including the less than substantial harm to designated heritage assets and harm to non-designated heritage assets, the harm to the special qualities of the AONB-designated landscape, harm to biodiversity and the limited impact from carbon emissions.

7.3.44. Consequently, the harm is substantially outweighed by the benefits of the Proposed Development in meeting the law and Government policy as set out in s104 of the PA2008 and the NPSNN. We therefore conclude there is a case for development consent to be granted.

8. COMPULSORY ACQUISITION AND RELATED MATTERS

8.1. INTRODUCTION

8.1.1. The application included proposals for the Compulsory Acquisition (CA) and Temporary Possession (TP) of land and rights over land, including Statutory Undertakers (SU) land and Special Category Land. There is no Crown Land identified.

8.1.2. This Chapter discusses whether the evidence before the Examination justifies the granting of those powers, having regard to all relevant legislation and guidance, before providing our conclusions and recommendations.

8.1.3. Land over which CA or TP powers are sought is referred to in this Chapter as the Order land.

8.2. THE REQUEST FOR CA AND TP POWERS

8.2.1. The request for CA and TP powers is made through the inclusion of Part 5 'Powers of Acquisition' in the Applicant's final draft Development Consent Order (dDCO) [REP9-005] (the preferred DCO). The following provisions are included:

- Article 24: Compulsory acquisition of Land.
- Article 25: Compulsory acquisition of land – incorporation of the mineral code.
- Article 26: Time limit for exercise of authority to acquire land compulsorily.
- Article 27: Compulsory acquisition of rights and imposition of restrictive covenants.
- Article 28: Public rights of way.
- Article 29: Private rights over land.
- Article 30: Modification of Part 1 of the 1965 Act.
- Article 31: Application of the 1981 Act.
- Article 32: Acquisition of subsoil or airspace only.
- Article 33. Rights under or over streets.
- Article 34: Temporary use of land for carrying out the authorised development.
- Article 35: Temporary use of land for maintaining the authorised development.
- Article 36: Statutory undertakers.
- Article 37: Apparatus and rights of statutory undertakers in stopped up streets.
- Article 38: Recovery of costs of new connections.
- Article 39: Special category land.

8.2.2. If made, the Development Consent Order (DCO) would also confer on the Applicant other rights and powers that may interfere with property rights and private interests. These additional powers include the following:

- Article 15: Temporary stopping up and restriction of use of streets.
- Article 16: Permanent stopping up and restriction of use of streets, public rights of way and private means of access.
- Article 22: Protective works to buildings.
- Article 23: Authority to survey and investigate the land.
- Article 40: Felling or lopping of trees and removal of hedgerows.
- Article 41: Removal of human remains.

8.2.3. As finally submitted, the application was accompanied by the following:

- Book of Reference (BoR) [REP8-016].
- Land Plans [REP8-007].
- Works Plans [REP4-007].
- Rights of Way and Access Plans [REP8-008].
- General Arrangements Plans [REP4-009].
- Special Category Land Plans [AS-037].
- Statement of Reasons (SoR) [REP8-014].
- Funding Statement [APP-025].

8.2.4. 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, General Arrangement and Rights of Way and Access Plans in this Chapter from this point should be read as references to the latest revisions cited above.

PROPOSED DESIGN CHANGES and ADDITIONAL LAND

8.2.5. The Planning Act 2008 (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 Examining Authority (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.

8.2.6. Paragraphs 2.3.2 and 2.3.3 detail a material change, involving the inclusion of additional land at Flyup Limited for changes to its access arrangements. The land, the subject of this change, is located within the Order Limits and includes swapping areas of land between TP and CA. The Applicant had not obtained consent of the landowner to compulsorily acquire this land. Therefore, the CA Regulations will apply for the new plots of land.

8.2.7. The Examination process is set out in section 1.4 above and includes reference to the holding of additional hearings in respect of the additional land including an additional Compulsory Acquisition Hearing (CAH).

8.3. THE PURPOSES FOR WHICH LAND IS REQUIRED

8.3.1. The purpose for which CA and TP powers are required are set out in the BoR and SoR.

8.3.2. The main powers authorising the CA of land, or interests in, or rights over land, are contained in Articles 24 (compulsory acquisition of land) and 27 (compulsory acquisition of rights and restrictive covenants) of the DCO. Table 1 within Appendix A of the SoR provides a description of the land which is subject to the powers of outright acquisition in terms of Article 24. The purpose for acquiring this land is to enable the Applicant to construct the permanent works on the land and other elements described in Appendix A.

8.3.3. Article 27 allows rights over land to be acquired instead of outright acquisition. This, the Applicant states, allows flexibility in approach and a potential reduction in the impact on the land interest. CA of rights and the compulsory imposition of restrictive covenants is authorised by Article 27. Table 2 of Appendix A of the SoR provides a description of the land which is subject to the acquisition of rights or the imposition of restrictive covenants. These rights are necessary for the purposes of constructing the works and the maintenance of the works thereafter, ensuring that the operator of the finished Proposed Development is able to fulfil their functions.

8.3.4. Other CA powers are sought in the DCO and these similarly relate to land and will, or may, interfere with property rights and interests.

8.3.5. In addition, powers are sought in the preferred DCO to enable the TP and use of land to carry out and thereafter maintaining the Proposed Development and Table 3 of Appendix A of the SoR provides a description of such land.

8.3.6. In each case the owner of the land, or the interest or right in the land, is or may be entitled to compensation.

8.4. LEGISLATIVE REQUIREMENTS

8.4.1. CA powers can only be granted if the conditions set out in section (s) 122 and s123 of PA2008 are met, and the relevant guidance in Guidance Related to Procedures for the Compulsory Acquisition of Land September 2013 (the Former Department for Communities and Local Government (DCLG) (the CA Guidance) sets out the purpose for which CA may be authorised.

8.4.2. 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, or is replacement land which is given in exchange for the Order land under section 131 or 132. The CA Guidance states that in respect of land required for development the land to be taken must be no more than is reasonably required and proportionate.

8.4.3. S122(3) of the PA2008 requires that there must be a compelling case in the public interest to acquire the land compulsorily. The CA Guidance advises for this condition to be met the Secretary of State (SoS) will need to be persuaded that there is compelling evidence that the public benefit derived from the CA will outweigh the private loss that would be suffered by those whose land is to be acquired.

8.4.4. 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.

8.4.5. 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.

8.4.6. 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.
- 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.

8.4.7. These matters were tested in the Examination and are reported on below.

8.4.8. S127 of PA2008 applies to land acquired by a SU 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 SU'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 by the use of other land belonging to or available for acquisition by them.

8.4.9. S130 of the PA2008 applies to land which is held inalienably by the National Trust (NT) and provides for a special parliamentary procedure to apply to the CA of such land where the NT has objected to the CA of the land and that objection has not been withdrawn. The NT owns four plots within the Order lands which are held inalienably: plots 2/14, 2/14a and 2/14b (forming part of existing A417 trackway with public footpath and grass slope with established woodland and non-coniferous trees, west of the existing Air Balloon roundabout and south of Crickley Hill) and 2/14c

(forming part of the existing Air Balloon roundabout trackway and Badgeworth Footpath (132) and Coberley Bridleway (117), north of Emma's Grove and south-east of Crickley Hill).

8.4.10. S131 of the PA2008 applies to any land forming part of a common, open space or fuel or field garden allotment and to which CA is proposed. It provides for a special parliamentary procedure to be followed unless the SoS is satisfied that replacement land has been or will be given in exchange for the land and the replacement land has or will be vested in the prospective seller and subject to the same rights, trusts and incidents. Further matters which would allow for the special parliamentary procedure not to be followed are set out in subsequent subsections and include: in respect of open space, and none of the other descriptions, if there is no suitable available land to be given in exchange or any suitable land is available only at prohibitive coast and it is strongly in the public interest for the development for which the order grants consent to be capable of being begun sooner than is likely to be possible if the order were to be subject to special parliamentary procedure. Subsection 5 also allows for the CA of such land that does not exceed 200sqm or is required for the widening or drainage of an existing highway or partly for such and the giving of land is unnecessary.

8.4.11. S132 of the PA2008 has similar provisions to 131 except in respect of the CA of rights rather than land and that the order land when burdened with the order rights will be no less advantageous than it was before to the persons in whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public.

8.4.12. 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 SUs only if the SoS is satisfied that such actions are necessary for the purposes of carrying out the development to which it relates.

8.4.13. With reference to s120 and Part 1 of Schedule 5 to PA2008 at paragraph 2 and the previous (now withdrawn) model provisions for preparing DCOs, 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.

8.5. EXAMINATION OF THE CA AND TP CASE

8.5.1. 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.

8.5.2. Written questions were posed to the Applicant and Affected Persons (AP) in respect of CA and TP in our First Written Questions (ExQ1) [PD-008], and Second Written Questions (ExQ2) [PD-017].

8.5.3. A CAH was held on 26 January 2022 [EV-007, EV-024 – EV-027]. This hearing was not attended by any statutory objectors but was attended by representatives of the Joint Councils, National Star College (NSC), Shab Hill Farm, C E & B J Ford, Ian Medlock, Alison Besterman, Gloucestershire Wildlife Trust (GWT), Flyup Limited, Alexander and Angell limited, and R & P de Lisle Wells. The Applicant was asked about the justification for the powers sought. A further CAH (CAH3) was held on the 29 April 2022 [EV-050, EV-052 and EV-054] in response to the inclusion of additional land following a change request and when the CA Regulations were engaged. This was not attended by IPs that were directly affected by the change as none identified a wish to attend, but IPs who had not previously had an opportunity to appear in front of us and had expressed a desire to do so where afforded that opportunity. This was attended by representatives of Mr and Mrs Field, Hanson Quarry Products Europe Ltd and Mr de Lisle Wells (this was CAH3 as CAH2 had been programmed but subsequently cancelled as it was not required at that stage).

8.5.4. The documents set out in paragraph 8.2.3 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 [REP8-007].

8.5.5. 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 158.5 hectares of land to be acquired permanently by the Proposed Development (comprising some 249 plots). The total area of land to be used temporarily and rights to be acquired permanently by the Proposed Development is circa 15 hectares (comprising 137 plots) and the total area of land to be used temporarily implementing the Proposed Development is circa 24 hectares (comprising 108 plots). The above figures are correct as of Deadline (D) 8 (6 May 2022) and take account of the design change proposals at Flyup Limited which were introduced at D4 (14 February 2022).

8.5.6. The land includes eight residential properties that would be affected. Two (Woodside House and Pinewood) would be demolished, have had blight notices accepted by the Applicant, and have been acquired or contracts exchanged. Of the remaining six: Crickley Ridge has had a blight notice accepted; Holy Brae is addressed below in respect of objections raised; in terms of Shab Hill Farm and Cuckoopen Barn Farm, discretionary purchase of the affected plots has been accepted; and in terms of Half acre and Fernbank, the requirement is for sub soil rights in respect of drainage and the rights will not affect the ability of the landowner to occupy the property in the same way they do now.

8.6. THE APPLICANT'S CASE FOR CA AND TP

General Case

8.6.1. The Applicant's case is set out in the SoR [REP8-014], which includes various appendices. Appendix A provides three tables which sets out the specific purposes for which each plot of land is required for CA, TP and acquisition of permanent rights, and TP of land. 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 (paragraph 5.3.3).

8.6.2. 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 5.3.6 of the SoR). 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 (paragraph 5.3.6 the SoR [REP8 014]).

8.6.3. The Applicant states the CA powers are also required to override any existing rights and interests in the land as well as grant the right to take TP of land for construction and maintenance purposes. Again, without these rights over the land, the Proposed Development cannot be delivered.

8.6.4. 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 [APP-417]. The Applicant notes that the National Policy Statement for National Networks (NPSNN) 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.

8.6.5. In summary, the Applicant states the compelling case in the public interest is demonstrated by the benefits of the Proposed Development which it lists in summary, at paragraph 5.4.3 of the Statement of Reasons, categorised by the scheme's objectives. Briefly these include:

Safe, resilient and efficient network:

- A large reduction in the number of killed or seriously injured.
- A reduced gradient on Crickley Hill in line with modern highways standards and the introduction of a crawler lane up Crickley Hill for slower-moving vehicles to prevent unsafe overtaking.
- The introduction of a grade-separated junction at Shab Hill.
- Junctions designed to meet forecast capacity to reduce congestion.
- Provision of segregated crossings for Public Rights of Way (PRoW) that cross the scheme, including the Cotswold Way National Trail and

the Gloucestershire Way Long Distance Footpath improving accessibility.
- Creation of the Air Balloon Way to provide a motor traffic free route through the Cotswolds Area of Outstanding Natural Beauty (AONB).
- Reduction in rat-running through local communities.

Improving the natural environment and heritage:

- Integrating landscape and habitat creation.
- Repurposing the existing A417 with a recreational route (the Air Balloon Way).
- Through the multi-purpose Gloucestershire Way crossing, provide planting and hedgerows to help bats and other animals such as badgers and barn owls to cross safely.
- Habitat 'stepping-stones' are proposed to improve ecological connections.
- Provision of an architectural landmark bridge at the Cotswold Way crossing.
- The extension of Ullen Wood (ancient woodland) by planting a large area of native deciduous woodland.
- The scheme layout and design would enhance the tranquillity and dark skies of the AONB (special qualities) also removing the visual disturbance of moving vehicles across this part of the AONB.
- Increased tranquillity would be experienced at Crickley Hill as result of the reduced gradient of the road meaning vehicles would be able to cross the escarpment with less effort and less engine noise.
- Improved air quality and reduced pollution caused by congestion.
- Exposure of important geological features.

Community and access:

- A motor traffic-free crossing of the Cotswold Way National Trail (CWNT) via the new Cotswold Way crossing.
- A motor traffic-free crossing of the Gloucestershire Way via the Gloucestershire Way crossing.
- A Grove Farm underpass to provide a safe north-south crossing of the A417.
- Improvements to Barrow Wake car park with landscaping, resurfacing and introducing greater natural surveillance by the re-routing of the B4070.
- Provision of new parking areas as part of the repurposed A417 for users of the Air Balloon Way.
- Reduced noise impacts. Overall a greater number of households will experience a decrease in traffic noise compared to the number of households that will experience an increase.
- Reduced rat-running through the villages of Birdlip and Cowley due to a more free-flowing carriageway.

Supporting economic growth:

- Total monetised transport user benefits of £255.8 million are primarily a result of journey time savings forecast.

- The scheme is forecast to provide significant wider economic benefits of £140.3 million.
- Forecast business user journey time reliability benefits of £39.9 million.
- Forecast commuting and other user journey time reliability benefits of £30.6 million.
- Significant accident benefits valued at £64.9 million.
- Delivery of priority infrastructure required to enable delivery of the Joint Core Strategy plans for strategic economic growth and housing development in Gloucestershire.

Consideration of Alternatives

8.6.6. The SoR [REP8-015] sets out the Applicant's case in relation to the consideration of alternatives at section 5.5. It refers to Chapter 3 of the Consultation Report [APP-027]; Environmental Statement (ES) Chapter 3 Assessment of Alternatives [APP-034] and Chapter 2, Section 2.2 of the Case for the Scheme [APP-417]. Reference is made to the pre-application consultation exercise, engagement with stakeholders to identify the preferred route (which became the Proposed Development), and changes to the Proposed Development including those proposed (and accepted into the Examination) during the Examination process. The Applicant highlights that in reaching a decision on the preferred route, the Applicant appraised an initial 30 options and alternatives against a number of key criteria including engineering, value for money and affordability, economic factors, environmental factors and social factors. This included the consideration of both tunnel and surface options.

8.6.7. The detailed reasoning behind the selection of the preferred option is set out in the Scheme Assessment Report [APP-420]. In summary, the preferred option received greater support through public consultation and would provide a safer and higher quality road for all road users and road workers.

8.6.8. Since the announcement of the preferred route, the Applicant notes that design development and the consideration of alternatives has continued with various alternative designs considered for the A436, and subsequent design development post-statutory consultation in 2019. Many of the design developments incorporated into the Proposed Development have sought to limit the effect on land. These changes are described further in ES Chapter 3 Assessment of Alternatives [APP-034] and are fully considered at section 4.5 above.

8.6.9. We are satisfied that the Applicant has sought to minimise the land take and the necessity for CA through the consideration of alternative routes and design development for the Proposed Development.

Funding

8.6.10. The Funding Statement [APP-025] sets out that funding had been agreed for the Proposed Development in RIS2. The A417 Missing Link scheme is identified in RIS2 in Part 3: Investment Plan, under the South and West section. It is referred to on pages 103 and 104 as a scheme committed in

the RP2 funding period, citing the importance of the route to the local economy. RP2 provides funding for road schemes to start on site by 1 April 2025.

8.6.11. 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. The proposed Development will therefore be fully funded by Government including any compensation liabilities that may arise from the CA.

Acquisition by Agreement

8.6.12. Through Chapter 5 and Appendix B of the SoR, the Applicant has outlined discussions that have taken place with landowners and occupiers to acquire the land necessary for the Proposed Development by agreement. It is satisfied that CA and TP powers are required to ensure that the Proposed Development can be delivered in a reasonable timescale and in the event that it does not prove possible to acquire all of the land by agreement.

ExA Conclusions on the General Case for CA and TP

8.6.13. 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, CA, TP with permanent rights or TP would be appropriate. However, the overarching conclusion on CA and TP cannot be reached until individual objections and all other relevant and important considerations have been addressed.

8.7. INDIVIDUAL OBJECTIONS AND ISSUES

8.7.1. Annex B to the SoR [REP8-014] sets out in the table the status of objections with the individual owners and others with an interest in land. A Compulsory Acquisition Schedule [REP1-014] was submitted at D1 and updated during the Examination detailing the discussions that were ongoing with all freeholders who have an interest in the Order lands and which categorised the discussions on the current status of negotiations. The Applicant has also produced a document to compile Position Statements it has worked up with various APs rather than Statements of Common Ground (SoCGs), the purpose of these being to document the latest position between the Applicant and the relevant AP. This document was updated during the Examination and a final version setting out the final position of the parties was provided at D9 [REP9-024]. The SoR including Annex B [REP8-014] and the CA Schedule [REP9-022] have been updated throughout the Examination and the final versions were submitted at D9. During the course of the Examination there was little change, in that objections were still maintained. The objections are considered individually below.

8.7.2. The following represents the situation at the close of the Examination related to APs who have objected to the CA or TP of their land.

Objectors

Alexander and Angell Limited (A&A) [RR-036]

8.7.3. Appendix F of the Applicant's Landowner Position Statements [REP9-024] sets out the final position between A&A and the Applicant at the close of the Examination. A&A's objections are documented in its RR [RR-036], Written Representation [REP1-017] and its written summary of its oral representations to CAH1 [REP3-026].

General Locations:	Land to the south of A417 and east of Bentham Lane.
Interests:	CA of plots: 1/15 and 1/15a.
Status Summary:	A&A remains opposed to the CA and use of its land in respect of whether it is justified.
Objector's Case:	A&A generally objects to the CA of its land for the Proposed Development on the basis that once construction is complete, the field being used temporarily for a compound should be returned to an arable use rather than the creation of ecological mitigation in the form of calcareous grassland and woodland planting. It accepts the provision of the drainage basin and the use of the field for a temporary compound but does not accept that the land could not be restored to a viable arable use. It questions the appropriateness and effectiveness of providing calcareous grassland, normally an upland habitat in this location and the need for the extent of woodland mitigation for bats which it believe could be reduced in extent. Whilst a s253 agreement has been discussed to enable A&A to retain ownership of the land, due to the nature of the management requirements it is of the view this option is economically unattractive.
Applicant's Response:	The Applicant maintains that calcareous grassland is essential mitigation serving both Proposed Development-wide mitigation for

replacement of grassland lost during construction and locally to provide foraging for bats and barn owls.

Similarly, the woodland planting provides Proposed Development-wide and local mitigation to replace woodland lost and maintain a woodland strip adjacent to the A417 and as a bat corridor.

The Applicant confirms that low intensity grazing could take place but more intensive use would not secure the necessary mitigation benefits.

In relation to queries around calcareous grassland the Applicant stated that at detailed design if it became appropriate not to introduce calcareous grassland then wildflower rich grassland could be used instead, which would still provide foraging habitat for bats and barn owls and would therefore still fulfill its mitigation purposes.

ExA Reasoning and Conclusion:

8.7.4. In section 5.3 above we address matters related to biodiversity including related to mitigation for impacts on species and habitats. At paragraph 5.3.60 we accept that whilst there may be issues around the use of calcareous grassland at A&A's land holding, the use of wildflower rich grassland would still retain the function of mitigation.

8.7.5. The wider use of woodland planting to replace woodland across the whole Order lands and to address various losses and more locationally specific issues is also important. The Applicant has demonstrated the impact of the Proposed Development on bats and identified necessary mitigation including appropriate corridors. These matters are addressed in section 5.3 above.

8.7.6. A&A has also raised concern about the loss of agricultural land and this is addressed in section 5.8 above. In terms of the overall loss of agricultural land we have concluded at paragraph 5.8.27 that the Proposed Development accords with relevant policy in both the NPSNN and the National Planning Policy Framework (NPPF), with any unavoidable losses being necessary in order for the project to be implemented.

8.7.7. We are therefore satisfied that in respect of the plots to which A&A has made specific objection, 1/15 and 1/15a, that each plot is required for

the development to which the development consent relates or to facilitate or be incidental to that development.

8.7.8. The Applicant has stated seeking a s253 agreement with A&A as opposed to using CA powers. These agreements, entered into under the Highways Act 1980, secure the management and maintenance of land for planting and landscaping by restricting or regulating the use of land. However, A&A is of the view that the restrictive nature of the requirements under such an agreement would be such that the land could not be used in a sufficiently economically productive manner.

8.7.9. The use of the land is necessary for the temporary compound and implementation of the Proposed Development and for appropriate and necessary mitigation to address the significant effects of the Proposed Development.

8.7.10. 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.

Mrs Alison Besterman [RR-061]

8.7.11. Appendix D of the Applicant's Landowner Position Statements [REP9-024] sets out the final position between Mrs Besterman and the Applicant at the close of the Examination. Mrs Besterman's objections are documented in the Relevant Representation (RR) submitted by Knight Frank on her behalf [RR-061] and its written summary of its oral representations on her behalf to CAH1 [REP3-027].

General Locations:	South of Barrow Wake and north-west of Shab Hill Farm, north-west of Shab Hill Farm and south-west of Birdlip Radio Station, south-east of Emma's Grove, north of Stockwell Farm, and around Birdlip Quarry.
Interests:	CA of plots: 3/14, 3/14a, 314b, 3/14c, 3/15a, 4/2a, 4/2b, 4/2e, 4/2p, 4/5, 5/3, 5/3p, 5/3q, 5/3ae, 5/3ag, 5/4, 5/4a, 5/4b, 5/4c, 5/4e, 5/5, 5/5a, 5/5b, 5/5c, 5/5d, 5/5f, 6/4, 6/5d, 6/5f and 6/5k. TP with permanent rights of plots: 3/15c, 3/15d, 4/2c, 4/2d, 4/2k, 4/2r, 4/5a, 4/5b, 5/3a, 5/3d, 5/3e, 5/3g, 5/3h, 5/3n, 5/3r, 5/3v, 5/3w, 5/3x, 5/3z, 5/3aa, 5/3ac, 5/3af, 5/3ah, 5/3aj, 5/4d, 5/4f, 5/5g, 6/5, 6/5a, 6/5c, 6/5e, 6/5j and 6/11. TP of Plots: 3/15b, 3/15e, 4/2, 4/2f, 4/2g, 4/2h, 4/2j, 4/2m, 4/2n, 4/2q, 5/3b, 5/3c, 5/3f, 5/3j, 5/3k, 5/3m, 5/3s, 5/3t, 5/3u, 5/3y, 5/3ab, 5/3ad, 5/5e, 6/5b, 6/5g and 6/5h.

Status Summary:	Unresolved with land acquisition being progressed by the District Valuation Service. Draft Heads of Terms have been issued to National Highways by Knight Frank.
Objector's Case:	Mrs Besterman objects to the Proposed Development. The principal areas of her objection are as follows: The amount of land take with specific concerns raised about the land next to Barrow Wake and the field drain opposite the Birdlip junction. That road users travelling to Cowley could now bypass Stockwell Farm and that this could create higher volumes of traffic flow by her property. Accommodation works are still to be agreed. Safety concerns because of weather conditions for future users of the Proposed Development. Did not support option 30 as the preferred route and was of the view option 12 was less damaging environmentally including its impact on the AONB. The stopping up of Cowley Wood Lane will increase traffic pressure and will affect her business. The removal of trees on Stockwell Lane will reduce the amenity of Stockwell. Significant land take of agricultural land and the ability for her to run the agricultural enterprise, including severance of land parcels. Concerned at alterations to various PRoWs. The maintenance access to the attenuation basin goes through the farmyard.
Applicant's Response:	The Applicant's responses are provided in Appendix D to the SoR and which signpost to other reports and documents including, the Transport Report [APP-426], the Environmental Management Plan (EMP), Construction Traffic Management Plan (CTMP) and PRoW management plan [REP8-021 and

APP-323], the Case for the Scheme [APP-417] and the Design Summary report [APP-423] amongst others.

The Applicant argues the land take is necessary. The changes to the PRoWs are necessary to replace or amend affected routes and result in improvements to public access. The Proposed Development will reduce rat-running and remove traffic from local roads. Weather conditions have been addressed in the CTMP. The effects of the Proposed Development on environmental matters are addressed in the ES.

If there are impacts on the business that can be evidenced this could be subject to compensation.

The maintenance access to the drainage basin would be very limited once every six months but can be reviewed at detailed design stage.

ExA Reasoning and Conclusion:

8.7.12. We consider that many of the issues raised relate to matters regarding the Proposed Development and environmental impacts and effects rather than in respect of acquisition matters. These matters are addressed in the ES and supporting documents and are addressed in the relevant sections above primarily in Chapter 5.

8.7.13. Mrs Besterman raises the issue of whether the Applicant has sought to resolve matters through negotiation rather than compulsion as is required by the CA Guidance. The evidence before us demonstrates that there has been on-going discussion and dialogue albeit this has not reached a conclusion. As discussions are matters that could continue the Applicant requires certainty and at this stage of the process has demonstrated that the land identified is required for the Proposed Development or for matters associated with its implementation or incidental to it.

8.7.14. In terms of compensation that is not a matter before us and is subject to a separate process. It is not therefore a matter on which we are required to conclude.

8.7.15. Mrs Besterman has extensive land holdings and the Order lands result in significant land interests being interfered with including CA, TP with permanent rights and TP. This is set out in detail in Appendix A to the SoR and includes for the provision of the carriageway and associated development of the A417, the realignment of the B4070, drainage, and the mitigation of the significant effects of the Proposed Development amongst other matters. These are fundamental elements of the Proposed Development.

8.7.16. We are satisfied that the land is required for the Proposed Development or is required to facilitate or is incidental to that development and that there is a compelling case in the public interest for the CA, TP and rights acquisition and the tests set out in s122 of the PA2008 would be satisfied. 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).

Mr Ian Medlock [RR-070]

8.7.17. Appendix A of the Applicant's Landowner Position Statements [REP9-024] sets out the final position between Mr Medlock and the Applicant at the close of the Examination. Mr Medlock's objections are documented in his RR submitted by Moore Allen & Innocent LLP on his behalf [RR-070], its written summary of its oral representations on his behalf to CAH1 [REP3-045] and a D8 submission referred to as a position statement [REP8-044].

General Locations:	Land to the east of A417, (including and around Emma's Grove), land along B0407 and land north-east of Birdlip Radio Station.
Interests:	CA of plots: 2/17, 2/21c, 2/21f, 2/21g, 2/21h, 2/21j, 2/21k, 2/21m, 2/21p, 2/32, 3/9, 3/9a, 3/9b, 3/10 and 3/10a. TP with permanent rights of plots: 2/21, 2/21e, 4/4 and 4/4a. TP of plots: 2/21a, 2/21b, 2/21d, 2/21n.
Status Summary:	Unresolved.
Objector's Case:	Mr Medlock owns and farms land at Shab Hill. The holding covers approximately 30 hectares and also includes Emma's Grove. Mr Medlock identifies that the Applicant has requested acquisition of an estimated 10 hectares of land for environmental mitigation and is concerned this appears focused on his land holding and not spread over a wider area. Moreover, he has suggested that a s253 management agreement could be appropriate to manage the land and enable him to retain freehold ownership. Mr Medlock has also questioned why a compound is proposed on land which is

subsequently proposed to be utilised for environmental mitigation. The two land uses are incompatible and for the sake of the wildlife, a compound should not be considered at this location, given the environmental mitigation proposed above.

Mr Medlock notes the Applicant has advised that it wishes to acquire 21.85 hectares (approximately 70.5% of the agricultural unit). This would leave a viable holding completely unviable. In his view due consideration should be given to an acquisition of the whole at market value, to enable full consideration of his options.

Mr Medlock also raised concerns regarding Gloucestershire Way crossing, accommodation works, tunnel options, impact on the AONB, ecology, ecological mitigation, noise and light impacts security measures and the acquisition of Emma's Grove.

Applicant's Response:

The Applicant has engaged with Mr Medlock and is in discussion regarding acquisition. The Applicant also notes that it will continue to discuss accommodation works as detailed design continues.

In terms of the tunnel options, AONB, ecological impacts and mitigation, lighting, and noise, the Applicant refers to the ES and supporting documents in support of its contention these are addressed with appropriate and necessary responses. The mitigation focuses on priority habitat and that the location has had regard to the Proposed Development design and the Nature Recovery Network map.

Similarly, the Applicant is satisfied that the compound locations have been assessed and justified in the ES.

Once appointed, the Applicant will work with its contractor to ensure safe working practices are followed across the construction of the Proposed Development. This would include measures such as security on site/ site compounds, fencing and enclosure of work areas from public areas, and staff identification.

The Applicant also confirmed that there is no proposal to upgrade Emma's Grove land take to permanent acquisition. Emma's Grove is a

scheduled monument and is being temporarily possessed so that the Applicant can enhance the scheduled monument in light of the Proposed Development's impact on cultural heritage assets. In contrast, the land being compulsorily acquired to the east of Emma's Grove is to deliver essential mitigation taking the form of calcareous grassland habitat 'stepping stones' to mitigate impacts of fragmentation on the SSSI.

The Applicant confirms it is committed to discussing the practicalities of maintaining Emma's Grove, the SSSI stepping stones and the possibility of a s253 agreement with Mr Medlock.

ExA Reasoning and Conclusion:

8.7.18. A significant proportion of the land sought by the Applicant is required for ecological mitigation along with areas for the construction of the A417 and realignment of the B4070, as well as temporary compound facilities which are to be provided within some of the area. We have in section 5.3 above addressed the issues of Biodiversity and including the necessity for ecological mitigation including site-wide mitigation. We have also previously addressed the issues related to the Applicant's approach to temporary compound facilities in Chapter 5 above. We are satisfied with the Applicant's rationale and general approach in respect of these matters.

8.7.19. We accept that the essential mitigation proposed by the Applicant is required and that this may not necessarily occur at the point where direct impacts take place. The provision of calcareous grassland and woodland planting have been justified in the context of the Applicant's focus on priority habitat and there are locational reasons why these are provided in the positions identified as well as the broader Proposed Development-wide mitigation requirements.

8.7.20. Chapter 5 above addresses the environmental effects in terms of a number of matters including landscape and visual matters, effects on the AONB, biodiversity, priority habitats, ecological mitigation etc. We have set out our conclusions there and accepted that the Applicant's approach to mitigation is appropriate to address the environmental effects of the Proposed Development.

8.7.21. The Applicant has not sought to focus environmental mitigation at any individual landowner's holding but rather in relation to where the greatest effects are likely to occur and where the mitigation could best address the effects. The location of the compounds facilities for the development have been assessed and we accept the general rationale and location. The Applicant is committed to reinstate the land once the temporary compounds are removed and the restoration to include environmental mitigation is considered a reasonable approach.

8.7.22. In terms of matters related to Emma's Grove the impact has been considered and assessed in Chapter 5 and we are satisfied with the Applicant's approach. It has further confirmed that it is not intended to upgrade the acquisition of Emma's Grove to permanent acquisition but it is continuing to discuss its future management with Natural England (NE) and the landowner. We accept this position and this addresses Mr Medlock's issue in this regard.

8.7.23. Although concerns were expressed on the impact on the viability of the agricultural unit, no detailed evidence was presented to us to detail the economic and financial implications of the proposed CA. In the latest position statement it is confirmed that Mr Medlock, through his land agent, does now wish to explore acquisition discussions. Mr Medlock's final statement makes clear he is concerned that the current values proposed are unrealistic and do not reflect present market conditions. Given the lack of evidence before the Examination in terms of the potential effect on viability, we cannot conclude that it would make the agricultural holding unviable and therefore cannot recommend the CA of the whole unit. The question of the value proposed by the Applicant and such matters are not for this Examination and any concerns regarding blight and compensation are not for us to conclude on. The Applicant has also indicated that it is open to explore the potential for s253 agreements for the management of land which may reduce the need for CA. Albeit at this point that has not been agreed so the CA needs to be confirmed to secure the development.

8.7.24. We are satisfied that the land is required for the Proposed Development or is required to facilitate or is incidental to that development and that there is a compelling case in the public interest for the CA, TP and rights acquisition and the tests set out in s122 of the PA2008 would be satisfied. 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).

Flyup Limited [RR-037]

8.7.25. Appendix C of the Applicant's Landowner Position Statements [REP9-024] sets out the final position between Flyup Limited and the Applicant at the close of the Examination. Flyup Limited's objections are documented in their RR submitted by Fisher German LLP on its behalf [RR-037], its Written Representation [REP1-062], responses to the our First Written Questions (EXQ1) [REP1-060], its written summary of its oral representations to CAH1 [REP3-038] and a post-hearing submission [REP3-039].

General Locations:	Land south-west of Crickley Hill, south of A417 and around Crickley Hill Farm
Interests:	CA of plots: 1/19c, 1,19m, 1/19p, 1/19q, 1/19t.

	TP with permanent rights of plots: 1/19d, 1/19e, 1/19n, 1/19s, 1/19u, 1/19v. TP of plots: 1/19,1/19a, 1/19b, 1/19f, 1/19g, 1/19h, 1/19j, 1/19k, 1/19o, 1/19r.
Status Summary:	Unresolved: but the Applicant states that between commitments made within the Position Statement, alongside commitments within a separate legal agreement between the Applicant and Flyup Limited, the Applicant understands that Flyup Limited is content with the proposals.
Objector's Case:	As set out in the final landowners' Position Statement there are a number of areas raised by Flyup Limited. These include the following issues: The proposed land take and construction work could impact on the downhill run tracks making them unusable. There are also concerns about the operation of the site throughout the construction and operation of the Proposed Development related to the powers that the Applicant will have on its land if the DCO is granted including the construction impacts that will be created. Concerns were raised about the Proposed Development resulting in the temporary and potentially permanent closure of the business. On specific points concern was expressed at the location of access tracks, the way visitors and customers access the operations, temporary parking arrangements, and that uplift buses would not be able to operate during the construction phase etc. Concerns were also raised about noise levels likely to be created by the Proposed Development.
Applicant's Response:	The Applicant indicates it is awaiting an updated position on this matter from Flyup Limited and consider that the proposed formal change request made at D4 mitigates any impact on the downhill run tracks.

It is open to Flyup Limited to make a compensation claim related to business interference which will need to be evidenced.

The Applicant has agreed to pay for a planning application for a permanent building and that the cost of a temporary building will be provided to contribute towards the permanent building if permission is granted and a draft legal agreement has been provided.

On the basis of the change request the Applicant believes the issue of land take is addressed.

Areas required for woodland planting mitigation can have the freehold retained by Flyup Limited if a s253(Highways Act 1980) agreement can be reached. The draft agreement has been provided to Flyup Limited. Planting will avoid the bike tracks and the planting plan will be agreed with Flyup Limited in advance of the planting taking place.

The Applicant will avoid disruption to the uplift busses during construction and work with Flyup Limited to ensure an appropriate solution.

The Applicant indicates noise has been assessed in the ES and there will be a significant effect. Daytime construction noise could exceed noise thresholds which means the residential dwelling at Flyup Limited is eligible for noise insulation. The residential dwelling would be eligible for noise insultation due to the operational noise impacts created.

Noise mitigation would include secondary glazing. An air quality ventilation compensation package would also be available to Flyup Limited which will be acoustically attenuated.

ExA Reasoning and Conclusion:

8.7.26. The Applicant submitted a change request at D4 [REP4-002] the purpose of which was to provide for the reinstatement of an existing car park at Flyup Limited's downhill bike centre following construction of the Proposed Development and the realignment of the customer access route along a separate private means of access to the premises.

8.7.27. The Applicant noted that this change is proposed to accommodate concerns raised by Flyup Limited, who, as an affected landowner, considers that the permanent relocation of its access track behind their house would lead to a detrimental effect as it would be used by vehicles travelling to the existing car park after the construction phase is complete as well as vehicles travelling to the house and uplift buses. Flyup Limited has also raised concerns about long term impacts on its existing parking facilities.

8.7.28. The Applicant was of the view that the proposed change would see the business operation returned largely to its current form, with the exception of access changes to include a 'residential access' which follows the access to be constructed as part of the Proposed Development, and a 'customer access' which would route to the north of the outdoor jump field and in front of the residential property.

8.7.29. The plots affected by the change are listed as 1/19, 1/19a, 1/19b, 1/19c, 1/19d, 1/19e, 1/19f, 1/19h and 1/19j in the BoR, the latest version of which is [REP8-016]. All of those plots are identified as being subject to CA or TP. As part of its change the Applicant changed the area and in some cases location of those numbered plots, and created new plots 1/19o to 1/19v (inclusive). All of those plots were sub-divisions of existing plots in the freehold ownership of Flyup Limited.

8.7.30. We had no confirmation, oral or written, from Flyup Limited that it was content with the changes nor any indication that these resolved their objections. The change request was submitted at D4, and as there was additional land the CA Regulations were triggered so a RR period was opened and an opportunity for Written Representations was provided to APs. No representations were received from Flyup Limited, nor indeed from any party directly related to these changes. There were a number of other opportunities and deadlines when such further comments could have been raised up to the close of the Examination after D9, but none were received.

8.7.31. The changes were accepted into the Examination, and we have considered the effects of them as part of the overall consideration of the effects of the Proposed Development in relation to environmental effects in Chapter 5. We are satisfied that the changes made do address many of the concerns expressed by Flyup Limited in respect of the nature of the access to and operation of its business and the effect the Proposed Development would have thereon. Flyup Limited has had sufficient opportunity to maintain or add to any concerns or raise any new matters during the remainder of the Examination which it has not chosen to do. On this basis we are satisfied that its issues have primarily been resolved by the changes to the Proposed Development.

8.7.32. We are satisfied that the land is required for the Proposed Development or is required to facilitate or is incidental to that development and that there is a compelling case in the public interest for the CA, TP and rights acquisition and the tests set out in s122 of the PA2008 would be satisfied. 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).

Alan Dick [RR-011]

8.7.33. Appendix E of the Applicant's Landowner Position Statements [REP9-024] sets out the final position between Mr Dick and the Applicant at the close of the Examination. Mr Dick's objections are documented in his RR submitted by Carter Jonas LLP on his behalf [RR-011].

General Locations:	Land around Birdlip Radio Station and north-west of Shab Hill Farm.
Interests:	CA of plots: 2/29b, 2/29c, 2/29d, 2/30b, 2/30c, 4/3 and 4/9c. TP with permanent rights of plots: 2/29, 2/29a, 2/30, 4/3a, 4/3b, 4/3c, 4/3d, 4/3e, 4/3f, 4/9, 4/9a, 4/9b and 4/9d. TP of plots: 2/30a and 4/9e.
Status Summary:	Unresolved: the Applicant indicates the matters outstanding relate to ongoing discussions around the potential for a s253 agreement, the acquisition of land by agreement and accommodation works. The Applicant will continue to discuss these matters with Mr Dick as the Proposed Development progresses to detailed design.
Objector's Case:	Mr Dick objects to the principle of the Proposed Development. He questioned the need for the temporary land impact to plot reference 4/9e. He has requested that the land impact for the two large fields north and south of the Birdlip link road (plot reference 4/9c) is changed from permanent to temporary. He has offered to enter into a management agreement with the Applicant as an alternative to CA and wishes to retain as much of the land as possible.

He objects to the fact that site-specific ecological mitigation management plans will not be developed until the detailed design stage of the scheme.

Mr Dick requested the protective fencing proposed to the south of his land interest is removed and accommodation works reviewed so retained land will be practical to manage.

Mr Dick objects to the creation of a new right of way over his property. Mr Dick states that insufficient justification has been provided to justify the use of compulsory purchase powers on his property.

Applicant's Response:

The Case for the Scheme [APP-417] sets out the need for the Proposed Development which complies with all relevant legislation.

The temporary land take is a pinch point adjacent to the Birdlip Radio Station and the area is required to build the slip road, landform and a drainage channel. The land is required to gain access for the scheme construction and the drainage basin located near Mr Dick's land. The temporary land take will also allow for working room to construct the ditch. This has been identified following an assessment of likely working space required for the construction work.

The two large fields are required permanently for the purposes of essential ecological mitigation. This will involve the creation of species rich calcareous grassland creation. A s253 agreement has been identified as a possible option for Mr Dick to retain ownership of his land with certain agreements in place regarding its use.

The Applicant is unable to provide the landowner with a site-specific management plan for a s253 agreement at this stage of the DCO application due to further design and assessment being required. However, the outline of the likely management requirements has been provided. A draft s253 agreement has been provided.

The protective fencing proposed is essential to prevent animal access to the highway network

and reduce the risk of road traffic mortality, and has been informed by the ecological surveys completed and detailed in ES Chapter 8 Biodiversity.

The proposed bridge will carry the Gloucestershire Way. A new private means of access carrying a new PRoW will provide user access to the crossing. ES Appendix 2.1 EMP Annex F PRoW Management Plan [APP-323] sets out the mitigation and enhancement for walking, cycling and horse-riding (WCH) and other users of rights of way/ highway with public access including crossing points for cyclists and pedestrians. This document includes detail about the need for the PRoW proposed and what has informed the development of the new right of way.

ExA Reasoning and Conclusion:

8.7.34. The land proposed to be compulsorily acquired is needed for the construction of the A417, the realignment of the B4070 and drainage works as well as essential environmental mitigation amongst other matters. The TP with rights is required in respect of SUs' provisions and the TP of land is required for access to accommodate the construction of the development.

8.7.35. The Applicant is discussing the possibility of reducing land take for essential mitigation through the provision of a management agreement with Mr Dick through a s253 agreement. This however has not been concluded and is not before the Examination. We have accepted the necessity for the environmental mitigation as identified in the Environmental Masterplans which are to be developed at the detailed design stage and are secured through requirements and the EMP. In the absence of a concluded agreement to secure the appropriate management of the land the case for CA is appropriate to secure the necessary mitigation required. Whilst lesser land take may be possible later if the s253 agreement is secured this is a matter that can be addressed between the Applicant and the landowner. At this point the need for CA is established as no other mechanism is secured to ensure delivery of the necessary mitigation.

8.7.36. The other aspects of the case including provision of the A417, realignment of the B4070 and drainage works are necessary elements of the Proposed Development as are the rights required to facility SUs and the working areas at Shab Hill junction.

8.7.37. We are satisfied that the land is required for the Proposed Development or is required to facilitate or is incidental to that development and that there is a compelling case in the public interest for the CA, TP and rights acquisition and the tests set out in s122 of the PA2008 would be

satisfied. 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).

Mr John Mendel (Stephen Mendel) [RR-098]

8.7.38. Appendix B of the Applicant's Landowner Position Statements [REP9-024] sets out the final position between Mr Mendel and the Applicant at the close of the Examination. Mr Mendel's objections are documented in his RR [RR-098], his written summary of his oral representations to CAH1 [REP3-068] and his written summary of his oral representations to Issue Specific Hearing 2 (ISH2) [REP3-069].

General Locations:	Shab Hill Farm and around Birdlip Radio Station
Interests:	CA of plots: 2/32, 2/34, 3/6, 4/6, 4/6b, 4/7b, 4/7c, 4/7e, 4/7h and 4/7k. TP with permanent rights of plots: 4/6a, 4/7a, 4/7d, 4/7f and 4/7g. TP of plots: 4/7, 4/7j and 4/7m.
Status Summary:	Unresolved: the Applicant has confirmed that the discretionary purchase of land from Mr Mendel is progressing, with solicitors now instructed. Discussions in relation to accommodation works will be concluded at the detailed design stage.
Objector's Case:	Mr Mendel has submitted a discretionary purchase application. He raised concerns in relation to the Byway Open to All Traffic (BOAT) proposed on the land interest. He does not object to walking, cyclists and horse-riders but objects to motorised vehicles using the BOAT. Mr Mendel raises concerns about the fact that he was not consulted on the BOAT proposed. Safety concerns and the historic use of the proposed BOAT were also challenged. Mr Mendel feels he was not included in the development and decision process for the BOAT across his land.

Mr Mendel objects to the Proposed Development's use of his land for the purposes of environmental mitigation, stating a large proportion is already under an environmental stewardship scheme under his management. Mr Mendel stated the land take will significantly impact his farm and there is insufficient evidence for it to be included as part of the scheme.

Mr Mendel also raised concerns about horse-riders and cyclists travelling onto the Birdlip Link Road from the direction of Shab Hill Farm being exposed to fast moving traffic making the junction unsafe for use.

Applicant's Response:

The Applicant's understanding of the land take included as part of the discretionary purchase application has been explained to Mr Mendel. This issue has now been clarified.

The valuation for the land and property has now been agreed.

The Applicant continues to engage in dialogue with Mr Mendel to progress the discretionary purchase and solicitors have now been instructed to draw up the contract of sale for the land required for the scheme.

An unclassified highway (50853) would be severed by the scheme and two new BOATs are proposed, one east and one west of Shab Hill junction, to mitigate the loss of that access. It is the proposed BOAT to the west of the new A417 alignment and south of Shab Hill junction that Mr Mendel objects to, which would connect unclassified roads 50853 and 50944.

The BOAT maintains an existing route and is essential mitigation for the scheme.

Detail about the proposed ecological mitigation can be found in the Sheet 10, and 25 of the Environmental Masterplan [APP-177 and APP-192]. Further detail can be found in ES Chapter 8 Biodiversity [APP-039].

The calcareous grassland proposed is essential mitigation for that lost elsewhere on the scheme. During the construction phase the ground will be significantly disturbed with

the creation of calcareous grassland requiring additional removal or nitrate rich soils from those currently in extent.

The Applicant details the nature of the environmental mitigation proposed and its purpose in relation to habitat recreation and to mitigate for impacts on protected species includes bats and owls.

The Applicant is committed to the highest levels of safety for the construction and operation of the scheme and aim to minimise disruption to the public.

The design has been subject to road safety audit process and will continue to be so. The scheme has been designed using the design standards detailed in the DMRB. Specifically, DMRB CD143 - Designing for Walking, Cycling and Horseriding has been used to design WCH provision. To enable equestrian, walkers and cyclists to cross the B4070 link road safely an uncontrolled crossing is proposed approximately midway along the B4070 Barrow Wake Road.

ExA Reasoning and Conclusion:

8.7.39. The issues raised by Mr Mendel in relation to the loss of trees, access arrangements, WCH and other environmental matters have been addressed in Chapter 5 above. We have concluded that the impacts are acceptable and necessary.

8.7.40. In the context of environmental mitigation again we have concluded that the general approach and mitigation identified in the application is necessary and appropriate in terms of habitat and protected species.

8.7.41. The Applicant has confirmed that it has accepted the discretionary purchase application from Mr Mendel and that solicitors are instructed to proceed to drawing up the sale agreement. We have had no further submissions from Mr Mendel to dispute this position and are therefore of the view that in terms of CA issues the matters are close to resolution with the parties in a position of agreement.

8.7.42. The sale has not been confirmed to us and the land is required for the implementation of the Proposed Development and the mitigation of any significant adverse effects and CA and TP is therefore appropriate.

8.7.43. We are satisfied that the land is required for the Proposed Development or is required to facilitate or is incidental to that development and that there is a compelling case in the public interest for the CA, TP and rights acquisition and the tests set out in s122 of the PA2008 would be

satisfied. 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).

Mr and Mrs de Lisle Wells [RR-007 and RR-089]

8.7.44. Appendix H of the Applicant's Landowner Position Statements [REP9-024] sets out the final position between Robert, Patricia and Sarah de Lisle Wells' and the Applicant at the close of the Examination. Mrs Patricia de Lisle Wells objections are documented in her RR submitted by Bruton Knowles on her behalf [RR-007], Mr de Lisle Wells objections are documented in his RR [RR-089], an additional submission submitted by Mr & Mrs de Lisle Wells [AS-067], a Written Representation submitted on behalf of Mr & Mrs de Lisle Wells by Bruton Knowles [REP1-0022], a written summary of Mr de Lisle Wells' oral representations to CAH1 [REP3-063], post-hearing submissions by Mr de Lisle Wells [REP3-064 and REP3-065], Mr de Lisle Wells' oral representations to CAH3 [EV-054] and two submissions made at D8 regarding Mr de Lisle Wells position [REP8-045 and REP8-046].

General Locations:	North-east of Birdlip Radio Station and north-west of Rushwood Kennels.
Interests:	CA of plots: 2/33 and 2/36. TP of plots: 2/36a.
Status Summary:	Unresolved: a number of matters remain outstanding, with the Applicant stating some of the matters will only be resolved at the detailed design stage.
Objector's Case:	The de Lisle Wells have raised a number of matters with regard to the Proposed Development and issues that arise therefrom. Concern has been raised related to the noise impact and that additional screening bunding is required to protect their property. Concerns have been raised that the proposed new foot bridge may result in unnecessary disturbance and trespass on their land. The Class 5 highway that passes the end of their drive will be used for rat-running and the classification should be changed.

They have also raised concerns about light pollution.

Separately the de Lisle Wells have raised concern about access during construction, access to other parts of their landholdings and the businesses thereon, the width of verges such as to avoid anti-social parking, and the design of proposed drainage.

Applicant's Response:

The Applicant notes that traffic management including during construction and its impact on businesses is a matter of detailed design that it will address with its appointed contractor should development consent be granted and that ES Appendix 2.1 EMP CTMP [REP8-021] outlines how this will be managed.

In terms of noise the Applicant states that additional landform on the boundary north of Rushwood Kennels would not provide any additional noise attenuation and therefore the land take required by the scheme cannot be justified. The noise impact assessment is set out in ES Chapter 11 Noise and Vibration [APP-042]. The new road would include a lower noise surface and specific noise mitigation, in the form of earth bunding and Cotswold stone walls to act as noise barriers. This has been incorporated to further reduce noise effects.

The Applicant notes that PRoWs are considered as part of a Walking, Cycling and Horse-riding Assessment and Review, undertaken in accordance with the DMRB, which is submitted as part of the ES [APP-032 to APP-049]. Detail relating to fencing and gates are to be agreed as part of the accommodation work discussions should the project be granted consent.

The length of the Class 5 highway that links with the A436 lies outside of the limits of the DCO. As such a reclassification of this section should be raised with Gloucestershire County Council (GCC).

The Applicant recognises concerns regarding the light pollution from construction of the Proposed Development and will seek to

reduce light spill while maintaining highway safety; this will be managed through the EMP.

ExA Reasoning and Conclusion:

8.7.45. The SoR Appendix B [REP8-014] and the Compulsory Acquisition Schedule [REP9-022] both note that a discretionary purchase application has been submitted by the landowner, which the Applicant is currently considering. In this regard it is further noted that the Applicant has accepted that the land required for the Proposed Development has been accepted, though the remainder outside the Order Limits is being negotiated.

8.7.46. The areas of land proposed to be subject of CA are identified as being required for the A417 mainline, the A436 link road and various SUs' diversions as well as essential mitigation planting, amongst other matters. These are essential components of the Proposed Development and without which it could not proceed. We have accepted the need for environmental mitigation and the generality of the mitigation as proposed in the Environmental Masterplan. These are essential elements of the Proposed Development.

8.7.47. The TP of 2/36a is required for the provision of and to provide working space and temporary access for works associated with the provision of Ullenwood Lane and associated private means of access for Cuckoopen Barn Farm. These are necessary ancillary works.

8.7.48. Matters related to other environmental issues in relation to noise and light pollution are addressed in chapter 5 above and where we have accepted the proposed mitigation and effects of the Proposed Development.

8.7.49. Mr de Lisle Wells also raises a number of private matters that are not for this Examination to determine and are matters that he needs to address directly with the Applicant. There are also matters which are reasonably related to more detailed design matters which can be addressed at a later stage in the development of the Proposed Development and which are adequately addressed in the EMP.

8.7.50. We take into account that a discretionary purchase application has been submitted and in respect of land within the Order Limits that is land necessary for the Proposed Development has been accepted by the Applicant and that other land is the subject of negotiation. No firm or completed agreements have been provided and to safeguard and guarantee the necessary land required for the Proposed Development and necessary mitigation the CA and TP requirements are considered necessary.

8.7.51. We are satisfied that the land is required for the Proposed Development or is required to facilitate or is incidental to that development and that there is a compelling case in the public interest for the CA, TP and rights acquisition and the tests set out in s122 of the PA2008 would be

satisfied. 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).

National Star College [RR-039 and RR-078]

8.7.52. Appendix I of the Applicant's Landowner Position Statements [REP9-024] sets out the final position between NSC and the Applicant at the close of the Examination. NSC's objections are documented in its RR submitted by Gateley Hamer on its behalf [RR-039] and a RR submitted by NSC [RR-078], a Written Representation submitted on behalf of NSC by Gateley Hamer along with a summary [REP1-067 and REP1-068], written summaries of NSC's oral representations to CAH1 [REP3-054] and Open Floor Hearing 1 (OFH1) [REP3-055] and a post-ISH2 hearing submission [REP3-056] and NSC's responses to our Second Written Questions (ExQ2) [REP6-033].

General Locations:	North-east of the existing Air Balloon roundabout and East of Crickley Hill.
Interests:	CA of plots: 2/24, 2/24a, 2/24b and 2/28. TP of plots: 2/24c, 2/28a, 2/28b, 2/28c and 2/28d.
Status Summary:	Unresolved: the Applicant states it has made a number of commitments (eg air quality and traffic management) through updates to the application documents in response to previous comments. The Applicant has committed to having close lines of communication with NSC during construction.
Objector's Case:	NSC stated that the Applicant has failed to provide any reasoning for the temporary easement for drainage purposes. Concerns were raised about how the assessment of water will be dealt with at the outfall of the temporary drainage in the middle of the charity's site at the golf course. NSC believes that there should be consideration of extensive planting that will enhance the area in the long term. NSC requests that the planting improves the

screening of its Ullenwood site from the scheme.

NSC looks to secure assurances and operational details about how the Applicant will guarantee unimpeded access during the construction and operation of the scheme. It states that failure to adequately address access issues could lead to student placements being unsustainable, students and service users being deprived access to their provision and staffing levels not being met.

NSC is seeking commitments from the Applicant that mitigation measures will be in place if unacceptable air quality levels are reached.

NSC raised concerns about the negative financial impact the scheme could have upon the college.

NSC has stated that it wished to enter into land acquisition discussions.

NSC raised issues of road safety on the surrounding road network particularly Leckhampton Hill.

Concerns regarding noise impacts affecting its students have also been raised.

Applicant's Response:

The Applicant confirmed a piped outfall will be required to manage surface water flows from the site during construction. During this phase an outfall will be required from temporary basins and water treatment facilities. Although basins will have a flood benefit the primary function will be to manage silt and surface water quality.

It is anticipated that the temporary surface water management arrangements and the outfall will be installed early in the construction programme as the most onerous period for management of surface water run-off and silt is after topsoil strip and during earthworks operations. The temporary surface water management arrangements and the outfall would remain in place for the entirety of the construction works unless the contractor's programme specifies otherwise.

The temporary easement corridor is approximately 14m. The width of the temporary easement has been determined to allow for temporary works and access during construction, to allow for some variability in the surface levels versus the topographic survey and to dig the trench and place arisings.

The Applicant has indicated a landscape bund could be put in place to provide some visual screening during construction works. It was also noted a commitment for "*woodland planting to integrate the attenuation basins at Ullenwood junction, within the grounds of NSC and screen the new junction from sensitive users of the college*" was included in the updated EMP submitted into the Examination [APP-317].

The Applicant has explained to NSC that access will be maintained to the college throughout the construction and operation of the Proposed Development and that operational details and mitigation required for the construction works will be developed as part of the CTMP.

If financial losses are created by the Proposed Development on NSC, the Applicant will review and provide compensation if appropriate to do so. Evidence would need to be supplied by NSC to support a claim for compensation.

At D2 of the Examination (13 January 2022), the Applicant submitted an updated EMP [REP2-007] which included a new commitment AQ13 which secures monitoring of air quality at NSC during construction of the scheme. The monitoring to be provided would be typical to that of a construction site with higher air quality impacts anticipated in a location with poor existing levels of air quality.

The Applicant confirmed that land acquisition discussions are ongoing, and they were not resolved prior to the end of the Examination.

It is the Applicant's position that NSC has been appropriately consulted and considered as part of the Equalities Impact Assessment (EqIA) and in respect of the European

Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) matters.

The Applicant considers that the Proposed Development will result in improvements to the road network in the area surrounding the college. The scheme should reduce congestion and improve road safety more generally in the local area.

Commitment NV8 of the EMP [APP-317] secures construction noise mitigation provisions for the college. Furthermore, at D2 of the Examination, a new commitment NV10 was added to the revised EMP [REP2-007] which secures noise monitoring at appropriate locations at NSC during construction.

NSC requested that a note is recorded in this Position Statement that the Applicant commits to make all efforts to contain the levels presented in the noise demonstration. This Position Statement acts as a record of the commitment agreed at the virtual noise demonstration on 27 May 2021.

Key actions agreed at the in-person demonstration were as follows:

- Construction phasing to be discussed with NSC when known.
- Noise monitoring to be in the westerly boundary of the Christmas tree field.
- NSC to be notified in advance of the loudest construction works relating to the scheme.
- Noise demonstration to be held with appropriate NSC employees prior to commencement of construction.
- Reporting of noise monitoring data to be agreed between the NSC and the construction contractor.

ExA Reasoning and Conclusion:

8.7.53. The CA plots are required for, amongst other matters, the realignment of Leckhampton Hill, Ullenwood junction, drainage and new private access to Crickley Hill Country Park. The TP are required to provide working space and temporary access for works associated with the provision of the realigned Leckhampton Hill and to provide working space and temporary access for works associated with the provision of the temporary outfall from associated attenuation basins during construction and provide screening for construction works.

8.7.54. Discussions developed over the Examination such that changes to the drainage arrangements could be accommodated with temporary arrangements and alternative permanent arrangements agreed with EA as discussed in Chapter 5 above. In terms of noise and air quality impacts, again discussed at Chapter 5 above these are subject to commitments in the EMP as are traffic management matters during construction. Certain elements cannot be confirmed until the detailed design has progressed, and dialogue is on-going, and the Applicant recognises the sensitive nature of the users of this site. Many of the matters are environmental matters and potential impacts on the college rather than CA issues.

8.7.55. The land is required for the implementation of necessary elements of the Proposed Development. The Applicant has sought to mitigate the effects and there are in place commitments to ensure the impacts will be managed.

8.7.56. The Applicant has had regard to the nature of the operation and the implications on EqIA, the risk of direct or indirect discrimination given the students at NSC have disabilities and Human Rights. These matters have been more fully explored at sections 4.10 above and 8.11 below. We are satisfied that the CA and TP requirements are necessary to implement the Proposed Development and achieve its benefits; it is therefore in the public interest.

8.7.57. We are satisfied that the land is required for the Proposed Development or is required to facilitate or is incidental to that development and that there is a compelling case in the public interest for the CA, TP and rights acquisition and the tests set out in s122 of the PA2008 would be satisfied. 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).

Mr and Mrs Field [RR-026]

8.7.58. Appendix J of the Applicant's Landowner Position Statements [REP9-024] sets out the final position between Mr and Mrs Field and the Applicant at the close of the Examination. Mr and Mrs Field's objections are documented in Mr Field's RR [RR-026], a further RR submitted by Converse Law on behalf of Mr Field [RR-020], an additional submission on behalf of Mr and Mrs Field by Bruce Fowler [AS-065], a Written Representation submitted by Mr and Mrs Field [REP1-055], a post-CAH submission by Mrs Field [REP3-051], comments on D3 responses submitted by Mrs Field [REP4-050], responses to ExQ2 [REP6-020, REP6-021, REP6-022, REP6-023, REP-024, REP6-025 and REP6-026] submitted by Bruce Fowler on behalf of Mr and Mrs Field, and written summary of oral submissions to CAH3 submitted by Bruce Fowler on behalf of Mr and Mrs Field [REP8-032 and REP8-033].

Locations:	North-east of the existing Bentham Lane overbridge and north-west of Crickley Hill

	Farm, and land south of Bentham Lane overbridge and Bentham Country Club.
Interests:	CA of plots: 1/3 and 1/3d. TP with permanent rights of plots: 1/3a, 1/3b and 1/3c. TP of plots: 1/13 and 1/13a.
Status Summary:	Unresolved: the Applicant has stated that there remain a number of matters outstanding within the Position Statement. The Applicant has provided its position on these matters through the Position Statement, as well as within Examination submissions and hearings. Some of the matters (eg accommodation works) will only be fully resolved at the detailed design stage of the project.
Objector's Case:	The Fields have requested that the boundary adjacent to the proposed lay-by is constructed appropriately and provides a secure boundary. The Fields have also outlined a preference that the lay-by is used for "*emergency use*" only or removed altogether from the scheme. They stated that they were not willing to enter into land acquisition discussions until the exact nature of the lay-by is known. The Fields object to the lay-by proposed on the southern boundary of their land. The Fields believe that the lay-by will be used for anti-social purposes and will have a negative security impact on their land interest. Regardless of the size of the lay-by Mr and Mrs Field are opposed to having them located close to their land boundary due to the cited reasons. The Fields requested security in the form of a Cotswold stone wall or caged stone gabions on the south side of their property; also that the southern boundary should be secure during construction. The Fields raised concerns about the management and maintenance of landscape

planting completed for the scheme in 1993, outlining that a commitment was made to keep the tree planting to a certain height, but this has not happened. Any future landscape planting will need to be managed to ensure that height and depth do not restrict views as had become the case with the planting from the previous scheme. Some land taken wrongly in the 1993 scheme should be returned to them free of any maintenance burden.

Applicant's Response:

Accommodation works and the exact details of boundary features are to be developed and agreed as the scheme progresses.

At D6 through the Applicant response to ExQ2 question 2.5.1, it was confirmed that the Applicant is committed to reviewing the layby at detailed design and it is likely that it will either be altered to an emergency layby or could be removed from the scheme.

As confirmed through the Applicant's response to ExQ2 question 2.4.2, no land in the ownership of the Field's is required for the layby itself and therefore the future of the layby does not impact directly on the extent of the Field's land required for the scheme.

The Applicant intends to maintain the height of the trees located on the north side of the east bound carriageway.

An agreement between the Applicant and the Fields will need to be created for the management of the proposed planting.

The Applicant commits to amending the species mix at this location to woodland edge planting, consisting of species with less growing potential and easier management such as Hawthorn and Hazel, details of which will be provided as part of the detailed design phase.

The Applicant is aware of the concerns the Fields have about the lay-by proposed. The lay-by has been positioned in consideration of DMRB guidance.

Following these concerns and discussions with the Fields, the Applicant has confirmed that

the public layby will be removed from the scheme and replaced with a smaller emergency area subject to Traffic Road Orders to restrict public use. Alternatively, it will be removed from the scheme altogether. This has been confirmed to the Fields in writing on 1 November 2021 and in the meeting minutes. The dimensions have now also been provided in a meeting on 4 February 2022.

The final design of the lay-by is likely to be an emergency lay-by that is reduced in size and can only be used for emergencies. The lay-by will have a Traffic Regulation Order that allows the police to move people on. This prevents for instance the lay-by being used by refrigerator lorries overnight.

Cotswold stone walling could be proposed on the landowner's side of the boundary to a height of 1.2m, in combination with the highways boundary fencing along the lay-by. The boundary design will be progressed during the detailed design stage.

ExA Reasoning and Conclusion:

8.7.59. The CA plots to be acquired are required for access and essential mitigation. The TP with rights relates to drainage matters and the TP plots are required for working space and to inspect and make good exiting drainage.

8.7.60. The Field's principal concern relates to plot 1/3d and the applicant's request for CA for essential mitigation. The plot sits adjacent to the new mainline of the A417 at a point where the current Proposed Development identifies a layby. The Fields have raised concerns in respect of the layby's position and necessity given its proximity to their property and are concerned with disturbance, anti-social behaviour, security issues etc. They are of the view that the layby is not needed and if required is inappropriately located close to residential accommodation conflicting with DMRB guidance.

8.7.61. The Applicant has suggested that at the detailed design review there is a potential that the layby could be amended to provide an emergency only layby or removed altogether. It however has indicated that the Lay-by is not within the Fields' land and is within its own land. It requires the Fields' land for essential mitigation to screen the road and provide woodland planting as part of the overall essential mitigation for the Proposed Development as a whole. The Applicant's position is that the layby is part of the Proposed Development at the moment and that on the basis the Proposed Development is being promoted, it is necessary. If, through detailed design, it can be removed or altered it would do so.

This however would not affect the requirements for the Fields' land which is for essential mitigation in any event and will be put to that purpose.

8.7.62. The plots are required for essential mitigation. The Fields' land would be used for woodland planting and essential mitigation which would provide for screening and add to the woodland re-provided across the whole of the Proposed Development as essential mitigation. In this regard it is necessary to ensure the effects of the Proposed Development are satisfactorily mitigated. It was put to the Applicant that if a lay-by was not provided then the mitigation planting could be placed on the area of land where the lay-by would have been and thereby reduce that required in this location on the Fields' land. The Applicant responded to state the Proposed Development is as is set out in the application and which are the works that need to be considered. We have concluded in Chapter 5 that the Applicant's lay-by strategy is appropriate and therefore justifies the Proposed Development as presented. If potential scheme development enabled further works to be undertaken which could reduce land take that was something that can be considered at that time. The Proposed Development is promoted with the essential mitigation provided, and it is on that basis the Proposed Development is considered and our conclusions reached. Over and above these conclusions, given the low Biodiversity Net Gain (BNG), any ability to increase and improve additional planting and mitigation should be adopted and which would improve the response to likely significant effects and improve the biodiversity outcomes.

8.7.63. In terms of the other matters related to landscaping boundary treatment and such these are matters that can be further developed at the design stage and do not directly impact on the CA issue.

8.7.64. Overall, we are satisfied that the land required for CA is necessary for the implementation and mitigation of the Proposed Development. The TP and rights required are also necessary to facilitate and ensure the development can proceed and ensure the benefits of the Proposed Development are realised.

8.7.65. We are satisfied that the land is required for the Proposed Development or is required to facilitate or is incidental to that development and that there is a compelling case in the public interest for the CA, TP and rights acquisition and the tests set out in s122 of the PA2008 would be satisfied. 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).

Mr and Mrs Ford [RR-069 and RR-071]

8.7.66. Appendix G of the Applicant's Landowner Position Statements [REP9-024] sets out the final position between Mr and Mrs Ford and the Applicant at the close of the Examination. Mr and Mrs Ford's objections are documented in their RRs submitted on their behalf by Moore Allen and Innocent [RR-069 and RR-071], requests to attend hearings and identification of locations the ExA should visit and the reasoning in

particular [REP1-088], a written summary of oral representations to CAH1 on behalf of B J and C E Ford by Moore Allen and Innocent [REP3-029], a written summary of the oral representations to OFH1 [REP3-030] by Moore Allen and Innocent on behalf of B J and C E Ford, and a Position Statement by Moore Allen and Innocent on behalf of B J and C E Ford [REP8-043].

Locations:	East of the existing Cowley roundabout and south-east of Birdlip Quarry
Interests:	CA of plots: 6/10 and 6/12. TP of plots: 6/10a and 6/10b
Status Summary:	Unresolved: the Applicant has stated there remain a number of matters outstanding within the Position Statement. The Applicant has provided its position on these matters through the Position Statement, as well as within Examination submissions and hearings. Some of the matters (eg Accommodation works) will only be fully resolved at the detailed design stage of the project.
Objector's Case:	Mr and Mrs Ford have raised concerns that no compensation would be paid for the compound being located on the land holding. The location of the planned construction compound has been disputed given its location on an arable field (Grade 3a). Mr and Mrs Ford have raised their objection to the size of the land required for the construction compound, and related concerns around drainage. Mr and Mrs Ford raised concern that they would lose access to their property via Cowley Wood Lane. They also raised concern over the proposals to close Cowley Wood Lane to general traffic, with concern as to how the residents-only access would operate, be secured and be maintained. Mr and Mrs Ford identified that they would be left with a thin slither of land between their

neighbour and their land and that this should be acquired as it was of no viable use.

Applicant's Response:

The Applicant can only compensate for losses incurred from the use of the field as a construction compound.

The main compound for the Proposed Development is at the Eastern end of the works and a smaller compound is at the Western end. The main reasoning for this is that both locations provide easy access from the existing Strategic Road Network and also easy access to the new works. Due to the physical constraints of the scheme, it is not possible to access all of the works from one end and so the two compounds are required. The land available at the western end of the scheme is not large enough to accommodate the area required for the main compound. These compounds also have to facilitate the vehicle rescue requirements and, due to logistical constraints, it is not feasible to have a single location. The main compound is required for a main office, parking, vehicle rescue, material storage, plant storage etc, and requires a single location so this can be done securely and safely. This location has been included since the statutory consultation in September 2019.

Several other locations have been considered and discarded for the main compound; these include the redundant Birdlip Quarry and the land west of Cowley Wood Lane. Birdlip Quarry was disregarded because, although a brownfield site, the area of land available is only half that required for the main compound and is surrounded by trees that are required to be environmentally protected, further reducing the useable land area. An alternative greenfield site therefore had to be located to provide the required area and the required facilities for access, resulting in a disjointed compound, greenfield impacts and multiple locations of local road disturbance. The area west of Cowley Wood Lane was considered but discounted to avoid impacts on the buried remains of a probable Roman-British settlement identified by geophysical survey and by previous excavation in 1999. Extensive archaeological investigation would be required

in advance of this area being available for use as a compound and, as this compound is required from the start of the works, this will import risk to the programme. Namely, there could be constraints imposed on the use of certain areas of the land due to existing archaeology, so reducing the area available, and the risk of damage to the archaeology in constructing the compound.

In response to the Fords' drainage concerns, the Applicant confirmed that such considerations will be taken into account in the detailed design of the compound, alongside the environmental impacts of the same.

The Applicant refers to previous responses where these matters have been confirmed and states the following:

Where the construction works would affect access to any of the existing receptors identified in ES Chapter 12 Population and Human Health [APP-043], temporary alternative access arrangements would be provided in agreement with the receptor, landowner and/ or tenant(s). This is to be detailed within the CTMP to be refined at detailed design.

At this preliminary stage of the scheme design, it is not possible to confirm in detail what signage, surfacing and enclosures (such as gates and bollards) would be implemented for the Cowley Wood Lane means of access. This would be determined at the detailed design stage following the approval of the scheme, if granted. Accordingly, the Applicant will engage with its contractor, the local highways authority (GCC) and residents affected by this matter at the detailed design stage. The Applicant would also work with relevant IPs including but not limited to the parish councils.

In relation to the sliver of land the Applicant explained that the statutory blight regime may be applicable based on the particular facts of their case. To the extent the Fords suffer loss due to the CA of land, that is a compensation matter for which there is an appropriate regime.

	The area of land lies to the west of plot 6/10c and consists of road verge and hedgerow.

ExA Reasoning and Conclusion:

8.7.67. The CA plots are identified as being required for, amongst other matters, private means of access, a restricted byway, a site compound, essential mitigation and SUs' works. The TP plots are required for temporary access and working space for the provision of the private means of access and for the site compound.

8.7.68. The Position Statement notes that the landowner now wishes to agree values for the areas of land being acquired permanently and the Applicant has responded that District Valuer Services (DVS) will progress land acquisition discussions.

8.7.69. We are satisfied with the Applicant's strategy with regard to compounds with major compounds being provided at the eastern and western end and other compounds spread along the route of the works. These are necessary ancillary works associated with the implementation of the Proposed Development. Given the nature of the activities that need to be accommodated and the Applicant's strategy we are satisfied that these are appropriately located and sized. Drainage and other detailed matters will be confirmed at the detailed design stage.

8.7.70. In terms of the access arrangements at Cowley Wood Lane this is addressed in Chapter 5 above and we are satisfied that the Proposed Development will not increase rat-running and that the proposed solutions and changes to access arrangements for these local roads are safe and acceptable.

8.7.71. In terms of access to their existing land holdings this is satisfactorily addressed in the EMP and such matters will be discussed further with the appropriate parties that will be affected at the detailed design stage.

8.7.72. We are satisfied that the land required for CA is necessary for the implementation and execution of the Proposed Development. We are satisfied that the TP is required to facilitate development and provide suitable working space to allow for the implementation of the Proposed Development.

8.7.73. There is a compensation regime and blight procedures that can be followed for other land, but this is not a matter for us to conclude on in this Examination.

8.7.74. We are satisfied that the land is required for the Proposed Development or is required to facilitate or is incidental to that development and that there is a compelling case in the public interest for the CA, TP and rights acquisition and the tests set out in s122 of the PA2008 would be satisfied. 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).

Gloucestershire Wildlife Trust (GWT) [RR-042]

8.7.75. There is a signed SoCG between the Applicant and GWT [REP9-017], which also includes at Appendix B a Landowner Position Statement, that sets out the final position between GWT and the Applicant at the close of the Examination. GWT's objections are documented in its RR [RR-42], its Written Representation [REP1-065], responses to ExQ1 [REP1-064], the written summary of its oral representations to OFH1 and ISH1 [REP3-040], its post-hearing submission and comments on responses received by D4 [REP5-012], its responses to ExQ2 [REP6-028 and REP6-029] and its comments on responses received by D6 and position statement [REP7-015].

Locations:	North-east of Grove Farm and west of Emma's Grove, east of Crickley Hill and north of Emma's Grove, north of the existing Air Balloon roundabout and east of Crickley Hill, and south of Barrow Wake and north of Birdlip.
Interests:	CA of plots: 2/13, 2/13a, 2/13c, 2/13j, 2/23, 2/23a, 3/11, 3/11a, 3/11b, 3/12, 3/12a, 3/12c, 3/12d and 3/12e. TP with permanent rights of plots: 2/13b 2/13e and 2/13g. TP of plots: 2/13d, 2/13f, 2/13h, 3/12b and 3/12f.
Status Summary:	Unresolved: the Applicant states the majority of matters are now agreed. Matters outstanding relate to ongoing discussions in relation to land acquisition by agreement and accommodation works which will be concluded during detailed design.
Objector's Case:	GWT has fully participated and engaged with the Examination and whilst raising a number of matters that have been the subject of discussion, it has not raised substantive issues with the CA or TP of its land. Within the SoCG and Landowner's Position Statement the

outstanding matters are limited and include the following:

GWT notes that accommodation works to be provided as part of the scheme are to be agreed.

GWT also noted that land acquisition discussions are to begin requesting that further detail about land acquisition is sent to them in advance of any meetings.

In the matters agreed section it is noted that GWT raised queries in relation to the transfer of proposed Replacement Common Land to them following its establishment. With a response from the Applicant that the proposed Replacement Common Land would revert to the owner of the Common Land to be acquired (GWT). The statements also included that the Applicant is committed to continuing to work with GWT to create replacement land which is of the same or better quality and character as the existing Common Land.

At its D7a response GWT did not raise any further acquisition issues and in general noted that it welcomed much progress although one outstanding issue, that related to the assessment and mitigation of increased recreational pressure on the Crickley Hill and Barrow Wake SSSI, remained.

Applicant's Response:

The Applicant's response to outstanding acquisition issues is recorded in the SoR [REP8-015] and the CA Schedule [REP9-022] as well as the SoCG.

In effect the Applicant notes that acquisition negotiations are on-going and that heads of terms have been issued.

In terms of land acquisition in the SoCG the Applicant notes that land acquisition discussions have begun between the DVS and the land agent appointed by GWT. Following the meeting held in October 2021, information in relation to the land to be acquired was shared with GWT's agent, and the DVS is to provide copy of Heads of Terms to GWT.

In relation to accommodation works the Applicant notes that accommodation works will be developed and agreed during the detailed design stage of the scheme.

ExA Reasoning and Conclusion:

8.7.76. The proposed land for CA is required for the provision of the new A417, associated drainage, to provide access to the cricket club, works for realignment of Leckhampton Hill, the provision of Ullenwood junction works for the realignment of the B4070 and works for the provision of the Barrow Wake roundabout as well as essential mitigation, amongst other matters. In terms of TP with permanent rights, land is required for works to a soakaway, to provide rights for GCC (for future maintenance) and to undertake and inspect the boundary feature at Barrow Wake. In terms of TP land is required to provide working space at various locations and provision of access to the country park.

8.7.77. Whilst GWT has been fully engaged with the Examination it has been primarily related to environmental matters associated with habitat matters including long term monitoring of compensatory habitat, governance procedure for the Landscape and Environmental Management Plan (LEMP), detailed design issues and consideration of the effect of recreational pressure on the Crickley Hill and Barrow Wake SSSI. It has not directly objected to the CA or TP of its land although it has raised some queries around the replacement Common Land. We deal with Common Land in the following section in relation to Special Category Land.

8.7.78. Overall, we are satisfied that the land is required for essential elements of the Proposed Development to provide appropriate working space and rights are required to maintain a safe and appropriate form of development.

8.7.79. We are satisfied that the land is required for the Proposed Development or is required to facilitate or is incidental to that development and that there is a compelling case in the public interest for the CA, TP and rights acquisition and the tests set out in s122 of the PA2008 would be satisfied. 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).

Hanson Quarry Products Europe Ltd [AS-063 & AS-068]

8.7.80. Appendix K of the Applicant's Landowner Position Statements [REP9-024] sets out the final position between Hanson Quarry Products Europe Ltd (Hanson) and the Applicant at the close of the Examination. Hanson's objections are documented in its additional submissions [AS-063 and AS-068], and its summary of its oral representations to CAH3 [REP8-034].

General Locations:	Land around Birdlip Quarry, Cowley roundabout and south-east of Stockwell Farm.

Interests:	CA of plots: 6/7, 6/7b and 6/7c. TP with permanent rights of plots: 6/7a, 6/7d and 6/7e.
Status Summary:	Unresolved: the Applicant indicates the matters outstanding relate to accommodation works, land acquisition, standoff distance required for future quarrying operations and land take in relation to a drainage ditch. The Applicant has committed to continuing to discuss and review these matters with Hanson as further information becomes available and/ or detailed design of the Proposed Development progresses.
Objector's Case:	Hanson identified the following issues as matters outstanding: Accommodation works to be agreed with Hanson. Land acquisition discussions to be advanced with Hanson. Hanson requested clarification about a right of support/ standoff distances along the scheme main line next to its land given the potential for future quarrying operations. Hanson has raised the concern that a drainage ditch appears to connect to an attenuation basin and drain onto its land (6/7b). Hanson has raised the concern regarding the need for the ditch to intercept surface water drainage from the quarry (6/7b). This position can be found in Document [REP8-034] submitted at D8.
Applicant's Response:	In response to the outstanding issues the Applicant has confirmed the following: Accommodation works will be developed and agreed as the scheme progresses. Land acquisition discussions have been progressed by the DVS and discussions are ongoing.

To establish the standoff distance from the new carriageway a detailed proposal for the recommencement of excavation at the site will be required. As agreed during the CAH (29 April 2022), the Applicant will continue to work with Hanson to establish this distance following receipt of further information in relation to proposed future quarrying on the site. However, the point remains that the permission for quarrying the site is dormant and the DCO has been prepared on that basis.

The drainage ditch intercepts surface water flows from the north from reaching the new carriageway. The ditch controls and conveys the surface water to the proposed drainage infrastructure. All drainage is managed within the scheme boundary and there is no drainage discharge onto Hanson land.

The Applicant will look to reduce the land required for the drainage ditch at the detailed design stage. The woodland planting is essential mitigation for the scheme.

This position was set out in the CAH on 29th April 2022.

Following the CAH and in its response at D8, Hanson agreed with the current position and the commitment to continue to engage on this matter.

ExA Reasoning and Conclusion

8.7.81. The CA of plots 6/7, 6/7b and 6/7c is required for the de-trunking of the existing A417, the construction of the new at-grade Cowley junction, a new drainage ditch, earth works and to abandon an existing Severn Trent Water (STW) main. The TP with permanent rights is required for plots 6/7a, 6/7d and 6/7e to construct, use, protect, inspect, maintain and alter SUs' apparatus for the benefit of STW and a new boundary treatment.

8.7.82. Hanson has indicated a desire to reactivate the existing dormant quarry at Birdlip. However, at present the quarry is dormant and there is no planning permission or authorisation to re-activate the quarry and the Applicant has indicated that the DCO has been prepared on that basis. We agree and accept that position.

8.7.83. The outstanding matters are the subject of on-going discussions related to the necessity for acquisition around the SUs' apparatus, standoff distances and drainage requirements. Much of these are to be the

subject of further consideration at the detailed design and as Hanson's proposals with regard to its quarry are developed.

8.7.84. On the basis of the information before us we are satisfied that the Applicant has demonstrated a need for the CA and rights acquisition to secure the implementation of the Proposed Development.

8.7.85. We are satisfied that the land is required for the Proposed Development or is required to facilitate or is incidental to that development and that there is a compelling case in the public interest for the CA, TP and rights acquisition and the tests set out in s122 of the PA2008 would be satisfied. 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).

8.8. SPECIAL CONSIDERATIONS

8.8.1. This section addresses our consideration of the Applicant's case and matters raised during the Examination with respect to:

- Special Category Land; and
- Statutory Undertakers.

8.8.2. There is no Crown Land affected by the Proposed Development.

Special Category Land

8.8.3. The Proposed Development includes the following types of Special Category Land:

- Land which is Open Space (as defined in section (s) 19 of the Acquisition of Land Act 1981, as applied by s131(12) of the PA2008).
- Land which is Common Land (as defined in s19 of the Acquisition of Land Act 1981).
- Land which is owned and held inalienably by the NT.

8.8.4. The Applicant's SoR [REP8-014] at section 7 addresses Special considerations including matters related to Special Category Land, Crown Land and Statutory Undertakers. The issue of Special Category Land is further supported by Appendix D – Special Category Land Assessment to the SoR, which addresses the option identification and appraisal process relevant to any replacement as required by the PA2008.

Open Space

8.8.5. The Proposed Development involves undertaking works on Crickley Hill Country Park and Open Access Land to the north of the Proposed Development and to the south of the Proposed Development, around Barrow Wake. The areas are identified on the Special Category Land Plans [AS-037]. They are in a variety of ownerships including the Applicant itself, NT, GWT and GCC as well as some private ownership.

8.8.6. The Open Space land which is to be acquired permanently relates to plots 1/1au, 1/1aw, 1/1ay, 2/14, 2/14a, 2/14b, 2/1k, 2/1m, 2/1t, 3/13 and 3/1h. The Applicant identifies that this land is required in order to facilitate the following proposed works:

- Works to widen Leckhampton Hill and associated drainage works.
- Widening of the existing A417 to include a new bridleway connection between Cold Slad Lane and Dog Lane, along with associated drainage works.
- Works to widen Cold Slad Lane and for associated drainage works along this route.
- Works associated with the construction of the mainline (widening of the A417), earthworks, Grove Farm underpass and Cold Slad Lane/ associated drainage works.
- Earthworks and embankments to the south of the A417 in the vicinity of Crickley Ridge to enable widening of the mainline. This is currently vegetated land south of the A417 between the current road and Crickley Ridge.
- Widening of the B4070 and Birdlip Road to allow for Barrow Wake roundabout and associated earthworks/ access to Barrow Wake and drainage works.

8.8.7. The Applicant's assessment notes that the land identified for acquisition is required for widening the highway and improved drainage, that it will be in the ownership of the Applicant after completion of the Proposed Development and therefore the public will have a right to pass and repass. It is therefore of the view that the interests of the public would not be adversely affected and indeed in some instances access for the public would be improved. Moreover, certain areas identified as areas of Open Access Land are not realistically useable by the public because of topography or their wooded nature. The Applicant is therefore satisfied that the acquisition would meet the tests under s131(5) and s132(3) and that replacement land would not be required. As such Special parliamentary procedure (SPP) would not be required.

8.8.8. In terms of TP with rights to be acquired permanently the Open Space land to be used with rights to be acquired permanently includes land required for sub-surface drainage and ground stabilisation works, and land in the vicinity of Crickley Hill Country Park where a new bridleway connection is proposed. It includes plots 1,26b, 2/1g and 2/9a. The nature of the Open Access Land would not be affected by the rights given the sub-surface nature of proposals and the improved accessibility via the bridleway. The ability for the public to access the land following construction would therefore be no different to the current situation. It will therefore be no less advantageous than it was before to the persons in whom it is vested, or the public as required by the tests set out in s132(3). These works are also considered to fall under s131(5) given the land required is for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway and the giving in exchange of other land is unnecessary.

8.8.9. Moving to TP the Applicant confirms that the land, which includes all the plots over which permanent rights are sought (see above) as well as plots 2/16 and 3/13a, will be used during construction only and the land will be handed back to the current landowners. All of the plots are Open Access Land and are therefore Open Space. None of the Plots are of any of the other descriptions in subsection (1) of s131, ie common, fuel or field garden allotment. The land is being acquired for a temporary (although possibly long-lived) purpose. The three limbs in s131(4B) are therefore satisfied.

8.8.10. We have had no significant objection from any of the affected landowners in respect of the Applicant's conclusions in this regard. We accept the conclusions of the Applicant and also confirm that we agree with its conclusions that all of the Open Space land (Open Access Land and Country Park) required permanently is required in relation to widening or drainage works of an existing highway, with the interests of the public not adversely affected. The provision of replacement land is therefore unnecessary either because the land cannot currently be accessed by the public for recreation or because the land will be able to be accessed by the public in the same, or a similar way to the current situation following construction of the Proposed Development. Therefore, the test in s131(5) is met and that in respect of land required temporarily the land meets all limbs of the test in section s131(4B) and in respect of the land where permanent rights are required the test in s132(3) is met.

8.8.11. Accordingly, we conclude the DCO should not be subject to SPP.

Common Land

8.8.12. The Applicant identifies that the CA of 3,970 square metres (sqm) of Common Land is required to enable delivery of the Proposed Development in the area surrounding Barrow Wake. Specifically, the land is required to facilitate the construction of the A417 mainline and works associated with the B4070 and Birdlip Road. The land can be split into two discrete areas: land to the south and surrounding Barrow Wake car park and secondly land adjacent to Woodside House. The land is primarily in the ownership of Gloucestershire Wildlife Trust (GWT), with The Applicant and Mr Medlock being owners of small plots.

8.8.13. The Common Land affected by the Proposed Development is within plots 2/13, 2/13a, 3/1n, 3/9b, 3/11b, 3/12, 3/12a, 3/12b, 3/12c, 3/12d, 3/12e and 3/12f. The following plots are identified as replacement land which form part of the proposals to de-trunk the existing A417: 2/1q, 2/1n, 2/1r, 3/1s and 3/1p.

8.8.14. The Applicant expresses the view that as replacement land is provided and will be vested in the respective seller subject to the same rights, trusts and incidents as attached to the order land that the tests in s131(4) would be met. The SoR and Appendix D to the SoR provides a detailed assessment of the replacement land which the Applicant concludes meets the appropriate definition in s131(12) of the PA2008.

8.8.15. In the context of the definition of 'Replacement Land' the Applicant confirms that the replacement land would be greater in area 10,540 sqm replacing 3,970 sqm lost (6,570 sqm more); there are no registered rights of common or other rights therefore the replacement would be no less advantageous to anyone with a right of common or other rights, as there are none existing; and the area to be provided would be no less advantageous to the public as the existing includes wooded areas and steep gradients which do not appear to be used by the public with that to be provided being more accessible and useable. The proposed area would be contiguous with the existing Common Land and would be fully accessible from the existing common and the Air Balloon Way. The Replacement Land is in the possession of the Applicant and therefore would not require acquisition of additional land to make the provision.

8.8.16. The Replacement Land would be part of the de-trunking which would allow land that was previously de-registered with the original A417, being returned to Common Land. The de-trunking and landscaping process (referred to in the Applicant's submission as 're-purposing') also offers wider opportunities to re-provide land which creates habitats that are appropriate to the current use of the Common Land and the surrounding SSSI, potentially improving the SSSI in the future. This was touched upon in Chapter 5 in the biodiversity section and in the DCO Chapter 7 in relation to Article 3 and the disapplication of powers related to SSSI. In this regard the land would be put to calcareous grassland and could subsequently, potentially, become part of the SSSI habitat. Should that happen and it becomes SSSI then with the disapplication proposed it would mean NE would not have control over the works within this area. We have expressed the view that control should be retained for NE in such circumstances and therefore removed the disapplication requested by the Applicant in this regard. This demonstrates that there is a strong public benefit to these works which would improve the quality of the land. Given the potential benefits outlined above, the Replacement Land is considered to be no less advantageous to the public.

8.8.17. In terms of TP of Common Land, the Proposed Development also proposes the TP of 1,771 sqm of Common Land to be used solely as a working width to facilitate the construction of boundary features on adjacent land which is not Common Land. No works are proposed on this area of Common Land and there will be no CA of this part of the Common Land.

8.8.18. Again, there have been no significant objections raised by any of the landowners to the acquisition of the Common Land and discussions have appeared to have moved forward with a positive outcome likely.

8.8.19. There is one matter raised by the Applicant to identify the timing of the provision of the Replacement Land which it is anticipated would be only possible after the construction period. The Applicant notes that the PA2008 does not require simultaneous provision but states the PA2008 requires that replacement land has been, or will be, provided (s131(4)(a)).

8.8.20. In considering the timing of the provision of the replacement land, the Applicant draws attention to the fact that the Common Land impacted by the Proposed Development does not have any registered rights of common and therefore not providing replacement land simultaneously would not disadvantage any person entitled to the rights of common. Furthermore, it notes that it is proposed that the time between the acquisition of the existing Common Land and the replacement Common Land is controlled by Article 39 in the draft DCO which delays the acquisition of the existing land as late in the project programme as possible to reduce the time between acquisition and replacement land provision.

8.8.21. We accept and agree with the conclusions of the Applicant in this regard and are satisfied that the Replacement Common Land complies with the definition contained in s131(12) of the PA2008, as it is greater in area than the land acquired and would be no less advantageous to the persons entitled to rights of common (as there are none), and would be more advantageous to the public, notwithstanding the fact that it could not be provided until after the Proposed Development has been constructed. We are also satisfied that the provisions of s131(4) of the PA2008 have been met, as Replacement Land will be given in exchange and will be vested in the prospective seller and subject to the same rights, trusts and incidents as attach to the order land, and that the DCO should not be subject to SPP.

National Trust Inalienable Land

8.8.22. The Applicant identifies the land owned by the NT as related to two areas:

- Plots 2/14, 2/14a and 2/14b, which combine to form a strip of land to the north of the A417 and to the west of Air Balloon Cottages. This land is required to facilitate works to Cold Slad Lane, associated earthworks and drainage works and the establishment of a new private means of access for Air Balloon Cottages.
- Plot 2/14c, a lozenge of land located to the south-east of Air Balloon Cottages and required for works to Cold Slad Lane and the proposed Ullenwood roundabout, and the creation of a layby to be provided for Air Balloon Cottages.

8.8.23. The Applicant notes that both of these areas are subject to deeds of dedication which dedicates the land as highway land albeit that the Applicant has recognised the NT's claim of better title on plot 2/14 which was previously thought to be in the ownership of Highways England. The Applicant further confirms in the SoR that as no land is required outside of the two plots which also form part of the deeds of dedication, the NT has agreed in principle to the acquisition of this land for the Proposed Development and the Applicant does not therefore anticipate an objection which would trigger SPP.

8.8.24. During the Examination matters were discussed with NT and at D9, and a signed SoCG between the Applicant and NT was submitted. This included in matters agreed matter 21.1 which states "*Subject to agreement, the*

National Trust agrees to the acquisition of four parcels of inalienable land as stated in the first land acquisition plan dated 13.01.2020 – The parcels of land are identified as 2/14, 2/14a, 2/14b and 2/14c 'LAND PLANS APFP REGULATION 5(2)(i)(I),(II),(III) SHEET 2 OF 6 Drawing Number HE551505 Revision C01' Both parties agree to continue discussions about the transfer of these parcels of land".

8.8.25. The SoCG also included Appendix B – National Trust's landowner Position Statement which includes in respect of land acquisitions the following statement: "*National Trust would like to progress with acquisition discussions as soon as possible in order to agree the principles of acquisition*". The Applicant's response to this was recorded as: "*National Trust Legal Counsel is currently reviewing the position on the potential acquisition of National Trust land by voluntary agreement. There is no National Highways requirement to acquire the land by GVD and we will continue to discuss land acquisition with the National Trust*."

8.8.26. S130 of the PA2008 sets out the matters related to NT land that is held inalienably, and which states that an order granting development consent is subject to SPP, to the extent that the order authorises the CA of land to which this section applies, if:

- a representation has been made by the NT about the application for the order granting development consent before the completion of the examination of the application;
- the representation contains an objection to the CA of the land; and
- the objection has not been withdrawn.

8.8.27. It is evident from NT's engagement that it does not object to the CA of its inalienable land. NT has made comments on the application, but it has not objected to the CA of their inalienable land interests and therefore SPP is not required under s130(3).

8.8.28. The Land Plans identify that the NT's land includes Open Space land (plots 2/14, 2/14a and 2/14b). The land is required to facilitate works to Cold Slad Lane, associated earthworks and drainage works and therefore would fall within s131(5) as land required for the widening or drainage of an existing highway or partly for the drainage of such a highway. As such SPP would not be required under s131. The land is not required temporarily and so s132 does not apply. On this basis SPP is not triggered by s131 or 132 as referred to in s130(3A).

Statutory Undertakers

8.8.29. The DCO, if made, will authorise the CA of SUs' rights on land comprising of numerous plots as identified in the BoR and shown on the Land Plans. The Applicant addresses SUs in section 7.7 of the SoR.

8.8.30. S127(3) of the PA2008 provides that a DCO may only authorise the CA of SUs' land where a representation has been made by the SU objecting to the acquisition if the SoS is satisfied that:

- The land can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or
- If purchased, the land can be replaced by other land belonging to, or available for acquisition by, the undertaker without serious detriment to the carrying on of the undertaking.

8.8.31. Section 127(6) of the PA2008 provides that a DCO may only authorise the CA of rights over SUs' land where a representation has been made by the SU objecting to the acquisition and the SoS is satisfied that:

- the rights can be acquired without serious detriment to the carrying on of the undertaking; or
- any consequential detriment to the carrying on of the undertaking can be made good by the undertaker by the use of other land belonging to or available for acquisition by the undertaker.

8.8.32. S138 of the PA2008 provides that a DCO may include provision for the extinguishment of a relevant right, or the removal of the relevant apparatus only if the SoS is satisfied that the extinguishment or removal is necessary for the purposes of carrying out the development to which the order relates. A relevant right is defined in s138(2) as meaning a right of way, or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land, which, (a) is vested in or belongs to statutory undertakers for the purpose of the carrying on of their undertaking, or (b) is conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network.

8.8.33. The Applicant has identified four SUs that may be affected by the Proposed Development:

- British Telecommunications Plc (Openreach).
- Gigaclear Ltd.
- Severn Trent Water Limited.
- Western Power Distribution.

8.8.34. The Applicant confirmed that during the preparation of the DCO they consulted with each of the relevant SUs and all land required for the diversion works has been included within the Proposed Development boundary and costs allowed for.

8.8.35. The Applicant notes that protection for SUs' assets is included within the protective provisions in Schedule 8 to the draft DCO and/ or in asset protection agreements between the Applicant and the undertaker. We have not been provided with copies of any asset protection agreements. The Applicant considers that the SUs will not suffer serious detriment to the carrying out of their undertaking as a result of the CA of the land or as a result of the acquisition of rights over land. Although we have not seen any asset protection agreements we are satisfied that the protective provisions in Schedule 8 of the rDCO would provide adequate protection. The tests set out in s127(3) and s127(6) of the PA2008 are therefore satisfied as there would be no serious detriment to the carrying out of any SU's function. In addition, proposals for the extinguishment or

removal of apparatus are wholly necessary for the carrying out of the Proposed Development. The apparatus lies within or close to existing highway that will be removed or repurposed and others made redundant given the change in alignment of the mainline. The requirements of s138 of the PA2008 are also met.

8.8.36. During the Examination only STW Ltd submitted representations. This was through a RR [RR-111] submitted following publication of the Applicant's change request and in response [REP8-040] to a Rule 17 request [PD-021], with a final position statement submitted at D9 [REP9-030]. In its final position statement STW Ltd noted that "*STW do not have an objection in principle with regard to works in respect of these specific assets. STW is content that the protective provisions within the draft DCO provide a reasonable degree of protection to STW's assets on the whole however the detail to some elements of the process and approach to cover provided to STW in respect of its potential liabilities are not in a form that fully reflects STW's requirements as a regulated body. For this scheme, STW believe that the nature of the project works and risks to the specific assets are however such that these residual concerns can be mostly managed under the current form of protective provisions provided that the Applicant's approach and proposed works complies with and has regard to all relevant standards, policies and regulatory requirements governing STW's asset*".

8.8.37. On this basis we are satisfied that the proposals would meet the requirements of s127(3), 127(6) and 138 of the PA2008 in respect of STW Ltd's land and interests.

8.8.38. The Applicant's Statement of Commonality [REP9-010] addresses British Telecommunications Plc (Openreach) and Gigaclear Ltd SUs who did not actively engage with the Examination. We requested the Applicant made additional efforts to make contact and seek responses from the relevant undertakers, but there was nothing forthcoming by the end of the Examination. On this basis it is reasonable to conclude that the SUs do not raise any matters of concern in relation to the effect on their land, interest or apparatus and that we have no evidence before the Examination to lead to any other conclusion.

8.8.39. In terms of WPD, the Statement of Commonality indicates that the Applicant and WPD have reached agreement on the terms of the draft DCO and its application to any WPD apparatus affected by the Proposed Development, including the application of the protective provisions (see Schedule 8, Part 1 of the draft DCO) as they relate to that apparatus. That agreement was completed in February 2022. We do not have a copy of the agreement but there is nothing from WPD to suggest this is not the case. We have therefore concluded that WPD has no objections to the effect on its land, interest or apparatus.

8.8.40. We are therefore satisfied that the recommended DCO (rDCO) meets the requirements of s127(3), 127(6) and 138 of the PA2008 in respect of all other SUs and that the protective provisions in the rDCO are acceptable.

8.9. LAND TO WHICH NO OBJECTION HAS BEEN RECIEVED

8.9.1. 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 during the Examination. The Applicant's Appendix B sets out a schedule of all objections made and the progress of negotiations. A number are being resolved through negotiations but have not yet completed, others relate to accepted blight notices where the process has not completed or others (the majority) relate to TP or TP with rights where discussions are ongoing to address concerns which will be resolved at the detailed design stage.

8.9.2. The land plots not addressed above are in respect of CA: 1/26, 1/23a, 1/23b, 1.31b, 2/15, 2/27, 4/10, 6/8a and 6/8c. In relation to TP with permanent rights the plots are: 1/26a, 1/23, 1/24, 1/24a, 1/30, 1/31, 1/31a, 1/34, 1/34a, 1/20, 1/20a, 1/20b, 1/35, 1/36, 2/2, 2/3, 2/5, 2/6, 2/15a, 2/15b, 4/10, 4/12, 4/12a, 4/12b, 4/13, 4/13a, 6/86/8c, 6/8g and 6/9. In terms of TP the plots are 2/27a, 6/8b, 6/8d, 6/8f.

8.9.3. The Applicant's Appendix sets out the ongoing communication with these persons and they had every opportunity to engage with the Examination.

8.9.4. The BoR identifies that that there is land in the ownership of Highways England (as was) and the SoR states 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. The Applicant has also confirmed that there is no Crown Land as defined in s135.

8.9.5. There are a number of other plots of land where land rights would be interfered with, and where no correspondence has been received to indicate that there is an objection to the CA, TP with Permanent Rights or TP of the relevant plots.

8.9.6. In all cases we have considered and conclude that the land is required for the development to which the development consent would relate or is required to facilitate or is incidental to that development and there is a compelling case in the public interest for the land to be acquired compulsorily. The same considerations apply to that land, which is sought to be acquired for TP, whether or not with permanent rights thereafter.

8.10. ExA REASONING and CONCLUSION:

8.10.1. Our approach to the question as to whether and what CA powers it should recommend to the SoST to grant has been to seek to apply the

relevant sections of the PA2008, notably s122 and s123, the CA Guidance, and the Human Rights Act 1998; and, in the light of the representations received and the evidence submitted, to consider whether a compelling case has been made in the public interest, balancing the public interest against private loss.

8.10.2. The preferred DCO [REP9-005] deals with both the Proposed Development itself and CA and TP 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 minor modifications. The consideration of the CA issues must be consistent with that view.

8.10.3. 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) insofar as it also meets s122(2).

8.10.4. We are also satisfied that the Applicant has sought to acquire land by negotiation and has modified the Proposed Development in advance of submission and by way of the material changes to reduce the extent of land for which it seeks CA or TP in accordance with paragraph 8 of the CA Guidance. This can be evidenced by the Appendix B to the SoR which sets out the ongoing discussions and negotiations, and the changes to the scheme as detailed in sections 2.2 and 2.3 above in relation to the application and section 4.5 above in relation to the consideration of alternatives.

Funding

8.10.5. In accordance with CA Guidance the Applicant submitted a Funding Statement [APP-025] with the application and reiterated that it was still valid in the last version of the SoR [REP8-015]. The Funding Statement estimates that the cost of the Proposed Development would be about £439.6 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, s10 of the Compulsory Purchase Act 1965 and s52(3) of the PA2008.

8.10.6. 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.

8.10.7. Consistent with previous SoST decisions on DCOs relating to Highways England/ National Highways and having regard to the CA 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.

8.11. HUMAN RIGHTS ACT 1988 CONSIDERATIONS

8.11.1. The Applicant acknowledges in the SoR [REP8-015] that the DCO engages a number of the articles of the ECHR as brought into UK law by the Human Rights Act 1988 but submits that such interference with individuals' rights would be lawful, necessary, proportionate and justified in the public interest.

8.11.2. It would affect Article 1 of the First Protocol (rights of those whose property is to be compulsorily acquired and whose peaceful enjoyment of their property is to be interfered with).

8.11.3. Article 6 entitles those affected by CA powers sought for the project to a fair and public hearing of their objections. The provision of CAH1 and CAH3 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.

8.11.4. 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.

8.11.5. The Applicant identifies that there are eight residential properties affected by the scheme as highlighted at 8.5.6 above. In this respect the Applicant has acquired or contracted to acquire two of the properties, Woodside House and Pinewood. A blight claim has been submitted and accepted in respect of Crickley Ridge with the appropriate process now engaged and on-going. Discretionary purchase of the plots at Shab Hill (2/32, 4/7k, 4/7e and 4/7d) and Cuckoopen Barn Farm (plots 2/33 and 2/36) has been accepted by the Applicant. The Applicant is therefore reaching or has reached agreement on these properties.

8.11.6. With regard to the properties at Fernbank and Half acre, the land to be acquired consists of sub soil rights for the construction and maintenance of longitudinal sub-surface drainage pipes which will not affect the landowners' or occupiers' ability to continue to use and occupy the properties in the same way they do now. There will therefore be no impact on their convention rights.

8.11.7. In terms of the land at Holy Brae that is fully addressed above in respect of the objectors' position and where we conclude that the CA is necessary to enable the fulfilment and implementation of the Proposed Development.

8.11.8. 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 1988 and the ECHR.

8.11.9. We are also satisfied that due to the characteristics of the Proposed Development and the mitigation that has been proposed by the Applicant, we consider that there would be no harm to the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and any persons who do not have a protected characteristic. We are satisfied that the Public Sector Equality Duty (PSED) on the Applicant has been discharged and that we have conducted the examination with full regard to our requirement to discharge this duty.

8.12. CONCLUSIONS

8.12.1. We conclude as follows:

- The CA powers sought would accord with s122(2) and (3) and 123 of the PA2008.
- The Applicant has confirmed that there is no Crown Land for the purposes of s135 of the PA2008 interests.
- We are satisfied that in all cases relating to individual objections and issues that CA, TP 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 CA of land and rights and the TP of Open Space Land is required in relation to widening or drainage works of an existing highway, with the interests of the public not adversely affected and replacement land is not necessary. Where the land is required temporarily it is Open Space and not any other description of land in s131(1) and is acquired for a temporary purpose. Where rights are acquired the land will be no less advantageous than it was before to the persons in whom it is vested, other persons entitled to rights of common (there are none) and the public. Consequently sections 131(5), 131(4B) and 132(3) of the PA2008 are met, and the Order does not need to be subject to SPP.
- The DCO meets the requirements of s127(3), 127(6) and 138 of the PA2008 in respect of SUs.
- The CA of land and rights and the TP of common land is addressed thorough replacement land which complies with the definition in section 131(12) of the PA2008 as it is greater in area than the land acquired and would be more advantageous to the persons entitled to rights of common, or to the public. The replacement land will be vested in the prospective seller and subject to the same rights, trusts and incidents as attach to the order land. Consequently s131(4) of the PA2008 has been met and the DCO does not need to be subject to SPP.
- The CA of NT land that is held inalienably has the agreement of the NT and consequently s130 of the PA2008 is not engaged and the DCO does not need to be subject to SPP.
- There is adequate funding in place for the Proposed Development.
- The Proposed Development would be compatible with the Human Rights Act 1988 in terms of being a proportionate interference with property and family life.

- We are satisfied that Public Sector Equality Duty (PSED) has been discharged in the conduct of the Examination and by the Applicant and there is no breach of the duty.
- Overall, the SoS can be satisfied that:
    - the tests in s122(2) and s122(3) PA2008 are met and recommend acceptance of the CA and TP powers proposed in the rDCO;
    - the conditions in s123(2) and s123(4) PA2008 are met;
    - the relevant tests in s131 and 132 PA2008 are met, and the DCO does not need to be subject to SPP; and
    - all of the powers for CA and TP, over all of the plots shown on the Land Plans, as provided for in the articles and schedules of the rDCO, are justified.

9. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

9.1. INTRODUCTION

9.1.1. A draft Development Consent Order (dDCO) [APP-022] and Explanatory Memorandum (EM) [APP-023] 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 1 and 2. The dDCO contained 9 schedules and therefore the Applicant was asked in the Examining Authority's (ExA) first set of written questions (ExQ1) to provide explanations as to the purpose and effect of the Schedules 3 – 9. The Applicant considered these had been adequately addressed in respect of the commentary on the individual articles and considered this would be repetitive, and we accepted this explanation.

9.1.2. 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 dDCO [APP-022] and subsequent iterations are in the form of a Statutory Instrument as required by section (s) 117(4) of the Planning Act 2008 as amended (PA2008).

9.1.3. 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 (D) 9 [REP9-005]. 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.

9.1.4. A final EM was submitted at Deadline 9 [REP9-007] which incorporated changes to that date. This Chapter then considers changes which should be made to the preferred DCO in order to arrive at the Examining Authority's (ExA's) recommended DCO (rDCO) in Appendix D to this Report in the event that the Secretary of State for Transport (SoST) is minded to make the DCO.

9.1.5. The sections of this Chapter describe:

- the DCO as applied for;
- changes during the Examination;
- wording of Requirements (R);
- matters in contention; and
- conclusions.

9.2. THE DCO AS APPLIED FOR

9.2.1. The first version of the dDCO [APP-022] 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 DCO. Provisions are included for the disapplication of certain requirements that would otherwise apply under general legislation (Article 3) and to clarify responsibilities for the maintenance of drainage (Article 4).
- Part 2 (Principal Powers): Articles 5 and 6 provide development consent for the Proposed Development and allow it to be carried out and maintained. Article 7 provides that any subsequent development granted planning permission within the Order Limits not the subject of the DCO does not constitute a breach of the DCO. Article 8 deals with limits of deviation and Articles 9 and 10 set out who has the benefit of the DCO and how that benefit can be transferred.
- Part 3 (Streets): Articles 11 to 20 provide powers in relation to street works and the application of the New Roads and Street Works Act 1991. 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. Article 20 deals with the diversion of the Cotswold Way National Trail.
- Part 4 (Supplemental Powers): Article 21 relates to the discharge of water, with Articles 22 and 23 addressing protective works to buildings and authority to survey and investigate land.
- Part 5 (Powers of Acquisition and Possession): Articles 24 through to 39 provide powers in relation to the Compulsory Acquisition (CA) and Temporary Possession (TP) of land, along with powers in relation to Statutory Undertakers (SU). It includes provisions for time limits, public rights of way, private land, acquisition of subsoil or airspace only, rights under and over streets, Special Category Land, compensation, and modifications to the compulsory purchase and compensation provisions under general legislation.
- Part 6 (Operations): Articles 40 and 41 contain powers in relation to trees and hedgerows, including those trees protected by Tree Preservation Orders and the removal of human remains.
- Part 7 (Miscellaneous and General): Articles 42 to 48 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.

9.2.2. There are nine schedules to the dDCO providing for:

- a 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);
- Protective Provisions (Schedule 8); and
- documents to be certified (Schedule 9).

9.2.3. Although there were numerous changes made to the dDCO during the Examination, as described below, its broad structure did not change.

9.3. CHANGES DURING EXAMINATION

9.3.1. 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 at D4 in February 2021 [REP4-002], in response to the ExQ1 [PD-008], (ExQ2) [PD-017], discussion at Issue Specific Hearing 1 (ISH1) [EV-017, EV-018 and EV-019], Rule 17 queries on archaeology [PD-009], the Cotswold Way National Trail diversion [PD-010], Severn Trent Water Ltd [PD-021], agreements between parties and our Proposed Changes to the dDCO [PD-020].

9.3.2. There were numerous minor changes, corrections and drafting changes. These are recorded in a table of amendments document submitted by the Applicant each time it provided a revised dDCO and the changes can be easily reviewed in the tracked changes versions of the dDCO.

9.3.3. As part of the Examination process, we published our Schedule of Proposed Changes to the dDCO existing at that time, (in respect of revision 3 of the dDCO) [REP6-007], which we considered were likely to be necessary [PD-020]. In setting out these proposed changes we made clear that these did not include all those matters where we 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.

9.3.4. At each iteration of the dDCO the Applicant submitted a clean and tracked change version of the dDCO and a table of amendments. There were five revisions of the dDCO up to the close of the Examination. Table 2: History of Draft DCOs 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 of the dDCO and the document of the table of amendments to the dDCO.

Table 2: History of Draft DCOs

Rev	Date	Event	Clean version reference	Tracked change version reference	Table of amendments to the draft DCO
0	May 2021	Application	[APP-022]		

Rev	Date	Event	Clean version reference	Tracked change version reference	Table of amendments to the draft DCO
1	December 2021	D1	[REP1-003]	[REP1-004]	[REP1-005] First one
2	February 2022	D4 to accompany proposed changes	[REP4-014]	[REP4-015]	[REP4-019] Rev 1
3	March 2022	D6	[REP6-007]	[REP6-008]	[REP6-009] Rev 2
4	May 2022	D8	[REP8-009]	[REP8-010]	[REP8-013] Rev 3
5	May 2022	D9	[REP9-005]	[REP9-006]	[REP9-009] Rev 4

9.3.5. We are satisfied that the majority of these changes are justified by the evidence before us and can be recommended for inclusion in the DCO if the SoST concludes that development consent should be granted. Where there have been significant areas of contention or there was some debate as to the content of the provisions, we set this out below along with our commentary and recommendation. The rDCO sets out various approval processes contained within the Requirements and Environmental Management Plan (EMP), and which require the approval of the SoS. These are not unusual in road schemes of this nature. There were no submissions from any Interested Parties (IP) made contending the approval processes or deemed consent provisions set out within the DCO articles, requirements or schedules, including from the Joint Councils which included the local highway authority. Where we have gone on to suggest further amendments and do not agree with the Applicant on

specific matters these are set out in Table 3: DCO Provisions Recommended to be Changed.

9.4. MATTERS IN CONTENTION

9.4.1. This section of the Report addresses the matters where IPs did not agree with the Applicant as to the substance of the dDCO, where there was some debate around the nature of the provisions or where there were changes to the dDCO from its original submission. This will be dealt with by topic area rather than by each Article and Schedule, but reference will be made to the appropriate Articles and Schedules affected for clarity.

9.4.2. A number of these have been considered in detail in the relevant Chapter of this Report and we will therefore not repeat our detailed reasoning here why we consider that the preferred DCO should be amended, since that was set out above.

9.4.3. 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 include consideration of these matters.

9.4.4. Having concluded on each matter, Table 3: DCO Provisions Recommended to be Changed sets out our proposed changes to the preferred DCO. This includes changes considered appropriate through consideration of the planning issues in Chapter 5. All are cross-referenced from where the recommendation is considered in the table.

Disapplication of Legislative Provisions

9.4.5. Under s120(5)(c) PA2008, a DCO may include any provision that appears to the SoST to be necessary or expedient for giving full effect to any other provision of the order. s150 PA2008 limits this power by preventing certain prescribed consents from being included within the DCO unless the relevant body consents. The relevant body is the body or person which would otherwise be required to grant the prescribed consent or authorisation. Regulation 5 and Part 1 of Schedule 2 of the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 (the 2015 regs) detail the consents which are prescribed in England for the purpose of s150 PA2008.

9.4.6. Article 3 in the dDCO as originally submitted sought to disapply various statutory provisions including matters related to the Environmental Permitting (England and Wales) Regulations 2016, Water Resources Act 1991 (WRA 1991), Land Drainage Act 1991, the Wildlife and Countryside Act 1981 (WACA1981), the Building Act 1984 and the Neighbourhood Planning Act 2017. At D4 a second revision to the dDCO was provided [REP4-014] which included further additions to the list of legislative provisions to be disapplied and which included section 28H of the WACA1981 and s55 of the National Parks and Access to the Countryside Act 1949 (NP&ACA 1949).

9.4.7. In relation to matters (a) to (d) in the D4 dDCO which covered Regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016, s24 of the WRA 1991, s25 of the WRA 1991 and paragraphs 5, 6 or 6A of Schedule 25 to the WRA 1991; these are prescribed consents under the 2015 regs, with the Environment Agency being the relevant body. During the Examination the EA did not agree to the disapplication of these provisions and therefore at D8 these were removed from the next iteration of the dDCO along with Article 3(2) and any corresponding footnotes.

9.4.8. Given the legal position outlined above this was an appropriate response and we conclude was necessary. There were associated Protective Provisions for the EA included in Schedule 8, which were also removed which we deal with below.

9.4.9. The Applicant also inserted the disapplication of s55 of the NP&ACA 1949 to the list which we accept, and which is addressed in more detail below in respect of the Cotswold Way National Trail.

9.4.10. The Applicant's initial dDCO [REP1-003] contained, within Article 3, a disapplication of s28E and to which s28H of WACA 1981 was added at D4 [REP4-014]. These remain in the Applicant's preferred DCO. These sections relate to the legal duties of any party where land within a SSSI is to be affected. Section 28E requires a notification process to Natural England (NE) for works to a Site of Special Scientific Interest (SSSI), and subsequent approval to be received from NE before any such works can take place.

9.4.11. The Applicant is relying on the broad powers in s120 of the PA2008. The constraints in s150 of PA2008 are not applicable here as s28E and s28H of WACA 1981 are not on the list of prescribed consents in the 2015 Regs. The Applicant has set out the reasons why it believes it meets the "*necessary or expedient*" test in s120 PA2008 [REP4-017].

9.4.12. However, NE objected to the disapplication, primarily because this would be inconsistent with the Planning Inspectorate's own Advice Note 11, but also because it would allow the Applicant to side-step the legal duties under s28E (notification and gaining consent) for new SSSIs within the Order Limits, without NE having the opportunity to put forward its views in Examination and to ensure that appropriate legal safeguards were incorporated into the dDCO. NE was concerned that the land being improved for calcareous grassland, particularly that contiguous with the existing SSSI, could become worthy of designation as a SSSI (as an extension or in its own right) in the future, over which the Applicant would have the complete ability to carry out works without recourse to NE via the disapplication of the cited provisions.

9.4.13. We sought (questions 2.5.12 and 2.5.13 [PD-017]) resolution, but the responses from the Applicant [REP6-015] and NE [REP6-038] indicate the matter, and whether the inclusion of the disapplication provision within Article 3, remains unresolved. The Statement of Common Ground (SoCG)

with NE reaffirmed the dispute, with the Applicant's relying on the legal advice presented at D3 ([REP3-009], Appendix A).

9.4.14. We note that ES Chapter 8 ([APP-039] paragraphs 8.9.17*ff*) suggests additional calcareous grassland being provided within the boundary of the current SSSI unit at Barrow Wake and becoming an effective extension. Whilst not described in such terms, we consider NE's suggestion that such additional land could become eligible for designation due to its continuity with the existing SSSI is a sound one. Furthermore, we consider that no convincing evidence has been submitted to the Examination to demonstrate that the provisions of s28E, H and I of WACA 1981 represent a significant impediment to the delivery of the Proposed Development. NE expressed that the dDCO could, if made, provide for the "*reasonable excuse*" for works to be undertaken within a SSSI in any event.

9.4.15. Given the national shift towards greater environmental protection and biodiversity enhancement, we take a precautionary approach and advocate to SoST that the requested disapplication of s28E and H of WACA 1981 are removed from the Applicant's preferred DCO in order to protect potential future SSSI land within the Order Limits. The rDCO (Appendix D) has those elements removed from Article 3.

Changes to Application/ Flyup Limited

9.4.16. At D4 the Applicant submitted a change request which sought to address access concerns of the owners/ operators of Flyup Limited with regards to impacts on the access and operation of their business, as well as upon the amenity of their family home. Along with the change request the Applicant provided a further iteration of the dDCO [REP4-014] and in which a number of additions or changes were made to accommodate the change request. These included alterations to Article 8(a)(iii), Schedule 1 new work 1(y) added, Schedule 4, part 4 new private means of access added, Schedule 5 amended to reflect new works and rights, schedule 7 amended in respect of land of which TP may be taken and which included plots 1/19, 1/19a, 1/19b, 1/19f, 1/19j, 1/19h, 1/190, 1/19r and 1/19t.

9.4.17. These matters are considered and addressed in the socio-economic section in Chapter 5 above at paragraphs 5.8.31 to 5.8.36 and in the CA/ TP Chapter above. In respect of the DCO following on from the conclusions arrived at elsewhere we are satisfied that these changes are reasonable and necessary. They are included in the Applicant's preferred DCO and they are included in the rDCO (Appendix D).

Cotswold Way National Trail

9.4.18. Article 20 of the Applicant's preferred DCO provides for the diversion of the Cotswold Way National Trail. The details of the proposed permanent and temporary diversions are provided in the Cotswold Way National Trail Diversion Report, the latest version which was provided at D8 [REP8-025], and which would become a certified document if the DCO is

granted. Article 3 of the preferred DCO also seeks to disapply s55 of the NP&ACA 1949.

9.4.19. Paragraphs 5.8.49 through to 5.8.53 above in Chapter 5 address the consideration and acceptability of the diversion and the effect on the National Trail. In effect we have concluded that there would be significant benefits, and this is supported by CCB, the Joint Councils and NE.

9.4.20. The National Trail Diversion Report notes at paragraph 1.1.6 that it has been prepared by National Highways in consultation with and is approved by NE and the CCB. The report notes that s120 of the PA2008 sets out what may be included within a DCO and provides the legal basis for both the disapplication of s55 of the NP&ACA1949 Act and a separate provision to give effect to the diversion of the national trail. It goes on to state that Article 20 of the dDCO provides that the national trail diversion will take effect on the date on which the permanent diversion is laid out and provided in accordance with the report. Furthermore, it states that once the diversion has taken effect, the Applicant will provide NE with mapping details of the new route in a format compatible with Natural England's Geographic Information Systems, in order to enable the updating of NE's records and public information displays. It concludes with the statement that "*In accordance with Requirement 20 of the draft DCO, should the Secretary of State be minded to grant the DCO for the scheme, the Cotswold Way National Trail shall be varied in accordance with this report*".

9.4.21. At point 10.4 of the SoCG between the Applicant and NE [REP9-014] the following points are included amongst others. The Cotswold Way National Trail Diversion Report, prepared by the Applicant in consultation with NE, demonstrates that the proposals are appropriate and necessary in order to facilitate a Nationally Significant Infrastructure Project and improve connectivity for all users of the Cotswold Way National Trail.

9.4.22. It goes on to state that the DCO sought by the Applicant would, if granted, disapply s55 of the NP&ACA 1949, and secure the diversion through Article 20 and the Cotswold Way National Trail Diversion Report as a certified document. The Environmental Management Plan (EMP) (also a certified document) would provide for further controls on the diversion. NE now agrees that those controls are adequate and appropriate. NE's position is that it is necessary/ preferable for the DCO itself to make a direction diverting the route as per the legislation. However, ultimately this is a question for the ExA and SoST.

9.4.23. The final comment in the SoCG at this point then notes that an updated Cotswold Way National Trail Diversion Report (Document 7.11 (Rev 1)) has been prepared to confirm that the diversion would be secured by way of the DCO provisions, rather than under s55, and this has been submitted at D8 (6 May 2022). These matters were agreed in the SoCG.

9.4.24. In ExQ2 we had asked the Applicant and NE whether the Department for the Environment, Food and Rural Affairs (DEFRA) had been engaged and whether they were content with the proposed approach. In its D7

response to comments made at D6 [REP7-005] the Applicant confirmed that it was continuing to engage with DEFRA to obtain its agreement to the approach being adopted. It further confirms that no competing reason had been advanced as to why it would not be appropriate to disapply the provisions of s55. The Applicant also notes that the additional conditions requested by NE are already, in effect, catered for in the existing documentation through Cotswold Way National Trail Diversion Report, the Rights of Way and Access Plans [REP6-005], the Public Rights of Way Management Plan (Annex F to the EMP [APP-323]) and schedules 3 and 4 to the dDCO.

9.4.25. We are satisfied that the diversion of the national trail would bring significant benefits as discussed elsewhere and that it is appropriate and necessary to include provision for this in the DCO. There has been some discussion around the nature of how this should be achieved and whether s55 of the NA&ACA 1949 should be disapplied. The Cotswold Way National Trail Diversion Report makes it clear that the Applicant proposes s55 is to be disapplied and that the diversion is to be secured through Article 20 securing the National Trail Diversion Report which provides the detail for the diversions. This final version of the report has been agreed and accepted by NE. The diversion is accepted and supported by Cotswold Conservation Board (CCB) and the Joint Councils and there were no objections to this matter.

9.4.26. On this basis we are satisfied that the legal provisions contained in s120 and s150 of the PA2008 enable the inclusion of such provisions and disapplication of s55 of the NP&ACA 1949 and there are no objections to this from NE who would be the advising body to the relevant SoS in any diversion under that act. We are therefore satisfied with Article 20 and the relevant part of Article 3 and retain these in the rDCO (Appendix D).

Emma's Grove

9.4.27. At D4 the Applicant made various amendments to the dDCO and schedules to facilitate access to Emma's Grove, a scheduled monument. The effect of the Proposed Development on Emma's Grove is considered and assessed at paragraphs 5.4.67 to 5.4.81 in Chapter 5 above where it is concluded that we are satisfied that the scheduled monument will be protected, albeit that there will be some harm to the asset due to the adverse effect on its setting. The alteration to the DCO to facilitate improved access to the scheduled monument from the repurposed A417 would improve the visitor experience and access in the surrounding area. We are satisfied that this is an appropriate and proportionate response and is acceptable. The changes to the dDCO and schedules are necessary to give effect to the change and we therefore have accepted those changes and they are retained in the rDCO (Appendix D).

Detailed Archaeological Mitigation Strategy & Outline Written Schemes of Investigation (DAMS & OWSI)

9.4.28. Matters relating to the assessment and approach to buried remains is addressed in Chapter 5 at paragraphs 5.4.61 to 5.4.66 above. In effect

whilst there were concerns raised at the start of the Examination, discussion continued during the Examination to reach a conclusion by the end of the Examination that Historic England [REP9-015], the Joint Councils [REP9-012] and CCB [REP9-016], with the DAMS/ OWSI secured, they were satisfied with the approach to and safeguarding of buried remains. At the outset of the examination the DAMS/ OWSI was included as an appendix to the EMP. By the end of the Examination the DAMS/ OWSI had been extracted to be a free-standing document identified as a certified document in Schedule 9, been defined in R1 of Schedule 2 and R9 had been significantly altered to make direct reference to it.

9.4.29. As the IPs have concluded that they support the Proposed Development on the basis of the secured DAMS/ OWSI and we have concluded that this is a necessary and appropriate approach we accept that the rDCO needs to ensure that the DAMS/ OWSI is secured. In general, we are satisfied this is the case and these matters are therefore appropriately included. There are however a couple of minor adjustments that need to be made to the preferred DCO to ensure clarity and precision. Firstly, in the context of Schedule 2 R9(5) the clause is phrased in such terms as suitable resources and provisions for long term storage of the archaeological archive will be agreed with the county archaeologist. In our view this is expressed as an intention rather than an obligation placed on the Applicant to ensure it is. We therefore suggest that "*will be*" should be replaced with "*must be*" to give effect to this obligation.

9.4.30. The second matter relates to Schedule 9 where the document to be certified as the DAMS/ OWSI is identified as document reference "*volume 2, document 6.4, appendix 2.1*" and "*revision 0 – deadline 8 submission*". The original document was [APP-320] and an appendix to the EMP, and this was included at "*volume 6 as document 6.4 appendix 2.1*". This was extracted from the EMP and submitted as a separate document to the Examination at D8. The document is referred to in the document tracker as volume 6 document 6.8 [REP8-022] and within its cover pages as version C01. To ensure clarity and avoid confusion it is suggested that this is reflected in Schedule 9, and this is reflected in the rDCO (Appendix D)

Design

9.4.31. At D6 the Applicant submitted new plans in the form of document 2.6c Structures Engineering Drawings and Sections [REP6-006]. Associated with this were changes to the dDCO in terms of amendments to Schedule 2 R1 to insert a definition of these drawings and to refer to them as certified documents and which were then identified in Schedule 9 as such. R11 was also amended to include reference to these documents.

9.4.32. This matter is discussed in paragraphs 5.6.35 to 5.6.44 above in the context of good design. Within that we conclude that the provision of these additional detailed drawings, coupled with an adjustment of R11 to make reference to the new plans now forming certified documents,

addressed the concerns of the IPs as is demonstrated by the fact this was not identified as an outstanding issue in any of their final signed SoCGs. On this basis we conclude that these are necessary and appropriate matters to secure in the DCO and we have therefore maintained them within the rDCO (Appendix D). The certified document at Schedule 9 however refers to these as "*revision 0- Application issue*". They were not submitted at application but at D6 and therefore to ensure consistency with other citations and to ensure clarity and precision we suggest amending the Schedule 9 citation to reflect this. This is carried through into the rDCO (Appendix D).

National Star Drainage

9.4.33. At the start of the Examination National Star College raised concerns regarding drainage proposals that may affect its land. This included provisions within the original DCO for permanent rights. These matters have been discussed above at paragraphs 5.10.36 to 5.10.38 in the context of drainage matters, and at paragraphs 8.7.52 to 8.7.57 above in relation to CA/ TP.

9.4.34. The Applicant amended the provisions within the dDCO at D4 following agreement with the EA about runoff and amended Schedules 5 and 7 to reflect the fact it no longer required permanent rights but maintained a need for temporary rights to enable the undertaker to undertake the drainage works. We have concluded that we are satisfied that there is a need to manage the run-off arising from construction works within the vicinity of the National Star College and that the proposals would provide the necessary management.

9.4.35. In this context we are satisfied with the arrangements as amended in the Applicant's preferred DCO and have maintained these in the rDCO (Appendix D).

Protective Provisions

9.4.36. The preferred DCO includes Protective Provisions at Schedule 8. These are for the benefit of electricity, gas, water and sewerage undertakers and for the protection of operators of electronic communications code networks. The Applicant confirms that these are in a form that are based upon previous made DCOs.

9.4.37. The Applicant submitted a final version of its Statement of Commonality (Version 4) [REP9-010]. Within that it is stated that British Telecom Openreach and Gigaclear have not engaged with the process albeit the Applicant has sought to engage on numerous occasions. We have had no communication from these undertakers and they have not raised any issues regarding the protective provisions. Furthermore, Western Power Distribution Plc (WPD) have engaged, and the Applicant has confirmed it has reached agreement with WPD plc. We have received no submissions objecting to the Protective Provisions from WPD plc.

9.4.38. Towards the end of the Examination the Applicant managed to get engagement from Severn Trent Water Plc (STW) in respect of Protective

Provisions and matters affecting its undertaking. We issued a request for further information from STW and the Applicant regarding these matters [PD-021].

9.4.39. STW have confirmed [REP9-030] that it has been in discussion with the Applicant with regard to the engineering solutions for the diversions and the details of these are currently under discussion. As such, it does not have an objection in principle with regard to works in respect of these specific assets. STW is content that the protective provisions within the dDCO provide a reasonable degree of protection to STW's assets on the whole. However, the detail to some elements of the process and approach to cover provided to STW in respect of its potential liabilities are not in a form that fully reflects STW's requirements as a regulated body.

9.4.40. STW goes on to note that the nature of the project works and risks to the specific assets are such that these residual concerns can be mostly managed under the current form of protective provisions provided that the Applicant's approach and proposed works complies with and has regard to all relevant standards, policies and regulatory requirements governing STW's asset. STW therefore expects the Applicant to continue to engage with STW over coming days in dialogue to reach a final agreed position to cover the on-going approvals process for protection and diversion of STW's assets and to provide acceptable cover for STW's liabilities.

9.4.41. STW does not therefore raise objections to the protective provisions and advise, believing matters can be resolved in the context of the Protective Provisions as drafted.

9.4.42. We therefore accept the protective provisions in Schedule 8 and have not amended these in our rDCO, considering them reasonable and appropriate.

9.4.43. The original dDCO did include Protective Provisions related to the EA. However, given the Applicant’s removal of the disapplication of certain provisions where the EA were the relevant authority and objected (see above), those provisions were no longer required, and the Applicant removed them from the dDCO.

Revocations & Variations of Existing Traffic Regulation Orders

9.4.44. At D6 the Applicant included within the amended dDCO a new Part 7 in Schedule 3. Schedule 3 relates to the classification of roads etc. The new Part 7 provides for a list of the revocations and variations of existing traffic regulation orders and provides additional clarity in this regard. No comments or objections were raised in respect of the additions, and we have no evidence before the Examination to suggest it is incorrect or incomplete. We are satisfied that it is reasonable and appropriate and maintain it within the rDCO (Appendix D).

Other Changes Recommended by the ExA.

9.4.45. There are a number of citations in Schedule 9 where the certified documents are identified which refer to an incorrect volume in the second column. This occurs in respect of the EMP (design stage), the EMP (design stage) Annex A Environmental Constraints, EMP (design stage) Annex B Construction Traffic Management Plan, EMP (design stage) Annex D Landscape and Ecological Management Plan, EMP (design stage) Annex E Materials Management Plan, EMP (design stage) Annex F Public Rights of Way Management Plan, EMP (design stage) Annex G Ground and Surface Water Management Plan and the EMP (design stage) Annex H Site Waste Management Plan. In all these instances the volume referred to is volume 2 whereas it should refer to volume 6. These are typographical errors and are amended in the rDCO (Appendix D).

Table 3: DCO Provisions Recommended to be Changed

Provision	Examination Issue	Recommendations
Article 3 (d) section 28E (duties in relation to sites of special scientific interest) of the Wildlife and Countryside Act 1981; (e) section 28H (statutory undertakers, etc.: duty in relation to carrying out operations) of the Wildlife and Countryside Act 1981.	Whether Article 3 (d) and (e) should be disapplied.	Article 3(d) and 3(e) should be deleted from the list of provisions to be disapplied. The following provisions should then be renumbered so 3(f), 3(g) and 3(h) become 3(d), 3(e) and 3(f).
Schedule 2 R9(6) (6) Prior to commencement of the authorised development, suitable resources and provisions for long term storage of the archaeological archive will be agreed with the County Archaeologist.	The clause in the requirement is not phrased as an obligation on the Applicant to carry out an action but rather is stated as an intention.	Alter "*will be*" to "*must be*" to read as follows: (6) Prior to commencement of the authorised development, suitable resources and provisions for long term storage of the archaeological archive must be agreed with

Provision	Examination Issue	Recommendations
		the County Archaeologist.
Schedule 9: Detailed Archaeological Mitigation Strategy and the Overarching Written Schemes of Investigation. Volume 2, Document 6.4, Appendix 2.1 Version CO1 – Deadline 8 Issue	The citation could create confusion and should be amended.	Amend citation to more accurately reflect the document to be identified: Detailed Archaeological Mitigation Strategy and the Overarching Written Schemes of Investigation. Volume 6, Document 6.8 Version CO1 – Deadline 8 Issue
Schedule 9: Environmental masterplan Volume 2, Document 6.3, Figure 7.11 Revision 0 – Application Issue (save for Sheet 2 (Revision 1 – Deadline 4 Issue), Sheet 3 (Revision 1 – Deadline 4 Issue), and Sheet 6 (Revision 1 – Deadline 8 Issue)	Typographical error	This should be amended to read in Schedule 9: Environmental masterplan Volume 6, Document 6.3, Figure 7.11 Revision 0 – Application Issue (save for Sheet 2 (Revision 1 –Deadline 4 Issue), Sheet 3 (Revision 1 – Deadline 4 Issue), and Sheet 6 (Revision 1 – Deadline 8 Issue)
Schedule 9 Environmental management plan (design stage)	Typographical error	This should be amended to read in Schedule 9:

Provision	Examination Issue	Recommendations
Volume 2, Document 6.4, Appendix 2.1 Revision 3 – Deadline 6 Issue		Environmental management plan (design stage) Volume 6, Document 6.4, Appendix 2.1 Revision 3 – Deadline 6 Issue
Schedule 9 Environmental management plan (design stage) Annex A Environmental Constraints Plan Volume 2, Document 6.4, Appendix 2.1, Annex A Revision 0 – Application Issue	Typographical error	This should be amended to read in Schedule 9: Environmental management plan (design stage) Annex A Environmental Constraints Plan Volume 6, Document 6.4, Appendix 2.1, Annex A Revision 0 – Application Issue
Schedule 9 Environmental management plan (design stage) Annex B Construction Traffic Management Plan Volume 2, Document 6.4, Appendix 2.1, Annex B Revision 3 – Deadline 8 Issue	Typographical error	This should be amended to read in Schedule 9: Environmental management plan (design stage) Annex B Construction Traffic Management Plan Volume 6, Document 6.4, Appendix 2.1, Annex B Revision 3 – Deadline 8 Issue
Schedule 9 Environmental management plan	Typographical error	This should be amended to read in Schedule 9:

Provision	Examination Issue	Recommendations
(design stage) Annex D Landscape and Ecological Management Plan Volume 2, Document 6.4, Appendix 2.1, Annex D Revision 0 – Application Issue		Environmental management plan (design stage) Annex D Landscape and Ecological Management Plan Volume 6, Document 6.4, Appendix 2.1, Annex D Revision 0 – Application Issue
Schedule 9 Environmental management plan (design stage) Annex E Materials Management Plan Volume 2, Document 6.4, Appendix 2.1 Revision 0 – Application Issue	Typographical error	This should be amended to read in Schedule 9 Environmental management plan (design stage) Annex E Materials Management Plan Volume 6, Document 6.4, Appendix 2.1 Revision 0 – Application Issue
Schedule 9 Environmental management plan (design stage) Annex F Public Rights of Way Management Plan Volume 2, Document 6.4, Appendix 2.1, Annex F Revision 0 – Application Issue	Typographical error	This should be amended to read in Schedule 9 Environmental management plan (design stage) Annex F Public Rights of Way Management Plan Volume 6, Document 6.4, Appendix 2.1, Annex F Revision 0 – Application Issue

Provision	Examination Issue	Recommendations
Schedule 9 Environmental management plan (design stage) Annex G Ground and Surface Water Management Plan Volume 2, Document 6.4, Appendix 2.1, Annex G Revision 0 – Application Issue	Typographical error	This should be amended to read in Schedule 9 Environmental management plan (design stage) Annex G Ground and Surface Water Management Plan Volume 6, Document 6.4, Appendix 2.1, Annex G Revision 0 – Application Issue
Schedule 9 Environmental management plan (design stage) Annex H Site Waste Management Plan Volume 2, Document 6.4, Appendix 2.1, Annex H Revision 0 – Application Issue	Typographical error	This should be amended to read in Schedule 9 Environmental management plan (design stage) Annex H Site Waste Management Plan Volume 6, Document 6.4, Appendix 2.1, Annex H Revision 0 – Application Issue
Schedule 9 Structures engineering drawings and sections Volume 2, Document 2.6c Revision 0 – Application Issue	To ensure clarity and identify the appropriate submission	This should be amended to read in Schedule 9: Structures engineering drawings and sections Volume 2, Document 2.6c Revision 0 – Deadline 6 issue.

9.5. CONCLUSIONS

9.5.1. We have considered all the iterations of the dDCO submitted by the Applicant set out in Table 1, and have noted the changes made during the Examination made in response to the material changes [REP4-002], responses to representations made and our proposed changes [PD-020].

9.5.2. In light of the evidence submitted and heard we have recommended a number of additional changes to the Applicant's final version preferred DCO submitted at D9 [REP9-005] which are set out in Table 4: DCO Provisions Recommended to be Changed above. These are incorporated into the rDCO which is set out in Appendix D.

9.5.3. 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 Environmental Statement.

9.5.4. 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.

9.5.5. 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 7.

10. SUMMARY OF FINDINGS AND CONCLUSIONS

10.1. INTRODUCTION

10.1.1. 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).

10.2. CONSIDERATION OF FINDINGS AND CONCLUSIONS

10.2.1. In relation to section (s) 104 of the Planning Act 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 (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 Report from the Joint Councils in reaching our conclusions.

10.2.2. Whilst the SoST is the competent authority under the Habitats Regulations (HR), 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 Wye Valley and Forest of Dean Bat Sites Special Area of Conservation (SAC); North Meadow and Clattinger Farm SAC; Severn Estuary SAC; and Severn Estuary Special Protection Area (SPA) European sites. With regard to Cotswold Beechwoods SAC and Severn Estuary Ramsar site we have concluded that subject to the mitigation measures to be secured in the recommended DCO (rDCO), adverse effects on the integrity of the Cotswold Beechwoods SAC and Severn Estuary Ramsar European sites from the Proposed Development can be excluded alone or in combination with other plans or projects for each of the sites. These findings have been taken into account in reaching our recommendation.

10.2.3. 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.

10.2.4. We accepted a change to the Proposed Development during the Examination. The changes are set out in more detail in Chapter 2 and were:

- a change request in February 2022, which was effectively to resolve concerns expressed by Flyup Limited about access to, and the operation of, its business to provide for alternative access arrangements, which included "*additional land*" [REP4-002].

10.2.5. While we concluded the changes represented a material change, none of the changes, either individually or cumulatively, fundamentally changed

the Proposed Development to the extent that a new application would have been necessary.

10.2.6. 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. We are satisfied this would not be the case. 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.

10.2.7. The Proposed Development would deliver a number of benefits which are specific to this proposal. These include:

- Benefits from a decrease in congestion, improved journey times and enhanced highway safety which would make an important contribution to the improvement and enhancement of the existing strategic road network to which we attach substantial weight.
- Improvements to priority habitats and features that contribute to the special qualities of the Area of Outstanding Natural Beauty (AONB) including dry-stone walls, calcareous grassland and woodland, and improvements to walking, cycling and horse-riding facilities, albeit there are some minor severance issues and the provision of the Air Balloon Way.
- Economic and social benefits would also be realised from improved connectivity, both regionally and in the immediate vicinity of the Proposed Development, and improved reliability of journeys and through improvements to road safety.
- The Proposed Development would also comply with local Development Plan policy and allocations for delivery of transport infrastructure.

10.2.8. With the mitigation proposed through the rDCO in Appendix D of this Report, taking into account s104(7) of the Planning Act 2008 (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).

10.2.9. 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.

10.2.10. 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 hearings 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.

10.2.11. However, with the weight of national policy in favour of the Proposed Development, the wider public interest justifies 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.

10.2.12. We have had regard to the Public Sector Equality Duty (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. On that basis, there would be no breach of the PSED.

10.2.13. As required by Regulation 3(1), (2) and (3) 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, had regard to the desirability of preserving or enhancing the character or appearance of any conservation area and had regard to the desirability of preserving scheduled monuments or their setting.

10.2.14. Where we have found that there would be harm to the significance of designated heritage assets (as set out in section 5.4 of this Report), we consider that this would be less than substantial in each instance. In Chapter 7 we conclude that, taking account of the public benefits of the Proposed Development, the benefits would outweigh the harm upon each of the designated heritage assets.

10.2.15. 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.

10.2.16. We have concluded that the Proposed Development would, as per the Environmental Statement (ES), lead to an increase in greenhouse gas emissions of 0.9 million tCO_2e over and above the do-minimum scenario, albeit such emissions may be tempered in the long term by electrification of vehicles on the network and are predicted to fall. However, given that the Proposed Development, once operational, would only lead to a minor increase in emissions contributing towards any of the legislated carbon budgets, it is unlikely that the project's emissions, in isolation, would be so significant as to affect the ability of the Government to meet its carbon reduction plan targets or international obligations. The SoST will need to consider the relevance and importance of the Net Zero Strategy (NZS) following the outcomes of the recent legal challenge against the NZS.

10.2.17. The application site is within a nationally designated area, the Cotswolds AONB, and the Proposed Development would result in harm to the AONB. The Proposed Development would also cause harm to designated

heritage assets as identified above. We are confident that there are exceptional circumstances for the grant of consent for the Proposed Development in the Cotswolds AONB; there are compelling reasons for the new road and its enhanced capacity, and the benefits outweigh the costs very significantly. The Proposed Development would be carried out to a high environmental standard, including measures that would enhance the environment and these are secured through appropriate requirements. The Proposed Development would therefore meet the appropriate tests for development within a nationally designated area as set out in paragraphs 5.150 to 5.153 of the NPSNN. The less than substantial harm to the significance of designated heritage assets is, in each case outweighed by the public benefits of the Proposed Development and would therefore meet the test at 5.134 of the NPSNN in this regard.

10.2.18. We are satisfied, on balance, that the Proposed Development meets the tests in s104 of PA2008.

10.3. RECOMMENDATION

10.3.1. 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 the SoST makes 'The A417 Missing Link Development Consent Order' in the form recommended at Appendix D of this Report.

APPENDICES

APPENDIX A: THE EXAMINATION A:1
APPENDIX B: EXAMINATION LIBRARY B:1
APPENDIX C: LIST OF ABBREVIATIONS C:1
APPENDIX D: THE RECOMMENDED DCO D:1

APPENDIX A: THE EXAMINATION

The table below lists the main events that occurred during the Examination and the Procedural Decisions taken by the Examining Authority (ExA).

Date	Examination Event
14 September 2021	**ExA's Unaccompanied Site Inspection (USI1)**
30 September 2021	**Publication by the ExA of:** • Rule 6 letter - Notification of appointment of the ExA, notification of Preliminary Meeting and other Procedural Decisions
22 October 2021	**Procedural Deadline A** Deadline for receipt by the ExA of: • Written submissions on the examination procedure, including any submissions about the use of virtual procedures • Requests to be heard orally at the Preliminary Meeting Part 1
2 November 2021	**Preliminary Meeting - Part 1**
8 November 2021	**Publication by the ExA of:** • ExA's response to s102A application
10 November 2021	**Procedural Deadline B** Deadline for receipt by the ExA of: • Written submissions on examination procedure including responses to matters raised orally at the Preliminary Meeting Part 1 • Requests to be heard orally at the Preliminary Meeting Part 2
16 November 2021	**Publication by the ExA of:** • Rule 8 letter - Examination Timetable and other Procedural Decisions, including Procedural Decision to close the Preliminary Meeting in writing • ExA's Written Questions (ExQ1)

16 November 2021	**Start of Examination**
14 December 2021	**Deadline 1 (D1)** For receipt by the ExA of: • Responses to ExQ1 • Local Impact Reports (LIR) from Local Authorities • Written Representations (WRs), including summaries of all WRs exceeding 1500 words • Responses to Relevant Representations • Statements of Common Ground (SoCG) requested by the ExA • Updated Statement of Commonality for SoCG • The Compulsory Acquisition Schedule • Notification by Statutory Parties of their wish to be considered as an Interested Party (IP) by the ExA • Notification of wish for any IP to participate in an Open Floor Hearing • Notification of wish for any Affected Person to participate in a Compulsory Acquisition Hearing • Submission by the Applicant, IPs and APs of suggested locations for the ExA to include in any Site Inspection, including the reason for nomination and issues to be observed, information about whether the location can be accessed using public rights of way or what access arrangements would need to be made • Any further information requested by the ExA under Rule 17 of the Examination Rules
17 December 2021	**Publication by the ExA of:** • Rule 13 and 17 letter - Notification of Hearings and Request for Further Information
13 January 2022	**Deadline 2 (D2)** For receipt by the ExA of:

	• Comments on responses received by D1 • Comments on WRs • Comments on responses to ExQ1 • Progressed Statements of Common Ground • Progressed Statement of Commonality for SoCG • Comments on LIR(s) • Applicant's updated Guide to the Application • An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions • Schedule of changes to the dDCO • An updated Compulsory Acquisition Schedule in clean and tracked versions • Submission by the Applicant of low-resolution documents • Any further information requested by the ExA under Rule 17 of the Examination Rules
14 January 2022	**Publication by the ExA of:** • Rule 17 letter - Request for Further Information
24 January 2022	**Open Floor Hearing 1 (OFH1)**
25 January 2022	**Issue Specific Hearing 1 (ISH1)**
26 January 2022	**Compulsory Acquisition Hearing 1 (CAH1)**
27 January 2022	**Issue Specific Hearing 2 (ISH2)**
31 January 2022	**Publication by the ExA of:** • Rule 13 letter - Notification of Hearings
2 February 2022	**Deadline 3 (D3)** For receipt by the ExA of: • Written summaries of oral submissions to Hearings held during the week commencing 24 January 2022 • Comments on responses received by D2 • Progressed Statements of Common Ground • Progressed Statement of Commonality for SoCG

	• An updated Guide to the Application • An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions • Schedule of changes to the dDCO • An updated Compulsory Acquisition Schedule in clean and tracked versions • Notification of wish for any Interested Party to attend an ASI in February (if held) • Any further information requested by the ExA under Rule 17 of the Examination Rules
2 February 2022	**Publication by the ExA of:** • Rule 9 letter - Procedural Decision in respect of site inspections
2 February 2022	**Receipt by the ExA of:** • Applicant's notice of intention to make changes to the application
7 February 2022	**Publication by the ExA of:** • ExA's response to the Applicant's notice of intention to make changes to the application
14 February 2022	**Deadline 4 (D4)** For receipt by the ExA of: • Comments on responses received by D3 • Progressed Statements of Common Ground • Progressed Statement of Commonality for SoCG • An updated Guide to the Application • An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions • Schedule of changes to the dDCO • An updated Compulsory Acquisition Schedule in clean and tracked versions • Any further information requested by the ExA under Rule 17 of the Examination Rules
14 February 2022	**Receipt by the ExA of:** • Applicant's formal request to make changes to the application

17 February 2022	**Publication by the ExA of:** • Notification of decision to accept the Applicant's change request (letter to the Applicant) • Rule 9 letter - Procedural Decision to accept the Applicant's change request (letter to Interested Parties) • The ExA's Proposed Provision Checklist
28 February 2022	**ExA's Unaccompanied Site Inspection (USI2)**
1 March 2022	**ExA's Unaccompanied Site Inspection (USI3)**
3 March 2022	**Issue Specific Hearing 4 (ISH4)**
4 March 2022	**Period for receipt of representations on the Applicant's change request opens**
9 March 2022	**Deadline 5 (D5)** For receipt by the ExA of: • Written summaries of oral submissions to Hearings held during the week commencing 28 February 2022 • Comments on responses received by D4 • Progressed Statements of Common Ground • Progressed Statement of Commonality for SoCG • An updated Guide to the Application • An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions • Schedule of changes to the dDCO • An updated Compulsory Acquisition Schedule in clean and tracked versions • Any further information requested by the ExA under Rule 17 of the Examination Rules
17 March 2022	**Publication by the ExA of:** • ExA's Further Written Questions (ExQ2)
30 March 2022	**Deadline 6 (D6)** For receipt by the ExA of: • Responses to ExQ2

	• Comments on responses received by D5 • Progressed Statements of Common Ground • Progressed Statement of Commonality for SoCG • An updated Guide to the Application • An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions • Schedule of changes to the dDCO • An updated Compulsory Acquisition Schedule in clean and tracked versions • Any further information requested by the ExA under Rule 17 of the Examination Rules
3 April 2022	**Period for receipt of representations on the Applicant's change request closes**
5 April 2022	**Publication by the ExA of:** • Rule 8(3) and 13 letter - Revised Examination Timetable and Notification of Hearings
11 April 2022	**Deadline 7 (D7)** For receipt by the ExA of: • Comments on responses to ExQ2 • Comments on responses received by D6 • Any further information requested by the ExA under Rule 17 of the Examination Rules
13 April 2022	**Publication by the ExA of:** • The Report on the Implications for European Sites (RIES) • The ExA's proposed schedule of changes to the dDCO
25 April 2022	**Publication by the ExA of:** • Rule 17 letter - Request for Further Information (1 of 2) • Rule 17 letter - Request for Further Information (2 of 2)
28 April 2022	**Deadline 7a (D7a)** For receipt by the ExA of:

	• Written Representations (WR) on the Applicant's changes to the application received at D4 • Notification of wish for any additional Interested Party to participate in an Open Floor Hearing or any additional Affected Person to participate in a Compulsory Acquisition Hearing, to be held on 29 April 2022
29 April 2022	**Compulsory Acquisition Hearing 3 (CAH3), Issue Specific Hearing 5 (ISH5), and Open Floor Hearing 2 (OFH2)**
6 May 2022	**Deadline 8 (D8)** For receipt by the ExA of: • Responses to Relevant Representations and Written Representations on the Applicant's changes to the application received at D4 • Written summaries of oral submissions to Hearing(s) held on 29 April 2022 • Any post-Hearing submissions requested at the Hearings • Responses to the RIES • Responses to the ExA's proposed schedule of changes to the dDCO • Comments on responses received by D7 • Progressed Statements of Common Ground • Progressed Statement of Commonality for SoCG • An updated Guide to the Application • An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions • Schedule of changes to the dDCO • An updated Compulsory Acquisition Schedule in clean and tracked versions • Any further information requested by the ExA under Rule 17 of the Examination Rules
10 May 2022	**Publication by the ExA of:** • Rule 17 letter - Request for Further Information

16 May 2022	**Deadline 9 (D9)** For receipt by the ExA of: • Comments on responses to the RIES • Comments on responses to the ExA's proposed schedule of changes to the dDCO • Comments on responses received by D8 • Finalised Statements of Common Ground • Finalised Statement of Commonality for SoCG • Finalised Guide to the Application • Final version of the draft Development Consent Order (dDCO) in clean and tracked versions • Final dDCO to be submitted by the Applicant in the SI template with the SI template validation report • Finalised Schedule of changes to the dDCO • Finalised Compulsory Acquisition Schedule in clean and tracked versions • Any further information requested by the ExA under Rule 17 of the Examination Rules
16 May 2022	**Close of Examination**
18 May 2022	**Publication by the ExA of:** • Section 99 letter - Notification of completion of the ExA's Examination

APPENDIX B: EXAMINATION LIBRARY

A417 Missing Link Examination Library

Updated – 18 May 2022

This Examination Library relates to the A417 Missing Link 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 was updated periodically as the Examination progressed.
- Advice under Section 51 of the Planning Act 2008 that has been issued by the Inspectorate, is published to the National Infrastructure Website but is not included within the Examination Library as such advice 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.

TR010056 – A417 Missing Link **Examination Library - Index**	
Category	**Reference**
Application Documents As submitted and amended version received before the PM. Any amended version received during the Examination stage to be saved under the Deadline received	APP-xxx
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	
Procedural Deadline A:	PDA-xxx
Procedural Deadline B:	PDB-xxx
Deadline 1:	REP1-xxx

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Deadline 2:	REP2-xxx
Deadline 3:	REP3-xxx
Deadline 4:	REP4-xxx
Deadline 5:	REP5-xxx
Deadline 6:	REP6-xxx
Deadline 7:	REP7-xxx
Deadline 7a:	No submissions received
Deadline 8:	REP8-xxx
Deadline 9:	REP9-xxx
Other Documents Includes s127/131/138 information, s56, s58 and s59 certificates, and transboundary documents	OD-xxx

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Application Documents	
APP-001	Highways England 1.1a Introduction to the Application
APP-002	Highways England 1.1b Application Document Tracker
APP-003	Highways England 1.2 Cover Letter
APP-004	Highways England 1.3 Application Form
APP-005	Highways England 2.1 Location Plan
APP-006	Highways England 2.2 Land Plans
APP-007	Highways England 2.3 Special Category Land Plans
APP-008	Highways England 2.4 Works Plans
APP-009	Highways England 2.5 Rights of Way and Access Plans
APP-010	Highways England 2.6a General Arrangement Plans
APP-011	Highways England 2.6b Engineering Drawings and Sections
APP-012	Highways England 2.7a Traffic Regulation Measures - Speed Limits
APP-013	Highways England 2.7b Traffic Regulation Measures - Clearways and Prohibitions
APP-014	Highways England 2.7c Traffic Regulation Measures - Classification of Roads
APP-015	Highways England 2.8 Traffic Regulation Measures - De-Trunking Plans
APP-016	Highways England 2.9 Environmental Features - Statutory and Non-Statutory Designated Sites of Nature Conservation
APP-017	Highways England 2.10 Habitats of Protected Species, Important Habitats or Other Diversity Features and Water Bodies in a River Basin Management Plan
APP-018	Highways England 2.11 Habitats of Protected Species: Location of Badger Setts Plans (Confidential)
APP-019	Highways England 2.12 Heritage Designation Plans
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APP-023	Highways England 3.2 Explanatory Memorandum
APP-024	Highways England 4.1 Statement of Reasons
APP-025	Highways England 4.2 Funding Statement
APP-026	Highways England 4.3 Book of Reference
APP-027	Highways England 5.1 Consultation Report
APP-028	Highways England 5.2 Consultation Report Appendices - Part 1 of 2
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APP-030	Highways England 6.1 Environmental Statement - Non-Technical Summary
APP-031	Highways England 6.2 Environmental Statement - Chapter 0 - Contents and Cover Sheet
APP-032	Highways England 6.2 Environmental Statement - Chapter 1 - Introduction
APP-033	Highways England 6.2 Environmental Statement - Chapter 2 - The Project
APP-034	Highways England 6.2 Environmental Statement - Chapter 3 - Assessment of Alternatives
APP-035	Highways England 6.2 Environmental Statement - Chapter 4 - Environmental Assessment Methodology
APP-036	Highways England 6.2 Environmental Statement - Chapter 5 - Air Quality
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APP-039	Highways England 6.2 Environmental Statement - Chapter 8 - Biodiversity
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APP-046	Highways England 6.2 Environmental Statement - Chapter 15 - Assessment of Cumulative Effects
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APP-048	Highways England 6.2 Environmental Statement - Chapter 17 - Abbreviations
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AS-010	Dr Stephen Hill Additional Submission accepted at the discretion of the Examining Authority
AS-011	Neil McTaggart Additional Submission accepted at the discretion of the Examining Authority
AS-012	Irene McTaggart Additional Submission accepted at the discretion of the Examining Authority
AS-013	Rebecca Scanlon-Brown Additional Submission accepted at the discretion of the Examining Authority
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AS-015	Peter Ritchie Additional Submission accepted at the discretion of the Examining Authority
AS-016	Sally Ritchie Additional Submission accepted at the discretion of the Examining Authority
AS-017	Paula Drummond Additional Submission accepted at the discretion of the Examining Authority
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AS-035	National Highways (formerly Highways England) Response to section 51 advice and section 55 checklist issued on 29 June 2021 – 1.1b Application Document Tracker (Rev 1) - Additional Submission accepted at the discretion of the Examining Authority
AS-036	National Highways (formerly Highways England) Response to section 51 advice and section 55 checklist issued on 29 June 2021 – 2.2 Land Plans (Rev 1) - Additional Submission accepted at the discretion of the Examining Authority
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AS-053	Dr Stephen Hill Additional Submission accepted at the discretion of the Examining Authority
AS-054	Dr William Rimington Additional Submission accepted at the discretion of the Examining Authority
AS-055	Cellnex UK Additional Submission accepted at the discretion of the Examining Authority
AS-056	National Trust Additional Submission accepted at the discretion of the Examining Authority
AS-057	Natural England Additional Submission accepted at the discretion of the Examining Authority
AS-058	Woodland Trust Additional Submission accepted at the discretion of the Examining Authority
AS-059	The Woodland Trust Additional Submission accepted at the discretion of the Examining Authority
AS-060	Council for British Archaeology Additional Submission accepted at the discretion of the Examining Authority
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AS-064	ESP Utilities Group Limited Additional Submission accepted at the discretion of the Examining Authority
AS-065	Bruce Fowler on behalf of Mr and Mrs D Field Additional Submission accepted at the discretion of the Examining Authority
AS-066	Climate Emergency Policy and Planning Additional submission accepted at the discretion of the Examining Authority
AS-067	Mr & Mrs De Lisle Wells Additional submission accepted at the discretion of the Examining Authority
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EV-012	Recording of Open Floor Hearing 1 - Session 1 - 24 January 2022
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EV-015	Issue Specific Hearing 1 (Session 2) - Transcript - 25 January 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.
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EV-047	Issue Specific Hearing 4 (Session 2) - Transcript - 3 March 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.
Hearings held on 29 April 2022	
EV-048	National Highways (formerly Highways England) Notice of Hearings to be held on 29 April 2022
EV-049	Agenda for Open Floor Hearing 2 (OFH2) - Friday 29 April 2022
EV-050	Agenda for Compulsory Acquisition Hearing 3 (CAH3) - Friday 29 April 2022
EV-051	Agenda for Issue Specific Hearing 5 (ISH5) - Friday 29 April 2022
EV-052	Action Points from Compulsory Acquisition Hearing 3 (CAH3) held on 29 April 2022
EV-053	Recording of Open Floor Hearing 2 - 29 April 2022
EV-054	Recording of Compulsory Acquisition Hearing 3 - 29 April 2022
EV-055	Recording of Issue Specific Hearing 5 - 29 April 2022
EV-056	Open Floor Hearing 2 - Transcript - 29 April 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.

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EV-057	Compulsory Acquisition Hearing 3 - Transcript - 29 April 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.
EV-058	Issue Specific Hearing 5 - Transcript - 29 April 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited.
Representations	
Procedural Deadline A – 22 October 2021 Deadline for receipt by the ExA of: • Written submissions on the examination procedure, including any submissions about the use of virtual procedures; and • Requests to be heard orally at the Preliminary Meeting Part 1.	
PDA-001	National Highways (formerly Highways England) Procedural Deadline A - Written submissions on the examination procedure, including any submissions about the use of virtual procedures
PDA-002	Atkins on behalf of Gloucestershire County Council, Cotswold District Council and Tewkesbury Borough Council (the Joint Councils) Procedural Deadline A - Written submissions on the examination procedure, including any submissions about the use of virtual procedures
PDA-003	Sarah de Lisle Wells on behalf of Patricia de Lisle Wells Procedural Deadline A - Written submissions on the examination procedure, including any submissions about the use of virtual procedures
Procedural Deadline B – 10 November 2021 Deadline for receipt by the ExA of: • Written submissions on examination procedure including responses to matters raised orally at the Preliminary Meeting Part 1; and • Requests to be heard orally at the Preliminary Meeting Part 2.	
PDB-001	Gloucestershire Ramblers Procedural Deadline B Submission - Written submissions on the examination procedure, including responses to matters raised orally at the Preliminary Meeting Part 1
PDB-002	Carol Gilbert Procedural Deadline B Submission - Written submissions on the examination procedure, including responses to matters raised orally at the Preliminary Meeting Part 1
PDB-003	Joanna Pearce Procedural Deadline B Submission - Written submissions on the examination procedure, including responses to matters raised orally at the Preliminary Meeting Part 1
PDB-004	Steve Mendel

	Procedural Deadline B Submission - Written submissions on the examination procedure, including responses to matters raised orally at the Preliminary Meeting Part 1
PDB-005	Tim Knox Procedural Deadline B Submission - Written submissions on the examination procedure, including responses to matters raised orally at the Preliminary Meeting Part 1

Deadline 1 – 14 December 2021

Deadline for the receipt by the Examining Authority (ExA) of:

- Responses to ExQ1;
- Local Impact Reports (LIR) from Local Authorities;
- Written Representations (WRs), including summaries of all WRs exceeding 1500 words;
- Responses to Relevant Representations;
- Statements of Common Ground (SoCG) requested by the ExA
- Updated Statement of Commonality for SoCG;
- The Compulsory Acquisition Schedule;
- Notification by Statutory Parties of their wish to be considered as an Interested Party (IP) by the ExA;
- Notification of wish for any Interested Party to participate in an Open Floor Hearing;
- Notification of wish for any Affected Person to participate in a Compulsory Acquisition Hearing;
- Submission by the Applicant, IPs and APs of suggested locations for the ExA to include in any Site Inspection;
- Any further information requested by the ExA under Rule 17 of the Examination Rules

REP1-001	National Highways (formerly Highways England) Deadline 1 (D1) Submission - Cover letter
REP1-002	National Highways (formerly Highways England) Deadline 1 (D1) Submission - 1.1b Application Document Tracker - Rev 2
REP1-003	National Highways (formerly Highways England) Deadline 1 (D1) Submission - 3.1 draft Development Consent Order - Rev 1 (Clean)
REP1-004	National Highways (formerly Highways England) Deadline 1 (D1) Submission - 3.1 draft Development Consent Order - Rev 1 (Tracked)
REP1-005	National Highways (formerly Highways England) Deadline 1 (D1) Submission - 3.3 Table of Amendments to the Draft Development Consent Order
REP1-006	National Highways (formerly Highways England) Deadline 1 (D1) Submission - 7.3 Statement of Commonality - Rev 1
REP1-007	National Highways (formerly Highways England) Deadline 1 (D1) Submission - 8.2 Suggested Location for Site Inspections

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REP1-008	National Highways (formerly Highways England) Deadline 1 (D1) Submission - 8.3 Responses to Relevant Representations
REP1-009	National Highways (formerly Highways England) Deadline 1 (D1) Submission - 8.4 Responses to the Examining Authority's Written Questions (ExQ1)
REP1-010	National Highways (formerly Highways England) Deadline 1 (D1) Submission - 8.5 Cotswolds Conservation Board Options Report
REP1-011	National Highways (formerly Highways England) Deadline 1 (D1) Submission - 8.6 Cut and Cover Tunnel Feasibility Study
REP1-012	National Highways (formerly Highways England) Deadline 1 (D1) Submission - 8.7 Letters of No Impediment
REP1-013	National Highways (formerly Highways England) Deadline 1 (D1) Submission - 8.8 Walking, Cycling and Horse Riding Access across A417 Online Section
REP1-014	National Highways (formerly Highways England) Deadline 1 (D1) Submission - 8.9 Compulsory Acquisition Schedule
REP1-015	National Highways (formerly Highways England) Deadline 1 (D1) Submission - 8.10 Biodiversity Net Gain Calculation
REP1-016	Adam Dawson Deadline 1 (D1) Submission - Written Representation
REP1-017	Alexander & Angell Ltd Deadline 1 (D1) Submission - Written Representation
REP1-018	Alexander & Angell Ltd Deadline 1 (D1) Submission - Notification of wish to participate in a Compulsory Acquisition Hearing
REP1-019	Alexander & Angell Ltd Deadline 1 (D1) Submission - Submission of suggested locations for the Examining Authority to include in any site inspection
REP1-020	Andrew Dawson Deadline 1 (D1) Submission - Written Representation, and Responses to ExQ1
REP1-021	Anju Ahuja Deadline 1 (D1) Submission - Written Representation
REP1-022	Bruton Knowles on behalf of Mr & Mrs de Lisle Wells Deadline 1 (D1) Submission - Written Representation
REP1-023	Carol Gilbert Deadline 1 (D1) Submission - Written Representation, Responses to ExQ1, and Submission of suggested locations for the Examining Authority to include in any site inspection
REP1-024	Cellnex UK Deadline 1 (D1) Submission - Written Representation
REP1-025	Cerys Mather Deadline 1 (D1) Submission - Written Representation
REP1-026	Chris Mather

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	Deadline 1 (D1) Submission - Written Representation
REP1-027	Climate Emergency Policy and Planning (CEPP) Deadline 1 (D1) Submission - Written Representation, and Responses to ExQ1
REP1-028	Cotswolds Conservation Board Deadline 1 (D1) Submission - Responses to ExQ1 **[The document entitled 'Confidential: Cut and cover tunnel feasibility study' referred to in this submission has not been accepted into the Examination. The Applicant has submitted a version of this document at Deadline 1 which is available to view. See REP1-011]**
REP1-029	Cotswolds Conservation Board Deadline 1 (D1) Submission - Responses to ExQ1 - Cotswolds Conservation Board Options Report
REP1-030	Cotswolds Conservation Board Deadline 1 (D1) Submission - Written Representation
REP1-031	Cotswolds Conservation Board Deadline 1 (D1) Submission - Written Representation - Supporting information
REP1-032	Council for British Archaeology Deadline 1 (D1) Submission - Summary of Written Representation
REP1-033	Council for British Archaeology Deadline 1 (D1) Submission - Written Representation
REP1-034	Councillor Julia Judd Deadline 1 (D1) Submission - Responses to ExQ1
REP1-035	Cowley and Birdlip Parish Council Deadline 1 (D1) Submission - Responses to ExQ1
REP1-036	Cowley and Birdlip Parish Council Deadline 1 (D1) Submission - Responses to ExQ1 - Impact on Cowley
REP1-037	Cowley and Birdlip Parish Council Deadline 1 (D1) Submission - Responses to ExQ1 - Impact on Birdlip
REP1-038	Cowley and Birdlip Parish Council Deadline 1 (D1) Submission - Permission for the use of videos as evidence in the Examination
REP1-039	Cowley and Birdlip Parish Council Deadline 1 (D1) Submission - Responses to ExQ1 - Video clip: 'Commercial Vehicles Rat Running through Birdlip Blurred'
REP1-040	Cowley and Birdlip Parish Council Deadline 1 (D1) Submission - Responses to ExQ1 - Video clip: 'Crickley Hill Congestion'
REP1-041	Cowley and Birdlip Parish Council Deadline 1 (D1) Submission - Responses to ExQ1 - Video clip: 'Event on Crickley Hill Blurred'
REP1-042	Cowley and Birdlip Parish Council Deadline 1 (D1) Submission - Responses to ExQ1 - Video clip: 'Rat Running 27th November 2021'

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REP1-043	Cowley and Birdlip Parish Council Deadline 1 (D1) Submission - Responses to ExQ1 - Video clip: 'Rat Running 6th December 2021 1 Blurred'
REP1-044	Cowley and Birdlip Parish Council Deadline 1 (D1) Submission - Responses to ExQ1 - Video clip: 'Rat Running 6th December 2021 2 Blurred'
REP1-045	Cowley and Birdlip Parish Council Deadline 1 (D1) Submission - Responses to ExQ1 - Video clip: 'Rat Running 6th December 2021 3 Blurred'
REP1-046	Cowley and Birdlip Parish Council Deadline 1 (D1) Submission - Responses to ExQ1 - Video clip: 'Rat Running 6th December 2021 Birdlip to Brimpsfield'
REP1-047	Cowley and Birdlip Parish Council Deadline 1 (D1) Submission - Responses to ExQ1 - Video clip: 'Rat Running 6th December 2021 Blurred'
REP1-048	Cowley and Birdlip Parish Council Deadline 1 (D1) Submission - Responses to ExQ1 - Video clip: 'Resident's Drive 1 of 3 Blurred'
REP1-049	Cowley and Birdlip Parish Council Deadline 1 (D1) Submission - Responses to ExQ1 - Video clip: 'Resident's Drive 2 of 3 Blurred'
REP1-050	Cowley and Birdlip Parish Council Deadline 1 (D1) Submission - Responses to ExQ1 - Video clip: 'Resident's Drive 3 of 3 Blurred'
REP1-051	Cowley and Birdlip Parish Council Deadline 1 (D1) Submission - Responses to ExQ1 - Video clip: 'The Birdlip Run Blurred'
REP1-052	Cowley and Birdlip Parish Council Deadline 1 (D1) Submission - Responses to ExQ1 - Video clip: 'Traffic Speed Narrow Lanes Blurred'
REP1-053	Daglingworth Parish Council Deadline 1 (D1) Submission - Update on preparation of Statement of Common Ground
REP1-054	Daniel Chesmore Deadline 1 (D1) Submission - Written Representation
REP1-055	David and Lisa Field Deadline 1 (D1) Submission - Written Representation
REP1-056	David Ayling-Smith Deadline 1 (D1) Submission - Written Representation
REP1-057	Edward Williams Deadline 1 (D1) Submission - Written Representation
REP1-058	Environment Agency Deadline 1 (D1) Submission - Responses to ExQ1
REP1-059	FlyUp Limited Deadline 1 (D1) Submission - Notification of wish to participate in a Compulsory Acquisition Hearing
REP1-060	FlyUp Limited Deadline 1 (D1) Submission - Responses to ExQ1

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REP1-061	FlyUp Limited Deadline 1 (D1) Submission - Submission of suggested locations for the Examining Authority to include in any site inspection
REP1-062	FlyUp Limited Deadline 1 (D1) Submission - Written Representation
REP1-063	Gareth Parry, Gloucestershire Wildlife Trust Deadline 1 (D1) Submission - Cover letter, and Notification of wish to participate in an Open Floor Hearing
REP1-064	Gareth Parry, Gloucestershire Wildlife Trust Deadline 1 (D1) Submission - Responses to ExQ1
REP1-065	Gareth Parry, Gloucestershire Wildlife Trust Deadline 1 (D1) Submission - Written Representation
REP1-066	Gateley Hamer on behalf of National Star Foundation Deadline 1 (D1) Submission - Notification of wish to participate in an Open Floor Hearing and Compulsory Acquisition Hearing, and Submission of suggested locations for the Examining Authority to include in any site inspection
REP1-067	Gateley Hamer on behalf of National Star Foundation Deadline 1 (D1) Submission - Summary of Written Representation
REP1-068	Gateley Hamer on behalf of National Star Foundation Deadline 1 (D1) Submission - Written Representation
REP1-069	Gloucestershire Ramblers Deadline 1 (D1) Submission - Responses to ExQ1
REP1-070	Gloucestershire Ramblers Deadline 1 (D1) Submission - Submission of suggested locations for the Examining Authority to include in any site inspection, and Comments on the Examining Authority's Note of an Unaccompanied Site Inspection (USI1) on 14 September 2021
REP1-071	Gloucestershire Ramblers Deadline 1 (D1) Submission - Written Representation **[Superseded by REP1-149 and REP1-150]**
REP1-072	Hannah Dawson Deadline 1 (D1) Submission - Written Representation
REP1-073	Howard Mudd Deadline 1 (D1) Submission - Written Representation
REP1-074	James Hamilton Deadline 1 (D1) Submission - Written Representation, and Responses to ExQ1
REP1-075	Jane Williams Deadline 1 (D1) Submission - Written Representation
REP1-076	Jason Pearce Deadline 1 (D1) Submission - Written Representation
REP1-077	Joanna Pearce Deadline 1 (D1) Submission - Written Representation
REP1-078	Julian Lavington Deadline 1 (D1) Submission - Written Representation, and Responses to ExQ1
REP1-079	Laura Delport

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	Deadline 1 (D1) Submission - Written Representation
REP1-080	Leon Flexman Deadline 1 (D1) Submission - Written Representation
REP1-081	Linda Dawson Deadline 1 (D1) Submission - Written Representation
REP1-082	Linda Turner Deadline 1 (D1) Submission - Written Representation
REP1-083	Lorcan Knox Deadline 1 (D1) Submission - Written Representation
REP1-084	Megan Mather Deadline 1 (D1) Submission - Written Representation
REP1-085	Moore Allen & Innocent on behalf of BJ Ford Deadline 1 (D1) Submission - Notification of wish to participate in a Compulsory Acquisition Hearing
REP1-086	Moore Allen & Innocent on behalf of BJ Ford Deadline 1 (D1) Submission - Notification of wish to participate in an Open Floor Hearing
REP1-087	Moore Allen & Innocent on behalf of BJ Ford Deadline 1 (D1) Submission - Submission of suggested locations for the Examining Authority to include in any site inspection - Location plan
REP1-088	Moore Allen & Innocent on behalf of BJ Ford Deadline 1 (D1) Submission - Submission of suggested locations for the Examining Authority to include in any site inspection
REP1-089	Moore Allen & Innocent on behalf of CE Ford Deadline 1 (D1) Submission - Notification of wish to participate in a Compulsory Acquisition Hearing
REP1-090	Moore Allen & Innocent on behalf of CE Ford Deadline 1 (D1) Submission - Notification of wish to participate in an Open Floor Hearing
REP1-091	Moore Allen & Innocent on behalf of CE Ford Deadline 1 (D1) Submission - Submission of suggested locations for the Examining Authority to include in any site inspection - Location plan
REP1-092	Moore Allen & Innocent on behalf of CE Ford Deadline 1 (D1) Submission - Submission of suggested locations for the Examining Authority to include in any site inspection
REP1-093	Mr Alistair Miller Deadline 1 (D1) Submission - Written Representation
REP1-094	Mrs Caroline Miller Deadline 1 (D1) Submission - Written Representation
REP1-095	National Trust Deadline 1 (D1) Submission - Cover letter, Notification of wish to participate in a Compulsory Acquisition Hearing, and Submission of suggested locations for the Examining Authority to include in any site inspection
REP1-096	National Trust Deadline 1 (D1) Submission - Responses to ExQ1
REP1-097	National Trust

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	Deadline 1 (D1) Submission - Summary of Written Representation
REP1-098	National Trust Deadline 1 (D1) Submission - Written Representation
REP1-099	Natural England Deadline 1 (D1) Submission - Written Representation
REP1-100	Natural England Deadline 1 (D1) Submission - Written Representation - Annex A - Responses to ExQ1
REP1-101	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - Bushley Muzzard, Brimpsfield SSSI Citation
REP1-102	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - Bushley Muzzard, Brimpsfield SSSI Map
REP1-103	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - Clattinger Farm SSSI Citation
REP1-104	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - Clattinger Farm SSSI Map
REP1-105	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - Cotswold Beechwoods SAC - JNCC Standard Data Form
REP1-106	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - Cotswold Beechwoods SAC Map
REP1-107	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - Cotswold Commons and Beechwoods SSSI Citation
REP1-108	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - Cotswold Commons and Beechwoods SSSI Map
REP1-109	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - Crickley Hill and Barrow Wake SSSI Citation
REP1-110	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - Crickley Hill and Barrow Wake SSSI Map
REP1-111	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - Leckhampton Hill and Charlton Kings Common SSSI Citation
REP1-112	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - Leckhampton Hill and Charlton Kings Common SSSI Map
REP1-113	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - North Meadow & Clattinger Farm SAC - JNCC Standard Data Form
REP1-114	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - North Meadow & Clattinger Farm SAC Map

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REP1-115	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - North Meadow, Cricklade SSSI Citation
REP1-116	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - North Meadow, Cricklade SSSI Map
REP1-117	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - Severn Estuary Ramsar Site - Information Sheet on Ramsar Wetlands
REP1-118	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - Severn Estuary SAC - JNCC Standard Data Form
REP1-119	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - Severn Estuary SAC SPA Ramsar Site Map
REP1-120	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - Severn Estuary SPA - JNCC Standard Data Form
REP1-121	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - Wye Valley and Forest of Dean Bat Sites SAC - JNCC Standard Data Form
REP1-122	Natural England Deadline 1 (D1) Submission - Written Representation - Annex B - Wye Valley and Forest of Dean Bat Sites SAC Map
REP1-123	Natural England Deadline 1 (D1) Submission - Written Representation - Annex C - Response to the draft Habitat Regulations Assessment (HRA) Screening Report and the Statement to Inform Appropriate Assessment
REP1-124	Nicholas Reed Deadline 1 (D1) Submission - Written Representation
REP1-125	Pascale Gysi Deadline 1 (D1) Submission - Written Representation
REP1-126	Petra Vogel Deadline 1 (D1) Submission - Written Representation
REP1-127	Philip Hackett, The British Horse Society Deadline 1 (D1) Submission - Written Representation
REP1-128	Philip Hackett, The British Horse Society Deadline 1 (D1) Submission - Written Representation - Representation from Ralph Hampton **[A version of this document has also been submitted at Deadline 1 by Ralph Hampton. See REP1-130]**
REP1-129	Rahul Ahuja Deadline 1 (D1) Submission - Written Representation, and Responses to ExQ1
REP1-130	Ralph Hampton Deadline 1 (D1) Submission - Written Representation

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REP1-131	Richard Hamilton Deadline 1 (D1) Submission - Written Representation
REP1-132	Susan Hamilton Deadline 1 (D1) Submission - Written Representation
REP1-133	The Joint Councils (Gloucestershire County Council, Cotswold District Council, and Tewkesbury Borough Council) Deadline 1 (D1) Submission - Local Impact Report (LIR)
REP1-134	The Joint Councils (Gloucestershire County Council, Cotswold District Council, and Tewkesbury Borough Council) Deadline 1 (D1) Submission - Responses to ExQ1
REP1-135	The Joint Councils (Gloucestershire County Council, Cotswold District Council, and Tewkesbury Borough Council) Deadline 1 (D1) Submission - Written Representation
REP1-136	The Woodland Trust Deadline 1 (D1) Submission - Written Representation
REP1-137	Tim Knox Deadline 1 (D1) Submission - Notification of wish to participate in an Open Floor Hearing
REP1-138	Tim Knox Deadline 1 (D1) Submission - Written Representation
REP1-139	Womble Bond Dickinson (UK) LLP on behalf of Historic England Deadline 1 (D1) Submission - Responses to ExQ1
REP1-140	Womble Bond Dickinson (UK) LLP on behalf of Historic England Deadline 1 (D1) Submission - Submission of suggested locations for the Examining Authority to include in any site inspection, Notification of a wish to be considered as an Interested Party by the Examining Authority, and Update on preparation of Statement of Common Ground
REP1-141	Womble Bond Dickinson (UK) LLP on behalf of Historic England Deadline 1 (D1) Submission - Summary of Written Representation
REP1-142	Womble Bond Dickinson (UK) LLP on behalf of Historic England Deadline 1 (D1) Submission - Written Representation
REP1-143	Amanda Naylor Deadline 1 (D1) Submission - Written Representation - Accepted at the discretion of the Examining Authority
REP1-144	Brimpsfield Parish Council Deadline 1 (D1) Submission - Written Representation - Accepted at the discretion of the Examining Authority
REP1-145	Leckhampton with Warden Hill Parish Council Deadline 1 (D1) Submission - Summary of Written Representation - Accepted at the discretion of the Examining Authority
REP1-146	Leckhampton with Warden Hill Parish Council Deadline 1 (D1) Submission - Written Representation, and Notification of wish to participate in an Open Floor Hearing - Accepted at the discretion of the Examining Authority
REP1-147	National Air Traffic Services Deadline 1 (D1) Submission - Written Representation
Late Submissions for Deadline 1	

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REP1-148	Gloucestershire Ramblers Deadline 1 (D1) Submission - Public Consultation Response November 2019 - 1. Brockworth - Shab Hill - Late submission accepted at the discretion of the Examining Authority **[Superseded by REP1-149]**
REP1-149	Gloucestershire Ramblers Deadline 1 (D1) Submission - Written Representation - Late submission accepted at the discretion of the Examining Authority **[This document supersedes REP1-071 and REP1-148]**
REP1-150	Gloucestershire Ramblers Deadline 1 (D1) Submission - Notes on Applicant's Submission - Late submission accepted at the discretion of the Examining Authority **[This document supersedes a section of REP1-071]**

Deadline 2 – 13 January 2022

Deadline for the receipt by the Examining Authority (ExA) of:

- Comments on responses received by D1;
- Comments on WRs;
- Comments on responses to ExQ1;
- Progressed Statements of Common Ground;
- Progressed Statement of Commonality for SoCG;
- Comments on LIR(s);
- Applicant's updated Guide to the Application;
- An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions;
- Schedule of changes to the dDCO;
- An updated Compulsory Acquisition Schedule in clean and tracked versions;
- Submission by the Applicant of low-resolution documents;
- Any further information requested by the ExA under Rule 17 of the Examination Rules

REP2-001	National Highways (formerly Highways England) Deadline 2 (D2) Submission - Cover letter
REP2-002	National Highways (formerly Highways England) Deadline 2 (D2) Submission - 1.1a Introduction to the Application - Rev 1 (Clean)
REP2-003	National Highways (formerly Highways England) Deadline 2 (D2) Submission - 1.1a Introduction to the Application - Rev 1 (Tracked)
REP2-004	National Highways (formerly Highways England) Deadline 2 (D2) Submission - 1.1b Application Document Tracker - Rev 3
REP2-005	National Highways (formerly Highways England) Deadline 2 (D2) Submission - 2.12 Heritage Designation Plans - Rev 2

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REP2-006	National Highways (formerly Highways England) Deadline 2 (D2) Submission - 6.4 Appendix 2.1 Environmental Management Plan (EMP) - Rev 1 (Clean)
REP2-007	National Highways (formerly Highways England) Deadline 2 (D2) Submission - 6.4 Appendix 2.1 Environmental Management Plan (EMP) - Rev 1 (Tracked)
REP2-008	National Highways (formerly Highways England) Deadline 2 (D2) Submission - 6.4 Appendix 2.1 Annex B Construction Traffic Management Plan (CTMP) - Rev 1 (Clean)
REP2-009	National Highways (formerly Highways England) Deadline 2 (D2) Submission - 6.4 Appendix 2.1 Annex B Construction Traffic Management Plan (CTMP) - Rev 1 (Tracked)
REP2-010	National Highways (formerly Highways England) Deadline 2 (D2) Submission - 6.7 Environmental Statement - Updates and Errata - Rev 1 (Clean)
REP2-011	National Highways (formerly Highways England) Deadline 2 (D2) Submission - 6.7 Environmental Statement - Updates and Errata - Rev 1 (Tracked)
REP2-012	National Highways (formerly Highways England) Deadline 2 (D2) Submission - 8.11 Response to Written Representations made at Deadline 1
REP2-013	National Highways (formerly Highways England) Deadline 2 (D2) Submission - 8.12 Comments on Local Impact Report
REP2-014	National Highways (formerly Highways England) Deadline 2 (D2) Submission - 8.13 Comments on Responses to the Examining Authority's Written Questions (ExQ1)
REP2-015	National Highways (formerly Highways England) Deadline 2 (D2) Submission - 8.14 Response to Cultural Heritage Issues Raised
REP2-016	National Highways (formerly Highways England) Deadline 2 (D2) Submission - 8.15 Leckhampton Hill Technical Note
REP2-017	Andrew Dawson Deadline 2 (D2) Submission - Additional Written Representation
REP2-018	Cheltenham & Tewkesbury Cycling Campaign Deadline 2 (D2) Submission - Responses to ExQ1
REP2-019	Cheltenham & Tewkesbury Cycling Campaign Deadline 2 (D2) Submission - Responses to ExQ1 - Supporting information
REP2-020	Climate Emergency Policy and Planning (CEPP) Deadline 2 (D2) Submission - Written Representation, and Responses to ExQ1 - Rev 1 (Clean)
REP2-021	Climate Emergency Policy and Planning (CEPP) Deadline 2 (D2) Submission - Written Representation, and Responses to ExQ1 - Rev 1 (Tracked)
REP2-022	Climate Emergency Policy and Planning (CEPP) Deadline 2 (D2) Submission - Written Representation Part 2
REP2-023	Climate Emergency Policy and Planning (CEPP)

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	Deadline 2 (D2) Submission - Written Representation Part 2 - Appendix A: BEIS Carbon Pricing Policy Paper
REP2-024	Climate Emergency Policy and Planning (CEPP) Deadline 2 (D2) Submission - Written Representation Part 2 - Appendix B: Guidance on the Preparation of the Environmental Impact Assessment Report
REP2-025	Climate Emergency Policy and Planning (CEPP) Deadline 2 (D2) Submission - Written Representation Part 2 - Appendix C: Guidance on Integrating Climate Change and Biodiversity into Environmental Impact Assessment
REP2-026	Climate Emergency Policy and Planning (CEPP) Deadline 2 (D2) Submission - Written Representation Part 2 - Appendix D: Chatham House, Climate Change Risk Assessment 2021
REP2-027	Climate Emergency Policy and Planning (CEPP) Deadline 2 (D2) Submission - Written Representation Part 2 - Appendix F: Science Based Carbon Budget for Tewkesbury Borough
REP2-028	Cowley and Birdlip Parish Council Deadline 2 (D2) Submission - Comments on Written Representations
REP2-028B	Gloucestershire Ramblers Deadline 2 (D2) Submission - Comments on the Agenda for Issue Specific Hearing 2 (ISH2)
REP2-029	Hannah Dawson Deadline 2 (D2) Submission - Additional Written Representation
REP2-030	Joanna Pearce Deadline 2 (D2) Submission - Comments on responses received by D1
REP2-031	Joanna Pearce Deadline 2 (D2) Submission - Comments on responses received by D1 - Addendum
REP2-032	Linda Dawson Deadline 2 (D2) Submission - Additional Written Representation
REP2-033	Linda Turner Deadline 2 (D2) Submission - Comments on responses received by D1
REP2-034	The Joint Councils (Gloucestershire County Council, Cotswold District Council, and Tewkesbury Borough Council) Deadline 2 (D2) Submission - Comments on responses to ExQ1, Comments on Written Representations, and Comments on responses received by D1
REP2-035	Tim Knox Deadline 2 (D2) Submission - Comments on responses received by D1
Late Submissions for Deadline 2	
REP2-036	Anju Ahuja Deadline 2 (D2) Submission - Comments on responses received by D1 - Late submission accepted at the discretion of the Examining Authority

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Deadline 3 – 2 February 2022

Deadline for the receipt by the Examining Authority (ExA) of:

- Written summaries of oral submissions to Hearings held during the w/c 24 January 2022
- Comments on responses received by D2
- Progressed Statements of Common Ground
- Progressed Statement of Commonality for SoCG
- An updated Guide to the Application
- An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions
- Schedule of changes to the dDCO
- An updated Compulsory Acquisition Schedule in clean and tracked versions
- Notification of wish for any Interested Party to attend an ASI in February (if held)
- Any further information requested by the ExA under Rule 17 of the Examination Rules

REP3-001	National Highways (formerly Highways England) Deadline 3 (D3) Submission - Cover Letter
REP3-002	National Highways (formerly Highways England) Deadline 3 (D3) Submission - 1.1a Introduction to the Application (Clean) - Rev 2
REP3-003	National Highways (formerly Highways England) Deadline 3 (D3) Submission - 1.1a Introduction to the Application (Tracked) - Rev 2
REP3-004	National Highways (formerly Highways England) Deadline 3 (D3) Submission - 1.1b Application Document Tracker - Rev 4
REP3-005	National Highways (formerly Highways England) Deadline 3 (D3) Submission - 7.3 Statement of Commonality - Rev 2
REP3-006	National Highways (formerly Highways England) Deadline 3 (D3) Submission - 7.8 Equality impact Assessment (Clean) - Rev 1
REP3-007	National Highways (formerly Highways England) Deadline 3 (D3) Submission - 7.8 Equality impact Assessment (Tracked) - Rev 1
REP3-008	National Highways (formerly Highways England) Deadline 3 (D3) Submission - 8.16 Summary of Applicant's Oral Submission at Open Floor Hearing 1 (OFH1)
REP3-009	National Highways (formerly Highways England) Deadline 3 (D3) Submission - 8.17 Summary of Applicant's Oral Submissions at Issue Specific Hearing 1 (ISH1)
REP3-010	National Highways (formerly Highways England) Deadline 3 (D3) Submission - 8.18 Summary of Applicant's Oral Submissions at Compulsory Acquisition Hearing 1 (CAH1)
REP3-011	National Highways (formerly Highways England)

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	Deadline 3 (D3) Submission - 8.19 Summary of Applicant's Oral Submissions at Issue Specific Hearing 2 (ISH2)
REP3-012	National Highways (formerly Highways England) Deadline 3 (D3) Submission - 8.20 Response to Rule 17 - Cotswold Way National Trail Diversion
REP3-013	National Highways (formerly Highways England) Deadline 3 (D3) Submission - 8.21 Comments on Responses received by Deadline 2
REP3-014	National Highways (formerly Highways England) Deadline 3 (D3) Submission - 8.22 Landowner Position Statements
REP3-015	National Highways (formerly Highways England) Deadline 3 (D3) Submission - 8.24 HRA Matrices – Severn Estuary Ramsar Site
REP3-016	National Highways (formerly Highways England) Deadline 3 (D3) Submission - Areas Subject to Archaeological Surveys
REP3-017	National Highways (formerly Highways England) Deadline 3 (D3) Submission - Notification of intention to submit a change request
REP3-018	The Joint Councils (Gloucestershire County Council, Cotswold District Council, and Tewkesbury Borough Council) Deadline 3 (D3) Submission - Written summaries of oral submissions to Hearings held during the w/c 24 January 2022
REP3-019	The Joint Councils (Gloucestershire County Council, Cotswold District Council, and Tewkesbury Borough Council) Deadline 3 (D3) Submission - Written summaries of oral submissions to Hearings held during the w/c 24 January 2022 - Appendix A: Detailed Design in DCOs Case Studies
REP3-020	The Joint Councils (Gloucestershire County Council, Cotswold District Council, and Tewkesbury Borough Council) Deadline 3 (D3) Submission - Comments on responses received by D2
REP3-021	The Joint Councils (Gloucestershire County Council, Cotswold District Council, and Tewkesbury Borough Council) Deadline 3 (D3) Submission - Comments on the Rule 17 Request in Relation to Cotswold Way National Trail
REP3-022	Cowley and Birdlip Parish Council Deadline 3 (D3) Submission - Written summary of oral submissions to Issue Specific Hearing 2 (ISH2)
REP3-023	Leckhampton with Warden Hill Parish Council Deadline 3 (D3) Submission - Local Road Map and Planned Homes - Accepted at the discretion of the Examining Authority
REP3-024	Leckhampton with Warden Hill Parish Council Deadline 3 (D3) Submission - Fig 7.1 from National Highways Transport Report - Accepted at the discretion of the Examining Authority
REP3-025	Cllr Martin Horwood on behalf of Leckhampton with Warden Hill Parish Council

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	Deadline 3 (D3) Submission - Written summary of oral submissions to Open Floor Hearing 1 (OFH1) - Accepted at the discretion of the Examining Authority
REP3-026	Alexander & Angell Ltd Deadline 3 (D3) Submission - Written summary of oral submissions to Compulsory Acquisition Hearing 1 (CAH1)
REP3-027	Tim Broomhead on behalf of Alison Besterman Deadline 3 (D3) Submission - Written summaries of oral submissions to Open Floor Hearing 1 (OFH1) and Compulsory Acquisition Hearing 1 (CAH1)
REP3-028	Alistair Miller Deadline 3 (D3) Submission - Comments on responses received by D2
REP3-029	Moore Allen and Innocent on behalf of BJ and CE Ford Deadline 3 (D3) Submission - Written summary of oral submissions to Compulsory Acquisition Hearing 1 (CAH1)
REP3-030	Moore Allen and Innocent on behalf of BJ and CE Ford Deadline 3 (D3) Submission - Written summary of oral submissions to Open Floor Hearing 1 (OFH1)
REP3-031	Carol Gilbert Deadline 3 (D3) Submission
REP3-032	Carol Gilbert Deadline 3 (D3) Submission - Appendix
REP3-033	Caroline Miller Deadline 3 (D3) Submission - Comments on responses received by D2
REP3-034	Cotswolds Conservation Board Deadline 3 (D3) Submission
REP3-035	Cotswolds Conservation Board Deadline 3 (D3) Submission - Post-Hearing submission, including written summary of oral submissions to Issue Specific Hearing 2 (ISH2)
REP3-036	Cotswolds Conservation Board Deadline 3 (D3) Submission - Post-Hearing submission - Appendix A: Briefing note for the Access Bridges
REP3-037	Daniel Chesmore Deadline 3 (D3) Submission
REP3-038	FlyUp Limited Deadline 3 (D3) Submission - Written summary of oral submissions to Compulsory Acquisition Hearing 1 (CAH1)
REP3-039	FlyUp Limited Deadline 3 (D3) Submission - Post-Hearing submission
REP3-040	Gloucestershire Wildlife Trust Deadline 3 (D3) Submission - Written summaries of oral submissions to Open Floor Hearing 1 (OFH1) and Issue Specific Hearing 1 (ISH1) and Response to Action Points
REP3-041	Hannah Dawson Deadline 3 (D3) Submission
REP3-042	Helen Chesmore Deadline 3 (D3) Submission

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REP3-043	Historic England Deadline 3 (D3) Submission - Written summary of oral submissions to Issue Specific Hearing 1 (ISH1) and Issue Specific Hearing 2 (ISH2)
REP3-044	Howard Mudd Deadline 3 (D3) Submission
REP3-045	Moore Allen and Innocent on behalf of IF Medlock Deadline 3 (D3) Submission - Written summary of oral submissions to Compulsory Acquisition Hearing 1 (CAH1)
REP3-046	James Hamilton Deadline 3 (D3) Submission
REP3-047	Joanna Pearce Deadline 3 (D3) Submission
REP3-048	Linda Dawson Deadline 3 (D3) Submission
REP3-049	Linda Turner Deadline 3 (D3) Submission
REP3-050	Linda Turner Deadline 3 (D3) Submission - Map of A417 Scheme
REP3-051	Lisa Field Deadline 3 (D3) Submission - Post-Hearing submission - Written submission for Compulsory Acquisition Hearing 1 (CAH1)
REP3-052	Lorcan Knox Deadline 3 (D3) Submission - Post-Hearing submission
REP3-053	National Air Traffic Services (NATS) Deadline 3 (D3) Submission - Position Statement
REP3-054	National Star Foundation Deadline 3 (D3) Submission - Written summary of oral submissions to Compulsory Acquisition Hearing 1 (CAH1)
REP3-055	National Star Foundation Deadline 3 (D3) Submission - Written summary of oral submissions to Open Floor Hearing 1 (OFH1)
REP3-056	National Star Foundation Deadline 3 (D3) Submission - Post-Hearing submission - Issue Specific Hearing 2 (ISH2)
REP3-057	National Trust Deadline 3 (D3) Submission - Notification of wish for any Interested Party to attend an ASI in February (if held)
REP3-058	Natural England Deadline 3 (D3) Submission - Response to Rule 17 Request for Further Information and Hearing Action Points
REP3-059	Nicholas Reed Deadline 3 (D3) Submission - Comments on responses received by D2
REP3-060	Pascale Gysi Deadline 3 (D3) Submission
REP3-061	Petra Vogel Deadline 3 (D3) Submission
REP3-062	Richard Hamilton Deadline 3 (D3) Submission - Post-Hearing submission

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REP3-063	Robert de Lisle Wells Deadline 3 (D3) Submission - Written summary of oral submissions to Compulsory Acquisition Hearing 1 (CAH1)
REP3-064	Robert de Lisle Wells Deadline 3 (D3) Submission - Post-Hearing submission - Applicant's response to Relevant and Written Representation
REP3-065	Robert de Lisle Wells Deadline 3 (D3) Submission - Post-Hearing submission - Landowner Position Statement
REP3-066	Sebastian Chesmore Deadline 3 (D3) Submission
REP3-067	Sonja Bradley Deadline 3 (D3) Submission
REP3-068	Steve Mendel Deadline 3 (D3) Submission - Written summary of oral submissions to Compulsory Acquisition Hearing 1 (CAH1)
REP3-069	Steve Mendel Deadline 3 (D3) Submission - Written summary of oral submissions to Issue Specific Hearing 2 (ISH2)
REP3-070	Susan Hamilton Deadline 3 (D3) Submission [The document entitled 'Video 1' referred to in this submission has not been submitted into the Examination]
REP3-071	Susan Hamilton Deadline 3 (D3) Submission - Map 1
REP3-072	Susan Hamilton Deadline 3 (D3) Submission - Photo 1
REP3-073	Susan Hamilton Deadline 3 (D3) Submission - Photo 2
REP3-074	Susan Hamilton Deadline 3 (D3) Submission - Photo 3
REP3-075	Susan Hamilton Deadline 3 (D3) Submission - Photo 4
REP3-076	Susan Hamilton Deadline 3 (D3) Submission - Photo 5
REP3-077	Susan Hamilton Deadline 3 (D3) Submission - Photo 6
REP3-078	Susan Hamilton Deadline 3 (D3) Submission - Photo 7
REP3-079	Tim Knox Deadline 3 (D3) Submission

Deadline 4 – 14 February 2022

Deadline for the receipt by the Examining Authority (ExA) of:

- Comments on responses received by D3
- Progressed Statements of Common Ground
- Progressed Statement of Commonality for SoCG
- An updated Guide to the Application

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• An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions • Schedule of changes to the dDCO • An updated Compulsory Acquisition Schedule in clean and tracked versions • Any further information requested by the ExA under Rule 17 of the Examination Rules	
REP4-001	National Highways (formerly Highways England) Deadline 4 (D4) Submission - Cover Letter
REP4-002	National Highways (formerly Highways England) Deadline 4 (D4) Submission - Application for a non-material change to an accepted Development Consent Order to include additional land for compulsory acquisition
REP4-003	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 1.1a Introduction to the Application (Clean) - Rev 3
REP4-004	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 1.1a Introduction to the Application (Tracked) - Rev 3
REP4-005	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 1.1b Application Document Tracker - Rev 5
REP4-006	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 2.2 Land Plans - Rev 2 **(including amendments made in support of the change request)**
REP4-007	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 2.4 Works Plans - Rev 2 **(including amendments made in support of the change request)**
REP4-008	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 2.5 Rights of Way and Access Plans - Rev 2 **(including amendments made in support of the change request)**
REP4-009	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 2.6a General Arrangement Plans - Rev 2 **(including amendments made in support of the change request)**
REP4-010	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 2.7a Traffic Regulation Measures Speed Limits - Rev 2
REP4-011	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 2.7b Traffic Regulations Measures Clearways and Prohibitions - Rev 2
REP4-012	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 2.7c Traffic Regulation Measures Classification of Roads - Rev 2

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REP4-013	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 2.13 Trees and Hedgerows to be Removed or Managed Plans - Part 2 of 2 - Rev 2 **(including amendments made in support of the change request)**
REP4-014	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 3.1 draft Development Consent Order (Clean) - Rev 2
REP4-015	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 3.1 draft Development Consent Order - Rev 2 (Tracked)
REP4-016	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 3.1 draft Development Consent Order - Rev 2 (Tracked) **(including amendments made in support of the change request)**
REP4-017	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 3.2 Explanatory Memorandum (Clean) - Rev 1
REP4-018	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 3.2 Explanatory Memorandum (Tracked) - Rev 1
REP4-019	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 3.3 Table of Amendments to the dDCO **(including amendments made in support of the change request)** - Rev 1
REP4-020	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 4.1 Statement of Reasons - Rev 1 (Clean) **(including amendments made in support of the change request)**
REP4-021	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 4.1 Statement of Reasons - Rev 1 (Tracked) **(including amendments made in support of the change request)**
REP4-022	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 4.3 Book of Reference - Rev 1 (Clean) **(including amendments made in support of the change request)**
REP4-023	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 4.3 Book of Reference - Rev 1 (Tracked) **(including amendments made in support of the change request)**
REP4-024	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 6.3 Environmental Statement - Figure 7.9 - Retained Vegetation - Sheet 1 of 6 - Rev 1 **(including amendments made in support of the change request)**
REP4-025	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 6.3 Environmental Statement - Figure 7.11 - Environmental Masterplan - Sheet 2 of 25 - Rev 1 **(including amendments made in support of the change request)**

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REP4-026	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 6.3 Environmental Statement - Figure 7.11 - Environmental Masterplan - Sheet 3 of 25 - Rev 1 **(including amendments made in support of the change request)**
REP4-027	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 6.4 Appendix 2.1 Environmental Management Plan (EMP) (Clean) - Rev 2
REP4-028	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 6.4 Appendix 2.1 Environmental Management Plan (EMP) (Tracked) - Rev 2
REP4-029	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 6.4 Appendix 2.1 EMP Annex B CTMP (Clean) - Rev 2
REP4-030	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 6.4 Appendix 2.1 EMP Annex B CTMP (Tracked) - Rev 2
REP4-031	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 6.7 Environmental Statement - Updates and Errata - Rev 2 (Clean) **(including amendments made in support of the change request)**
REP4-032	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 6.7 Environmental Statement - Updates and Errata - Rev 2 (Tracked) **(including amendments made in support of the change request)**
REP4-033	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 8.9 Compulsory Acquisition Schedule - Rev 1 (Clean) **(including amendments made in support of the change request)**
REP4-034	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 8.9 Compulsory Acquisition Schedule - Rev 1 (Tracked) **(including amendments made in support of the change request)**
REP4-035	National Highways (formerly Highways England) Deadline 4 (D4) Submission - 8.25 Comments on responses received by Deadline 3
REP4-036	Carol Gilbert Deadline 4 (D4) Submission - Comments on responses received by D3
REP4-037	Carol Gilbert Deadline 4 (D4) Submission - Comments on responses received by D3 - Appendix
REP4-038	Cirencester College Deadline 4 (D4) Submission - Accepted at the discretion of the Examining Authority
REP4-039	Cotswolds Conservation Board Deadline 4 (D4) Submission - Position on proposed scheme's approach to historic landscape
REP4-040	Cowley and Birdlip Parish Council Deadline 4 (D4) Submission

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REP4-041	Cowley and Birdlip Parish Council Deadline 4 (D4) Submission - 2021 Parish Council Asset Schedule
REP4-042	Cowley and Birdlip Parish Council Deadline 4 (D4) Submission - Current insurance schedule dated 2021/22
REP4-043	Cowley and Birdlip Parish Council Deadline 4 (D4) Submission - Excerpt from Parish Council minutes from 1956
REP4-044	Cowley and Birdlip Parish Council Deadline 4 (D4) Submission - Excerpt from Parish Council minutes dated 1962
REP4-045	Cowley and Birdlip Parish Council Deadline 4 (D4) Submission - Roof repair invoice from 2004
REP4-046	Cowley and Birdlip Parish Council Deadline 4 (D4) Submission - Sample historical insurance schedule dated 2006
REP4-047	Environment Agency Deadline 4 (D4) Submission - Response to Action Points from Issue Specific Hearing 1 (ISH1)
REP4-048	Joanna Pearce Deadline 4 (D4) Submission
REP4-049	Linda Turner Deadline 4 (D4) Submission - Comments on responses received by D3
REP4-050	Lisa Field Deadline 4 (D4) Submission - Comments on responses received by D3
REP4-051	National Trust Deadline 4 (D4) Submission - Comments on responses received by D3
REP4-052	Natural England Deadline 4 (D4) Submission
REP4-053	Pascale Gysi Deadline 4 (D4) Submission - Comments on responses received by D3
REP4-054	The Joint Councils (Gloucestershire County Council, Cotswold District Council, and Tewkesbury Borough Council) Deadline 4 (D4) Submission - Comments on responses received by D3
REP4-055	Tim Knox Deadline 4 (D4) Submission
Late Submission	
REP4-056	Richard Hamilton Deadline 4 (D4) Submission - Comments on responses received by D3 - Late submission accepted at the discretion of the Examining Authority

Deadline 5 – 9 March 2022

Deadline for the receipt by the Examining Authority (ExA) of:

- Written summaries of oral submissions to Hearings held during the w/c 28 February 2022;
- Comments on responses received by D4;
- Progressed Statements of Common Ground;
- Progressed Statement of Commonality for SoCG;
- An updated Guide to the Application;
- An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions;
- Schedule of changes to the dDCO;
- An updated Compulsory Acquisition Schedule in clean and tracked versions;
- Any further information requested by the ExA under Rule 17 of the Examination Rules

REP5-001	National Highways (formerly Highways England) Deadline 5 (D5) Submission - Cover Letter
REP5-002	National Highways (formerly Highways England) Deadline 5 (D5) Submission - 1.1a Introduction to the Application (Clean) - Rev 4
REP5-003	National Highways (formerly Highways England) Deadline 5 (D5) Submission - 1.1a Introduction to the Application (Tracked) - Rev 4
REP5-004	National Highways (formerly Highways England) Deadline 5 (D5) Submission - 1.1b Application Document Tracker - Rev 6
REP5-005	National Highways (formerly Highways England) Deadline 5 (D5) Submission - 7.3 Statement of Commonality - Rev 3
REP5-006	National Highways (formerly Highways England) Deadline 5 (D5) Submission - 8.22 Landowner Position Statements (Clean) - Rev 1
REP5-007	National Highways (formerly Highways England) Deadline 5 (D5) Submission - 8.22 Landowner Position Statements (Tracked) - Rev 1
REP5-008	National Highways (formerly Highways England) Deadline 5 (D5) Submission - 8.26 Comments on Responses Received by Deadline 4
REP5-009	National Highways (formerly Highways England) Deadline 5 (D5) Submission - 8.27 Summary of Applicant's Oral Submissions at Issue Specific Hearing 4 (ISH4)
REP5-010	Carol Gilbert Deadline 5 (D5) Submission - Post-Hearing submission, and Comments on the Examining Authority's Notes of Unaccompanied Site Inspections (USI2 and USI3)
REP5-011	Cotswolds Conservation Board Deadline 5 (D5) Submission

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REP5-012	Gloucestershire Wildlife Trust Deadline 5 (D5) Submission - Post-Hearing submission, and Comments on responses received by D4
REP5-013	Hannah Dawson Deadline 5 (D5) Submission
REP5-014	Linda Dawson Deadline 5 (D5) Submission - Post-Hearing submission
REP5-015	Richard Hamilton Deadline 5 (D5) Submission - Written summary of oral submissions to Issue Specific Hearing 4 (ISH4)
REP5-016	The Joint Councils (Gloucestershire County Council, Cotswold District Council and Tewkesbury Borough Council) Deadline 5 (D5) Submission - Written summary of oral submissions to Issue Specific Hearing 4 (ISH4), and comments on proposed changes to the application
REP5-017	Tim Knox Deadline 5 (D5) Submission - Written summary of oral submissions to Issue Specific Hearing 4 (ISH4)

Deadline 6 – 30 March 2022

Deadline for the receipt by the Examining Authority (ExA) of:

- Responses to ExQ2 (if required)
- Comments on responses received by D5
- Progressed Statements of Common Ground
- Progressed Statement of Commonality for SoCG
- An updated Guide to the Application
- An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions
- Schedule of changes to the dDCO
- An updated Compulsory Acquisition Schedule in clean and tracked versions
- Any further information requested by the ExA under Rule 17 of the Examination Rules

REP6-001	National Highways Deadline 6 (D6) Submission - Cover Letter
REP6-002	National Highways Deadline 6 (D6) Submission - 1.1a Introduction to the Application (Clean) - Rev 5
REP6-003	National Highways Deadline 6 (D6) Submission - 1.1a Introduction to the Application (Tracked) - Rev 5
REP6-004	National Highways Deadline 6 (D6) Submission - 1.1b Application Document Tracker - Rev 7
REP6-005	National Highways Deadline 6 (D6) Submission - 2.5 Rights of Way and Access Plans - Rev 3
REP6-006	National Highways

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	Deadline 6 (D6) Submission - 2.6c Structures Engineering Drawings and Sections
REP6-007	National Highways Deadline 6 (D6) Submission - 3.1 Updated draft Development Consent Order (dDCO) (Clean) - Rev 3
REP6-008	National Highways Deadline 6 (D6) Submission - 3.1 Updated draft Development Consent Order (dDCO) (Tracked) - Rev 3
REP6-009	National Highways Deadline 6 (D6) Submission - 3.3 Table of Amendments to the draft Development Consent Order - Rev 2
REP6-010	National Highways Deadline 6 (D6) Submission - 6.4 Environmental Management Plan (EMP) (Clean) - Rev 3
REP6-011	National Highways Deadline 6 (D6) Submission - 6.4 Environmental Management Plan (EMP) (Tracked) - Rev 3
REP6-012	National Highways Deadline 6 (D6) Submission - 7.2 Consents and Agreements Position Statement (Clean) - Rev 1
REP6-013	National Highways Deadline 6 (D6) Submission - 7.2 Consents and Agreements Position Statement (Tracked) - Rev 1
REP6-014	National Highways Deadline 6 (D6) Submission - 8.28 Comments on responses received by Deadline 5
REP6-015	National Highways Deadline 6 (D6) Submission - 8.29 Responses to the Examining Authority's Written Question (ExQ2)
REP6-016	National Highways Deadline 6 (D6) Submission - 8.30 Surface and ground water monitoring (Part 1 of 2)
REP6-017	National Highways Deadline 6 (D6) Submission - 8.30 Surface and ground water monitoring (Part 2 of 2)
REP6-018	Carol Gilbert Deadline 6 (D6) Submission - Comments on responses received by Deadline 5
REP6-019	Cotswolds Conservation Board Deadline 6 (D6) Submission - Responses to ExQ2
REP6-020	Bruce Fowler on behalf of David and Lisa Field Deadline 6 (D6) Submission - Responses to ExQ2
REP6-021	Bruce Fowler on behalf of David and Lisa Field Deadline 6 (D6) Submission - Responses to ExQ2 - Consultation Response dated 16 April 2020
REP6-022	Bruce Fowler on behalf of David and Lisa Field Deadline 6 (D6) Submission - Responses to ExQ2 - Image of de-trunked highway in National Highways ownership
REP6-023	Bruce Fowler on behalf of David and Lisa Field

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	Deadline 6 (D6) Submission - Responses to ExQ2 - Land Registry Title Number GR322801
REP6-024	Bruce Fowler on behalf of David and Lisa Field Deadline 6 (D6) Submission - Responses to ExQ2 - Land Registry Title Number GR326366
REP6-025	Bruce Fowler on behalf of David and Lisa Field Deadline 6 (D6) Submission - Responses to ExQ2 - Land Registry Title Number GR326573
REP6-026	Bruce Fowler on behalf of David and Lisa Field Deadline 6 (D6) Submission - Responses to ExQ2 - Representation and Feedback (for comparison with Landowner Position Statement 8.22 - Appendix J)
REP6-027	Environment Agency Deadline 6 (D6) Submission - Responses to ExQ2
REP6-028	Gloucestershire Wildlife Trust Deadline 6 (D6) Submission - Responses to ExQ2
REP6-029	Gloucestershire Wildlife Trust Deadline 6 (D6) Submission - Responses to ExQ2 - SSSI Recreational Pressure Position Statement
REP6-030	Historic England Deadline 6 (D6) Submission - Responses to ExQ2
REP6-031	James Hamilton Deadline 6 (D6) Submission - Responses to ExQ2
REP6-032	James Hamilton Deadline 6 (D6) Submission - Responses to ExQ2 - Cowley Lane Traffic Count
REP6-033	National Star Deadline 6 (D6) Submission - Responses to ExQ2
REP6-034	National Trust Deadline 6 (D6) Submission - Responses to ExQ2
REP6-035	Natural England Deadline 6 (D6) Submission - Responses to ExQ2
REP6-036	Natural England Deadline 6 (D6) Submission - Responses to ExQ2 - 387152 The Cotswold Way National Trail
REP6-037	Natural England Deadline 6 (D6) Submission - Responses to ExQ2 - 387339 Position Statement on Recreational Pressure on Crickley Hill and Barrow Wake SSSI
REP6-038	Natural England Deadline 6 (D6) Submission - Responses to ExQ2 - 387356 Proposed Disapplication of Legislation Relating to SSSI (Addendum to Response to Rule 17 Request for Further Information [REP3-058])
REP6-039	Natural England Deadline 6 (D6) Submission - Responses to ExQ2 - Crickley Hill and Barrow Wake SSSI Map
REP6-040	The Joint Councils (Gloucestershire County Council, Cotswold District Council, and Tewkesbury Borough Council) Deadline 6 (D6) Submission - Responses to ExQ2

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REP6-041	Tim Knox Deadline 6 (D6) Submission - Comments on responses received by Deadline 5
REP6-042	George Lambrick Deadline 6 (D6) Submission - Cover Letter for Responses to ExQ2 - Accepted at the discretion of the Examining Authority
REP6-043	George Lambrick Deadline 6 (D6) Submission - Responses to ExQ2 - Accepted at the discretion of the Examining Authority
Deadline 7 – 11 April 2022 Deadline for the receipt by the Examining Authority (ExA) of: • Comments on responses to ExQ2 (if required) • Comments on responses received by D6 • Any further information requested by the ExA under Rule 17 of the Examination Rules	
REP7-001	National Highways (formerly Highways England) Deadline 7 (D7) Submission - Cover Letter
REP7-002	National Highways (formerly Highways England) Deadline 7 (D7) Submission - 1.1a Introduction to the Application (Clean) - Rev 6
REP7-003	National Highways (formerly Highways England) Deadline 7 (D7) Submission - 1.1a Introduction to the Application (Tracked) - Rev 6
REP7-004	National Highways (formerly Highways England) Deadline 7 (D7) Submission - 1.1b Application Document Tracker - Rev 8
REP7-005	National Highways (formerly Highways England) Deadline 7 (D7) Submission - 8.31 Comments on Submissions received by Deadline 6
REP7-006	The Joint Councils (Gloucestershire County Council, Cotswold District Council, and Tewkesbury Borough Council) Deadline 7 (D7) Submission - Comments on responses received by Deadline 6 and Position Statement
REP7-007	Climate Emergency Planning and Policy Deadline 7 (D7) Submission
REP7-008	Climate Emergency Planning and Policy Deadline 7 (D7) Submission - Appendix A - IEMA Guide: Assessing Greenhouse Gas Emissions and Evaluating their Significance, Version 2, Feb 2022
REP7-009	Climate Emergency Planning and Policy Deadline 7 (D7) Submission - Appendix B - Transport Decarbonisation Plan
REP7-010	Climate Emergency Planning and Policy Deadline 7 (D7) Submission - Appendix C - Net Zero Strategy
REP7-011	Climate Emergency Planning and Policy

	Deadline 7 (D7) Submission - Appendix D - A38 Derby Junctions [TR010022] Volume 8.122 - Applicant's Responses to the Secretary of State's Consultation Letter issued on 7 January 2022
REP7-012	Climate Emergency Planning and Policy Deadline 7 (D7) Submission - Appendix E - A57 Links Road [TR010034] - 9.59 Applicant's Response to Issue Specific Hearing 2 Item 6 (c) and (d)
REP7-013	Climate Emergency Planning and Policy Deadline 7 (D7) Submission - Appendix F - Pearce V Beis [2021] EWHC 326 (Admin) Judgement
REP7-014	Cotswolds Conservation Board Deadline 7 (D7) Submission - Comments on responses to ExQ2
REP7-015	Gloucestershire Wildlife Trust Deadline 7 (D7) Submission - Comments on responses received by D6 and Position Statement
Deadline 7a – 28 April 2022 For receipt by the ExA of: - Written Representations (WR) on the Applicant's changes to the application received at Deadline 4 (D4); and - Notification of wish for any additional Interested Party to participate in an Open Floor Hearing or any additional Affected Person to participate in a Compulsory Acquisition Hearing, to be held on 29 April 2022 (if required).	
No submissions received	
Deadline 8 – 6 May 2022 For receipt by the ExA of: - Responses to Relevant Representations and Written Representations on the Applicant's changes to the application received at D4 - Written summaries of oral submissions to Hearing(s) held on 29 April 2022 (if held) - Any post-Hearing submissions requested at the Hearings (if held) - Responses to the RIES (if issued) - Responses to the ExA's proposed schedule of changes to the dDCO (if issued) - Comments on responses received by D7 - Progressed Statements of Common Ground - Progressed Statement of Commonality for SoCG - An updated Guide to the Application - An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions - Schedule of changes to the dDCO - An updated Compulsory Acquisition Schedule in clean and tracked versions - Any further information requested by the ExA under Rule 17 of the Examination Rules	
REP8-001	National Highways (formerly Highways England) Deadline 8 (D8) Submission - Cover Letter
REP8-002	National Highways (formerly Highways England) Deadline 8 (D8) Submission - An updated version of the draft Development Consent Order (dDCO)

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REP8-003	National Highways (formerly Highways England) Deadline 8 (D8) Submission - DCO Validation Report
REP8-004	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 1.1a Introduction to the Application (Clean) - Rev 7
REP8-005	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 1.1a Introduction to the Application (Tracked) - Rev 7
REP8-006	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 1.1b Application Document Tracker - Rev 9
REP8-007	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 2.2 Land Plans - Rev 3
REP8-008	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 2.5 Rights of Way and Access Plans - Rev 4
REP8-009	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 3.1 Draft Development Consent Order (Clean) - Rev 4
REP8-010	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 3.1 Draft Development Consent Order (Tracked) - Rev 4
REP8-011	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 3.2 Explanatory Memorandum (Clean) - Rev 2
REP8-012	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 3.2 Explanatory Memorandum (Tracked) - Rev 2
REP8-013	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 3.3 Schedule of changes to the draft Development Consent Order - Rev 3
REP8-014	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 4.1 Statement of Reasons (Clean) - Rev 2
REP8-015	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 4.1 Statement of Reasons (Tracked) - Rev 2
REP8-016	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 4.3 Book of Reference - Rev 2
REP8-017	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 4.3 Book of Reference (Tracked) - Rev 2
REP8-018	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 6.3 Figure 7.9 Retained Vegetation Sheet 2 of 6 - Rev 1
REP8-019	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 6.3 Figure 7.11 Environmental Masterplan Sheet 6 of 25 - Rev 1
REP8-020	National Highways (formerly Highways England)

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	Deadline 8 (D8) Submission - 6.4 Appendix 2.1 EMP Annex B Construction Traffic Management Plan (Deadline 8) (Clean) - Rev 3
REP8-021	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 6.4 Appendix 2.1 EMP Annex B Construction Traffic Management Plan (Tracked) - Rev 3
REP8-022	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 6.8 Detailed Archaeological Mitigation Strategy and Overarching Written Schemes of Investigation
REP8-023	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 7.2 Consents and Agreements Position Statement (Clean) - Rev 2
REP8-024	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 7.2 Consents and Agreements Position Statement (Tracked) - Rev 2
REP8-025	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 7.11 Cotswold Way National Trail Diversion Report (Clean) - Rev 1
REP8-026	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 7.11 Cotswold Way National Trail Diversion Report (Rev 1)
REP8-027	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 8.32 Geophysical Survey Report 2022 Part 1 of 2
REP8-028	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 8.32 Geophysical Survey Report 2022 Part 2 of 2
REP8-029	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 8.33 Comments on Responses received by Deadline 7 and 7a and Changes to the Application
REP8-030	National Highways (formerly Highways England) Deadline 8 (D8) Submission - 8.34 Summary of Applicant's Oral Submissions at Issue Specific Hearing 3 (ISH3)
REP8-031	The Joint Councils (Gloucestershire County Council, Cotswold District Council, and Tewkesbury Borough Council) Deadline 8 (D8) Submission - Any further information requested by the ExA under Rule 17 of the Examination Rules
REP8-032	Bruce Fowler on behalf of Mr and Mrs Field Deadline 8 (D8) Submission - Written summary of oral submissions to Compulsory Acquisition Hearing 3 (CAH3)
REP8-033	Bruce Fowler on behalf of Mr and Mrs Field Deadline 8 (D8) Submission - Any post-Hearing submissions requested at the Hearings - CD 169: The design of lay-bys, maintenance hardstandings, rest areas, service areas and observation platforms
REP8-034	Carter Jonas LLP on behalf of Hanson Quarry Products Europe Limited Deadline 8 (D8) Submission - Written summary of oral submissions to Compulsory Acquisition Hearing 3 (CAH3)

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REP8-035	Climate Emergency Policy and Planning (CEPP) Deadline 8 (D8) Submission
REP8-036	Climate Emergency Policy and Planning (CEPP) Deadline 8 (D8) Submission - Appendix A: Net Zero Strategy Legal Challenge, Permission Order, March 1st 2022
REP8-037	Climate Emergency Policy and Planning (CEPP) Deadline 8 (D8) Submission - Appendix B: Net Zero Strategy Legal Challenge, Friends of the Earth Briefing, March 2nd 2022
REP8-038	Climate Emergency Policy and Planning (CEPP) Deadline 8 (D8) Submission - Appendix C: Net Zero Strategy Legal Challenge, Key Extracts, Good Law Project Pap Letter, December 22nd 2021
REP8-039	Climate Emergency Policy and Planning (CEPP) Deadline 8 (D8) Submission - Appendix D: Climate Change Committee, Advice on Reducing the UK's Emissions
REP8-040	Fisher German LLP on behalf of Severn Trent Water Limited Deadline 8 (D8) Submission - Any further information requested by the ExA under Rule 17 of the Examination Rules
REP8-041	Gloucestershire Ramblers Deadline 8 (D8) Submission - Cotswold Way Diversion Report and Relevance to Walking and the Countryside
REP8-042	Gloucestershire Ramblers Deadline 8 (D8) Submission - Climate emergency and relevance to walking and the countryside
REP8-043	Moore Allen & Innocent LLP on behalf of BJ & CE Ford Deadline 8 (D8) Submission - Position Statement
REP8-044	Moore Allen & Innocent LLP on behalf of I F Medlock Deadline 8 (D8) Submission - Position Statement
REP8-045	Patricia and Robert de Lisle Wells Deadline 8 (D8) Submission - Position Statement Cover Letter
REP8-046	Patricia and Robert de Lisle Wells Deadline 8 (D8) Submission - 8.22 Landowner Position Statement
REP8-047	Gloucestershire Ramblers Deadline 8 (D8) Submission - Adverse Impact of the Scheme on Barrow Wake View Point, Car park and SSSI - Late submission accepted at the discretion of the Examining Authority

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Deadline 9 – 16 May 2022

For receipt by the ExA of:
- Comments on responses to the RIES (if issued)
- Comments on responses to the ExA's proposed schedule of changes to the dDCO (if issued)
- Comments on responses received by D8
- Finalised Statements of Common Ground
- Finalised Statement of Commonality for SoCG
- Finalised Guide to the Application
- Final version of the draft Development Consent Order (dDCO) in clean and tracked versions
- Final dDCO to be submitted by the Applicant in the SI template with the SI template validation report
- Finalised Schedule of changes to the dDCO
- Finalised Compulsory Acquisition Schedule in clean and tracked versions
- Any further information requested by the ExA under Rule 17 of the Examination Rules

REP9-001	National Highways (formerly Highways England) Deadline 9 (D9) Submission - Cover Letter
REP9-002	National Highways (formerly Highways England) Deadline 9 (D9) Submission - Final draft Development Consent Order to be submitted by the Applicant in the Statutory Instruments template with the Statutory Instruments template validation report
REP9-003	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 1.1a Introduction to the Application (Clean) - Rev 8
REP9-004	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 1.1b Application Document Tracker - Rev 10
REP9-005	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 3.1 Draft Development Consent Order (Clean) - Rev 4
REP9-006	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 3.1 Draft Development Consent Order (Tracked) - Rev 4
REP9-007	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 3.2 Explanatory Memorandum (Clean) - Rev 3
REP9-008	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 3.2 Explanatory Memorandum (Tracked) - Rev 3
REP9-009	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 3.3 Schedule of amendments to the draft Development Consent Order - Rev 4
REP9-010	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 7.3 Statement of Commonality (Clean) - Rev 4

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REP9-011	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 7.3 Statement of Commonality (Tracked) - Rev 4
REP9-012	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 7.3.1 Statement of Common Ground with Joint Councils
REP9-013	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 7.3.2 Statement of Common Ground with Environment Agency
REP9-014	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 7.3.3 Statements of Common Ground with Natural England
REP9-015	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 7.3.4 Statements of Common Ground with Historic England
REP9-016	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 7.3.5 Statements of Common Ground with Cotswolds Conservation Board
REP9-017	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 7.3.6 Statement of Common Ground with Gloucestershire Wildlife Trust
REP9-018	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 7.3.7 Statement of Common Ground with National Trust
REP9-019	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 7.3.8 Statement of Common Ground with The Walking, Cycling and Horse riding Technical Working Group
REP9-020	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 7.3.9 Statement of Common Ground with Cellnex UK Limited
REP9-021	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 7.3.10 Statement of Common Ground with Coberley Parish Council
REP9-022	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 8.9 Compulsory Acquisition Schedule (Clean) - Rev 2
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REP9-024	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 8.22 Landowner Position Statements (Clean) - Rev 2
REP9-025	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 8.22 Landowner Position Statements (Tracked) - Rev 2
REP9-026	National Highways (formerly Highways England) Deadline 9 (D9) Submission - 8.35 Comments on Responses received by Deadline 8

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REP9-027	The Joint Councils (Gloucestershire County Council, Cotswold District Council, and Tewkesbury Borough Council) Deadline 9 (D9) Submission - Position Statement
REP9-028	Carol Gilbert Deadline 9 (D9) Submission
REP9-029	Climate Emergency Policy and Planning (CEPP) Deadline 9 (D9) Submission - Comments on responses received by Deadline 8 and any further information requested by the Examining Authority under Rule 17 of the Examination Rules
REP9-030	Fisher German LLP on behalf of Severn Trent Water Deadline 9 (D9) Submission - Position Statement
REP9-031	Hannah Dawson Deadline 9 (D9) Submission
REP9-032	Linda Dawson Deadline 9 (D9) Submission - Comments on responses received by Deadline 8
REP9-033	The Woodland Trust Deadline 9 (D9) Submission - Comments on responses received by Deadline 8
Other Documents	
OD-001	Regulation 32 Transboundary Screening
OD-002	Highways England Section 56 Notice
OD-003	Highways England Certificate of Compliance with Section 56
OD-004	Highways England Certificate of Compliance with Section 59
OD-005	Highways England Certificate of Compliance with Regulation 16
OD-006	National Highways (formerly Highways England) Regulation 9a Notice
OD-007	National Highways (formerly Highways England) Regulation 9b Certificate

APPENDIX C: LIST OF ABBREVIATIONS

Abbreviation or usage	Reference
2015 Regs	Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015
A&A	Alexander and Angell Limited
AA	Appropriate Assessment
AEoI	Adverse Effect on the Integrity
ALC	Agricultural Land Classification
ANCB	Appropriate Nature Conservation Body
AONB	Area of Outstanding Natural Beauty
AP	Affected Person
Applicant	National Highways (formerly Highways England)
AQMA	Air Quality Management Area
AQS Regulations	Air Quality Standards Regulations 2010 (as amended)
ARN	Affected road network
ARSI	Access Required Site Inspection
ASI	Accompanied Site Inspection
BNG	Biodiversity net gain
BOAT	Byway Open to All Traffic
BoR	Book of Reference
CA	Compulsory Acquisition
CA Guidance	Guidance Related to Procedures for the Compulsory Acquisition of Land, the Former Department for Communities and Local Government (DCLG), September 2013
CA Regulations	Infrastructure Planning (Compulsory Acquisition) Regulations 2010
CAH	Compulsory Acquisition Hearing
CBR	Cost Benefit Ratio
CCA2008	Climate Change Act 2008
CCB	Cotswold Conservation Board
CEPP	Climate Emergency Policy and Planning
CH_4	Methane
CIEMM	Chartered Institute of Ecology and Environmental Management
CO_2	Carbon dioxide
CPRE	Campaign to Protect Rural England
CSM	Conceptual site model
CTMP	Construction Traffic Management Plan
CWNT	Cotswold Way National Trail
D	Deadline
DAMS and OWSI	Detailed Archaeological Mitigation Strategy and Overarching Written Scheme of Investigation
dB	Decibel(s)
DCLG	Department of Communities and Local Government
DCO	Development Consent Order
dDCO	draft Development Consent Order
DEFRA	Department for Environment, Food and Rural Affairs
DfT	Department for Transport

Abbreviation or usage	Reference
DM	Do-Minimum
DMRB	Design Manual for Roads and Bridges
DS	Do-Something
DVS	District Valuer Services
EA	Environment Agency
EA2010	Equalities Act 2010
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
EEA	European Economic Area
EFT	Emissions Factor Toolkit
EIA	Environmental Impact Assessment
EIA development	Development for which an Environmental Impact Assessment (EIA) is required
EIA Regulations	Infrastructure Planning (Environmental Impact Assessment) Regulations 2009
EL	Examination Library
EM	Explanatory Memorandum
EMP	Environmental Management Plan
EPR	Infrastructure Planning (Examination Procedure) Rules 2010
EqIA	Equality Impact Assessment
ES	Environmental Statement
EU	European Union
ExA	Examining Authority
ExQ1	The ExA's First Written Questions
ExQ2	The ExA's Second Written Questions
Flyup Limited	Flyup 417 Bike Park
FRA	Flood Risk Assessment
FZ	Flood zone
GCC	Gloucestershire County Council
GHG	Greenhouse gas
GLVIA	Guidelines for Landscape and Visual Impact Assessment
GWLDF	Gloucestershire Way Long Distance Footpath
GWT	Gloucestershire Wildlife Trust
ha	Hectare(s)
Habitats Regulations	Conservation of Habitats and Species Regulations 2017
HE	Historic England
HER	Historic Environment Record
HEWRAT	Highways England Water Risk Assessment Tool
HFC	Hydrofluorocarbons
HGV	Heavy goods vehicle
HLC	Historic Landscape Characterisation
HLCA	Historic Landscape Character Area
HRA	Habitats Regulations Assessment
IAPI	Initial Assessment of Principal Issues
IEMA	Institute of Environmental Management Assessment
IP	Interested Party

Abbreviation or usage	Reference
ISH	Issue Specific Hearing
Joint Councils	Gloucestershire County Council, Cotswold District Council and Tewkesbury Borough Council
kg	Kilogram(s)
kg N/ha/yr	Kilograms of nitrogen per hectare per year (nitrogen yield)
km	Kilometre(s)
KSI	Killed or Seriously Injured
LB	Listed building
LCT	Landscape character type
LEMP	Landscape and Ecological Management Plan
LIR	Local Impact Report
LOAEL	Lowest Observed Adverse Effect Level
LoD	Limits of Deviation
LSE	Likely significant effects
LV	Limit values
m	Metre(s)
m^2	Metre(s) squared
m^3	Metre(s) cubed
mph	Miles per hour
N_2O	Nitrous oxide
NE	Natural England
NF_3	Nitrogen trifluoride
NH	National Highways
NMU	Non-motorised user
NO_2	Nitrogen dioxide
NOEL	No Observed Effect Level
NO_x	Mono-nitrogen oxides
NP&ACA 1949	National Parks and Access to the Countryside Act 1949
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NPSE	Noise Policy Statement for England
NPSNN	National Policy Statement for National Networks
NSC	National Star College
NSIP	Nationally Significant Infrastructure Project
NT	National Trust
NZS	Net Zero Strategy
OFH	Open Floor Hearing
PA2008	Planning Act 2008
PAS	Portable Antiquities Scheme
PFC	Perfluorocarbons
PM	Preliminary Meeting
PM_{10}	Particulate matter with an aerodynamic diameter smaller than 10 µm
$PM_{2.5}$	Particulate matter with an aerodynamic diameter smaller than 2.5 µm
PPG	Planning Practice Guidance
PRoW	Public Right of Way

Abbreviation or usage	Reference
PSED	Public Sector Equality Duty
R	Requirement
rDCO	recommended Development Consent Order
REAC	Register of Environmental Actions and Commitments
RIES	Report on Implications for European Sites
RIS1	Road Investment Strategy: 2015-2020
RIS2	Road Investment Strategy 2 (2020-2025)
RPG	Registered park and garden
RR	Relevant Representation
RSI	Road surface influence
s	Section
SAC	Special Area of Conservation
SF_6	Sulphur hexafluoride
SIAA	Statement to Inform Appropriate Assessment
SM	Scheduled monument
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
SPP	Special parliamentary procedure
sqm	Square metre(s)
SSSI	Site of Special Scientific Interest
STW	Severn Trent Water
SU	Statutory Undertaker
SuDs	Sustainable drainage systems
SWRTM	Southwest Regional Traffic Model
TAG	Transport Appraisal Guidance
tCO_2e	Tonnes of carbon dioxide equivalent
TDP	Transport Decarbonisation Plan
TP	Temporary Possession
TWG	Technical working group
UK	United Kingdom
UNEP	United Nations Environment Programme
USI	Unaccompanied Site Inspection
WACA 1981	Wildlife and Countryside Act 1981
WCH	Walking, cycling and horse-riding
WebTAG	Web-based Transport Analysis Guidance
WFD	Water Framework Directive
WPD	Western Power Distribution Plc
WR	Written Representation
WRA 1991	Water Resources Act 1991
ZTV	Zone of Theoretical Visibility

APPENDIX D: THE RECOMMENDED DCO

S T A T U T O R Y I N S T R U M E N T S

202[] No.

INFRASTRUCTURE PLANNING

The A417 Missing Link Development Consent Order []

Made - - - - ***

Coming into force ***

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008(**a**) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(**b**) for an Order granting development consent.

(**a**) 2008 c.29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c.20).
(**b**) S.I. 2009/2264, amended by S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2015/377, S.I. 2017/572; modified by S.I. 2012/1659.

The application was examined 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(**a**).

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

The Secretary of State, having considered the 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 is satisfied that replacement land has been or will be given in exchange for the common land (as defined in article 39 of this Order), and the replacement land (as defined in that article) has been or will be vested in the prospective seller and subject to the same rights, trusts and incidents as attached to the common land, and that, accordingly, section 131(4) of the 2008 Act applies.

The Secretary of State is satisfied that the land plots identified in the special category land plans and the book of reference as open space authorised to be permanently compulsorily acquired under this Order are required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway, and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public and that, accordingly, section 131(5) of the 2008 Act applies.

The Secretary of State is satisfied that the land identified in the special category land plans and the book of reference as open space over which rights may be acquired compulsorily under this Order, when burdened with any new rights authorised to be compulsorily acquired under this Order, will be no less advantageous than it was before to the persons in whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public, and that, accordingly, section 132(3) of the 2008 Act applies.

The Secretary of State, in exercise of the powers conferred by sections 114(**b**), 115(**c**), 117(**d**), 120(**e**), 122(**f**) and 123(**g**) of, and paragraphs 1 to 4, 10 to 17, 19 to 23, 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.—(1) This Order may be cited as the A417 Missing Link Development Consent Order 20[•] and comes into force on [•].

(**a**) S.I. 2010/103, amended by S.I. 2012/635.
(**b**) Section 114 was amended by paragraph 55 of Schedule 13 to the Localism Act 2011 (c.20).
(**c**) Section 115 was amended by paragraph 1 of Schedule 25 to the Localism Act, section 160 of the Housing and Planning Act 2016 (c. 22) and section 43 of the Wales Act 2017 (c. 4).
(**d**) Section 117 was amended by paragraph 58 of Schedule 13, and paragraph 1 of Schedule 25, to the Localism Act 2011.
(**e**) Section 120 was amended by section 140 of, and paragraph 60 of Schedule 13 to, the Localism Act 2011.
(**f**) Section 122 was amended by paragraph 62 of Schedule 13 to the Localism Act 2011.
(**g**) Section 123 was amended by paragraph 62 of Schedule 13 to the Localism Act 2011.

Interpretation

2.—(1) In this Order except where provided otherwise—

"the 1949 Act" means the National Parks and Access to the Countryside Act 1949(**a**);

"the 1961 Act" means the Land Compensation Act 1961(**b**);

"the 1965 Act" means the Compulsory Purchase Act 1965(**c**);

"the 1980 Act" means the Highways Act 1980(**d**);

"the 1981 Act" means the Compulsory Purchase (Vesting Declarations) Act 1981(**e**);

"the 1984 Act" means the Road Traffic Regulation Act 1984(**f**);

"the 1990 Act" means the Town and Country Planning Act 1990(**g**);

"the 1991 Act" means the New Roads and Street Works Act 1991(**h**);

"the 2008 Act" means the Planning Act 2008(**i**);

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

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

"authorised development" means the development and associated development described in Schedule 1 (authorised development) or any part of it and any other development authorised by this Order 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;

"bridleway" has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act;

"building" includes any structure or erection or any part of a building, structure or erection;

"carriageway" has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act;

"the classification of roads plans" means the plans certified by the Secretary of State as the traffic regulation measures classification of roads plans for the purposes of this Order;

"the clearways and prohibitions plans" means the plans certified by the Secretary of State as the traffic regulation measures clearways and prohibitions plans for the purposes of this Order;

"commence" means beginning to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised development other than operations consisting of archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, ecological surveys and pre-construction ecological mitigation, erection of any temporary means of enclosure, set up works associated with construction compounds such as soil-stripping, stockpiling, and the provision of access points, and the temporary display of site notices or advertisements, and "commencement" is to be construed accordingly;

"the Cotswold Way national trail diversion report" means the report certified by the Secretary of State as the Cotswold Way national trail diversion report for the purposes of this Order;

"cycle track" has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act(**j**);

(**a**) 1949 c.97.
(**b**) 1961 c.33.
(**c**) 1965 c.56.
(**d**) 1980 c.66.
(**e**) 1981 c.66.
(**f**) 1984 c.27.
(**g**) 1990 c.8.
(**h**) 1991 c.22.
(**i**) 2008 c.29.
(**j**) The definition of "cycle track" was amended by section 1 of the Cycle Tracks Act 1984 (c.38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c.54).

"the de-trunking plans" means the plans certified by the Secretary of State as the de-trunking plans for the purposes of this Order;

"electronic transmission" means a communication transmitted—

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

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

"the engineering drawings and sections" means the plans certified by the Secretary of State as the engineering drawings and sections for the purposes of this Order;

"the environmental management plan (design stage)" means the design stage outline environmental management plan certified by the Secretary of State as the environmental management plan (design stage) for the purposes of this Order;

"the environmental masterplan" means the plan certified by the Secretary of State as the environmental masterplan for the purposes of this Order;

"the environmental statement" means the documents certified by the Secretary of State as the environmental statement for the purposes of this Order;

"footpath" and "footway" have the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act;

"the general arrangement plans" means the plans certified by the Secretary of State as the general arrangement plans for the purposes of this Order;

"highway" has the same meaning as in section 328 (meaning of "highway") of the 1980 Act;

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

"the limits of deviation" means the limits of deviation referred to in article 8 (limits of deviation);

"the local highway authority" means Gloucestershire County Council;

"maintain" includes inspect, repair, adjust, alter, remove, replace or reconstruct in relation to the authorised development and any derivative of "maintain" is to be construed accordingly;

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

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

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

"the relevant planning authority" means the local planning authority for the land in question;

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

"the Secretary of State" means the Secretary of State for Transport;

"the special category land plans" means the plans certified by the Secretary of State as the special category land plans for the purposes of this Order;

"the speed limits plans" means the plans certified by the Secretary of State as the traffic regulation measures speed limits plans for the purposes of this Order;

"statutory undertaker" means any statutory undertaker for the purposes of section 127(8) (statutory undertakers' land) of the 2008 Act;

"street" means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

(**a**) 1981 c.67. The definition of "owner" was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c.34). There are other amendments to section 7 which are not relevant to this Order.

"street authority" has the same meaning as in section 49 (the street authority and other relevant authorities) of the 1991 Act;

"traffic authority" has the same meaning as in section 121A(**a**) (traffic authorities) of the 1984 Act;

"the traffic regulation measures plans" means the plans certified by the Secretary of State as the traffic regulation measures plans for the purposes of this Order;

"tree preservation order" has the meaning given in section 198 of the 1990 Act(b);

"the tribunal" means the Lands Chamber of the Upper Tribunal;

"trunk road" means a highway which is a trunk road by virtue of—

(a) section 10(**c**) (general provision as to trunk roads) or section 19(1)(**d**) (certain special roads and other highways to become trunk roads) of the 1980 Act;

(b) an order made or direction given under section 10 of that Act;

(c) an order granting development consent; or

(d) any other enactment;

"the undertaker" means National Highways Limited, company number 09346363, whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;

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

"the works plans" means the plans certified by the Secretary of State as the works plans 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, areas and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

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

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the relevant plans.

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

Disapplication of legislative provisions

3.—(1) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development and, within any maintenance period defined in article 35(12), any maintenance of any part of the authorised development–

(a) section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991(**e**);

(b) section 32 (variation of awards) of the Land Drainage Act 1991;

(**a**) This section was inserted by section 168(1) of, and paragraph 70 of Schedule 8 to, the New Roads and Street Works Act 1991 (c.22); and brought into force by S.I. 1991/2288.
(**b**) Section 198 was amended by the 2008 Act.
(**c**) As amended by section 22(2) of the 1991 Act and paragraph 22 of Schedule 2 to the 2008 Act, and by section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c.7).
(**d**) As amended by section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c.7).
(**e**) 1991 c.59.

(c) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991;

(d) section 80 (notice to local authority of intended demolition) of the Building Act 1984(**a**);

(e) in so far as they relate to the temporary possession of land, the provisions of the Neighbourhood Planning Act 2017(**b**); and

(f) section 55 (variation of approved proposals) of the 1949 Act.

Maintenance of drainage works

4.—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article "drainage" has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

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

(2) Any enactment applying to land within or adjacent to the Order limits has effect subject to the provisions of this Order.

Maintenance of authorised development

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

Planning permission

7. If planning permission is granted under the powers conferred by the 1990 Act for development, any part of which is within the Order limits, following the coming into force of this Order that is—

(a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; or

(b) required to complete or enable the use or operation of any part of the development authorised by this Order,

then the carrying out, use or operation of such development under the terms of the planning permission does not constitute a breach of the terms of this Order.

Limits of deviation

8. In carrying out the authorised development the undertaker may—

(a) in respect of the earthworks associated with Work Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 only, deviate laterally from the lines or situations of the authorised development shown on the works plans to a maximum of 2.0 metres except—

(**a**) 1984 c.55.
(**b**) 2017 c.20.

(i) between points A and B, between points I and J, and between points M and N where they may deviate a maximum of 1.0 metres;

(ii) between points C and D, between points G and H, between points K and L, between points O and P, between points Q and R, and between points S and T where they may not deviate outwards; and

(iii) between points E and F where they may deviate a maximum of 5.3 metres;

(b) in respect of any other work, deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the Order limits shown on those plans;

(c) deviate vertically from the levels of the authorised development shown on the engineering drawings and sections to a maximum of 0.5 metres upwards or downwards except for Work No. 4d between points A1 (shown on sheet 2 of the works plans) and point B1 (shown on sheet 4 of the works plans) where it may deviate to a maximum of 0.5 metres upwards or 2.0 metres downwards,

except that these maximum limits of 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 and the local highway 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

9.—(1) Subject to article 10 (consent to transfer benefit of Order) and paragraph (2), the provisions of this Order conferring powers on the undertaker have effect solely for the benefit of the undertaker.

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

Consent to transfer benefit of Order

10.—(1) The undertaker may—

(a) transfer to another person ("the transferee") any or all of the benefit of the provisions of this Order, including those relating to compulsory acquisition, 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, including those relating to compulsory acquisition, and such related statutory rights as may be so agreed.

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

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

(4) If the benefit of the provisions of this Order relating to compulsory acquisition is transferred or granted to a transferee or lessee pursuant to this article and the transferee or lessee exercises those powers then the undertaker is liable to the transferee or lessee for any compensation that is payable to another party as a consequence of the exercise of those powers by the transferee or lessee.

(5) 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 (West Midlands) plc (company number 03600574, whose registered office is at Avonbank, Feeder Road, Bristol, Avon, BS2 0TB) for the purposes of undertaking Work Nos. 11, 14, 15, 16, 19, 20, 21, 22, 28 and 32;

(b) Openreach Limited (company number 10690039, whose registered office is at Kelvin House, 123 Judd Street, London, United Kingdom, WC1H 9NP) for the purposes of undertaking Work Nos. 12, 17, 18, 23, 27, 29, 34 and 36;

(c) Gigaclear Limited (company number 07476617, whose registered office is at Building One, Wyndyke Furlong, Abingdon, Oxfordshire, United Kingdom, OX14 1UQ) for the purposes of undertaking Work Nos. 25, 26, 31 and 33;

(d) Severn Trent Water Limited (company number 02366686, whose registered office is at Severn Trent Centre, 2 St John's Street, Coventry, CV1 2LZ) for the purposes of undertaking Work No. 13, 24, 30 and 35.

PART 3

STREETS

Street works

11.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets as are within the Order limits and may—

(a) break up or open the street, or any sewer, drain or tunnel under it;

(b) tunnel or bore under the street;

(c) place apparatus in the street;

(d) maintain apparatus in the street or change its position; and

(e) execute any works required for, or incidental to, any works referred to in sub-paragraphs (a), (b), (c) and (d).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) Subject to article 12 (application of the 1991 Act), the provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

Application of the 1991 Act

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

(a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3)(**a**) of that Act; or

(b) they are works which, had they been executed by the local highway authority, might have been carried out in exercise of the powers conferred by section 64(**b**) (dual carriageways and roundabouts) of the 1980 Act or section 184(**c**) (vehicle crossings over footways and verges) of that Act.

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

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

(**a**) Section 86(3) defines what highway works are major highway works.

(**b**) As amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c.51) and section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c.22).

(**c**) As amended by section 4 of, and paragraph 45 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11); and section 18 of and Schedule 8 to, the New Roads and Street Works Act 1991 (c.22).

(a) section 56(**a**) (power to give directions as to timing of street works);

(b) section 56A(**b**) (power to give directions as to placing of apparatus);

(c) section 58(**c**) (restriction on works following substantial road works);

(d) section 58A(**d**) (restriction on works following substantial street works);

(e) section 73A(**e**) (power to require undertaker to re-surface street);

(f) section 73B(**f**) (power to specify timing etc. of re-surfacing);

(g) section 73C(**g**) (materials, workmanship and standard of re-surfacing);

(h) section 78A(**h**) (constructions to costs of re-surfacing by undertaker); and

(i) schedule 3A(**i**) (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved, under those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 15 (temporary stopping up and restriction of use of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act(**j**) referred to in paragraph (4) are—

(a) section 54 (advance notice of certain works), subject to paragraph (6);

(b) section 55 (notice of starting date of works), subject to paragraph (6);

(c) section 57 (notice of emergency works);

(d) section 59 (general duty of street authority to co-ordinate works);

(e) section 60 (general duty of undertakers to co-operate);

(f) section 68 (facilities to be afforded to street authority);

(g) section 69 (works likely to affect other apparatus in the street);

(h) section 75 (inspection fees);

(i) section 76 (liability for cost of temporary traffic regulation); and

(j) section 77 (liability for cost of use of alternative route),

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

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

(7) Nothing in article 13 (construction and maintenance of new, altered or diverted streets and other structures)—

(a) affects the operation of section 87 (prospectively maintainable highways) of the 1991 Act;

(b) means that the undertaker is by reason of any duty under that article to maintain a street to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or

(c) has effect in relation to street works to which the provisions of Part 3 of the 1991 Act apply.

(**a**) As amended by sections 40 and 43 of the Traffic Management Act 2004 (c.18).
(**b**) Inserted by section 44 of the Traffic Management Act 2004 (c.18).
(**c**) As amended by section 51 of the Traffic Management Act 2004.
(**d**) Inserted by section 52 of the Traffic Management Act 2004.
(**e**) Inserted by section 55 of the Traffic Management Act 2004.
(**f**) Inserted by section 55 of the Traffic Management Act 2004.
(**g**) Inserted by section 55 of the Traffic Management Act 2004.
(**h**) Inserted by section 57 of the Traffic Management Act 2004.
(**i**) Inserted by section 52 of, and Schedule 4 to, the Traffic Management Act 2004.
(**j**) All as amended by the Traffic Management Act 2004.

Construction and maintenance of new, altered or diverted streets and other structures

13.—(1) Any highway (other than a trunk road) to be constructed under this Order must be completed to the reasonable satisfaction of the local highway authority and, unless otherwise agreed in writing with the local highway authority, the highway including any culverts or other structures laid under it must be maintained by and at the expense of the local highway authority from its completion.

(2) Where a highway (other than a trunk road) is altered or diverted under this Order, the altered or diverted part of the highway must be completed to the reasonable satisfaction of the local highway authority and, unless otherwise agreed in writing with the local highway authority, that part of the highway including any culverts or other structures laid under it must be maintained by and at the expense of the local highway authority from its completion.

(3) Where a street which is not and is not intended to be a public highway is constructed, altered or diverted under this Order, the street (or part of the street as the case may be) must, when completed to the reasonable satisfaction of the street authority and unless otherwise agreed in writing with the street authority, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

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

(a) section 265 (transfer of property and liabilities upon a highway becoming or ceasing to be a trunk road) of the 1980 Act applies in respect of that highway; and

(b) any alterations to that highway undertaken under powers conferred by this Order prior to and in connection with that de-trunking must, unless otherwise agreed in writing with the local highway authority, be maintained by and at the expense of the local highway authority from the date of de-trunking.

(5) In the case of a bridge constructed under this Order to carry a highway (other than a trunk road) over a trunk road, the highway surface (being those elements over the waterproofing membrane) and the structure of the bridge must from their completion be maintained by and at the expense of the undertaker unless otherwise agreed in writing with the local highway authority.

(6) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

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

(a) the character of the street and the traffic which was reasonably to be expected to use it;

(b) the standard of maintenance appropriate for a street of that character and used by such traffic;

(c) the state of repair in which a reasonable person would have expected to find the street;

(d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and

(e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

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

Classification of roads, etc.

14.—(1) From the date on which the roads described in Part 1 (trunk roads) of Schedule 3 (classification of roads, etc.) are completed and open for traffic, they are to become trunk roads as if they had become so by virtue of an order under section 10(2)(**a**) (general provision as to trunk roads) of the 1980 Act specifying that date as the date on which they were to become trunk roads.

(2) On such day as the undertaker may determine, the roads described in Part 2 (roads to be de-trunked) of Schedule 3 are to cease to be trunk roads as if they had ceased to be trunk roads by virtue of an order made under section 10(2) of the 1980 Act specifying that date as the date on which they were to cease to be trunk roads.

(3) From the date on which the roads described in Part 3 (classified roads) of Schedule 3 are completed and open for traffic, they are to become classified roads for the purpose of any enactment or instrument which refers to highways classified as classified roads as if such classification had been made under section 12(3) (general provision as to principal and classified roads) of the 1980 Act.

(4) From the date on which the roads described in Part 4 (unclassified roads) of Schedule 3 are completed and open for traffic, they are to become unclassified roads for the purpose of any enactment or instrument which refers to unclassified roads.

(5) From the date on which the roads described 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 (3) of that Part along the lengths of road identified in the corresponding row of column (2) of that Part.

(6) On such day as the undertaker may determine, the restrictions specified in column (3) of Part 6 (traffic regulation measures (clearways and prohibitions)) of Schedule 3 are to apply to the lengths of road identified in the corresponding row of column (2) of that Part.

(7) Unless otherwise agreed with the local highway authority, the public rights of way set out in Part 8 (public rights of way) of Schedule 3 and identified on the rights of way and access plans are to be constructed by the undertaker in the specified locations and open for use from the date on which the authorised development is open for traffic and will have the status described in column (2) of that Part.

(8) On such day as the undertaker may determine, the order specified in column (3) of Part 7 (revocations & variations of existing traffic regulation orders) of Schedule 3 is to be varied or revoked as specified in the corresponding row of column (4) of that Part in respect of the lengths of roads specified in the corresponding row of column (2) of that Part.

(9) The application of paragraphs (1) to (7) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters, 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

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

(a) divert the traffic from the street; and

(b) subject to paragraph (3), prevent all persons from passing along the street.

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

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

(**a**) As amended by section 22 of the 1991 Act, and by section 1 of, and Schedule 1 to, the Infrastructure Act 2015.

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

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

(6) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

Permanent stopping up and restriction of use of streets and private means of access

16.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up each of the streets and private means of access specified in columns (1) and (2) of Parts 1, 2, 3 and 4 of Schedule 4 (permanent stopping up of highways and private means of access & provision of new highways and private means of access) to the extent specified and described in column (3) of those Parts of that Schedule.

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

(a) the new street or private means of access to be constructed and substituted for it, which is specified in column (4) of those Parts of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or

(b) a temporary alternative route for the passage of such traffic as could have used the street or private means of access to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street or private means of access until the completion and opening of the new street or private means of access in accordance with sub-paragraph (a).

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

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

(a) the undertaker is in possession of the land;

(b) there is no right of access to the land from the street or private means of access concerned;

(c) there is reasonably convenient access to the land otherwise than from the street or private means of access concerned; or

(d) the owners and occupiers of the land have agreed to the stopping up.

(5) Where a street or private means of access has been stopped up under this article—

(a) all rights of way over or along the street or private means of access so stopped up are extinguished; and

(b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the street or private means of access as is bounded on both sides by land owned by the undertaker.

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

(7) This article is subject to article 37 (apparatus and rights of statutory undertakers in stopped up streets).

Access to works

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

Clearways

18.—(1) From such day as the undertaker may determine, except as provided in paragraph (2), no person is to cause or permit any vehicle to wait on any part of the lengths of road described in column (2) of Part 6 (traffic regulation measures (clearways and prohibitions)) of Schedule 3 (classification of roads, etc.) where it is identified in the corresponding row of column (3) of that Part that such lengths of road are to become a clearway, except upon the direction of, or with the permission of, a uniformed constable or uniformed traffic officer.

(2) Nothing in paragraph (1) applies—

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

(i) the removal of any obstruction to traffic;

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

(iii) the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the road of any sewer, main pipe, conduit, wire, cable or other apparatus for the supply of gas, water, electricity or any electronic communications apparatus as defined in Schedule 3A (the Electronic Communications Code) to the Communications Act 2003(**a**); or

(iv) any building operation or demolition;

(b) in relation to a vehicle being used—

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

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

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

(iv) by a universal service provider for the purposes of providing a universal postal service as defined by the Postal Services 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 paragraph (1) for the purposes of selling, or dispensing of, goods from that vehicle, unless the goods are immediately delivered at, or taken into, premises adjacent to the land on which the vehicle stood when the goods were sold or dispensed.

(4) Paragraphs (1), (2) and (3) have effect as if made by order under the 1984 Act, and their application may be varied or revoked by an order made under that Act or any other enactment which provides for the variation or revocation of such orders.

(5) In this article, "traffic officer" means an individual designated under section 2 (designation of traffic officers) of the Traffic Management Act 2004(**d**).

(**a**) 2003 c. 21. Schedule 3A was inserted by section 4(2) of, and Schedule 1 to, the Digital Economy Act 2017 (c. 30).
(**b**) 1991 c. 56.
(**c**) 2000 c. 26.
(**d**) 2004 c. 18.

Traffic regulation

19.—(1) This article applies to roads in respect of which the undertaker is not the traffic authority.

(2) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld, the undertaker may, for the purposes of the authorised development—

(a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;

(b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;

(c) authorise the use as a parking place of any road;

(d) make provision as to the direction or priority of vehicular traffic on any road; and

(e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) The power conferred by paragraph (2) may be exercised at any time prior to the expiry of 12 months from the opening of the authorised development for public use but subject to paragraph (7) any prohibition, restriction or other provision made under paragraph (2) may have effect both before and after the expiry of that period.

(4) The undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (5).

(5) The undertaker must not exercise the powers conferred by paragraph (2) unless 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 places) of the 1984 Act,

and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and

(b) 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.

(7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (2) within a period of 24 months from the opening of the authorised development.

(8) Before exercising the powers conferred by paragraph (2) the undertaker must consult such persons as 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 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.

Cotswold Way national trail

20.—(1) On the date on which the Cotswold Way national trail diversion is laid out and provided in accordance with the Cotswold Way national trail diversion report, the Cotswold Way national trail diversion will take effect and the Cotswold Way national trail will be varied accordingly.

(2) In this article—

(a) "the Cotswold Way national trail" means the long-distance route from Chipping Campden to Bath approved pursuant to section 52(**a**) of the 1949 Act;

(b) "the Cotswold Way national trail diversion" means the variation of the Cotswold Way national trail identified on Appendix A Cotswold Way national trail permanent diversion plan of the Cotswold Way national trail diversion report.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

21.—(1) Subject to paragraphs (3) and (4), the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out, maintenance or use of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

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

(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 or the person or body otherwise having authority to give such consent; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

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

(a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and

(b) where that person has been given the opportunity to supervise the making of the opening.

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

(6) In this article—

(**a**) Section 52 was amended by paragraph 10(f) of Schedule 11 to the Natural Environment and Rural Communities Act 2006 (c.16), paragraph 2(6) of Schedule 10 to the Environment Act 1995 (c.25), and Schedule 30 to the Local Government Act 1972 (c.70).

(a) "public sewer or drain" means a sewer or drain which belongs to Homes England, the Environment Agency, an internal drainage board, a joint planning board, a local authority, a sewerage undertaker or an urban development corporation; and

(b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(**a**) have the same meaning as in that Act.

(7) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4)(a) fails to notify the undertaker of a decision within 28 days of receiving an application, that person is deemed to have granted consent or given approval, as the case may be.

Protective works to buildings

22.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

(a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or

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

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may (subject to paragraph (5)) enter and survey any building falling within paragraph (1) and any land within its curtilage.

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

(a) enter the building and any land within its curtilage; and

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

(5) Before exercising—

(a) a right under paragraph (1) to carry out protective works to a building;

(b) a right under paragraph (3) to enter a building and land within its curtilage;

(c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or

(d) a right under paragraph (4)(b) to enter land,

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

(6) Where a notice is served under paragraph (5)(a), (5)(c) or (5)(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 48 (arbitration).

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

(8) Where—

(a) protective works are carried out under this article to a building; and

(**a**) 1991 c.57.

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

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

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 152(**a**) (compensation in case where no right to claim in nuisance) of the 2008 Act.

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

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

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

(b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

Authority to survey and investigate the land

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

(a) survey or investigate the land (including any watercourses, ground water, static water bodies or vegetation on the land);

(b) without limitation on the scope of sub-paragraph (a), make any excavations, trial holes or boreholes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil and groundwater and remove soil and water samples and discharge water samples onto the land;

(c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land, including making any excavations or trial holes on the land for such purposes; and

(d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes or boreholes.

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

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

(a) must, if so required, before or after entering the land, produce written evidence of their authority to do so; and

(b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes or boreholes.

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

(a) in land located within the highway boundary for which the local highway authority is the highway authority, without the consent of the local highway authority; or

(b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld.

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

(**a**) As amended by S.I. 2009/1307.

(6) If either the local highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

(a) under paragraph (4)(a) in the case of the local highway authority; or

(b) under paragraph (4)(b) in the case of a street authority,

that authority is deemed to have granted consent.

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

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

24.—(1) The undertaker may acquire compulsorily so much of the Order land as is required to carry out or to facilitate, or is incidental to, the authorised development, or is required as replacement land.

(2) This article is subject to paragraph 27(2) of article 27 (compulsory acquisition of rights and restrictive covenants) and paragraph (8) of article 34 (temporary use of land for carrying out the authorised development).

Compulsory acquisition of land – incorporation of the mineral code

25. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981(**a**) are incorporated into this Order subject to the modifications that—

(a) paragraph 8(3) is not incorporated;

(b) for "the acquiring authority" substitute "the undertaker"; and

(c) for "undertaking" substitute "authorised development".

Time limit for exercise of authority to acquire land compulsorily

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

(a) no notice to treat is to be served under Part 1 of the 1965 Act as modified by article 30 (modification of Part 1 of the 1965 Act); and

(b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 31 (application of the 1981 Act).

(2) The authority conferred by article 34 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker from remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights and restrictive covenants

27.—(1) 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 24 (compulsory acquisition of land), by creating them as well as acquiring rights already in existence.

(**a**) 1981 c.67.

(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 and relating to that part of the authorised development specified in column (3) of that Schedule.

(3) The power to impose restrictive covenants under paragraph (1) is exercisable only in respect of plots specified in column (1) of Schedule 5.

(4) Subject to Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 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, the undertaker is not required to acquire a greater interest in that land.

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

Public rights of way

28.—(1) The public rights of way identified in columns (1) to (3) of Parts 1 and 2 of Schedule 4 (permanent stopping up of highways and private means of access & provision of new highways and private means of access) and shown on the rights of way and access plans are to be extinguished on the date of the expiry of the notice given under paragraph (2).

(2) Prior to the extinguishment of each of the public rights of way identified in columns (1) to (3) of Parts 1 and 2 of Schedule 4 and shown on the rights of way and access plans, the undertaker must erect a site notice at each end of the rights of way to be extinguished no less than 28 days prior to the extinguishment of that right of way.

(3) The notice to be erected under paragraph (2) must include—

(a) details of the public rights of way to be extinguished;

(b) the date on which the extinguishment will take effect;

(c) details of any public rights of way being provided in substitution; and

(d) details of the places where a copy of this Order and the documents listed in Schedule 9 (documents to be certified) may be inspected.

Private rights over land

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

(a) from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or

(b) on the date of entry on the land by the undertaker under section 11(1) (powers of entry) of the 1965 Act,

whichever is the earlier.

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

(a) from the date of the acquisition of the right or the benefit of the restrictive covenant by the undertaker, whether compulsorily or by agreement; or

(b) on the date of entry on the land by the undertaker under section 11(1) (powers of entry) of the 1965 Act,

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over land owned by the undertaker within the Order limits which are required to be interfered with or breached for the purposes of this Order are extinguished on commencement of any activity authorised by this Order which interferes with or breaches those rights.

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

(5) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation in accordance with the terms of section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 36 (statutory undertakers) applies.

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

(a) any notice given by the undertaker before—

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

(ii) the undertaker's appropriation of it;

(iii) the undertaker's entry onto it; or

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

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

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

(8) If any such agreement 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 1965 Act

30.—(1) Part 1 of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1)(**a**) (extension of time limit during challenge) for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4" substitute "section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent), the five year period mentioned in article 26 (time limit for exercise of authority to acquire land compulsorily) of the A417 Missing Link Development Consent Order 20[•]".

(3) In section 11A(**b**) (powers of entry: further notice of entry)—

(a) in subsection (1)(a), after "land" insert "under that provision";

(**a**) As inserted by section 202(1) of the Housing and Planning Act 2016 (c.22).
(**b**) As inserted by section 186(3) of the Housing and Planning Act 2016 (c.22).

(b) in subsection (2), after "land" insert "under that provision".

(4) In section 22(2) (interests omitted from purchase), for "section 4 of this Act" substitute "article 26 of the A417 Missing Link Development Consent Order 20[•]".

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

"(2) But see article 32(3) (acquisition of subsoil or airspace only) of the A417 Missing Link Development Consent Order 20[•], which excludes the acquisition of subsoil or airspace only from this Schedule"; and

(b) after paragraph 29, end insert—

"PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 22 (protective works to buildings), 34 (temporary use of land for carrying out the authorised development) or 35 (temporary use of land for maintaining the authorised development) of the A417 Missing Link Development Consent Order 20[•].".

Application of the 1981 Act

31.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 1 (application of Act), for subsection 2 substitute—

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

(4) In section 5 (earliest date for execution of declaration), in subsection (2), omit the words from ", and this subsection" to the end.

(5) Omit section 5A(**a**) (time limit for general vesting declaration).

(6) In section 5B(**b**) (extension of time limit during challenge) for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A" substitute "section 118(**c**) (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 26 (time limit for exercise of authority to acquire land compulsorily) of the A417 Missing Link Development Consent Order 20[•]".

(7) In section 6(**d**) (notices after execution of declaration), in subsection (1)(b), for "section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981" substitute "section 134(**e**) (notice of authorisation of compulsory acquisition) of the Planning Act 2008".

(8) In Schedule A1(**f**) (counter-notice requiring purchase of land not in general vesting declaration) for paragraph 1(2) substitute—

"(2) But see article 32(3) (acquisition of subsoil or airspace only) of the A417 Missing Link Development Consent Order 20[•], which excludes the acquisition of subsoil or airspace only from this Schedule.".

(9) 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

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(**a**) Inserted by section 182(2) of the Housing and Planning Act 2016 (c.22).
(**b**) As inserted by section 202(2) of Schedule 3 to the Housing and Planning Act 2016 (c.22).
(**c**) As amended by paragraphs 1 and 59 of Schedule 13, and Part 20 of Schedule 25, to the Localism Act 2011 (c.20) and section 92(4) of the Criminal Justice and Courts Act 2015 (c.2).
(**d**) As amended by paragraph 52(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c.11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016 (c.22).
(**e**) As amended by section 142 of, and Part 21 of Schedule 25 to, the Localism Act 2011 (c.20) and S.I. 2012/16.
(**f**) As inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016 (c.22).

as modified by article 30 (modification of Part 1 of the 1965 Act)) to the compulsory acquisition of land under this Order.

Acquisition of subsoil or airspace only

32.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of or the airspace over the land referred to in paragraph (1) of article 24 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

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

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

(a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;

(b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and

(c) Section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

(4) Paragraphs (2) and (3) are to be disregarded where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory or airspace above a house, building or manufactory.

Rights under or over streets

33.—(1) The undertaker may enter on and appropriate so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised development.

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

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

(a) any subway or underground building; or

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

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

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

Temporary use of land for carrying out the authorised development

34.—(1) The undertaker may, in connection with the carrying out of the authorised development, but subject to article 26(2) (time limit for exercise of authority to acquire land compulsorily)—

(a) enter on and take temporary possession of—

(i) the land specified in columns (1) and (2) of Schedule 7 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column

(3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule; and

(ii) any other Order land in respect of which no notice of entry has been served under section 11(**a**) (powers of entry) of the 1965 Act and no declaration has been made under section 4 (execution of declaration) of the 1981 Act (other than in connection with the acquisition of rights only);

(b) remove any buildings and vegetation from that land;

(c) construct temporary works (including the provision of means of access) and buildings on that land; and

(d) construct any permanent works specified in relation to that land in column (3) of Schedule 7, or any other mitigation works in connection with the authorised development.

(2) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken in respect of land specified under paragraph (1)(a)(ii).

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

(a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 7; or

(b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

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

(a) replace a building removed under this article;

(b) restore the land on which any permanent works (including ground strengthening works) have been constructed under paragraph (1)(d); or

(c) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.

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

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

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

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not to be precluded from acquiring any part of the subsoil of or airspace over (or rights in the subsoil of or airspace over) that land under article 32 (acquisition of subsoil or airspace only).

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

(**a**) Section 11 was amended by section 14 of, paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No.1) and S.I. 2009/1307.

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

(11) Paragraph (1)(a)(ii) does not authorise the undertaker to take temporary possession of any land which the undertaker is not authorised to acquire under article 24 (compulsory acquisition of land) or article 27 (compulsory acquisition of rights and restrictive covenants).

Temporary use of land for maintaining the authorised development

35.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

(a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development;

(b) enter on any land within the Order limits for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and

(c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

(a) any house or garden belonging to a house; or

(b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land explaining the purpose for which entry is to be taken.

(4) The undertaker is not required to serve notice under paragraph (3) where the undertaker has identified a potential risk to the safety of—

(a) the authorised development or any of its parts;

(b) the public; or

(c) the surrounding environment,

and in such circumstances, the undertaker may enter the land under paragraph (1) subject to giving such period of notice as is reasonably practicable in the circumstances.

(5) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(6) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(7) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

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

(**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).

(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) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article "the maintenance period", in relation to any part of the authorised development, means the period of 5 years beginning with the date on which that part of the authorised development is first opened for use.

Statutory undertakers

36.—(1) Subject to the provisions of article 27(3) (compulsory acquisition of rights and restrictive covenants), Schedule 8 (protective provisions) and paragraph (2), the undertaker may—

(a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, any Order land belonging to statutory undertakers; and

(b) extinguish the rights of, or remove or reposition the apparatus belonging to, statutory undertakers over or within the Order land.

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

(a) Part 3 (street works in England and Wales) of the 1991 Act; and

(b) article 37 (apparatus and rights of statutory undertakers in stopped up streets).

Apparatus and rights of statutory undertakers in stopped up streets

37.—(1) Where a street is stopped up under article 16 (permanent stopping up and restriction of use of streets and private means of access), any statutory utility whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 16 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker must—

(a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or

(b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

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

(a) the execution of the relocation works required in consequence of the stopping up of the street; and

(b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

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

(a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had

been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (3) is to be reduced by the amount of that excess.

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

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

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

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

(a) the allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and

(b) the allowable costs are to be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this article—

"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) (interpretation of Chapter 1) of the Communications Act 2003(**a**).

Recovery of costs of new connections

38.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 36 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 36, any person who is—

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

(b) the owner of a private sewer which communicated with that sewer,

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

(3) This article does not have effect in relation to apparatus to which article 37 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 of the 1991 Act applies.

(4) In this paragraph—

(**a**) 2003 c.21.

"public communications provider" has the same meaning as in section 151(1) (interpretation of Chapter 1) of the Communications Act 2003; and

"public utility undertaker" means a gas, water, electricity or sewerage undertaker.

Special category land

39.—(1) The common land is not to vest in the undertaker and the undertaker is not to take possession of the common land until the Secretary of State has certified that a satisfactory scheme for the provision of the replacement land and a satisfactory timetable for the implementation of the scheme has been received from the undertaker.

(2) On the requirements of paragraph (1) being satisfied, the undertaker may take possession of the common land in accordance with the scheme.

(3) When the undertaker takes possession of the common land, the common land is to vest in the undertaker and be discharged from all rights, trusts and incidents to which it was previously subject.

(4) On the date on which the replacement land is laid out and provided in accordance with the scheme at paragraph (1), the replacement land is to vest in the person(s) in whom the common land was vested immediately before it was vested in the undertaker and is to be subject to the same rights, trusts and incidents as attached to the common land.

(5) As soon as reasonably practicable after paragraph (4) takes effect, the undertaker must apply under section 14 (statutory dispositions) of the Commons Act 2006(**a**) and paragraph 8 of Schedule 4 (applications pursuant to section 14: statutory dispositions) to the Commons Registration (England) Regulations 2014(**b**) to amend the relevant register of common land accordingly.

(6) In this article—

"the common land" means the land numbered 2/13, 2/13a, 3/1n, 3/9b, 3/11b, 3/12, 3/12a, 3/12c, 3/12d and 3/12e in the book of reference and on the land plans and forming part of registered common land which may be acquired compulsorily under this Order;

"the replacement land" means the land identified as such and numbered 2/1n, 2/1q, 2/1r, 3/1p, and 3/1s in the book of reference and on the land plans.

PART 6

OPERATIONS

Felling or lopping of trees and removal of hedgerows

40.—(1) The undertaker may fell or lop any tree or shrub, or cut back its roots, within or overhanging land within the Order limits if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

(a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or

(b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must—

(a) do no unnecessary damage to any tree or shrub;

(b) pay compensation to any person for any loss or damage arising from such activity; and

(c) take steps to avoid a breach of the provisions of the Wildlife and Countryside Act 1981(**c**) and the Conservation of Habitats and Species Regulations 2017(**d**) or any successor acts and regulations.

(**a**) 2006 c.26.
(**b**) S.I. 2014/3038.
(**c**) 1981 c.69.
(**d**) S.I. 2017/1012.

(3) The authority given by paragraph (1) constitutes a deemed consent under a relevant tree preservation order.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

(5) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2), remove any hedgerow within the Order limits that is required to be removed.

(6) In this article "hedgerow" has the same meaning as in the Hedgerows Regulations 1997(**a**) and includes important hedgerows.

Removal of human remains

41.—(1) In this article "the specified land" means the land within the Order limits.

(2) Before the undertaker carries out any development or works which will or may disturb any human remains in the specified land it must remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.

(3) Before any such remains are removed from the specified land the undertaker must give notice of the intended removal describing the specified land and stating the general effect of the following provisions of this article by—

(a) publishing a notice for two successive weeks in a newspaper circulating in the area of the authorised development; and

(b) displaying a notice in a conspicuous place on or near to the specified land.

(4) As soon as reasonably practicable after the first publication of a notice under paragraph (3) the undertaker must send a copy of the notice to the relevant planning authority.

(5) At any time within 56 days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person's intention to undertake the removal of the remains.

(6) Where a person has given notice under paragraph (5), and the remains in question can be identified, that person may cause such remains to be—

(a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or

(b) removed to, and cremated in, any crematorium,

and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).

(7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question must be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who must remove the remains and as to the payment of the costs of the application.

(8) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(9) If—

(a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land; or

(b) such notice is given and no application is made under paragraph (7) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days; or

(c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the order fails to remove the remains; or

(**a**) S.I.1997/1160.

(d) it is determined that the remains to which any such notice relates cannot be identified,

then subject to paragraph (10) the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves are to be re-interred in individual containers which are to be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(11) On the re-interment or cremation of any remains under this article—

(a) a certificate of re-interment or cremation is to be sent to the Registrar General by the undertaker giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and

(b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) must be sent by the undertaker to the relevant planning authority.

(12) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.

(13) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(14) Section 25 of the Burial Act 1857(**a**) (offence of removal of body from burial ground) does not apply to a removal carried out in accordance with this article.

PART 7

MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

42.—(1) This article applies to—

(a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and

(b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) No such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

(a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;

(b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or

(**a**) 1857 c.81.

(c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Operational land for purposes of the 1990 Act

43. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as not being operational land) of the 1990 Act.

Defence to proceedings in respect of statutory nuisance

44.—(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990(**a**) in relation to a nuisance falling within paragraph (d), (fb), (g) or (ga) of section 79(1) (statutory nuisances and inspections therefor) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

(a) the defendant shows that the nuisance—

(i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites), of the Control of Pollution Act 1974(**b**); or

(ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or

(iii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

Protective provisions

45. Schedule 8 (protective provisions) has effect.

Certification of plans etc.

46.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of each of the plans and documents set out in Schedule 9 (documents to be certified) for certification that they are true copies of the plans and documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

47.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

(a) by post;

(**a**) 1990 c.43.
(**b**) 1974 c.40.

(b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or

(c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(**a**) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and

(b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

(a) addressing it to that person by name or by the description of "owner", or as the case may be "occupier", of the land (describing it); and

(b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

(a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;

(b) the notice or document is capable of being accessed by the recipient;

(c) the notice or document is legible in all material respects; and

(d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

(a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and

(b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

(10) In this article "legible in all material respects" means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

(**a**) 1978 c.30.

Arbitration

48. Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

Signed by authority of the Secretary of State for Transport

Name
Title
Date Department

SCHEDULES

SCHEDULE 1 Article 2

AUTHORISED DEVELOPMENT

In the administrative areas of Gloucestershire County Council, Cotswold District Council and Tewkesbury Borough Council.

The authorised development is a nationally significant infrastructure project as defined in sections 14 and 22 of the 2008 Act (**a**) and associated development within the meaning of section 115(2) of the 2008 Act, comprising—

Work No. 1 – the construction of a new A417 dual carriageway road approximately 5.5 kilometres in length at the location shown on sheets 1, 2, 4, 5 and 6 of the works plans. To include—

(a) the construction of drainage attenuation basin no. 2 with associated drainage facilities, access and landscaping at the location shown on sheet 1 of the works plans;

(b) construction compound no. 1 of approximately 34,660 square metres at the location shown on sheet 1 of the works plans;

(c) the construction of a land drainage channel at the location shown on sheet 1 of the works plans;

(d) the construction of 2 public laybys on the eastbound carriageway of the new A417 and 2 public laybys on the westbound carriageway of the new A417 at the locations shown on sheets 1 and 5 of the works plans;

(e) the construction of drainage culverts at the locations shown on sheets 1, 4 and 5 of the works plans;

(f) the construction of an open channel (Crickley Hill stream) with associated drainage facilities, access and landscaping at the location shown on sheet 1 of the works plans;

(g) the realignment of the existing Dog Lane at the location shown on sheet 1 of the works plans;

(h) the construction of a new connecting bridleway track (Cold Slad bridleway) between Dog Lane and the new Cold Slad Lane connecting road as shown on sheets 1 and 2 of the works plans;

(i) the construction of a bat underpass (Crickley Hill bat underpass) at the location shown on sheet 1 of the works plans;

(**a**) Section 22 was substituted by article 3 of S.I. 2013/1883.

(j) the construction of drainage attenuation basin no. 3c with associated drainage facilities, access and landscaping at the location shown on sheet 2 of the works plans;

(k) the construction of a new local connecting road (Cold Slad Lane) between the existing U41140 and the new Ullenwood junction as shown on sheet 2 of the works plans;

(l) the provision for a new private means of access at Grove Farm at the location shown on sheet 2 of the works plans;

(m) construction of a new underpass (Grove Farm underpass) at the location shown on sheet 2 of the works plans for the new private means of access at Grove Farm;

(n) the demolition of Woodside House at the location on sheet 2 of the works plans;

(o) the demolition of The Air Balloon Public House at the location shown on sheet 2 of the works plans;

(p) the construction of drainage attenuation basin no. 3a with associated drainage facilities, access and landscaping at the location shown on sheet 2 of the works plans;

(q) construction compound no.2 of approximately 40,840 square metres at the location shown on sheet 2 of the works plans.

(r) the construction of mammal culverts at the locations shown on sheets 4 and 5 of the works plans;

(s) the construction of drainage attenuation basin no. 9 with associated drainage facilities, access and landscaping at the location shown on sheet 5 of the works plans

(t) the construction of drainage attenuation basin no. 10 with associated drainage facilities, access and landscaping at the location shown on sheet 5 of the works plans;

(u) construction compound no. 3 of approximately 73,250 square metres at the location shown on sheet 6 of the works plans;

(v) the demolition of Crickley Hill Tractors at the location on sheet 2 of the works plans;

(w) the demolition of Pinewood at the location on sheet 2 of the works plans;

(x) the construction of a new access track at the location shown on sheet 1 of the works plans for the new private means of access at Alexander and Angell Ltd's premises and Flyup 417 Bike Park;

(y) the construction of a new access track at the location shown on sheet 1 of the works plans for the new private means of access for the residential property at Flyup 417 Bike Park.

Work No. 2 – the construction of an overbridge (Cotswold Way Crossing) for walking, cycling and horse riding over the main carriageway of the new A417 at the location shown on sheet 2 of the works plans.

Work No. 3 – works to de-trunk the existing A417 from the existing Air Balloon roundabout to the existing Cowley roundabout at the location shown on sheets 2, 3, 5 and 6 of the works plans. To include—

(a) the partial demolition of the existing A417 carriageway with 3m of road surface retained and the replacement of the demolished section of carriageway with a 2m surface for non-motorised users as shown on sheets 2, 3, and 5 of the works plans and the creation of an access to Crickley Ridge and Emma's Grove;

(b) creation of an unclassified road to access the new car park from the unclassified road leading to Stockwell Farm as shown on sheet 5 of the works plans;

(c) creation of a new car park for disabled users as shown on sheet 5 of the works plans;

(d) the narrowing of the carriageway between Cowley roundabout and Stockwell junction as shown on sheets 5 and 6 of the works plans;

(e) the creation of a new car park as shown on sheet 5 of the works plans;

(f) the widening of an existing track connecting Barrow Wake car park to existing A417 and provision of a restricted byway as shown on sheets 2 and 3 of the works plans;

(g) provision of replacement common land as shown on sheets 2 and 3 of the works plans.

Work No. 4 – the realignment of the existing A436 and a new connecting local road (A436 link road) from the Ullenwood junction to Shab Hill junction shown on sheet 2 and sheet 4 of the works plans. To include—

(a) the construction of Ullenwood junction at the location shown on sheet 2 of the works plans;

(b) the demolition of the Air Balloon roundabout at the location shown on sheet 2 of the works plans;

(c) the realignment of the existing C377 to Leckhampton Hill at the location shown on sheet 2 of the work plans;

(d) the construction of a new connecting local road (A436 link road) between the new Ullenwood junction and Shab Hill junction shown on sheet 2 and sheet 4 of the work plans;

(e) the realignment of the existing A436 from the new Ullenwood junction at the location shown on sheet 2 of the works plans;

(f) the construction of drainage attenuation basins nos. 5a, 5b and 5c with associated drainage facilities, access and landscaping at the location shown on sheet 2 of the works plans.

Work No. 5 – the construction of a multi-purpose crossing (Gloucestershire Way Crossing) to include essential ecological mitigation and with provision for walking, cycling and horse riding over the main carriageway of the new A417 and the new A436 link road at the location shown on sheet 2 of the works plans.

Work No. 6 – the construction of a connecting local road between Shab Hill junction and B4070 at Birdlip as shown on sheet 3 and 4 of the works plans. To include—

(a) the construction of a new roundabout (Barrow Wake roundabout) at the junction of the unclassified road 47282 at Barrow Wake and the unclassified road 50852 at the location shown on sheet 3 of the works plans;

(b) the length of carriageway (B4070 Birdlip Road) between the new Barrow Wake roundabout to the junction of the B4070 at the location shown on sheet 3 of the works plans;

(c) the construction of a new carriageway (B4070 Barrow Wake Road) between the new Barrow Wake roundabout to the new Shab Hill junction at the location shown on sheet 3 and 4 of the works plans;

(d) the construction of a mammal culvert at the location shown on sheet 4 of the works plans;

(e) the construction of new carriageway (Birdlip Radio Station Lane) northwest of the new Shab Hill roundabout to its junction with the unclassified road U50852 at the location shown on sheet 4 of the works plans;

(f) the construction of a new carriageway (Shab Hill Farm access) south west of the new Shab Hill roundabout to its junction with the unclassified road U50853 at Shab Hill Farm at the location shown on sheet 4 of the works plans.

Work No. 7 – the construction of a new grade separated dumbbell junction at Shab Hill (Shab Hill junction) shown on sheets 2 and 4 of the works plans. To include—

(a) the construction of a new roundabout west of the main carriageway of the new A417 at the location shown on sheet 4 of the works plans;

(b) the construction of a new westbound on-slip to the main carriageway of the new A417, approximately 412 metres in length at the location shown on sheet 2 and 4 of the works plans;

(c) the construction of a new westbound off-slip from the main carriageway of the new A417, approximately 371 metres in length at the location shown on sheet 4 of the works plans;

(d) the construction of drainage attenuation basin no 6 with associated drainage facilities, access and landscaping at the location shown on sheet 4 of the works plans;

(e) construction of a new link road and underbridge to connect the east and west roundabouts, at the location shown on sheet 4 of the works plans;

(f) the construction of a new eastbound off-slip from the main carriageway of the new A417, approximately 426 metres in length at the location shown on sheet 4 of the works plans;

(g) the construction of a new eastbound on-slip to the main carriageway of the new A417, approximately 424 metres in length at the location shown on sheet 4 of the works plans;

(h) the construction of a new roundabout east of the main carriageway of the new A417 at the location shown on sheet 4 of the works plans;

(i) construction of drainage attenuation basin no 7b with associated drainage facilities, access and landscaping at the location shown on sheet 4 of the works plans;

(j) construction of drainage attenuation basin no. 7a with associated drainage facilities, access and landscaping at the location shown on sheet 4 of the works plans;

(k) construction of a new unclassified road (Ullenwood Lane) connecting the eastern roundabout at Shab Hill junction to the unclassified road U50852 at the location shown on sheet 2 and 4 of the works plans;

(l) construction of drainage attenuation basin no 8 with associated drainage facilities, access and landscaping at the location shown on sheet 4 of the works plans;

Work No. 8 – the construction of a new overbridge at Cowley Lane at the location shown on sheet 5 of the works plans. To include—

(a) the construction of a realignment of the Unclassified Road U40859 (known as Cowley Lane) approximately 650 metres in length at the location shown on sheet 5 of the works plans;

(b) the construction of an overbridge at Cowley Lane at the location shown on sheet 5 of the works plans;

(c) The construction of stepped access between the unclassified road and the Cowley Overbridge at the location shown on sheet 5 of the works plans;

(d) The construction of stepped access between the proposed diverted Public Right of Way and the Cowley Overbridge at the location shown on sheet 5 of the works plans.

Work No. 9 – the construction of a new overbridge at Stockwell Farm at the location shown on sheet 5 of the works plans. To include—

(a) the construction of a private means of access to Stockwell Farm at the location shown on sheet 5 of the works plans;

(b) the construction of a new overbridge over the main carriageway of the new A417 at the location shown on sheet 5 of the works plans;

(c) associated drainage features, landscaping and planting at the location shown on sheet 5 of the works plans.

Work No. 10 - the construction of a new at grade junction at Cowley at the location shown on sheet 6 of the works plans. To include—

(a) the construction of a new roundabout connecting westbound slips onto the local network at the location shown on sheet 6 of the works plans;

(b) the construction of a realignment of the existing A417 (Ermine Way) connecting to the new roundabout, approximately 52 metres in length at the location shown on sheet 6 of the works plans;

(c) the construction of a realignment of the existing Climperwell Road connecting to the new roundabout, approximately 163 metres in length at the location shown on sheet 6 of the works plans;

(d) the construction of a westbound merge and diverge connecting roads from the main carriageway of the new A417, approximately 72 metres in length at the location shown on sheet 6 of the works plans;

(e) the construction of drainage attenuation basin no. 11a with associated drainage facilities, access and landscaping at the location shown on sheet 6 of the works plans;

(f) the closure and demolition of the existing Cowley roundabout at the location shown on sheet 6 of the works plans;

(g) the construction of drainage attenuation basin no. 11b with associated drainage facilities, access and landscaping at the location shown on sheet 6 of the works plans;

(h) the construction of drainage attenuation basin no. 11c with associated drainage facilities, access and landscaping at the location shown on sheet 6 of the works plans;

(i) the construction of an eastbound merge and diverge connecting road (Cowley junction loop) from the main carriageway of the new A417, approximately 405 metres in length at the location shown on sheet 6 of the works plans;

(j) the construction of a private means of access and restricted byway to join the stopped-up Cowley Wood Lane at the location shown on sheet 6 of the works plans.

Work No. 11 – the diversion of 223 metres of power cables at the location shown on sheet 1 of the works plans.

Work No. 12 – the diversion of 753 metres of telecoms equipment at the location shown on sheet 1 and 2 of the works plans.

Work No. 13 – the diversion of 624 metres of water pipeline at the location shown on sheets 1 and 2 of the works plans.

Work No. 14 – the diversion of 38 metres of power cables at the location shown on sheet 1 of the works plans.

Work No. 15 – the diversion of 310 metres of power cables at the location shown on sheets 1 and 2 of the works plans.

Work No. 16 – the diversion of 632 metres of power cables at the location shown on sheets 1 and 2 of the works plans.

Work No. 17 – the diversion of 583 metres of telecoms equipment at the location shown on sheet 1 and 2 of the works plans.

Work No. 18 – the diversion of 69 metres of telecoms equipment at the location shown on sheet 2 of the works plans.

Work No. 19 – the diversion of 242 metres of power cables at the location shown on sheet 2 of the works plans.

Work No. 20 – the diversion of 258 metres of power cables at the location shown on sheet 2 of the works plans.

Work No. 21 – the diversion of 47 metres of power cables at the location shown on sheet 2 of the works plans.

Work No. 22 – the diversion of 35 metres of power cables at the location shown on sheet 2 of the works plans

Work No. 23 – the diversion of 2670 metres of telecoms equipment at the location shown on sheets 2, 3 and 4 of the works plans.

Work No. 24 – the diversion of 102 metres of water pipeline at the location shown on sheet 2 of the works plans.

Work No. 25– the diversion of 1169 metres of telecoms equipment at the location shown on sheets 2 and 4 of the works plans.

Work No. 26 – the diversion of 95 metres of telecoms equipment at the location shown on sheet 2 of the works plans.

Work No. 27 – the diversion of 292 metres of telecoms equipment at the location shown on sheet 2 and 4 of the works plans.

Work No. 28 – the diversion of 393 metres of power cables at the location shown on sheets 3 and 4 of the works plans.

Work No. 29 – the diversion of 258 metres of telecoms equipment at the location shown on sheet 4 of the works plans.

Work No. 30 – the diversion of 67 metres of water pipeline at the location shown on sheet 4 of the works plans.

Work No. 31 – the diversion of 142 metres of telecoms equipment at the location shown on sheet 4 of the works plans.

Work No. 32 – the diversion of 383 metres of power cables at the location shown on sheet 5 of the works plans.

Work No. 33 – the diversion of 670 metres of telecoms equipment at the location shown on sheet 5 of the works plans.

Work No. 34 – the diversion of 925 metres of telecoms equipment at the location shown on sheet 6 of the works plans.

Work No. 35 – the diversion of 862 metres of water pipeline at the location shown on sheet 6 of the works plans.

Work No. 36 – the diversion of 311 metres of telecoms equipment at the location shown on sheet 6 of the works plans.

In connection with the construction of any of the above works, further development within the Order limits consisting of—

(a) works required for the strengthening, improvement, maintenance or reconstruction of any street;

(b) the strengthening, alteration or demolition of any structure;

(c) ramps, means of access including private means of access, public rights of way and crossing facilities;

(d) embankments, abutments, shafts, foundations, retaining walls, barriers, parapets, drainage, outfalls, ditches, wing walls, highway lighting, fencing and culverts;

(e) works to place, alter, remove or maintain street furniture or apparatus in a street, or apparatus in other land, including mains, sewers, drains, pipes, cables and ducts;

(f) works to alter the course of or otherwise interfere with a watercourse, including private water supplies;

(g) landscaping, noise bunds and barriers, works associated with the provision of ecological mitigation and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;

(h) works for the benefit or protection of land affected by the authorised development;

(i) site preparation works, site clearance (including fencing, vegetation removal, demolition of existing structures); earthworks (including soil stripping and storage, site levelling); remediation of contamination;

(j) the felling of trees;

(k) working sites, storage areas, temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction-related buildings, temporary worker accommodation facilities, welfare facilities, construction lighting, haulage roads and other buildings, machinery, apparatus, works and conveniences; and

(l) the provision of other works including pavement works, kerbing and paved areas works, signing, signals, gantries, road markings works, traffic management measures including temporary roads and such other works as are associated with the construction of the authorised development.

SCHEDULE 2

Article 5

REQUIREMENTS

PART 1

REQUIREMENTS

Interpretation

1. In this Schedule—

"contaminated land" has the same meaning as that given in section 78A of the Environmental Protection Act 1990;

"County Archaeologist" means the individual nominated or appointed as such by the relevant planning authority;

"DAMS and OWSI" means the Detailed Archaeological Mitigation Strategy and the Overarching Written Schemes of Investigation certified by the Secretary of State for the purposes of this Order;

"Design Summary Report" means the Design Summary Report certified by the Secretary of State for the purposes of this Order;

"Ecological Clerk of Works" means the individual appointed as such by the undertaker;

"EMP (construction stage)" means the construction stage environmental management plan to be submitted and approved under paragraph 3 of this Schedule;

"EMP (end of construction stage)" means the end of construction stage environmental management plan to be developed towards the end of the construction of the authorised development which is to contain—

(a) the environmental information needed for the future maintenance and operation of the authorised development;

(b) the long-term commitments to aftercare, monitoring and maintenance activities relating to the environmental features and mitigation measures that will be required to ensure the continued long-term effectiveness of the environmental mitigation measures and the prevention of unexpected environmental impacts during the operation of the authorised development; and

(c) a record of the consents, commitments and permissions resulting from liaison with statutory bodies;

"Historic England" means the Historic Buildings and Monuments Commission for England established under the National Heritage Act 1983(b), the functions of which include acting as a statutory consultee and advising the government on the historic environment, including advice to the Department of Digital, Culture, Media and Sport;

"LEMP" means the landscape and ecological management plan;

"Manual of Contract Documents for Highway Works" means the document of that name published electronically by or on behalf of the strategic highway authority for England, or any equivalent replacement published for that document;

"protected species" means species which are subject to protection under the laws of England or which are European protected species;

"structures engineering drawings and sections" means the structures engineering drawings and sections certified by the Secretary of State for the purposes of this Order.

Time limits

2. The authorised development must not commence later than the expiration of 5 years beginning with the date on which this Order comes into force.

Environmental Management Plan (Construction Stage)

3.—(1) No part of the authorised development is to commence until a EMP (construction stage) for that part has been prepared in consultation with the relevant planning authority and the local highway authority and submitted to and approved in writing by the Secretary of State.

(2) The EMP (construction stage) must—

(a) be substantially in accordance with the environmental management plan (design stage) certified under article 46 (certification of plans etc.);

(b) contain a record of all the sensitive environmental features that have the potential to be affected by the construction of the proposed development;

(c) incorporate the measures referred to in the environmental statement as being incorporated in the EMP (construction stage);

(d) require adherence to working hours of 07:30 to 18:00 on Mondays to Friday and 08:00 to 13:00 on Saturdays, Sundays and public holidays, except for—

(i) night-time closures for bridge demolition and installation;

(ii) any oversize deliveries or deliveries where daytime working would be excessively disruptive to normal traffic operation;

(iii) junction tie-in works;

(iv) removal of overhead power lines;

(v) overnight traffic management measures;

(vi) cases of emergency;

(vii) any works for which different working hours have been agreed with parties who will or may be affected by those works and recorded in the approved EMP (construction stage), in which case the EMP (construction stage) must require adherence to those working hours; and

(viii) as otherwise agreed by the relevant planning authority in advance;

(e) include the following management plans—

(i) Construction Traffic Management Plan;

(ii) Landscape and Ecological Management Plan;

(iii) Materials Management Plan;

(iv) Public Rights of Way Management Plan; and

(v) Ground and Surface Water Management Plan.

(3) The authorised development must be constructed in accordance with the approved EMP (construction stage).

(4) Upon completion of construction of the authorised development the EMP (construction stage) must be converted into the EMP (end of construction stage). The EMP (end of construction phase) must be submitted to the Secretary of State for approval within 28 days of the opening of the authorised development for public use.

(5) The authorised development must be operated and maintained in accordance with the EMP (end of construction stage) approved under sub-paragraph (4).

Details of consultation

4.—(1) With respect to any requirement which requires details to be submitted to the Secretary of State for approval under this Schedule following consultation with another party, the details

submitted must be accompanied by a 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 15(4) 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.

Landscaping

5.—(1) No part of the authorised development is to commence until a written landscaping scheme for that part has been submitted to and approved in writing by the Secretary of State following consultation with the relevant planning authority and the local highway authority.

(2) No part of the authorised development, including vegetation clearance, is to commence until an arboricultural walkover survey and tree survey for that part, taking due regard to the guidance in British Standard 5837:2012, have been undertaken to identify any significant constraints posed by trees.

(3) The landscaping scheme prepared under sub-paragraph (1) must be based on the environmental masterplan and the results of the surveys undertaken under sub-paragraph (2).

(4) The landscaping scheme prepared under sub-paragraph (1) must include details of hard and soft landscaping works, including—

(a) location, number, species, size and planting density of any proposed planting;

(b) cultivation, importing of materials and other operations to ensure plant establishment;

(c) proposed finished ground levels;

(d) hard surfacing materials;

(e) details of existing trees to be retained, with measures for their protection during the construction period; and

(f) implementation timetables for all landscaping works.

Implementation and maintenance of landscaping

6.—(1) All landscaping works must be carried out in accordance with the landscaping scheme approved under paragraph 5 of this Schedule.

(2) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice, and in accordance with the Landscape and Ecological Management Plan approved as part of the EMP (construction stage) and EMP (end of construction stage) under paragraph 3 of this Schedule.

(3) Any tree or shrub planted as part of the landscaping scheme that, within a period of 5 years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted.

Fencing

7. Any permanent and temporary fencing and other means of enclosure for the authorised development must be constructed and installed in accordance with the Manual of Contract

Documents for Highway Works except where any departures from that manual are agreed in writing by the Secretary of State in connection with the authorised development.

Land and groundwater contamination

8.—(1) No part of the authorised development is to commence until a contamination risk assessment in respect of controlled waters has been produced for that part which is to include details of—

(a) any existing sources of contamination within the Order limits that may be affected by the carrying out of the authorised development;

(b) any reasonably required protective measures to ensure that the carrying out of the authorised development does not make worse any adverse conditions or risks associated with such existing sources of contamination; and

(c) appropriate remediation strategies and mitigation measures to address any historic contamination which is shown to be having significant, unacceptable effects on the environment within the context of the proposed works,

and the assessment has been submitted to and approved by the Secretary of State following consultation with the Environment Agency.

(2) The steps and measures that are identified as necessary for the purposes of carrying out the authorised development in the assessment referred to in sub-paragraph (1) must be implemented as part of the authorised development.

(3) In the event that contaminated material, including impacted groundwater, is found at any time when carrying out the authorised development, which was not previously identified in the environmental statement, the undertaker must cease construction of the authorised development in the vicinity of that contamination and must report it immediately in writing to the Secretary of State, the Environment Agency and the relevant planning authority, and in agreement with the Environment Agency and the relevant planning authority undertake a risk assessment of the contamination, and sub-paragraphs (4) and (5) will apply.

(4) Where the undertaker determines that remediation is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose must be prepared submitted to and approved in writing by the Secretary of State following consultation with the Environment Agency and the relevant planning authority.

(5) Remedial measures must be carried out in accordance with the approved scheme.

Archaeology

9. —(1) No part of the authorised development is to commence until for that part a site-specific written scheme of investigation for each area and each phase (evaluation or detailed excavation or watching brief), has been prepared in accordance with the DAMS and OWSI in consultation with the relevant planning authority and the local highway authority, agreed with the County Archaeologist in consultation with Historic England and submitted to and approved in writing by the Secretary of State.

(2) The authorised development must be carried out in accordance with the DAMS and OWSI and site-specific written schemes of investigation referred to in sub-paragraph (1) unless otherwise agreed in writing by the Secretary of State.

(3) A programme of archaeological reporting, post excavation and publication required as part of the DAMS and OWSI and site –specific written schemes of investigation referred to in sub-paragraph (1) must be agreed with the County Archaeologist in consultation with Historic England and implemented within a timescale agreed with the County Archaeologist and the report deposited with the Historic Environment Record of the relevant planning authority within two years of the date of completion of the authorised development or such other period as may be agreed in writing by the relevant planning authority.

(4) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be—

(a) retained in situ and reported to the County Archaeologist as soon as reasonably practicable; and

(b) subject to appropriate mitigation as set out in the DAMS and OWSI and mitigation agreed with the County Archaeologist.

(5) No construction operations are to take place within 10 metres of the remains referred to in sub-paragraph (4) for a period of 14 days from the date the remains are reported to the County Archaeologist under sub-paragraph (4) unless otherwise agreed in writing by the Secretary of State.

(6) Prior to commencement of the authorised development, suitable resources and provisions for long term storage of the archaeological archive must be agreed with the County Archaeologist.

Protected species

10.—(1) In the event that any protected species which were not previously identified in the environmental statement or nesting birds are found at any time when carrying out the authorised development the undertaker must cease construction works near their location and report it immediately to the Ecological Clerk of Works.

(2) The undertaker must prepare a written scheme for the protection and mitigation measures for any protected species that were not previously identified in the environmental statement or nesting birds found when carrying out the authorised development. Where nesting birds are identified works should cease within 10 metres of the nest until birds have fledged and the nest is no longer in use.

(3) The undertaker must implement the written scheme prepared under sub-paragraph (2) immediately and construction in the area specified in the written scheme must not recommence until any necessary licences are obtained to enable mitigation measures to be implemented.

Detailed design

11.—(1) The authorised development must be designed in detail and carried out so that it is compatible with—

(a) the preliminary scheme design shown on the works plans, the general arrangement plans, the engineering drawings and sections, and the structures engineering drawings and sections; and

(b) the design principles set out in the Design Summary Report,

unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority and local highway authority on matters related to their functions and provided that the Secretary of State is satisfied that any amendments to the works plans, the general arrangement plans, and the engineering drawings and sections showing departures from the preliminary design 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, general arrangement plans, engineering drawings and sections or the structures engineering drawings and sections and the undertaker must make those amended details available in electronic form for inspection by members of the public.

Surface and foul water drainage

12.—(1) No part of the authorised development is to commence until written details of the surface and foul water drainage system for that part, reflecting the mitigation measures in chapter 13 (Road Drainage and the Water Environment) of the environmental statement and including means of pollution control, have been submitted to and approved in writing by the Secretary of State following consultation with the relevant planning authority, the local highway authority and the Environment Agency.

(2) The drainage system must be constructed in accordance with the approved details referred to in sub-paragraph (1) unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority, the local highway authority and the Environment Agency.

Noise Mitigation

13.—(1) No part of the authorised development is to commence until written details of proposed noise mitigation in respect of the use and operation of that part of the authorised development, including noise barriers and any very low noise surfacing, have been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority.

(2) The written details referred to in sub-paragraph (1) must either reflect the mitigation measures included in the environmental statement or, where the mitigation proposed materially differs from the mitigation identified in the environmental statement, the undertaker must provide evidence with the written details submitted that the mitigation proposed would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement taking into account the mitigation identified in it.

(3) The noise mitigation must be constructed in accordance with the approved details referred to in sub-paragraph (1) and must be retained thereafter.

Approvals and amendments to approved details

14. With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved under this Schedule, the approved details are taken to include any amendments that may subsequently be approved or agreed in writing by the Secretary of State.

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under requirements

15.—(1) Where an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement (including agreement or approval in respect of part of a requirement) included in this Order, the Secretary of State must give notice to the undertaker 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 16 of this Schedule; or

(c) such longer period as may be agreed between the parties.

(2) Subject to sub-paragraph (3), in the event that the Secretary of State does not determine an application within the period set out in sub-paragraph (1), the Secretary of State is taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where—

(a) an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement included in this Order;

(b) the Secretary of State does not determine such application within the period set out in sub-paragraph (1); and

(c) the application is accompanied by a report referred to in paragraph 15 stating that, in the view of a body required to be consulted by the undertaker under the requirement in

question, the subject matter of the application is likely to give rise to any materially new or materially worse environmental effects in comparison with those reported in the environmental statement,

then the application is taken to have been refused by the Secretary of State at the end of that period.

Further information

16.—(1) In relation to any part of an application made under this Schedule, the Secretary of State has the right to request such further information from the undertaker as is necessary to enable the Secretary of State to consider the application.

(2) In the event that the Secretary of State considers such further information to be necessary, the Secretary of State must, within 21 business days of receipt of the application, notify the undertaker in writing specifying the further information required and (if applicable) to which part of the application it relates. In the event that the Secretary of State does not give such notification within this 21 day period the Secretary of State is deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

(3) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as separate from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 18 of this Schedule and in this paragraph.

(4) In this paragraph, "business day" means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971(**a**).

Register of requirements

17.—(1) The undertaker must, as soon as practicable following the making of this Order, establish and maintain in an electronic form suitable for inspection by members of the public a register of those requirements contained in Part 1 of this Schedule that provide for further approvals to be given by the Secretary of State.

(2) The register must set out in relation to each such requirement the status of the requirement, in terms of whether any approval to be given by the Secretary of State has been applied for or given, providing an electronic link to any document containing any approved details.

(3) The register must be maintained by the undertaker for a period of 3 years following completion of the authorised development.

Anticipatory steps towards compliance with any requirement

18. If before this Order came into force the undertaker or any other person took any steps that were intended to be steps towards compliance with any provision of Part 1 of this Schedule, those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.

SCHEDULE 3

Articles 14 and 18

CLASSIFICATION OF ROADS, ETC.

Note 1: The naming conventions used in this Schedule to describe roads, junctions and structures relate to the naming conventions used in the labels on the traffic regulation measures plans.

(**a**) 1971 c.80.

Note 2: References to the national speed limit in column (3) of the table in Part 5 of this Schedule are references to the maximum speed limits specified under the 1984 Act and to provision made, or deemed to have been made, under the 1984 Act.

PART 1

TRUNK ROADS

(1) *Area*	*(2)* *Length of road*
Badgeworth, Cowley, Coberley Civil Parishes	A417 Trunk Road From point A on sheet 1 of the classification of roads plans to point R on sheet 6 of the classification of roads plans, for a total distance of 5470 metres
Cowley Civil Parish	A417 Trunk Road westbound on-slip From point B on sheet 2 of the classification of roads plans to point C on sheet 4 of the classification of roads plans, for a total distance of 408 metres
Cowley Civil Parish	A417 Trunk Road westbound off-slip From point D on sheet 4 of the classification of roads plans to point E on sheet 4 of the classification of roads plans, for a total distance of 371 metres
Cowley Civil Parish	A417 Trunk Road eastbound off-slip From point F on sheet 4 of the classification of roads plans to point G on sheet 4 of the classification of roads plans, for a total distance of 425 metres
Cowley Civil Parish	A417 Trunk Road eastbound on-slip From point H on sheet 4 of the classification of roads plans to point I on sheet 4 of the classification of roads plans, for a total distance of 420 metres
Cowley Civil Parish	Cowley Junction West Link Road From point J on sheet 6 of the classification of roads plans to point K on sheet 6 of the classification of roads plans, for a total distance of 54 metres
Cowley Civil Parish	Cowley Junction East Link Road From point O on sheet 6 of the classification of roads plans to point Q on sheet 6 of the classification of roads plans, for a total distance of 361 metres
Cowley Civil Parish	A417 Trunk Road westbound merge From point K on sheet 6 of the classification of roads plans to point L on sheet 6 of the classification of roads plans, for a total distance of 111 metres
Cowley Civil Parish	A417 Trunk Road westbound diverge From point M on sheet 6 of the classification of roads plans to point K on sheet 6 of the classification of roads plans, for a total distance of 113 metres
Cowley Civil Parish	A417 Trunk Road eastbound diverge From point N on sheet 6 of the classification of roads plans to point O on sheet 6 of the classification of roads plans, for a total distance of 83 metres
Cowley Civil Parish	A417 Trunk Road eastbound merge From point O on sheet 6 of the classification of roads plans to point P on sheet 6 of the classification of roads plans, for a total distance of 81 metres

PART 2

ROADS TO BE DE-TRUNKED

(1) *Area*	*(2)* *Length of road*
Cowley, Coberley Civil Parishes	A417 Trunk Road between point A on sheet 2 and point B on sheet 2 of the de-trunking plans, comprising 498 metres
Cowley Civil Parish	A417 Trunk Road between point C on sheet 3 and point D on sheet 3 of the de-trunking plans, comprising 962 metres
Cowley, Brimpsfield Civil Parishes	A417 Trunk Road between point E on sheet 5 and point F on sheet 5 of the de-trunking plans, comprising 1791 metres
Cowley, Brimpsfield Civil Parishes	A417 Trunk Road between point G on sheet 6 and point H on sheet 6 of the de-trunking plans, comprising 575 metres

PART 3

CLASSIFIED ROADS

(1) *Area*	*(2)* *Length of road*
Coberley Civil Parish	The new roundabout (Ullenwood junction) at point 5 on sheet 2 of the classification of roads plans for a total distance of 135 metres
Coberley Civil Parish	C377 between points 6 and 10 on sheet 2 of the classification of roads plans, comprising 258 metres
Coberley Civil Parish	Realigned A436 between point 8 to point 9 on sheet 2 of the classification of roads plans for a total distance of 54 metres
Coberley Civil Parish	Local access road (A436 link road) between points 7 and 11a on sheet 2 of the classification of roads plans, comprising 847 metres
Cowley, Coberley Civil Parishes	Local access road (A436 link road) between points 11b and 31 on sheet 4 of the classification of roads plans, comprising 220 metres
Cowley Civil Parish	Realigned B4070 between points 14 and 16 on sheet 3 of the classification of roads plans, comprising 692 metres
Cowley Civil Parish	The new roundabout at point 15 on sheet 3 of the classification of roads plans for a total distance of 65 metres
Cowley Civil Parish	Local access road (B4070 Barrow Wake Road) between points 19 and 22a on sheet 3 of the classification of roads plans, comprising 378 metres
Cowley Civil Parish	Local access road (B4070 Barrow Wake Road) between points 22b and 27 on sheet 4 of the classification of roads plans, comprising 344 metres
Cowley Civil Parish	The new Shab Hill junction western roundabout at point 28 on sheet 4 of the classification of roads plans for a total distance of 103 metres
Cowley Civil Parish	Shab Hill junction link road between point 29 to point 30 on sheet 4 of the classification of roads plans, for a total distance of 197 metres
Cowley Civil Parish	The new Shab Hill junction eastern roundabout at point 33 on sheet 4 of the classification of roads plans for a total distance of 125 metres
Cowley, Brimpsfield Civil Parishes	Realigned Climperwell Road between point 41 and point 42 on sheet 6 of the classification of roads plans, for a total distance of 164 metres

PART 4

UNCLASSIFIED ROADS

(1) *Area*	*(2)* *Length of road*
Badgeworth Civil Parish	Unclassified road Dog Lane between points 1 and 2 on sheet 1 of the classification of roads plans, comprising 56 metres
Badgeworth, Coberley, Cowley Civil Parishes	Unclassified road Cold Slad Lane between points 3 and 4 on sheet 2 of the classification of roads plans, comprising 722 metres
Cowley, Coberley Civil Parishes	Unclassified road between points 13 and 12a on sheet 2 of the classification of roads plans, comprising 205 metres
Cowley, Coberley Civil Parishes	Unclassified road between points 12b and 32 on sheet 4 of the classification of roads plans, comprising 235 metres
Cowley Civil Parish	Unclassified road between points 20 and 21 on sheet 3 of the classification of roads plans, comprising 58 metres
Cowley Civil Parish	Unclassified road between points 17 and 18 on sheet 3 of the classification of roads plans, comprising 38 metres
Cowley Civil Parish	Unclassified road U50853 between points 23 and 24 on sheet 4 of the classification of roads plans, comprising 115 metres
Cowley Civil Parish	Unclassified road between points 25 and 26 on sheet 4 of the classification of roads plans, comprising 73 metres
Cowley Civil Parish	Unclassified road between points 34 and 35 on sheet 5 of the classification of roads plans, comprising 18 metres
Cowley Civil Parish	Cowley Lane between point 36 to point 37 on sheet 5 of the classification of roads plans, for a total distance of 650 metres
Cowley, Brimpsfield Civil Parishes	Unclassified road between point 38 to point 39 on sheet 6 of the classification of roads plans, for a total distance of 54 metres
Cowley, Brimpsfield Civil Parishes	The new western roundabout at Cowley junction at point 40 on sheet 6 of the classification of roads plans for a total distance of 101 metres

PART 5

SPEED LIMITS

(1) *Area*	*(2)* *Road name, number and length*	*(3)* *Speed limit*
Badgeworth, Cowley, Coberley Civil Parishes	A417 Trunk Road From point A on sheet 1 of the speed limits plans to point N on sheet 6 of the speed limits plans, for a total distance of 5470 metres	National speed limit for dual carriageways
Badgeworth Civil Parish	Unclassified road U41137 From point 1 to point 2 on sheet 1 of the speed limits plans, for a total distance of 56 metres	National speed limit for single carriageways
Cowley Civil Parish	A417 Trunk Road westbound on-slip From point B on sheet 2 of the speed limits plans to point C on sheet 4 of the speed limits plans, for a total distance of 414 metres	National speed limit for dual carriageways

Badgeworth, Coberley Civil Parishes	Unclassified road U41140 From point 3 to point 4 on sheet 2 of the speed limit plans, for a total distance of 726 metres	National speed limit for single carriageways
Coberley Civil Parish	The new Ullenwood junction At point 5 on sheet 2 of the speed limits plans for a total distance of 122 metres	50mph
Coberley Civil Parish	Classified Road C377 (Leckhampton Hill) From point 6 to point 10 on sheet 2 of the speed limits plans, for a total distance of 253 metres	50mph
Coberley Civil Parish	Existing A436 From point 8 to point 9 on sheet 2 of the speed limits plans, for a total distance of 54 metres	50mph
Coberley Civil Parish	The new local access road (A436 link road) From point 7 on sheet 2 of the speed limit plans to point 7a on sheet 2 of the speed limit plans for a total distance of 65 metres	50mph
Cowley, Coberley Civil Parishes	The new local access road (A436 link road) From point 7a on sheet 2 of the speed limits plans to point 11a on sheet 2 of the speed limits plans, for a total distance of 783 metres	National speed limit for single carriageways
Cowley, Coberley Civil Parishes	Local access road (to be known as Ullenwood Lane) From point 13 on sheet 2 of the speed limits plans to point 12a on sheet 2 of the speed limits plans, for a total distance of 205 metres	National speed limit for single carriageways
Cowley Civil Parish	Existing B4070 From point 14 to point 15 on sheet 3 of the speed limits plans, for a total distance of 90 metres	30mph
Cowley Civil Parish	Re-aligned B4070 (B4070 Birdlip Road) From point 16 to point 17 on sheet 3 of the speed limits plans, for a total distance of 760 metres	40mph
Cowley Civil Parish	The new roundabout (Barrow Wake roundabout) At point 18 on sheet 3 of the speed limits plans for a total distance of 65 metres	40mph
Cowley Civil Parish	The new local access road (B4070 Barrow Wake Road) From point 19 to point 22a on sheet 3 of the speed limits plans, for a total distance of 378 metres	50mph

Cowley Civil Parish	Unclassified road off the B4070 From point 20 to point 21 on sheet 3 of the speed limits plans, for a total distance of 58 metres	National speed limit for single carriageways
Cowley Coberley Civil Parishes	The new local access road (A436 Link Road) From point 11b on sheet 4 of the speed limits plans to point 31 on sheet 4 of the speed limits plans, for a total distance of 221 metres	National speed limit for single carriageways
Cowley Coberley Civil Parishes	Local access road (Ullenwood Lane) From point 12b on sheet 4 of the speed limits plans to point 33 on sheet 4 of the speed limits plans, for a total distance of 236 metres	National speed limit for single carriageways
Cowley Civil Parish	A417 Trunk Road westbound off-slip From point D on sheet 4 of the speed limits plans to point E on sheet 4 of the speed limits plans, for a total distance of 366 metres	National speed limit for dual carriageways
Cowley Civil Parish	A417 Trunk Road eastbound off-slip From point F on sheet 4 of the speed limits plans to point G on sheet 4 of the speed limits plans, for a total distance of 419 metres	National speed limit for dual carriageways
Cowley Civil Parish	A417 Trunk Road eastbound on-slip From point H on sheet 4 of the speed limits plans to point I on sheet 4 of the speed limits plans, for a total distance of 428 metres	National speed limit for dual carriageways
Cowley Civil Parish	The new local access road (B4070 Barrow Wake Road) From point 22b to point 27 on sheet 4 of the speed limits plans, for a total distance of 373 metres	50mph
Cowley Civil Parish	Unclassified road U50853 (Birdlip Radio Station Lane) From point 23 to point 24 on sheet 4 of the speed limits plans, for a total distance of 131 metres	National speed limit for single carriageways
Cowley Civil Parish	Unclassified road off the B4070 to Shab Hill Farm (Shab Hill Farm access) From point 25 to point 26 on sheet 4 of the speed limits plans, for a total distance of 74 metres	National speed limit for single carriageways
Cowley Civil Parish	The new Shab Hill junction western roundabout At point 28 on sheet 4 of the speed limits plans for a total distance of 103 metres	50mph
Cowley Civil Parish	Shab Hill junction link road	50mph

	From point 29 to point 30 on sheet 4 of the speed limits plans, for a total distance of 197 metres	
Cowley Civil Parish	The new Shab Hill junction eastern roundabout At point 32 on sheet 4 of the speed limits plans for a total distance of 125 metres	50mph
Cowley Civil Parish	Cowley Lane realignment From point 36 to point 37 on sheet 5 of the speed limits plans, for a total distance of 651 metres	National speed limit for single carriageways
Cowley, Brimpsfield Civil Parishes	Realigned and narrowed existing A417 (to be known as Emine Way) From point 34 to point 35 on sheet 5 of the speed limits plans, for a total distance of 64 metres	40mph
Cowley Civil Parish	Cowley Junction western merge / diverge From point J on sheet 6 of the speed limits plans to point K on sheet 6 of the speed limits plans, for a total distance of 67 metres	National speed limit for single carriageways
Cowley Civil Parish	Cowley Junction eastern merge / diverge From point L on sheet 6 of the speed limits plans to point M on sheet 6 of the speed limits plans, for a total distance of 360 metres	National speed limit for single carriageways
Cowley, Brimpsfield Civil Parishes	Realigned and narrowed existing A417 (to be known as Ermine Way) From point 38 to point 39 on sheet 6 of the speed limits plans, for a total distance of 74 metres	40mph
Cowley, Brimpsfield Civil Parishes	The new western roundabout at Cowley junction At point 40 on sheet 6 of the speed limits plans for a total distance of 101 metres	National speed limit for single carriageways
Cowley, Brimpsfield Civil Parishes	Realignment of Climperwell Road From point 41 to point 42 on sheet 6 of the speed limits plans, for a total distance of 163 metres	National speed limit for single carriageways

PART 6

TRAFFIC REGULATION MEASURES (CLEARWAYS AND PROHIBITIONS)

(1) *Area*	*(2)* *Road name, number and length*	*(3)* *Measures*
Badgeworth, Cowley, Coberley Civil Parishes	New A417 Trunk Road From point A on sheet 1 of the clearways and prohibitions plans to point AI on sheet 6 of the clearways	Clearway (to include verges and slip roads)

	and prohibitions plans, for a total distance of 5470 metres	
Cowley Civil Parish	A417 Trunk Road westbound on-slip From point G on sheet 2 to point N on sheet 4 of the clearways and prohibitions plans, for a total distance of 414 metres	Clearway (to include verges)
Cowley Civil Parish	Re-aligned A436 From point E on sheet 2 to point F on sheet 2 of the clearways and prohibitions plans, for a total distance of 54 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	New local access road (A436 link road) From point D on sheet 2 to point T on sheet 4 of the clearways and prohibitions plans, for a total distance of 1068 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	The new roundabout at Ullenwood Junction At point C on sheet 2 of the clearways and prohibitions plans, for a total distance of 135 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	Re-aligned B4070 From point H to point J on sheet 3 of the clearways and prohibitions plans, for a total distance of 710 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	The new roundabout (Barrow Wake roundabout) At a point I on sheet 3 of the clearways and prohibitions plans, for a total distance of 65 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	Re-aligned B4070 From point K on sheet 3 to point L on sheet 4 of the clearways and prohibitions plans, for a total distance of 722 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	A417 Trunk Road westbound off-slip From point P to point Q on sheet 4 of the clearways and prohibitions plans, for a total distance of 366 metres	Clearway (to include verges)
Cowley Civil Parish	A417 Trunk Road eastbound off-slip From point R to point V on sheet 4 of the clearways and prohibitions plans, for a total distance of 419 metres	Clearway (to include verges)
Cowley Civil Parish	A417 Trunk Road eastbound on-slip From point W to point X on sheet 4 of the clearways and prohibitions	Clearway (to include verges)

	plans, for a total distance of 427 metres	
Cowley Civil Parish	The new Shab Hill junction western roundabout At a point M on sheet 4 of the clearways and prohibitions plans, for a total distance of 103 metres	Clearway (to include verges)
Cowley Civil Parish	Shab Hill junction link road From point O to point S on sheet 4 of the clearways and prohibitions plans, for a total distance of 197 metres	Clearway (to include verges)
Cowley Civil Parish	The new Shab Hill junction eastern roundabout At a point U on sheet 4 of the clearways and prohibitions plans, for a total distance of 125 metres	Clearway (to include verges)
Cowley, Brimpsfield Civil Parishes	The new Cowley junction roundabout At a point Z on sheet 6 of the clearways and prohibitions plans, for a total distance of 101 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	Cowley Junction link West From point AA to point AB on sheet 6 of the clearways and prohibitions plans, for a total distance of 54 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	A417 Trunk Road westbound merge From point AB to point AC on sheet 6 of the clearways and prohibitions plans, for a total distance of 111 metres	Clearway (to include verges)
Cowley Civil Parish	A417 Trunk Road westbound diverge From point AD to point AB on sheet 6 of the clearways and prohibitions plans, for a total distance of 113 metres	Clearway (to include verges)
Cowley Civil Parish	Cowley Junction Loop link road From point AF to point AH on sheet 6 of the clearways and prohibitions plans, for a total distance of 360 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	A417 Trunk Road eastbound diverge From point AE to point AF on sheet 6 of the clearways and prohibitions plans, for a total distance of 83 metres	Clearway (to include verges)
Cowley Civil Parish	A417 Trunk Road eastbound merge From point AF to point AG on sheet 6 of the clearways and prohibitions plans, for a total distance of 81 metres	Clearway (to include verges)

PART 7

REVOCATIONS & VARIATIONS OF EXISTING TRAFFIC REGULATION ORDERS

(1) *Area*	*(2)* *Road name, number and length*	*(3)* *Title of Order*	*(4)* *Revocations or variations*
Badgeworth, Coberley, Cowley Civil Parishes	Clearways to be revoked along the length of the existing A417 from point B on sheet 1 to point AJ on sheet 2 of the clearways and prohibitions plans for a total distance of 1517 metres	The A417 Trunk Road (Brockworth Bypass, Gloucestershire) (24 Hours Clearway) Order 1997 and the A419/A417 Trunk Road (Blunsdon to Crickley Hill) (24 Hours Clearway) Order 1998	Order to be varied to remove the existing clearway over this length
Coberley, Cowley Civil Parishes	Clearways to be revoked on the existing Air Balloon roundabout at point AK on sheet 2 of the clearways and prohibitions plans for a total distance of 151 metres	The A417 Trunk Road (Brockworth Bypass, Gloucestershire) (24 Hours Clearway) Order 1997 and the A419/A417 Trunk Road (Blunsdon to Crickley Hill) (24 Hours Clearway) Order 1998	Order to be varied to remove the existing clearway over this length
Cowley, Brimpsfield Civil Parishes	Clearways to be revoked along the length of the existing A417 from point AL on sheet 2 to point Y on sheet 6 of the clearways and prohibitions plans for a total distance of 3739 metres	The A417 Trunk Road (Brockworth Bypass, Gloucestershire) (24 Hours Clearway) Order 1997 and the A419/A417 Trunk Road (Blunsdon to Crickley Hill) (24 Hours Clearway) Order 1998	Order to be varied to remove the existing clearway over this length
Coberley Civil Parish	Clearways to be revoked along the length of the existing A436 from point AM on sheet 2 to point AN on sheet 2 of the clearways and prohibitions plans for a total distance of 60 metres	The A417 Trunk Road (Brockworth Bypass, Gloucestershire) (24 Hours Clearway) Order 1997 and the A419/A417 Trunk Road (Blunsdon to Crickley Hill) (24 Hours Clearway) Order 1998	Order to be varied to remove the existing clearway over this length
Cowley Civil Parish	Clearways to be revoked along the length of the existing A436 from point AO on sheet 2 to point AP on sheet 2 of the clearways and prohibitions plans for	The A417 Trunk Road (Brockworth Bypass, Gloucestershire) (24 Hours Clearway) Order 1997 and the A419/A417 Trunk Road (Blunsdon to Crickley Hill) (24	Order to be varied to remove the existing clearway over this length

	a total distance of 28 metres	Hours Clearway) Order 1998	
Cowley Civil Parish	Prohibition of right turn from Air Balloon pub car park onto A417 to be revoked at point 1 on sheet 2 of the clearways and prohibitions plans.	A417 Trunk Road (Birdlip Hill) (Prohibition of Right Turn) Order 2001	Order to be revoked

PART 8

PUBLIC RIGHTS OF WAY

(1) *Area*	*(2)* *Status and length of public right of way*
Badgeworth Civil Parish	PR1 1020 metres footpath as shown on sheet 1 of the rights of way and access plans
Badgeworth Civil Parish	PR2 24 metres footpath as shown on sheet 1 of the rights of way and access plans
Badgeworth Civil Parish	PR3 831 metres bridleway as shown on sheets 1 and 2 of the rights of way and access plans
Badgeworth Civil Parish	PR4 436 metres to be reclassified as bridleway as shown on sheets 2 and 3 of the rights of way and access plans
Badgeworth Civil Parish	PR5 460 metres bridleway as shown on sheet 2 of the rights of way and access plans
Badgeworth Civil Parish	PR6 24 metres bridleway as shown on sheet 2 of the rights of way and access plans
Badgeworth Civil Parish	PR7 155 metres bridleway as shown on sheet 2 of the rights of way and access plans
Badgeworth Civil Parish	PR8 242 metres footpath as shown on sheet 2 of the rights of way and access plans
Badgeworth Civil Parish	PR9 2870 metres restricted byway as shown on sheets 2,3 and 5 of the rights of way and access plans
Cowley Civil Parish	PR10 255 metres restricted byway as shown on sheet 2 of the rights of way and access plans
Coberley and Cowley Civil Parishes	PR11 221 metres bridleway as shown on sheet 2 of the rights of way and access plans
Coberley and Cowley Civil Parishes	PR12 739 metres footpath as shown on sheet 2 of the rights of way and access plans
Coberley and Cowley Civil Parishes	PR13

	91 metres footpath as shown on sheet 2 of the rights of way and access plans
Coberley, Cowley Civil Parishes	PR14 94 metres footpath as show on sheet 2 of the rights of way and access plans
Coberley and Cowley Civil Parishes	PR15 98 metres footpath as shown on sheet 2 of the rights of way and access plans
Coberley and Cowley Civil Parish	PR16 473 metres bridleway as shown on sheet 2 of the rights of way and access plans
Cowley Civil Parish	PR17 417 metres byway open to all traffic as shown on sheet 4 of the rights of way and access plans
Cowley Civil Parish	PR18 277 metres byway open to all traffic as shown on sheet 4 of the rights of way and access plans
Cowley Civil Parish	PR19 29 metres footpath (steps) as shown on sheet 4 of the rights of way and access plans
Cowley Civil Parish	PR20 1023 metres restricted byway as shown on sheets 4 and 5 of the rights of way and access plans
Cowley Civil Parish	PR21 208 metres footpath as shown on sheet 5 of the rights of way and access plans
Cowley Civil Parish	PR22 36 metres footpath (steps) as shown on sheet 5 of the rights of way and access plans
Cowley Civil Parish	PR23 381 metres bridleway as shown on sheet 5 of the rights of way and access plans
Cowley Civil Parish	PR24 325 metres to be reclassified as a bridleway as shown on sheets 5 and 6 of the rights of way and access plans
Cowley Civil Parish	PR25 486 metres to be reclassified as a bridleway as shown on sheets 5 and 6 of the rights of way and access plans
Cowley Civil Parish	PR26 200 metres to be reclassified as a restricted byway as shown on sheet 6 of the rights of way and access plans
Cowley Civil Parish	PR27 464 metres to be reclassified as a restricted byway as shown on sheet 6 of the rights of way and access plans
Cowley Civil Parish	PR28 60 metres footpath as shown on sheet 5 of the rights of way and access plans
Cowley Civil Parish	PR29 272 metres restricted byway as shown on sheet 3 of the rights of way and access plans
Cowley Civil Parish	PR30 141 metres restricted byway as shown on sheet 3 of the rights of way and access plans
Cowley	PR31

Civil Parish	213 metres bridleway as shown on sheet 4 of the rights of way and access plans

SCHEDULE 4

Articles 16 and 28

PERMANENT STOPPING UP OF HIGHWAYS AND PRIVATE MEANS OF ACCESS & PROVISION OF NEW HIGHWAYS AND PRIVATE MEANS OF ACCESS

In relating this Schedule to the rights of way and access plans, the provisions described in this Schedule are shown on the rights of way and access plans in the following manner—

(a) Existing highways to be stopped up, as described in column (2) of Part 1 and Part 2 of this Schedule, are shown by thick black diagonal hatching (as shown in the key on the rights of way and access plans) over the extent of the area to be stopped up, which is described in column (3) of Part 1 and Part 2 of this Schedule, and are given a reference label (a capital letter and number in a rectangle).

(b) New highways which are to be substituted for a highway to be stopped up (or which are otherwise to be provided), as are included in column (4) of Part 2 of this Schedule, are shown by red cross-hatching (for motorways and trunk roads), black stippling (for other classified roads and highways) and solid blue shading (for public rights of way) (as shown in the key on the rights of way and access plans) and are given a reference label (a capital letter in a circle for new highway and a PR number in a circle for new public rights of way) and will be a road unless otherwise stated beneath its reference letter in column (4) of Part 2 of this Schedule.

(c) Private means of access to be stopped up, as described in column (2) of Parts 3 and 4 of this Schedule, are shown by solid black shading (as shown in the key on the rights of way and access plans) over the extent of stopping up described in column (3) of Parts 3 and 4 of this Schedule and are given a reference label (a lower case letter in a circle).

(d) New private means of access to be substituted for a private means of access to be stopped up (or which are otherwise to be provided), as are included in column (4) of Part 4 of this Schedule, are shown by blue diagonal hatching (as shown in the key on the rights of way and access plans) and are given a reference label (a number in a circle).

PART 1

HIGHWAYS TO BE STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

(1) *Area*	*(2)* *Highway to be stopped up*	*(3)* *Extent of stopping up*
Rights of way and access plans – Sheet 1		
Badgeworth Civil Parish	Badgeworth bridleway 125 – reference A2	652 metres of its entire length

PART 2

HIGHWAYS TO BE STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND NEW HIGHWAYS WHICH ARE OTHERWISE TO BE PROVIDED

(1) *Area*	*(2)* *Highway to be stopped up*	*(3)* *Extent of stopping up*	*(4)* *New Highway to be substituted/provided*

Rights of way and access plans – Sheet 1			
Badgeworth Civil Parish	Badgeworth footpath 78 – Reference A1	115 metres between Badgeworth footpath 77 and Badgeworth Bridleway 125	Reference PR1 A new footpath for a total length of 1020 metres
Badgeworth Civil Parish	Badgeworth Footpath 77 – Reference A3	307 metres between Badgeworth footpath 78 and Badgeworth Bridleway 125	Reference PR1 A new footpath for a total length of 1020 metres
Badgeworth Civil Parish	Badgeworth Footpath 74 – Reference A4	328 metres at the northern extent of Badgeworth footpath 74 to Badgeworth bridleway 125	Reference PR2 and PR1 New footpaths for total lengths of 24 metres (PR2) and 1020 metres (PR1)
Badgeworth Civil Parish	Badgeworth footpath 126 – Reference A6	298 metres between Badgeworth footpath 80 and Badgeworth footpath 84	Reference PR1 A new footpath for a total length of 1020 metres
Badeworth Civil Parish	Badgeworth footpath 80 – Reference A5	38 metres of its northern extent to Badgeworth bridleway 125	Reference PR1 A new footpath for a total length of 1020 metres
Badgeworth Civil Parish	Badgeworth footpath 84 – Reference A7	179 metres of its northern extent	Reference PR1 A new footpath for a total length of 1020 metres
Badgeworth Civil Parish	-	-	Reference A A new length of Dog Lane for a length of 53 metres south of the U41137
Rights of way and access plans – Sheets 1 and 2			
Badgeworth Civil Parish	-	-	Reference PR3 A new length of bridleway for a length of 831 metres between Dog Lane and Cold Slad Lane
Rights of way and access plans – Sheet 2			
Badgeworth Civil Parish	Badgeworth bridleway 87 – Reference A9	56 metres at its northern extent	Reference PR6 A new bridleway for a length of 24 metres through new Grove Farm underpass
Badgeworth Civil Parish	Badgeworth Bridleway 87 – Reference A10	22 metres at its northern extent	Reference PR7 A new bridleway for a length of 155 metres through new Grove Farm underpass
Badgeworth and Cowley Civil Parishes	Cowley Footpath 24 – Reference A11	163 metres at its western extent	Reference PR8 A new footpath for a length of 242 metres

Badgeworth and Cowley Civil Parishes	Badgeworth Footpath 89 Reference A12	171 metres at its northern extent	Reference PR8 A new footpath for a length of 242 metres
Cowley Civil Parish	Unclassified road – Reference A28	255 metres between Barrow Wake car park and the existing A417	Reference PR10 A new length of restricted byway for a length of 255 metres from Barrow Wake car park to the new restricted byway over the northern section of the repurposed A417 including a right to drive animals along PR10 shown hatched green and labelled CM1 on Inset J.
Coberley Civil Parish	-	-	Reference PR11 A new length of bridleway for a length of 221 metres between Leckhampton Hill and Cold Slad Lane
Cowley and Coberley Civil Parishes	-	-	Reference PR12 A new footpath for a total length of 739 metres
Coberley Civil Parish	-	-	Reference PR13 A new footpath for a total length of 91 metres
Cowley Civil Parish	Coberley footpath 15 – Reference A14	91 metres at its southern end	Reference PR14 A new footpath for a length of 94 metres
Cowley Civil Parish	Cowley footpath 3 Reference A15	73 metres at its western end to Coberley footpath 16	Reference PR16 A new bridleway for a length of 473 metres incorporating the new Gloucestershire Way crossing
Coberley Civil Parish	Coberley footpath 16 – Reference A16	71 metres at its easterly extent	Reference PR15 and PR16 A new footpath for a length of 98 metres and a new bridleway for a length of 473 metres incorporating the new Gloucestershire Way crossing
Cowley, Coberley, Badgeworth Civil Parishes	-	-	Reference B A new length of unclassified road south west of the proposed Ullenwood

			junction for a length of 719 metres
Coberley Civil Parish	-	-	Reference C A new length of C377 from its junction with the new Ullenwood junction for a length of 250 metres
Coberley Civil Parish	-	-	Reference D A new length of the re-aligned A436 from its junction with the new Ullenwood junction for a length of 50 metres
Coberley Civil Parish	-	-	Reference E A new circulatory carriageway north east of the existing A436 roundabout for a length of 135 metres
Rights of way and access plans – Sheets 2 and 3			
Badgeworth Civil Parish	Badgeworth footpath 86 – Reference A8	508 metres at its northern extent	Reference PR4 436 metres reclassified as bridleway
Rights of way and access plans – Sheets 2 and 4			
Coberley Civil Parish	-	-	Reference F A new length of classified road (A436 link road) south east of the new Ullenwood junction for a length of 1066 metres
Cowley Civil Parish	U50852 – Reference A17	222 metres from a point north east of the Birdlip Radio Station to a point south of Ullenwood	Reference G A new length of unclassified road (Ullenwood Lane) north east of Shab Hill junction for a length of 438 metres
Rights of way and access plans – Sheets 2, 3 and 5			
Badgeworth, Cowley and Coberley Civil Parishes	*A417 Trunk Road – Reference A27*	*2805 metres from south of the Air Balloon public house to the unclassified road leading to Stockwell Farm*	Reference PR9 A new length of restricted byway for a length of 2870 metres from Cold Slad Lane to the unclassified road leading to Stockwell Farm
Badgeworth, Cowley and Coberley *Civil Parishes*	*Footway forming part of A417 Trunk Road (Cotswold Way National Trail) – Reference A13*	*152 metres from south of the Air Balloon public house to a point south of Air Balloon cottages*	Reference PR9 A new length of restricted byway for a length of 2870 metres from Cold Slad Lane

			to the unclassified road leading to Stockwell Farm including a right to drive animals along that part of PR9 shown hatched green and labelled CM1 on Inset J.
Rights of way and access plans – Sheet 3			
Cowley Civil Parish	-	-	Reference S A new circulatory carriageway (Barrow Wake roundabout) connecting the classified B4070 Barrow Wake Road and the B4070 Birdlip Road
Cowley Civil Parish	-	-	Reference T A new length of classified road (B4070 Birdlip Road) to its junction with the Barrow Wake roundabout for a length of 687 metres
Cowley Civil Parish	-	-	Reference U A new unclassified northern link road to the new Barrow Wake roundabout for a length of 34 metres
Cowley Civil Parish	-	-	Reference V A new southern length of unclassified road from the B4070 Barrow Wake Road for a length of 17 metres
Cowley Civil Parish	B4070 – Reference A30	From a point west of the existing A417 to the new B4070 at Birdlip Road for a length of 272 metres	Reference PR29 A new length of restricted byway for a length of 272 metres from B4070 Birdlip Road to the new restricted byway over the northern section of the repurposed A417.
Cowley Civil Parish	-	-	Reference PR30 A new length of restricted byway for a length of 141 metres from the new restricted byway over the northern section of

			the repurposed A417 to the realigned unclassified road south of B4070 Barrow Wake Road.
Rights of way and access plans – Sheets 3 and 4			
Cowley Civil Parish	-	-	Reference K A new length of classified road (B4070 Barrow Wake Road) from its junction with the Barrow Wake roundabout to the new western roundabout of the dumbbell junction at Shab Hill for a length of 715 metres
Rights of way and access plans – Sheet 4			
Cowley Civil Parish	U50853 – Reference A18	302 metres from a point west of the new A417 mainline to the new byway open to all traffic PR17	Reference PR17A new length of byway open to all traffic from its junction with the U50853 to the new unclassified road (Ullenwood Lane) east of Shab Hill junction for a length of 417 metres Reference PR18 A new length of byway open to all traffic from its junction with the U50853 to the U50944 for a length of 277 metres
Cowley Civil Parish	Cowley footpath 7 – Reference A19	11 metres at its southern extent	Reference PR18 A new length of byway open to all traffic from its junction with the U50853 to the U50944 for a length of 277 metres
Cowley Civil Parish	U50944 - Reference A31	193m at its northern extent	Reference PR18 A new length of byway open to all traffic from its junction with the U50853 to the U50944 for a length of 277 metres
Cowley Civil Parish	-	-	Reference PR19 A new footpath (steps) for a length of 29 metres

Cowley Civil Parish	U50852 – Reference A29	213 metres from a point west of U50853 to the new B4070 Birdlip Road	Reference PR31 A new bridleway for a length of 213 metres from B4070 Barrow Wake Road to U50852.
Cowley Civil Parish	-	-	Reference H A new circulatory carriageway forming the eastern roundabout of the new dumbbell junction at Shab Hill for a length of 125 metres
Cowley Civil Parish	-	-	Reference I A new link between the western and eastern roundabouts of the new dumbbell junction at Shab Hill for a length of 197 metres
Cowley Civil Parish	-	-	Reference J A new circulatory carriageway forming the western roundabout of the new dumbbell junction at Shab Hill for a length of 103 metres
Cowley Civil Parish	-	-	Reference L The re-aligned northern U50853 to its junction with the U50852 for a new length of 115 metres
Cowley Civil Parish	-	-	Reference M The re-aligned U50853 to its junction with the B4070 Barrow Wake Road for a length of 79 metres
Cowley Civil Parish	-	-	Reference N Re-aligned U50853 to its junction with the U40859 for a length of 18 metres
Rights of way and access plans – Sheets 4 and 5			
Cowley Civil Parish	Cowley restricted byway 26 – Reference A20	804 metres stopped up along its entire length	Reference PR20 A new restricted byway for a length of 1023 metres
Cowley Civil Parish	U40859 – Reference A21	186 metres stopped up along its entire length	Reference O

			Re-aligned length of the U40859 north of Cowley roundabout for a length of 699 metres
Rights of way and access plans – Sheet 5			
Cowley Civil Parish	Cowley restricted byway 36 – Reference A22	383 metres of its entire length	References O and PR20 Cowley restricted byway 36 to be diverted over realigned length of unclassified U40859 north of Cowley roundabout for a length of 561 metres and to be diverted onto new restricted byway PR20 for a length of 407 metres
Cowley Civil Parish	-	-	Reference PR21 A new footpath for a total length of 208 metres
Cowley Civil Parish	-	-	Reference PR22 A new footpath (steps) for a total length of 36 metres
Cowley Civil Parish	Cowley footpath 22 – Reference A23	241 metres stopped up along its eastern extent where served by the scheme	Reference PR23 A new bridleway for a length of 381 metres incorporating the new Stockwell overbridge
Cowley Civil Parish	-	-	Reference PR28 A new footpath for a total length of 60 metres
Rights of way and access plans – Sheets 5 and 6			
Brimpsfield and Cowley Civil Parishes	-	-	Reference R The existing A417 north west of the existing Cowley roundabout to its junction with the access to Stockwell junction for a length of 1280 metres
Cowley Civil Parish	Cowley footpath 21 – Reference A24	325 metres of its entire length	Reference PR24 325 metres reclassified as bridleway
Cowley Civil Parish	Cowley footpath 22 – Reference A25	559 metres stopped up along its extent	Reference PR25 Reclassified and new bridleway for a length of 486 metres

Rights of way and access plans – Sheet 6			
Brimpsfield and Cowley Civil Parishes	-	-	Reference P New unclassified road (realigned former A417) west of the existing Cowley roundabout for a length of 158 metres
Brimpsfield and Cowley Civil Parishes	-	-	Reference Q A new circulatory carriageway forming the western roundabout at Cowley junction for a length of 101 metres
Brimspfield and Cowley Civil Parishes	U40861 – Reference A26	664 metres stopped up from its southern end to private means of access for Harding's Barn	Reference PR26 A new restricted byway for a length of 200 metres Reference PR27 A new bridleway for a length of 464 metres

PART 3

PRIVATE MEANS OF ACCESS TO BE STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

(1) *Area*	*(2)* *Private means of access to be stopped up*	*(3)* *Extent of stopping up*
Badgeworth Civil Parish	Reference b Access to field south of the existing A417 (T) as shown on sheet 1 of the rights of way and access plans	From the existing A417(T) for a length of 23 metres as shown on sheet 1 of the rights of way and access plans
Cowley Civil Parish	Reference h Access to fields north west of new A417 mainline as shown on sheet 2 of the rights of way and access plans	At a point from the existing U50852 Cowley for a length of 78 metres

PART 4

PRIVATE MEANS OF ACCESS TO BE STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND NEW PRIVATE MEANS OF ACCESS WHICH ARE OTHERWISE TO BE PROVIDED

(1) *Area*	*(2)* *Private means of access to be stopped up*	*(3)* *Extent of stopping up*	*(4)* *New private means of access to be substituted/provided*
Rights of way and access plans – Sheet 1			

Badgeworth Civil Parish	Reference a Access to Crickley Hill Farm east of C195 Bentham Lane	At a point west of its junction with the C195 for a length of 984 metres	Reference 1 A new private access to Crickley Hill Farm to the east of C195 Bentham Lane for a length of 846 metres south of its existing access A new private access to Crickley Hill Farm to the east of C195 Bentham Lane for a length of 320 metres south of its existing access
Rights of way and access plans – Sheet 2			
Badgeworth Civil Parish	Reference c Access to Grove Farm south west of the existing A436 Roundabout	At a point south west of the existing A436 roundabout for a length of 224 metres	Reference 2 A new private access to Grove Farm south west of the existing A436 roundabout for a length of 295 metres north east of its existing access
Coberley Civil Parish	Reference d Access to Ullenwood Bharat Cricket Club	At a point north of the existing A436 roundabout for a length of 14 metres	Reference 3 A new private access to Ullenwood Bharat Cricket Club north of the existing A436 roundabout for a length of 108 metres
Cowley Civil Parish	Reference e Access to Crickley Ridge south west of the existing A436 roundabout	At a point south west of the existing A436 roundabout for a length of 13 metres	Reference 4 A new private access to Crickley Ridge south west of the existing A436 roundabout for a length of 370 metres south of its existing access
Coberley and Cowley Civil Parishes	Reference f Access to Cuckoopen Farm south east of the existing A436 roundabout	At a point south east of the existing A436 roundabout for a length of 124 metres	Reference 5 A new private access to Cuckoopen Farm south east of the existing A436 roundabout for a length of 40 metres east of its existing access Reference 12 A new private access to Cuckoopen Farm (agricultural land) south east of the existing A436

			roundabout for a length of 28 metres south-east of its existing access
Coberley and Cowley Civil Parishes	Reference g Access to Rushwood Kennels and Cattery south east of the existing A436	At a point south east of the existing A436 roundabout for a length of 70 metres	Reference 6 A new private access to Rushwood Kennels and Cattery south east of the existing A436 roundabout for a length of 74 metres east of its existing access
Cowley Civil Parish	-	-	Reference 7 A new private access to Crickley Hill Country Park for a length of 28 metres east of the existing access
Cowley Civil Parish	-	-	Reference 11 A new private access to Emma's Grove south west of the existing A436 roundabout for a length of 108 metres west of the existing access
Rights of way and access plans – Sheet 3			
Cowley Civil Parish	-	-	Reference 8 A new private access to the western end of the B4070 for a length of 146 metres
Rights of way and access plans – Sheet 5			
Cowley Civil Parish	Reference i Access to Stockwell Farm north of the existing Cowley roundabout	At a point north of the existing Cowley roundabout for a length of 208 metres	Reference 9 A new private access to Stockwell Farm north of the existing Cowley roundabout for a length of 381 metres east of its existing access
Rights of way and access plans – Sheet 6			
Cowley Civil Parish	-	-	Reference 10 A new private means of access to Harding's Barn, Fosse Farm, Keeper's cottage and B.&M. Babbage & Co. Limited's premises from east of U40861 for a length of 665 metres

SCHEDULE 5

Article 27

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*	*(3)* *Relevant part of the authorised development*
Land Plans – Sheet 1		
1/1s	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Western Power Distribution New right to construct, use, protect, inspect, maintain and alter an existing drainage network	11, 1e
1/1w	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Western Power Distribution	11
1/1y	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Western Power Distribution New right to construct, use, protect, inspect, maintain and alter an existing drainage network	11, 1e
1/1z	New right to construct, use, protect, inspect, maintain and alter an existing drainage network New right to construct, use, protect, inspect, maintain and alter an existing drainage network	11, 1e
1/1ac	New right to construct, use, protect, inspect, maintain and alter an existing drainage network	1e
1/1af	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes New right to construct, use, protect, inspect, maintain and alter an existing drainage network	12, 1, 1h
1/1aj	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	12, 1
1/1ak	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	12, 1
1/1am	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	13, 1
1/2	New right to construct, use, protect, inspect, maintain and alter an existing drainage network	1e
1/3a	New right to construct, use, protect, inspect, maintain and alter drainage apparatus	1a

1/3b	New right to construct, use, protect, inspect, maintain and alter drainage apparatus	1a
1/3c	New right to construct, use, protect, inspect, maintain and alter drainage apparatus	1a
1/5c	New right to construct, use, protect, inspect, maintain and alter drainage apparatus	1e
1/19d	New right to construct, use, protect, inspect and maintain a public right of way New right to construct, use, protect, inspect and maintain a private means of access for the benefit of Flyup 417 Bike Park	1-10, 1y
1/19e	New right to construct, use, protect, inspect, maintain and alter electrical apparatus and equipment for the benefit of Western Power Distribution New right to construct, use, protect, inspect, maintain and alter drainage apparatus and equipment	11 1x
1/19n	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
1/19s	New right to construct, use, protect, inspect, maintain and alter drainage apparatus and equipment	1
1/19u	New right to construct, use, protect, inspect, maintain and alter electrical apparatus and equipment for the benefit of Western Power Distribution	11
1/19v	New right to construct, use, protect, inspect, maintain and alter electrical apparatus and equipment for the benefit of Western Power Distribution	11
1/20	New right to construct, use, protect, inspect, maintain and alter an existing drainage network	1e
1/20a	New right to construct, use, protect, inspect, maintain and alter an existing drainage network	1h
1/20b	New right to construct, use, protect, inspect, maintain and alter an existing drainage network	1h
1/21	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	12, 1
1/21a	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
1/22	New right to construct, use, protect, inspect and maintain a new underground fibre optic cable and equipment for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	12, 1
1/23	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	13, 1
1/23c	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	14
1/24	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1

1/24a	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	14
1/25a	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	14
1/25b	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Western Power Distribution New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications	15, 17
1/26a	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
1/26b	New right to construct, use, protect, inspect, maintain and alter electrical apparatus and equipment for the benefit of Western Power Distribution A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	16, 1
1/26c	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
1/27a	New right to construct, use, protect, inspect and maintain a public right of way	1-10
1/28	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution New right to construct, use, protect, inspect and maintain a new underground fibre optic cable and equipment for the benefit of British Telecommunications	15, 17
1/30	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	15, 17, 1
1/31	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	15, 1
1/31a	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
1/32	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution New right to construct, use, protect, inspect and maintain a new underground fibre optic cable and equipment for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	15, 17, 1
1/33	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1

1/34	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
1/34a	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
1/35	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	17, 15, 1
1/36	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	15, 17, 1
Land Plans – Sheet 2		
2/1	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	17, 1
2/1a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	17, 1
2/1g	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
2/2	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	17, 15, 1
2/3	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
2/4	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
2/5	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications	1, 17
2/6	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	17, 1

2/7	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
2/8	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
2/9	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
2/9a	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
2/10a	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications	16, 17
2/10c	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	16
2/13b	New right to construct, use, protect, inspect and maintain a new soakaway and equipment for the benefit of Gloucestershire County Council	1k
2/13e	New right to construct, use, protect, inspect and maintain a new boundary feature New right to construct, use, protect, inspect and maintain a public right of way	4c, 1-10
2/13g	New right to construct, use, protect, inspect and maintain a new boundary feature New right to construct, use, protect, inspect and maintain a public right of way	4c, 1-10
2/15a	New right to construct, use, protect, inspect and maintain a new boundary feature	1
2/15b	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	13
2/16a	New right to construct, use, protect, inspect and maintain a new soakaway and equipment for the benefit of Gloucestershire County Council	1k
2/21	New right to construct, use, protect, inspect and maintain a public right of way	3a
2/21e	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	20
2/29	New right to construct, use, protect, inspect and maintain a public right of way New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	1-10, 24
2/29a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear	24, 25
2/30	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24

Land Plans – Sheet 3		
3/15c	New right to construct, use, protect, inspect and maintain a new boundary feature	6c
3/15d	New right to construct, use, protect, inspect and maintain a new boundary feature New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	6c, 28
Land Plans – Sheet 4		
4/2a	New right to construct, use, protect, inspect and maintain a new boundary feature	6c
4/2c	New right to construct, use, protect, inspect and maintain a new boundary feature	6c
4/2d	New right to construct, use, protect, inspect and maintain new mammal culvert	6d
4/2k	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	28
4/2r	New right to construct, use, protect, inspect and maintain drainage attenuation basin no. 9 with associated drainage facilities, access and landscaping	1s
4/3a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24
4/3b	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution New right to construct, use, protect, inspect and maintain a new underground fibre optic cable and equipment for the benefit of Gigaclear New right to construct, use, protect, inspect and maintain a public right of way	28, 29, 31, 1-10
4/3d	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Western Power Distribution New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear	28, 29, 24, 31
4/3e	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications	24, 29, 31

	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	
4/3f	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24, 29, 31
4/4	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24
4/4a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24
4/5a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24
4/5b	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	28, 29
4/6a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Western Power Distribution New right to construct, use, protect, inspect and maintain a new underground fibre optic cable and equipment for the benefit of Gigaclear New right to construct, use, protect, inspect and maintain a public right of way	28, 29, 31, 1-10
4/7a	New right to construct, use, protect, inspect and maintain a new boundary feature	6
4/7d	New right to construct, use, protect, inspect and maintain access to an existing structure for environmental mitigation	1-10
4/7f	New right to construct, use, protect, inspect and maintain a new power supply for A417 mainline technology equipment for the benefit of Western Power Distribution	1
4/7g	New right to construct, use, protect, inspect and maintain access to an existing structure for environmental mitigation	1-10
4/8	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24
4/9	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24
4/9a	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	24, 28, 29, 31

	New right to construct, use, protect, inspect and maintain a new underground fibre optic cable and equipment for the benefit of Gigaclear New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	
4/9b	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24, 29, 31
4/9d	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24, 29, 31
4/10a	New right to construct, use, protect, inspect and maintain access to an existing structure for environmental mitigation	1-10
4/11	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	24, 28, 29, 31
4/11a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24, 29, 31
4/12	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear	24, 29, 31

	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	
4/12a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24, 29, 31
4/12b	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24, 29, 31
4/13	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24, 29, 31
4/13a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24, 29, 31
4/14	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24, 29, 31
4/15	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear	24, 29, 31

	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	
4/16	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24, 29, 31
Land Plans – Sheet 5		
5/3a	New right to construct, use, protect, inspect and maintain a new boundary feature	8
5/3d	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	32
5/3e	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	32
5/3g	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	32
5/3h	New right to construct, use, protect, inspect and maintain a new boundary feature New right to construct, use, protect, inspect and maintain new maintenance track	8, 1t
5/3n	New right to construct, use, protect, inspect and maintain a new boundary feature	8
5/3v	New right to construct, use, protect, inspect and maintain drainage attenuation basin no. 10 with associated drainage facilities, access and landscaping	1t
5/3w	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Western Power Distribution New right to construct, use, protect, inspect and maintain drainage attenuation basin no. 9 with associated drainage facilities, access and landscaping	32, 1s
5/3x	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Western Power Distribution	32
5/3z	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water New right to construct, use, protect, inspect and maintain a public right of way	35, 1-10
5/3aa	New right to construct, use, protect, inspect and maintain a public right of way New right to construct, use, protect, inspect and maintain drainage attenuation basin no. 10 with associated drainage facilities, access and landscaping	1-10, 1t

5/3ac	New right to construct, use, protect, inspect and maintain drainage attenuation basin no. 9 with associated drainage facilities, access and landscaping	1s
5/3af	New right to construct, use, protect, inspect and maintain a new boundary feature	8
5/3ah	New right to construct, use, protect, inspect and maintain a new underground fibre optic cable and equipment for the benefit of Gigaclear	33
5/3aj	New right to construct, use, protect, inspect and maintain a new underground fibre optic cable and equipment for the benefit of Gigaclear	33
5/4f	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear	33
5/5g	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear	33
Land Plans – Sheet 6		
6/1r	New right to construct, use, protect, inspect, maintain a new boundary feature	1
6/5	New right to construct, use, protect, inspect and maintain a public right of way	1-10
6/5a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water New right to construct, use, protect, inspect and maintain a public right of way	35, 1-10
6/5c	New right to construct, use, protect, inspect, maintain a new boundary feature	1
6/5j	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	35
6/7a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	35
6/7d	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water. New right to construct, use, protect, inspect and maintain a new boundary feature.	1, 35
6/7e	New right to construct, use, protect, inspect and maintain a new boundary feature.	1
6/8	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect and maintain a new underground pipeline and equipment for the benefit of Severn Trent Water	34, 35
6/8e	New right to construct, use, protect, inspect and maintain drainage attenuation basin no. 11 with associated drainage facilities, access and landscaping	10h
6/8g	New right to construct, use, protect, inspect and maintain drainage attenuation basin no. 11 with associated drainage facilities, access and landscaping	10h

6/9	New right to construct, use, protect, inspect and maintain a new power supply for A417 mainline technology equipment for the benefit of Western Power Distribution	1

SCHEDULE 6

Article 27

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 imposition of a restrictive covenant as they apply as respects compensation for the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act substitute—

"(5A) If—

(a) the acquiring authority enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the Compulsory Purchase Act 1965 (as modified by paragraph 5(5) of Schedule 6 to the A417 Missing Link Development Consent Order 20[•] (the "A417 Missing Link Order"));

(b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the Compulsory Purchase Act 1965 (as substituted by paragraph 5(8) of Schedule 6 to the A417 Missing Link Order) to acquire an interest in the land; and

(c) the acquiring authority enter on and take possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.".

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(**a**) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

(a) for "land is acquired or taken from" substitute "a right or restrictive covenant over land is purchased from or imposed on"; and

(b) for "acquired or taken from him" substitute "over which the right is exercisable or the restrictive covenant enforceable".

Application of Part 1 of the 1965 Act

4. Part 1 of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 30 (modification of Part 1 of the 1965 Act)) to the acquisition of land under article 24 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 27(1) (compulsory acquisition of rights and restrictive covenants)—

(**a**) 1973 c.26.

(a) with the modifications specified in paragraph 5; and

(b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

(a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or

(b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

(3) For section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

> "**7.** In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the restrictive covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act."

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

(a) section 9(4) (failure by owners to convey);

(b) paragraph 10(3) of Schedule 1 (owners under incapacity);

(c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

(5) Section 11 (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right or restriction, as well as the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article 24), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant; and sections 11A(**a**) (powers of entry: further notices of entry), 11B(**b**) (counter-notice requiring possession to be taken on specified date), 12 (unauthorised entry) and 13 (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(6) Section 20 (tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 30(4) is also modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

(8) For Schedule 2A of the 1965 Act substitute—

(**a**) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c.22).
(**b**) Section 11B was inserted by section 187(2) of the above Act.

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT IN NOTICE TO TREAT

Introduction

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or a restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 of the 1981 Act as applied by article 31 (application of the 1981 Act) of the A417 Missing Link Development Consent Order 20[•] in respect of the land to which the notice to treat relates.

(2) But see article 32(3) (acquisition of subsoil or airspace only) of the A417 Missing Link Development Consent Order 20[•] which excludes the acquisition of subsoil or airspace only from this Schedule.

(3) In this Schedule, “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

(a) withdraw the notice to treat,

(b) accept the counter-notice, or

(c) refer the counter-notice to the Upper Tribunal.

6. The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority do not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

Determination by the Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

(a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or

(b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making the determination, the Upper Tribunal must take into account—

(a) the effect of the acquisition of the right or the imposition of the covenant,

(b) the use to be made of the right or covenant proposed to be acquired or imposed, and

(c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

13. If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawing of the notice.

15. Any dispute as to the compensation is to be determined by the Upper Tribunal."

SCHEDULE 7

Article 34

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) *Location*	*(2)* *Plot Reference Number shown on land plans*	*(3)* *Purpose for which temporary possession may be taken*	*(4)* *Relevant part of the authorised development*
Land Plans – Sheet 1			
Badgeworth Civil Parish	1/1b	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline	1
Badgeworth Civil Parish	1/1c	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/1d	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/1e	Required to inspect and good existing drainage culvert	1e
Badgeworth Civil Parish	1/1f	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline	1
Badgeworth Civil Parish	1/1g	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline	1

Badgeworth Civil Parish	1/1h	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/1k	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/1m	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/1n	Required for the protection of existing vegetation	1
Badgeworth Civil Parish	1/1p	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/1q	Required for the provision of and to provide working space and temporary access for works associated with the provision of planting Required to inspect and make good existing drainage culvert	1, 1e
Badgeworth Civil Parish	1/1ad	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/1ae	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline Required to inspect and make good existing drainage culvert	1, 1e
Badgeworth Civil Parish	1/ah	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline	1
Badgeworth Civil Parish	1/4	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/5	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/5a	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/5b	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/6	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline	1
Badgeworth Civil Parish	1/7	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/8	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/9	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/10	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/10a	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/11	Required to inspect and make good existing drainage culvert	1e

Badgeworth Civil Parish	1/11a	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/12	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline	1
Badgeworth Civil Parish	1/13	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline	1
Badgeworth Civil Parish	1/13a	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/14	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/17	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/18	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/19	Existing WPD overhead line to be dismantled Required for the provision of and to provide working space and temporary access for works associated with the Flyup 417 Bike Park private means of access, A417 mainline and mitigation planting	11 1x
Badgeworth Civil Parish	1/19a	Required for the provision of temporary car parking for Flyup 417 Bike Park Required for the provision of and to provide working space and temporary access for works associated with the Flyup 417 Bike Park private means of access and essential mitigation planting	1x
Badgeworth Civil Parish	1/19b	Required for the provision of and to provide working space and temporary access for works associated with the Flyup 417 Bike Park private means of access and maintenance access for the benefit of Western Power Distribution and the undertaker	1x
Badgeworth Civil Parish	1/19f	Required for the provision of and to provide working space and temporary access for works associated with the provision of the Flyup 417 Bike Park private means of access	1y
Badgeworth Civil Parish	1/19g	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline	1
Badgeworth Civil Parish	1/19h	Required for the provision of and to provide working space and temporary access for works associated with the A417, Flyup 417 Bike Park private means of access and essential mitigation planting	1 1y
Badgeworth Civil Parish	1/19j	Required to facilitate the stopping up of an existing public right of way	1y
Badgeworth Civil Parish	1/19k	Required for the provision of and to provide working space and temporary access for the	1f

		new A417, watercourse diversion and associated essential mitigation planting	
Badgeworth Civil Parish	1/19o	Required for the provision of and to provide working space and temporary access for works associated with Flyup 417 Bike Park private means of access and essential mitigation planting	1 1x
Badgeworth Civil Parish	1/19r	Required for the provision of and to provide working space and temporary access for works associated with essential mitigation planting	1
Badgeworth Civil Parish	1/19t	Required for the provision of and to provide working space and temporary access for works associated with the Flyup 417 Bike Park private means of access and maintenance access for the benefit of Western Power Distribution and the undertaker	1x
Land Plans – Sheet 2			
Badgeworth Civil Parish	2/10d	Required for the provision of and to provide working space and temporary access for works associated with the provision of the private means of access and turning area for Grove Farm	11
Coberley Civil Parish	2/13d	Required for the provision of and to provide working space and temporary access for works associated with the provision of the realigned Leckhampton Hill and protection of existing vegetation	4c
Coberley Civil Parish	2/13f	Required for the construction of new private means of access for Crickley Hill Country Park	4c
Badgeworth Civil Parish	2/13h	Required for the construction of new private means of access for Crickley Hill County Park	4c
Cowley Civil Parish	2/16	Required for the widening of an existing track and provision of a new restricted byway	3f
Coberley Civil Parish	2/20	Required for the construction of new private means of access for Air Balloon Cottages	1k
Coberley Civil Parish	2/21a	Required for the provision of and to provide working space and temporary access for vegetation management	1-10
Coberley Civil Parish	2/21b	Required for the provision of and to provide working space and temporary access for vegetation management	1-10
Cowley Civil Parish	2/21d	Required for the provision of and to provide working space and temporary access for vegetation management	1-10
Coberley Civil Parish	2/21n	Required for the provision of a site compound, including but not limited to site offices, welfare facilities, parking for workers' private vehicles and work vehicles, storage of plant, materials and top soil, and the treatment of site-generated waste	1q
Cowley Civil Parish	2/24c	Required for the provision of and to provide working space and temporary access for	4c

		works associated with the provision of the realigned Leckhampton Hill	
Cowley Civil Parish	2/26	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A436 tie-in at Ullenwood junction	4e
Coberley Civil Parish	2/27a	Required for the provision of and to provide working space and temporary access for works associated with the provision of the realigned Leckhampton Hill	4c
Cowley, Coberley Civil Parishes	2/28a	Required for the provision of and to provide working space and temporary access for works associated with the provision of the attenuation basins and to provide screening works during construction	4f
Coberley Civil Parish	2/28b	Required for the provision of and to provide working space and temporary access for works associated with the provision of the attenuation basins and to provide screening works during construction	4f
Coberley Civil Parish	2/28c	Required for the provision of and to provide working space and temporary access for works associated with the provision of the temporary outfall from associated attenuation basins during construction	4f
Coberley Civil Parish	2/28d	Required for the provision of and to provide working space and temporary access for works associated with the provision of the temporary outfall from associated attenuation basins during construction	4f
Coberley Civil Parish	2/30a	Required for the provision of and to provide working space and temporary access for works associated with the provision of a new public right of way	5
Coberley Civil Parish	2/35a	Required for the provision of and to provide working space and temporary access for works associated with the provision of Ullenwood Lane and associated private means of access	7k
Cowley Civil Parish	2/36a	Required for the provision of and to provide working space and temporary access for works associated with the provision of Ullenwood Lane and associated private means of access	7k
Land Plans – Sheet 3			
Cowley Civil Parish	3/1j	Required for Barrow Wake Car Park landscaping	1-10
Cowley Civil Parish	3/7a	Required for the provision of and to provide working space and temporary access for works associated with the provision of the B4070 to Birdlip and associated boundary treatment	6b
Cowley Civil Parish	3/12b	Required for the provision of and to provide working space and temporary access for works associated with the provision of the	6b

		B4070 Birdlip Road and associated boundary treatment	
Cowley Civil Parish	3/12f	Required for the provision of and to provide working space and temporary access to construct a new boundary wall along Barrow Wake Car Park	1-10
Cowley Civil Parish	3/13a	Required for the widening of an existing track and provision of a new restricted byway Required for Barrow Wake Car Park landscaping	1-10
Cowley Civil Parish	3/15b	Required for the provision of and to provide working space and temporary access for works associated with the provision of the B4070 and associated boundary treatment	6c
Cowley Civil Parish	3/15e	Required for the provision of and to provide working space and temporary access for works associated with the provision of the B4070 and associated boundary treatment	6c
Land Plans – Sheet 4			
Cowley Civil Parish	4/2	Required for the provision of and to provide working space and temporary access for works associated with the provision of the B4070 and associated boundary treatment	6c
Cowley Civil Parish	4/2f	Required for the provision of and to provide working space and temporary access to construct new mammal crossing and B4070	6c 6d
Cowley Civil Parish	4/2g	Required for the provision of and to provide working space and temporary access for works associated with the provision of the B4070 and associated boundary treatment	6c
Cowley Civil Parish	4/2h	Required for the provision of and to provide working space and temporary access for works associated with the provision of B4070 and associated boundary treatment	6c
Cowley Civil Parish	4/2j	Required for the provision of and to provide working space and temporary access for works associated with the alteration of Severn Trent Water statutory undertakers apparatus Required for the provision of and to provide working space and temporary access for works associated with the alteration of British Telecommunications statutory undertakers apparatus	24, 29
Cowley Civil Parish	4/2m	Required for the provision of and to provide working space and temporary access for works associated with the provision of byway open to all traffic	1
Cowley Civil Parish	4/2n	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline	1
Cowley Civil Parish	4/2q	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline and associated boundary treatment	1

Cowley Civil Parish	4/7	Required for the provision of and to provide working space and temporary access for works associated with the provision of the B4070 and associated boundary treatment	6c
Cowley Civil Parish	4/7j	Required to facilitate the stopping up of an existing public right of way Required for the provision of and to provide working space and temporary access for works associated with the provision of a byway open to all traffic	1
Cowley Civil Parish	4/7m	Required for the provision of and to provide working space and temporary access and protection of existing vegetation	7
Cowley Civil Parish	4/9e	Required for the provision of and to provide working space and temporary access for works associated with the provision of the Shab Hill junction	7, 7b
Cowley Civil Parish	4/17a	Required for the provision of and to provide working space and temporary access for works associated with the provision of the Shab Hill junction	7, 7k
Cowley Civil Parish	4/17c	Required for the provision of and to provide working space and temporary access for works associated with the provision of the Shab Hill junction and protection of existing vegetation	7
Land Plans – Sheet 5			
Cowley Civil Parish	5/3b	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline and associated boundary treatment	1
Cowley Civil Parish	5/3c	Required for the provision of and to provide working space and temporary access for works associated with the provision of the realignment of Cowley Lane and associated boundary treatment	8 8a
Cowley Civil Parish	5/3f	Required for the provision of and to provide working space and temporary access for works associated with the provision of the realignment of existing track and public right of way	8
Cowley Civil Parish	5/3j	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline and associated boundary treatment	1
Cowley Civil Parish	5/3k	Required for the provision of and to provide working space and temporary access for works associated with the provision of the realignment of Cowley Lane and associated boundary treatment	8
Cowley Civil Parish	5/3m	Required for the provision of and to provide working space and temporary access for works associated with the provision of the realignment of existing track	8

Cowley Civil Parish	5/3s	Required to facilitate the stopping up of an existing public right of way	8
Cowley Civil Parish	5/3t	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline and associated boundary treatment	1
Cowley Civil Parish	5/3u	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline and associated boundary treatment	1
Cowley Civil Parish	5/3y	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline and associated boundary treatment	1
Cowley Civil Parish	5/3ab	Required for the provision of and to provide working space and temporary access for works associated with the provision of the Severn Trent Water works	35
Cowley Civil Parish	5/3ad	Required to facilitate the stopping up of an existing public right of way Required for the provision of and to provide working space and temporary access for works associated with the provision of the realignment of Cowley Lane	8 8a
Cowley Civil Parish	5/4d	Required for the provision of and to provide working space and temporary access for works associated with the provision of the realignment of Cowley Lane	8 8a
Cowley Civil Parish	5/5e	Required for the dismantling of existing Gigaclear apparatus Required for the provision of and to provide working space and temporary access for works associated with the provision of the realignment of Cowley Lane	8 8a
Land Plans – Sheet 6			
Cowley Civil Parish	6/1p	Required for the provision of construction access	1
Cowley Civil Parish	6/5b	Required for the provision of and to provide working space and temporary access for works associated with the provision of the Severn Trent Water works	35
Cowley Civil Parish	6/5e	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline and associated boundary treatment	1
Cowley Civil Parish	6/5g	Required for the provision of and to provide working space and temporary access for works associated with the provision of planting	1-10
Cowley Civil Parish	6/5h	Required for the provision of and to provide working space and temporary access for	1

		works associated with the provision of the A417 mainline and associated boundary treatment	
Brimpsfield Civil Parish	6/8b	Required for the provision of and to provide working space and temporary access for works associated with the provision of Cowley junction and associated boundary treatment	10
Brimpsfield Civil Parish	6/8d	Required for the provision of and to provide working space and temporary access for works associated with the provision of attenuation basin and associated boundary treatment	10h
Brimpsfield Civil Parish	6/8f	Required for the provision of and to provide working space and temporary access for works associated with the provision of attenuation basin and associated boundary treatment	10h
Cowley Civil Parish	6/10a	Required for the provision of and to provide working space and temporary access for works associated with the provision of a private means of access and restricted byway	10j
Cowley Civil Parish	6/10b	Required for the provision of a site compound, including but not limited to site offices, welfare facilities, parking for workers' private vehicles and work vehicles, storage of plant, materials and topsoil, and the treatment of site-generated waste	1u

SCHEDULE 8

Article 45

PROTECTIVE PROVISIONS

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

1. For the protection of the utility undertakers referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertaker concerned.

2. In this Part of this Schedule—

"alternative apparatus" means—

(a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(**a**), belonging to or maintained by that utility undertaker;

(b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter within the meaning of Part 1 of the Gas Act 1986(**b**) for the purposes of gas supply;

(c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by that utility undertaker for the purposes of water supply; and

(**a**) 1989 c.29.
(**b**) 1986 c.44.

(d) in the case of a sewerage undertaker—

(i) any drain or works vested in the utility undertaker under the Water Industry Act 1991(**a**); 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 (agreements to adopt sewer, drain or sewage disposal works, at future date) of that Act(**b**),

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

"functions" includes powers and duties;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

"plan" includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed; and

"utility undertaker" means—

(e) any licence holder within the meaning of Part 1 of the Electricity Act 1989;

(f) a gas transporter within the meaning of Part 1 of the Gas Act 1986;

(g) a water undertaker within the meaning of the Water Industry Act 1991; and

(h) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

On street apparatus

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

Apparatus in stopped up streets

4.—(1) Where any street is stopped up under article 16 (permanent stopping up and restriction of use of streets and private means of access), any utility undertaker whose apparatus is in the street has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to the utility undertaker legal easements reasonably satisfactory to the utility undertaker in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of the utility undertaker to require the removal of that apparatus under paragraph 7 or the power of the undertaker to carry out works under paragraph 9.

(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 15 (temporary stopping up and restriction of use of streets), a utility undertaker is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

(**a**) 1991 c.56.
(**b**) Section 104 was amended by section 42(3) of the Flood and Water Management Act 2010 (c.29).

Protective works to buildings

5. The undertaker, in the case of the powers conferred by article 22 (protective works 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 (7).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 48 (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 48 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 48 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

9.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 7(2), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) are to be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If a utility undertaker, in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

Expenses and costs

10.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker all expenses reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 7(2).

(2) The value of any apparatus removed under the provisions of this Part of this Schedule must be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 48 (arbitration) to be necessary then, if such placing involves cost exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

11.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 5 or 7(2) any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

(a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and

(b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker,

by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by a utility undertaker on behalf of the undertaker or in accordance with a plan approved by a utility undertaker or in accordance with any requirement of a utility undertaker or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1).

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(4) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Cooperation

12. Where in consequence of the proposed construction of any part of the authorised development, the undertaker or a utility undertaker requires the removal of apparatus under paragraph 7(2) or a utility undertaker makes requirements for the protection or alteration of apparatus under paragraph

9, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the utility undertaker's undertaking and each utility undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

13. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

PART 2

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

14. For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

15. In this Part of this Schedule—

"the 2003 Act" means the Communications Act 2003(**a**);

"electronic communications apparatus" has the same meaning as in the electronic communications code;

"the electronic communications code" has the same meaning as in section 106(**b**) (application of the electronic communications code) of the 2003 Act;

"electronic communications code network" means—

(a) so much of an electronic communications network or 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;

"infrastructure system" has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7 (infrastructure system) of that code; and

"operator" means the operator of an electronic communications code network.

16. The exercise of the powers conferred by article 36 (statutory undertakers) is subject to Part 10 (undertaker's works affecting electronic communications apparatus) of the electronic communications code.

17.—(1) Subject to sub-paragraphs (2) to (4), if as a result of the authorised development or its construction, or of any subsidence resulting from the authorised development—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development), or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other

(**a**) 2003 c.21.
(**b**) Section 106 was amended by section 4 of the Digital Economy Act 2017.

expenses, loss, damages, penalty or costs incurred by it by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 48 (arbitration).

18. This Part of this Schedule does not apply to—

(a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or

(b) any damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.

19. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

SCHEDULE 9

Article 46

DOCUMENTS TO BE CERTIFIED

(1) *Documents*	*(2)* *Document Reference*	*(3)* *Revision*
Book of reference	Volume 4, Document 4.3	Revision 2 – Deadline 8 Issue
Works plans	Volume 2, Document 2.4	Revision 2 – Deadline 4 Issue
Land plans	Volume 2, Document 2.2	Revision 3 – Deadline 8 Issue
Rights of way and access plans	Volume 2, Document 2.5	Revision 4 – Deadline 8 Issue
Classification of roads plans	Volume 2, Document 2.7c	Revision 2 – Deadline 4 Issue
Special category land plans	Volume 2, Document 2.3	Revision 1 – Additional Submission
Clearways and prohibitions plans	Volume 2, Document 2.7b	Revision 2 – Deadline 4 Issue
De-trunking plans	Volume 2, Document 2.8	Revision 1 – Additional Submission
Speed limits plans	Volume 2, Document 2.7a	Revision 2 – Deadline 4 Issue
Environmental masterplan	Volume 6, Document 6.3, Figure 7.11	Revision 0 – Application Issue (save for Sheet 2 (Revision 1 – Deadline 4 Issue), Sheet 3 (Revision 1 – Deadline 4 Issue), and Sheet 6 (Revision 1 – Deadline 8 Issue)
General arrangement plans	Volume 2, Document 2.6a	Revision 2 – Deadline 4 Issue
Engineering drawings and sections	Volume 2, Document 2.6b	Revision 0 – Application Issue
Environmental statement	Volume 6, Documents 6.2 to 6.4	Revision 0 – Application Issue
Environmental statement – Updates and Errata	Volume 6, Document 6.7	Revision 2 – Deadline 4 Issue

Environmental management plan (design stage)	Volume 6, Document 6.4, Appendix 2.1	Revision 3 – Deadline 6 Issue
Environmental management plan (design stage) Annex A Environmental Constraints Plan	Volume 6, Document 6.4, Appendix 2.1, Annex A	Revision 0 – Application Issue
Environmental management plan (design stage) Annex B Construction Traffic Management Plan	Volume 6, Document 6.4, Appendix 2.1, Annex B	Revision 3 – Deadline 8 Issue
Environmental management plan (design stage) Annex D Landscape and Ecological Management Plan	Volume 6, Document 6.4, Appendix 2.1, Annex D	Revision 0 – Application Issue
Environmental management plan (design stage) Annex E Materials Management Plan	Volume 6, Document 6.4, Appendix 2.1	Revision 0 – Application Issue
Environmental management plan (design stage) Annex F Public Rights of Way Management Plan	Volume 6, Document 6.4, Appendix 2.1, Annex F	Revision 0 – Application Issue
Environmental management plan (design stage) Annex G Ground and Surface Water Management Plan	Volume 6, Document 6.4, Appendix 2.1, Annex G	Revision 0 – Application Issue
Environmental management plan (design stage) Annex H Site Waste Management Plan	Volume 6, Document 6.4, Appendix 2.1, Annex H	Revision 0 – Application Issue
Cotswold Way national trail diversion report	Volume 7, Document 11	Revision 1 – Deadline 8 Issue
Detailed Archaeological Mitigation Strategy and the Overarching Written Schemes of Investigation	Volume 6, Document 6.8.	Version CO1 – Deadline 8 Issue
Design Summary Report	Volume 1, Document 7.7	Revision 1 – Deadline 8 Issue
Structures engineering drawings and sections	Volume 2, Document 2.6c	Revision 0 – Deadline 6 Issue

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises National Highways Limited to construct, operate and maintain the A417 Missing Link, and carry out all associated works.

This Order permits National Highways Limited to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

The Order also makes provision in connection with the maintenance of the authorised development.

A copy of the plans, general arrangement plans, book of reference and environmental statement mentioned in this Order and certified in accordance with article 46 (certification of plans etc.) may be inspected free of charge during working hours at National Highways, Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ.