

M60/M62/M66 Simister Island Interchange

TR010064

7.30 APPLICANT'S RESPONSES TO DEADLINE 5 SUBMISSIONS

APFP Regulation 5(2)(q)

Planning Act 2008

Infrastructure Planning (Applications: Prescribed
Forms and Procedure) Regulations 2009

Infrastructure Planning

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(Applications: Prescribed Forms and
Procedure) Regulations 2009**

M60/M62/M66 Simister Island Interchange
Development Consent Order 202[]

APPLICANT'S RESPONSES TO DEADLINE 5 SUBMISSIONS

Regulation Reference	Regulation 5(2)(q)
Planning Inspectorate Scheme Reference	TR010064
Application Document Reference	TR010064/APP/7.30
Author	M60/M62/M66 Simister Island Interchange Project Team

Version	Date	Status of Version
P01	11 February 2025	Deadline 6

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1. Introduction

- 1.1.1. The Development Consent Order (DCO) application for the M60/M62/M66 Simister Island Interchange (the "Scheme") was submitted by National Highways (the "Applicant") on 2 April 2024 and accepted for Examination on 30 April 2024.
- 1.1.2. This document has been prepared by the Applicant to set out its responses to the Deadline 5 submissions published on 14 January 2025. This document is submitted at Deadline 6 of the Examination.
- 1.1.3. A summary of the Deadline 5 submissions together with the Applicant's response is set out in Table 2-1 below. Submissions from the following interested parties have been responded to:
 - Bury Metropolitan Borough Council
 - Environment Agency
 - Maro Developments Limited on behalf of the Hillary Family
 - United Utilities

2. Applicant's Responses to the Deadline 5 Submissions

2.1.1. Table 2-1 below documents the Applicant's responses to the Deadline 5 Submissions.

Table 2-1 - Applicant's responses to Deadline 5 Submissions

Table 2-1: Applicants Responses to the Deadline 5 Submissions				
Reference	Hearing Action Reference / Other Reference	Action / Topic	Interested Parties Written Submission	Applicant's Response at Deadline 6
REP5-035 - Bury Metropolitan Borough Council				
REP4-035a	ISH2 Action 35	Consider if a new requirement should be added to the dDCO requiring the details of the final design for the netting to Pike Fold Golf Course to be approved by the SoS following consultation with BMBC to ensure that impacts of any netting would be minimised	BMBC has been liaising with the Applicant in relation to its response to the same question. BMBC agree with the Applicant's suggestion that ball netting details must be included as part of the landscaping scheme to be submitted to discharge Requirement 5(3) of the amended dDCO, that will be submitted at Deadline 5	The Applicant notes Bury Metropolitan Borough Council's response. The Applicant has updated Requirement 5 of the draft Development Consent Order [REP5-005] submitted at Deadline 5 of the Examination to include the ball netting details at Pike Fold Golf Club.
REP4-035b	ISH2 Action 46	Consider the submissions at D4 by the Applicant on waste and then detail any concern over the capacities of local waste infrastructure and the effect this Scheme could have on them. Explain if the scheme proposals for waste accord (and if so how) with your mineral and waste policy.	<p>Having considered the Applicant's submission at D4 (REP4-028), BMBC does not have any concerns over the capacities of local waste infrastructure and the effect this Scheme could have on them.</p> <p>The Greater Manchester Joint Waste Development Plan was adopted in 2012. The purpose of the Waste Plan is to set out a waste planning strategy to 2027, which enables the adequate provision of waste management facilities in appropriate locations for municipal, commercial and industrial, construction and demolition and hazardous wastes.</p> <p>The policies in the GM Joint Waste Development Plan relate to proposals for waste developments and are not therefore relevant.</p> <p>The same applies to the Bury Unitary Development Plan and the Places for Everyone Joint Development Plan Document.</p>	The Applicant's submissions at Deadline 4 of the Examination relating to waste are set out in the responses to ISH2 Action Points 40 to 44 [REP1-024]. The Applicant has no further comments.
REP4-035c	ISH2 Action 49	Consider the submissions at D4 by the Applicant on the Scheme's material requirements and detail any concern about the ability of your region to supply the materials required for the scheme. Explain if the scheme's estimated material requirements accord (and if so how) with your mineral and waste policy.	<p>Having considered the Applicant's submission at D4 (REP4-028), BMBC does not have any concerns about the ability of the region to supply the materials required for the Scheme.</p> <p>The Greater Manchester Joint Minerals Plan was adopted in 2013 and includes a set of policies which assist in the consideration of minerals planning applications, safeguards minerals resources which are likely to be required in the future and identifies areas within which new or expanded minerals extraction is</p>	The Applicant's submissions at Deadline 4 of the Examination relating to waste are set out in the responses to ISH2 Action Points 47 and 48 [REP1-024]. The Applicant has no further comments.

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Reference	Hearing Action Reference / Other Reference	Action / Topic	Interested Parties Written Submission	Applicant's Response at Deadline 6
			<p>likely to be suitable. Annual monitoring of minerals extraction and changes in likely future needs will inform whether and when an update of the joint minerals plan is required, including as a result of the growth in development set out in this plan.</p> <p>No policies in the GM Joint Minerals Plan relate to the use of minerals in developments falling outside of the scope of development identified above.</p> <p>The same applies to the Bury Unitary Development Plan and the Places for Everyone Joint Development Plan Document.</p>	
REP5-036 - Bury Metropolitan Borough Council - Response to ExQ2 BCG.2.4				
REP4-036	ExQ2 BCG.2.4	Responses to ExQ2 Appendix 1 - Northern Gateway Development Framework (NGDF)	Northern Gateway Development Framework (JPA1.1) Supplementary Planning Document November 2024	The Applicant notes Bury Metropolitan Borough Council's submission of the Northern Gateway Development Framework (JPA1.1) Supplementary Planning Document November 2024 which acknowledges and accommodates the Scheme. The Applicant has no further comment.
REP5-037- Bury Metropolitan Borough Council - Responses to ExQ2				
REP4-037a	BCG.2.1	<p>Revised National Planning Policy Framework 2024 (NPPF)</p> <p>The Ministry of Housing, Communities & Local Government published a revised NPPF on Thursday 12 December 2024. The applicant, BMBC and all IPs are invited to submit any comments on the revised version, and particularly whether any of the changes would have any implications for the examination of this application.</p>	None of the changes in the revised NPPF are considered to have any implications for the examination of this application.	The Applicant provided its response to ExQ2 BCG.2.1 [REP5-033] at Deadline 5 of the Examination. The Applicant has no further comment.
REP4-037b	BCG.2.3	<p>Appointment of Ecological Clerk of Works (ECoW)</p> <p>Is BMBC satisfied that no details have been provided in the application documents on the appointment process for the ECoW, who would ultimately have responsibility for ensuring compliance with the ecological elements of the scheme, and that this process would rest solely with the applicant? If so, explain why and if not, explain whether provision should be made for BMBC to approve or be consulted on</p>	Please refer to Section 2.2 and Table 2.1 of First Iteration Environmental Management Plan [REP4- 024]. TR010064-000587-6.5 First Iteration Environmental Management Plan - Main Text P04 (Clean).pdf. This sets out that a ECoW role must be established and maintained throughout construction and sets out the responsibilities of the ECoW. In addition, the Register of Environmental Actions and Commitments contained within the First Iteration Environmental Management Plan [REP4- 024] includes several commitments which include specific roles for the ECoW. The First Iteration Environmental Management Plan [REP4-024] is secured	The Applicant provided its response to ExQ2 BCG.2.3 [REP5-033] at Deadline 5 of the Examination. The Applicant has no further comment.

Table 2-1: Applicants Responses to the Deadline 5 Submissions

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		the appointment of the ECoW and how this could be secured.	through draft DCO Requirement 4. The Second Iteration Environmental Management Plan will be produced prior to commencement of construction of the Scheme, as secured by Requirement 4, of the draft Development Consent Order ExQ2: Tuesday 17 December 2024 Responses due by Deadline 5: Friday 10 January 2025 ExQ2 for M60/M62/M66 Simister Island Interchange Project 7 [REP3-006] and will be substantially based on the First Iteration Environmental Management Plan [REP4-024] submitted with the application for development consent. The Applicant will consult with the relevant planning authority (Bury Metropolitan Borough Council) on matters relating to their function, prior to seeking approval from the Secretary of State of the Second Iteration Environmental Management Plan.	
REP4-037c	BCG.2.4	Consultation Draft Northern Gateway Development Framework Supplementary Planning Document (SPD) Provide a copy of the consultation draft of the Northern Gateway Development Framework SPD that was referred to in compulsory acquisition hearing 1 (CAH1) [EV9-001] and issue specific hearing 2 (ISH2) [EV10-001]. Include signposting to the sections within the consultation draft development framework that are relevant to this application.	The consultation draft Northern Gateway Development Framework (NGDF) SPD is attached (Appendix 1 to BCG.2.4). Consultation on the draft ends on the 10th of January 2025. Sections within the draft which are relevant to the application: <ul style="list-style-type: none"> • Pg 30 – Planning History. • Pg 84 – Development Framework Plan The draft NGDF SPD plan has been developed in full knowledge of the M60/M62/M66 Simister Island Interchange Scheme (the Scheme) and includes reference to an indicative highway improvement area to reflect the proposal. It does not include any development parcels on land affected by the Scheme. The draft NGDF SPD is based on the most up to date understanding of the site and its constraints available at the point of drafting.	The Applicant notes Bury Metropolitan Borough Council's response. The Applicant has no comment.
REP4-037d	AQ.2.3	Programme of Air Quality Monitoring for Nitrogen Dioxide (NO₂) Your response to Action Point (AP) 24 from ISH2 in [REP4-029] explains why you consider a programme of air quality monitoring using diffusion tubes for NO ₂ is required and that operational air quality monitoring could be secured in the draft Development Consent	1. Air quality monitoring could be secured in the dDCO, by requiring the third iteration EMP to include a programme of air quality monitoring using diffusion tubes for NO ₂ for the future operation of the Scheme. 2. Yes – The dDCO at schedule 2, Part 1, 4 (7) would require additional drafting as follows:- (7) The third iteration EMP must address the matters set out in the approved second iteration EMP that are	The Applicant's primary position remains that there are no predicted exceedances of the annual mean nitrogen dioxide (NO ₂) limit values to support post scheme opening monitoring. Notwithstanding that position, the Applicant has reviewed the wording proposed by Bury Metropolitan Borough Council and in the event that the Examining Authority is satisfied that there is potential for exceedances of NO ₂ limit values, it would suggest the text set out below (new text shown underlined) is added to Requirement 4(7)(b):

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		<p>Order (dDCO) at schedule 2, Part 1, 4 (7)(b).</p> <p>1. Explain further how operational air quality monitoring could be secured in the dDCO at schedule 2, Part 1, 4 (7)(b).</p> <p>2. Would any additional drafting be required to the dDCO to secure operational air quality monitoring? If so, please provide this.</p> <p>3. Explain how securing a programme of air quality monitoring for NO2 and any drafting provided in your response to point 2) would meet each of the six tests for imposing requirements listed in paragraph 15.2 in Nationally Significant Infrastructure Projects - Advice Note Fifteen: drafting Development Consent Orders (which also cross refers to the tests in paragraph 57 of the NPPF).</p>	<p>relevant to the operation and maintenance of the Scheme, and must contain— (a) the environmental information needed for the future maintenance and operation of the Scheme; (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 Scheme; (c) a programme of air quality monitoring using diffusion tubes for NO2 for the future operation of the Scheme and (d) a record of the consents, commitments and permissions resulting from liaison with statutory bodies. (8) The Scheme must be operated and maintained substantially in accordance with the third iteration EMP.</p> <p>3. The six tests for imposing requirements are that they are precise, enforceable, necessary, relevant to the development, relevant to planning and reasonable in all other respects.</p> <p>The requirement for air quality monitoring is precise and makes it clear to the Applicant and others what must be done to comply with it. It would be simple and straightforward to detect a breach of the requirement and to seek a remedy. It therefore meets the test of enforceability.</p> <p>There is a definite planning reason for the requirement related to the development, as it would demonstrate that the development has not impacted the UK's ability to meet the NO2 Limit Values within the shortest possible time and would demonstrate that the Limit Values and Air Quality Objectives are being met. It would provide evidence that the predicted improvements in air quality have been achieved and that the predicted impacts of the Scheme were accurate.</p> <p>The requirement is directly related to the development. National Highways is the 'agent of change' in the area, as the main source of nitrogen dioxide pollution is the motorway.</p>	<p><i>“(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, <u>[including a programme for air quality monitoring where annual mean nitrogen dioxide (NO₂) limit values are exceeded or are at risk of being exceeded];and...</u>”</i></p> <p>Should the Examining Authority confirm the above additional wording is required in the publication of Examining Authority commentary or schedule of changes to the draft Development Consent Order [REP5-005], the Applicant will incorporate the changes into the final draft Development Consent Order to be submitted at Deadline 7 of the Examination.</p>

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			BMBC does not consider that diffusion tube monitoring would be unreasonable or place a disproportionate burden on the Applicant.	
REP4-037e	CC.2.3	<p>Legal Judgements</p> <p>The ExA notes that the applicant has been unable to conclude the review of the ES with regard to the implications of recent legal judgements referred to in ExQ1 CC.1.5 and this will be submitted at deadline (D)5.</p> <p>The ExA requests that as part of its response, the applicant categorises the different emissions accounted for in any updates to its assessment which differ from those used in the current assessment, particularly in relation to downstream GhG emissions and how any updated assessment would meet the findings in the Finch Judgement.</p> <p>In addition to the legal judgements referred to in ExQ1 CC.1.5, what, if any, implications does the finding in the high court ruling of Friends of the Earth Ltd & South Lakeland Action on Climate Change vs SSLUHC, West Cumbria Mining Ltd & Cumbria CC [2024] EWHC 2349 (Admin) have in the decision on this application?</p> <p>The applicant may wish to combine its response to this question as part of your response to ExQ1 CC.1.5.</p>	BMBC notes that the Applicant is undertaking a review of the Environmental Statement, and this will be submitted at Deadline 5. BMBC will therefore respond to this question following receipt of the Applicant's review.	The Applicant submitted its response to the ExQ CC.2.1 and CC.2.3 in the Applicant's Response to the Examining Authority's Written Questions on Recent Legal Judgements [REP5-034]. The Applicant notes Bury Metropolitan Borough Council's interim response. The Applicant will consider any comments that may be submitted at Deadline 6 but has no further comment to make at this time.
REP4-037f	CC.2.4	<p>Greater Manchester 2038 Carbon Neutrality Target and Climate Emergency Declaration</p> <p>To what extent does the carbon neutrality 2038 target apply to road transport emissions on the SRN?</p>	The carbon neutrality target applies to all emissions from the Greater Manchester geographical area so include the emissions from the SRN within Greater Manchester.	The Applicant notes Bury Metropolitan Borough Council's response. Please note the Applicant does include reference to the Greater Manchester 2038 Carbon Neutrality Target and Climate Emergency Declaration in its response to REP4-037g below.
REP4-037g	CC.2.5	<p>Boswell Judgements</p> <p>The ExA notes BMBC's agreed note with the applicant in response to AP27 from ISH2 [REP4-029], which summarises the factual</p>	BMBC acknowledges that the Boswell Judgements endorsed an assessment against national budgets consistent with the National Policy Statement for National Networks (NPSNN) 2015. However, the judgement also affirmed that the acceptability of	The Applicant notes Bury Metropolitan Borough Council's position which does not take issue with the Applicant's methodology. The only difference between the Applicant and Bury Metropolitan Borough Council is that Bury Metropolitan Borough Council seek to draw attention to local budgets. However for the reasons provided orally at ISH2 and

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		<p>position of the Boswell judgements.</p> <p>Explain whether this has any implications to your position stated in response to ExQ1 CC.1.2 and CC.1.3 [REP3-031] and that advocated during ISH2.</p>	<p>environmental information is a matter of judgement for the decision-maker and BMBC considers that the local budgets are also a relevant consideration in the determination of this application.</p>	<p>summarised for ease of reference below, the only statutory targets are National and the approach taken by the Applicant has been endorsed by relevant case law.</p> <p>The Applicant pointed out at ISH2 that not all embodied carbon will occur in Bury Metropolitan Borough Council's administrative area carbon generated at power station to power electric vehicles generated at power stations may again not be within Bury Metropolitan Borough Council's administrative area. Hence the Applicant contends an assessment against national targets is more robust than the use of local targets.</p> <p>The only statutory carbon targets are the carbon budget targets and the Net Zero 2050 target set at a national level i.e. they are targets for the UK as a whole. The approach taken within Chapter 14 Climate of the Environmental Statement [APP-053], of comparing estimated changes in carbon emissions associated with Scheme against UK carbon budgets, was confirmed to be lawful in the High Court R (Boswell) vs Secretary of State for Transport & National Highways, 2024 EWCA - Case No: CO/2837/2022, CO/3506/2022, CO/4162/2022) the conclusions of which included:</p> <p><i>'Recent caselaw confirms that, on the basis of current policy and law, it is permissible for a decision maker to look at the scale of carbon emissions relative to a national target'.</i></p> <p><i>'As Counsel for the Secretary of State put matters; for present purposes it does not matter whether the emissions are from a road in Norfolk or Oxford. Their impact is the same and the target against which they are being assessed is national not local' Para 84 HC / 43 CoA.</i></p> <p>There are no sectoral targets (e.g. for transport), nor any statutory targets set at a subnational geographic scale.</p> <p>As noted by Bury Metropolitan Bury Council in their response to question CC.1.2 of ExQ1 [REP3-031], the commitment made by BMBC and the Greater Manchester local authorities to be carbon neutral by 2038 'has no statutory basis and does not form part of the development plan against which planning decisions must be assessed' (albeit Bury Metropolitan Borough Council suggest that 'it is a material consideration and is relevant to this application as the Scheme will have a negative impact on carbon emissions and therefore make this target harder to achieve').</p> <p>Instead, the relevant planning policy (i.e. the National Networks National Policy Statement (NN NPS) (DfT, 2024)) states in paragraph 5.39 that</p>

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				<p>'Where it provides useful context, applicants may wish to compare their scheme emissions against carbon budgets, net zero and the UK Nationally Determined Contribution. Where an applicant assesses the carbon impacts of its scheme against carbon budget 6, and later carbon budgets, it is to be taken also to have assessed the carbon impacts of the scheme against the net zero target in the Climate Change Act 2008, as they are in line with this target'. It is therefore clear that the most appropriate level of assessment is against statutory carbon budgets, the 2050 net zero target and/or the UK's Nationally Determined Contribution, which are all defined and set at a national level by the UK government. Such an assessment is provided in Table 14.24 of Chapter 14 Climate of the Environmental Statement [APP-053].</p> <p>While the Institute of Environmental Management & Assessment (IEMA) Guide: Assessing Greenhouse Gas Emissions and Evaluating their Significance (IEMA,2022), suggests that local or regional carbon budgets developed by local authorities and researchers may be '<i>A more pertinent scale for individual projects and local decision-making</i>' they recognise there are several limitations to such as approach, including:</p> <p><i>'Effects of GHG emissions are not geographically circumscribed, so a geographic budget (below a national budget defined based on negotiated NDCs [Nationally Determined Contributions] to commitments to a global budget agreed through the UNFCCC [United Nations Framework Convention on Climate Change] is not very meaningful'</i></p> <p><i>'It's unclear whether emerging local authority or regional budgets will add up coherently to the UK budget'</i></p> <p>The potential fragility of an assessment against a local budget was acknowledged during discussions at ISH2. For the reasons set out above, the Applicant maintains that the only statutory targets are National and the approach taken by the Applicant has been endorsed by relevant case law and is therefore to be preferred.</p>
REP4-037h	CA.2.4	<p>Consultative Draft Northern Gateway Development Framework SPD and Relationship with Hillary Family Land</p> <p>The Hilary Family response [REP4-031] in paragraph 1.4 states "The indicative masterplan for the Draft SPD indicates that all of the land in the ownership of the Hillary Family within the Order limits falls within the "potential developable area". Conversely, the</p>	<p>As noted in the response to question BCG.2.4, the draft NGDF SPD has been developed in full knowledge of the Scheme and includes reference to an indicative highway improvement area to reflect the proposal.</p> <p>BMBC has been liaising with the Applicant in relation to its response to the same question. BMBC agree with the interpretation presented in the Applicant's response</p>	<p>The Applicant provided a response to ExQ2 CA.2.4 [REP5-033] at Deadline 5 of the Examination. The Applicant has no further comment.</p>

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		<p>applicant's response to BMBC's response to ExQ1 CICE.1.3 in [REP4-027] on page 34 states "The Applicant also notes that the draft masterplan does not include any development parcels on land affected by the Northern Loop proposal".</p> <p>Can the Hillary Family and applicant clarify their respective positions by signposting to where in the draft framework this is detailed.</p>		
REP4-037i	DCO.2.2	<p>Article 12(2)</p> <p>No comments were received from BMBC at D2 to the applicant's response to ISH1 AP6 in [REP1-024] on page 5. Confirm whether you are satisfied with the applicant's response and if so, why.</p>	BMBC is satisfied with the applicant's response, as the definition of a 'street' includes a public right of way. The public rights of way listed in Schedule 3; Part 3 would therefore be covered by Article 12(2) of the draft DCO.	The Applicant provided a response to ISH1 Action Point 6 [REP1-024] at Deadline 1 of the Examination. The Applicant has no further comment.
REP4-037j	DCO.2.4	<p>Article 38</p> <p>Applicant: Noting your comments during ISH2 that operational land would only apply to land that would be permanently acquired, does this need to be explicitly stated within article 38 to ensure this would be secured? If so, provide updated drafting to the dDCO at D5 and if not, explain why not.</p> <p>BMBC: No response was received from BMBC at D2 providing comment on the applicant's response to ISH1 AP13 in [REP1-024] on pages 6 and 7.</p> <ol style="list-style-type: none"> 1. Confirm whether you are satisfied with the applicant's response to AP13 and particularly whether you are satisfied with the areas of land within the order limits that would be included as operational land providing reasons for your answer. 2. Confirm whether you are satisfied with the applicant's response to AP13 that operational land would only apply to the land which the applicant acquires permanently and not apply to the land shaded green or blue on the land plans 	<ol style="list-style-type: none"> 1. BMBC is satisfied with the Applicant's response to AP13, including the areas of land within the order limits that would be included as operational land. Permitted development rights would be limited to operational land in connection with the operation of the Scheme. 2. BMBC is satisfied with the Applicant's response to AP13. 	The Applicant provided a response to ISH2 Action Point 13 [REP4-028] at Deadline 4 of the Examination. The Applicant has no further comment.

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Reference	Hearing Action Reference / Other Reference	Action / Topic	Interested Parties Written Submission	Applicant's Response at Deadline 6
		[REP3-004], as further advocated by them during ISH2. Are you satisfied that this would not allow the Applicant to exercise any permitted development rights on land that is subject to acquiring new rights or temporary possession?		
REP4-037k	DCO.2.6	Requirement 4(6) and (7) Applicant: Explain why the Third Iteration EMP would not subject be subject to consultation with the appropriate public bodies and approval by the SoS? BMBC and any IP: Do you consider that the Third Iteration EMP should be subject to consultation and approval with the appropriate public bodies? If so, what wording would you suggest should be added to the dDCO to secure this?	BMBC does not consider that the Third Iteration EMP should be subject to consultation and approval with public bodies. As set out at Requirement 4 of the dDCO, the Third Iteration would be relevant to the operation and maintenance of the Scheme post-construction and would need to be substantially in accordance with the first and second iterations, which will have been subject to consultation with the appropriate public bodies.	The Applicant provided a response to ExQ2 DCO.2.6 [REP5-033] at Deadline 5 of the Examination. The Applicant has no further comment.
REP4-037l	GB.2.1	Applicant's Assessment of Scheme Component Impacts on Openness In response to ExQ1 GB.1.1, the applicant provided an assessment of the harm on openness for each of the components of the development which are proposed in the green belt and whether openness would or would not be preserved on pages 26-28 and Appendix C of [REP3-023] Provide any comments on the applicant's assessment, explaining reasons for agreeing or disagreeing with the assessment provided.	BMBC has no specific detailed comments to make on the Applicant's assessment on the Scheme impacts on openness. The assessment appears to have been undertaken appropriately and BMBC would not challenge this.	The Applicant provided a response to ExQ1 GB.2.1 [REP3-023] at Deadline 3 of the Examination. The Applicant has no further comment.
REP4-037m	GB.2.3	Assessment of 'any other harm' Following the submission of further information in response to ISH2 APs 36 and 37 in respect of harm to the Designated Heritage Assets (DHAs) of Heaton Park Registered Park and Garden (RPG) and Brick Farmhouse, provide an update to the assessment of 'other harm' previously provided in your respective	MBC consider that the proposal, with regard to Heaton Park Registered Park and Garden and Brick Farmhouse, does not cause less than substantial or substantial harm and as such does not equate to "other harm" in regard to very special circumstances.	The Applicant provided a response to ExQ2 GB.2.3 [REP5-033] at Deadline 5 of the Examination. The Applicant has no further comment.

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		responses to ExQ1 GB.1.3 [REP3-023] and [REP3-031].		
REP4-037n	HE.2.2	Harm to Brick Farmhouse Grade II Listed Building Provide comments on the information provided by the applicant in [REP4-028] in response to ISH2 AP 37 in respect of the 'less than substantial' harm identified to the significance of this DHA during the construction phase.	BMBC has no further comments to add in relation to the Applicants' response at ISH2 AP37 (REP4-028)	The Applicant provided a response to ISH2 Action Point 37 [REP4-028] at Deadline 4 of the Examination. The Applicant has no further comment.
REP4-037o	NE.2.1	Scheme Benefits Your response to AP 1 ISH2 [REP4-028] referred to BMBC economic strategy 2024-2034 stating that it included a reference to the importance of the Northern Gateway and the Atom Valley Mayoral Development. [REP4-028] then quoted from page 23 of the strategy stating 'Page 23 of this strategy highlights that "to unlock the Northern Gateway, its growth potential and to maximise socio-economic benefits and Greater Manchester net zero ambitions, significant new transport and other infrastructure investment will be required to meet future demand generated by the site, as well as ensure employment opportunities are accessible to local residents.' Please supply more detail as to how the proposed scheme benefits the BMBC economic strategy 2024-2034 and in particular how it supports the Northern Gateway and Greater Manchester net zero ambitions listed in the quote above.	The Scheme seeks to address current congestion issues which causes slow and unreliable journey's and reduce economic efficiency. In doing so, it will enable more effective and efficient movement of people and goods, making the area more attractive for investment and deliver a more sustainable, competitive, inclusive and resilient local economy, the key aim of Bury's Economic Strategy. The Scheme will improve accessibility to Northern Gateway, which the Economic Strategy notes is "a game changing opportunity to exponentially expand the borough's business base".	The Applicant provided a response to ExQ2 NE.2.1 [REP5-033] at Deadline 5 of the Examination. The Applicant has no further comment.
REP4-037p	PHH.2.1	Public Right of Way (PRoW) 9WHI In response to AP 16 from ISH2 [REP4-028] the applicant detailed the proposed mitigation planting where the diverted PRoW 9WHI would run parallel to the M66. Could this mitigation be considered an enhancement? If so, detail why.	As the Applicant advised in its response to the Action Points from ISH1 [REP4-028], the visual amenity for walkers on footpath 9WHI near to Pond 1 would be improved, as the new footpath alignments are near to areas of wet woodland and other new tree planting. The National Policy Statement for National Networks (paragraph 5.198) makes reference to opportunities to improve access and connectivity of public rights of way, with consideration of 'use, character, attractiveness and	The Applicant provided a response to ExQ2 PHH.2.1 [REP5-033] at Deadline 5 of the Examination. The Applicant has no further comment.

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			convenience'. These are factors over and above the assessment criteria in DMRB LA 112, on which the Population and Human Health assessment is based (which relate to change of length of a route). Through consideration of these additional factors, the revisions to footpath 9WHI would represent an enhancement from the existing route in terms of character and attractiveness in the long term, as this regularly used route would change to following a more diverse landscape with the combination of species-rich grassland, Pond 1 and wet woodland as indicated on Figure 2.3 Environmental Masterplan of the Environmental Statement Figures [APP-057].	
REP4-037q	PHH.2.4	<p>Mode Hill Lane</p> <p>In response to AP 14 from ISH2 [REP4-028] it is stated "The Applicant further confirms that no pre- construction work to Mode Hill Lane outside the Order Limits is anticipated. The Applicant notes Bury Metropolitan Borough Council's response to the Examining Authority's first round of written questions [REP3-031] ref TT.1.3 relating to Mode Hill Lane, confirming that the adopted highway is in a condition for all traffic that may be reasonably be expected to use it." During ISH2 [EV10-001], BMBC explained that in relation to their comment regarding 'condition' in [REP3-031] this was referring to the fact that Mode Hill Lane was an adopted standard in terms of a highway not in relation to its physical condition.</p> <p>BMBC: Do you consider that Mode Hill Lane is in a suitable physical condition so that use of it to access a site compound would not add to the significant adverse effects you identified in paragraph 11.7 of your Local Impact Report (LIR) [REP1A-001]? If so, explain why.</p> <p>Applicant: With respect to the clarification supplied by BMBC in ISH2 do you still consider that no pre- construction work would be required to Mode Hill Lane? If work was required to any part of the highway outside of</p>	<p>BMBC has liaised with the Applicant to agree the contents of this response. BMBC confirms that Mode Hill Lane is an adopted highway and is maintainable by BMBC.</p> <p>The current physical condition of Mode Hill Lane and other areas of the local highway network proposed to be used for temporary construction access, is understood to be satisfactory for the uses described by the Applicant. BMBC identified in the Local Impact Report [REP1A-001] that increased intensity and alternative vehicle types could result in intermittent significant adverse effects. BMBC understand that the alternative vehicle types would primarily be associated with early activities to install the construction compound and access from the strategic road network. BMBC understand that for the majority of the construction period, the Scheme will introduce smaller and private vehicles accessing the construction compound. Such use is consistent with its adopted highway status.</p> <p>It is BMBC's intention to carry out a joint inspection with the Applicant in each work location prior to the commencement of works in any particular area. This will include prior to formation of the construction compound off Mode Hill Lane. Any remedial work identified as arising from construction access during, or upon the completion, of the works will be discussed with the Applicant, based on the earlier inspection records</p>	<p>The Applicant provided a response to ExQ2 PHH.2.4 [REP5-033] at Deadline 5 of the Examination. The Applicant has also provided a further response in respect of joint inspection arrangements between the Applicant and Bury Metropolitan Borough Council at R19 to the Applicant's Response to Examining Authority's Rule 17 Letter dated 28.01.25 [TR010064/APP/7.31].</p>

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		the Order Limits, how would this be secured in the dDCO?		
REP4-037r	PHH.2.6	<p>Construction Hours</p> <p>BMBC did not raise any concern with the proposed hours of construction when discussing requirement 4 of the draft DCO in ISH1. Whilst impacts from construction are noted within the LIR [REP1A-001] in respect of each environmental topic, no direct comment has been made on the suitability of the proposed hours of construction.</p> <p>Noting that paragraph 11.4 of the LIR acknowledges that construction is "<i>likely to take a significant number of years</i>", can BMBC provide its reasoning for the acceptability, or otherwise, of the proposed construction working hours?</p>	<p>The proposed construction working hours were agreed by Bury Council for the following reasons:</p> <p>Although BMBC acknowledges that there is likely to be a considerable impact on the residents affected by the proposed scheme, if the proposed hours were not accepted, then the timescale of the development would lengthen and those affected would suffer from the effects of construction noise for a longer period. After considering the DCO material, which includes the use of the best practicable means and the effects of noise nuisance over a longer period, BMBC felt that the preferred option would be for the construction phase to be over a shorter timescale.</p> <p>The safety of those working on the construction site must be considered and as a result nighttime working must be an option.</p> <p>The management plan has identified the following control measures for noise and vibration during the construction phase.</p> <p><u>General control measures</u> Noise and vibration from construction activities would be controlled by employing Best Practicable Means (BPM), as defined under Section 72 of the Control of Pollution Act 1974 and Section 79 of the Environmental Protection Act 1990 at all times.</p> <p>BPM shall consider the recommendations of BS 5228: Code of practice for noise and vibration control on construction and open sites (Parts 1 and 2) (BSI, 2014a and 2014b), and BS 7385-2: Evaluation and measurement for vibration in buildings guide to damage levels from ground borne vibration (BSI, 1993).</p> <p>BPM will include the control of noise and vibration at source, where reasonably practicable, such as the provision of acoustic screens and the use of less intrusive alarms. Should the application of BPM at source not prove effective and noise exposure exceed the</p>	The Applicant notes Bury Metropolitan Borough Council's response. The Applicant has no comment.

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			<p>relevant trigger level (as defined in BS 5228- 1), the PC will offer noise insulation and temporary rehousing.</p> <p>The codes of practice for construction works and piling given in BS 5228 and the guidance therein for minimising noise emissions from the site would be applied where reasonably practical.</p> <p><u>Control of noise</u> The following noise control measures would be implemented across all construction works where practicable:</p> <ul style="list-style-type: none"> • Site management teams shall employ best practice and consider the timing, duration, and phasing of construction activities to cause minimum annoyance to sensitive receptors where practicable and reasonable. • Seeded bunds may be used to provide noise and visual screening around the perimeter of the temporary works and construction areas. • All ancillary plant such as generators, compressors and pumps will be positioned to cause minimum noise disturbance. If necessary, acoustic barriers or enclosures will be provided, where appropriate. Consideration shall be given to the site establishment, to ensure that low noise generators are used, where reasonably practical. • Working methods will be developed specific to the area and will consider use of equipment and methods of operations to minimise noise. • Where reasonably practical, fabrication of materials will be undertaken off-site. • All plant and machinery in intermittent use will be shut down in intervening periods between work or throttled down to a minimum. • Proper use of plant with respect to minimising noise emissions with regular maintenance will be undertaken. • Minimising the drop height of materials into hoppers, lorries or other plant. ExQ2: Tuesday 17 December 2024 Responses due by Deadline 5: Friday 10 January 2025 ExQ2 for M60/M62/M66 Simister Island Interchange Project 38 • Use of less intrusive alarms on vehicles, for example, broadband vehicle reversing warnings. 	

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Reference	Hearing Action Reference / Other Reference	Action / Topic	Interested Parties Written Submission	Applicant's Response at Deadline 6
			<ul style="list-style-type: none"> • Works would be planned to reduce the overall number of full carriageway closures required. • When planning and implementing carriageway closures needing the use of the strategic diversion routes, consideration would be given to both the impacts for communities alongside the diversion route, as well as aiming to avoid strategic traffic diverting through communities alongside the M60 between junctions 17, 18 and 19 and M66 Junction 3, to achieve an appropriate balance. • Where full carriageway closures are required, the number of nights that these would be implemented will be kept to below: <ul style="list-style-type: none"> (i) 10 or more days in any 15 consecutive nights, (ii) or a total number of nights exceeding 40 in any consecutive 6 months. <p>The provision of temporary noise screening at the edge of working areas where a road traffic noise barrier needs to be temporarily removed to allow access to construction plant to working areas.</p> <p><u>Construction Monitoring</u> Noise and/or vibration monitoring during construction would be carried out by the Primary Contractor to ensure ongoing compliance with all controls and, where relevant, consent for the works. Monitoring would include physical measurements and observational checks, such as:</p> <ul style="list-style-type: none"> • Review of BPM and implementation of noise and/or vibration control measures; for example, location and condition of local noise screening. • Verification that the identified noise and vibration mitigation measures are in place for activities where there is potential for likely significant effects to occur. <ul style="list-style-type: none"> • Compliance with agreed hours of working. • Measurement of noise and/or vibration levels; for example, attended noise and/or vibration measurements at the start of the high-risk activities to check levels against agreed thresholds. • Monitoring noise and vibration procedures and practices to check adverse effects are no worse than those predicted. 	

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Reference	Hearing Action Reference / Other Reference	Action / Topic	Interested Parties Written Submission	Applicant's Response at Deadline 6
			<ul style="list-style-type: none"> Where applicable, review of compliance with specific consent conditions and noise assessment as discussed in Chapter 11: Noise and vibration, of the Environmental Statement (TR010064/APP/6.1). Number and types of plant, construction method, and where applicable, any specific consent conditions. Vibration measurement surveys during construction will be carried out by the Primary Contractor, if required, and as agreed with the relevant local authorities. <p>In instances where a member of the public has made a noise and/or vibration complaint, the complaint would be registered in accordance with the site complaints procedure. An investigation would be undertaken by the Primary Contractor to review the noise and/or vibration control measures and noise and/or vibration levels</p>	
REP4-037s	PHH.2.7	Permissive Path Provide evidence to demonstrate that the path between Heybrook Close and Parrenthorn Road, through the Haweswater Aqueduct Underpass, is a permissive path and specifically that permission for its use has been given by all the landowners affected.	BMBC is not aware of anyone giving explicit permission to users. Rather, it is a route that appears to have been used by the public without let or hindrance for several years.	The Applicant provided a response to ExQ2 PHH.2.7 [REP5-033] at Deadline 5 of the Examination. The Applicant has no further comment.
REP5-038 – Environment Agency - Responses to ExQ2s				
REP4-038	DCO.2.9	Requirement 13 – Consultation Is the 'not less than' 14 day period stipulated for consultation under this paragraph a sufficient period of time for undertaking consultation? If not, explain why not and advise what an appropriate time period would be and why.	<p>We have reviewed Requirement 13 within the latest version of the draft Development Consent Order [REP3-006]. For context, our interpretation of the 14 days constitutes 10 business days. Therefore, the Environment Agency is of the view that the provisions in this Schedule will not provide sufficient time for adequate consultation to take place for the discharge of Requirements. The practical application of the 10-business day timescale will not facilitate adequate consultation.</p> <p>The Environment Agency requests that this is amended to 15 business days to provide sufficient consultation timescales that align with those in the Development Management Procedure Order 2015, i.e. 21 days (equivalent to 15 business days).</p>	The Applicant notes the Environment Agency's request. A revised draft Development Consent Order [REP5-005] will be submitted at Deadline 7 of the Examination to include an amendment to Requirement 13 of the draft Development Consent Order [REP5-005] setting out 15 business days for any consultation response to provided, and the provision of a definition of business days.

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			<p>We also request that the term 'business days' is included in Requirement 13, similarly to Requirement 14 (5), to clarify this term means a day other than a Saturday or Sunday, Good Friday, Christmas Day or a bank holiday in England and Wales under section 1 of the banking and Financial Dealings Act 1971.</p> <p>We would welcome such amendments to be made to the Development Consent Order (DCO).</p>	
REP5-039 – Maro Developments on behalf of the Hillary family				
REP4-039	CA.2.4	<p>Consultative Draft Northern Gateway Development Framework SPD and Relationship with Hillary Family Land</p> <p>The Hilary Family response [REP4-031] in paragraph 1.4 states "The indicative masterplan for the Draft SPD indicates that all of the land in the ownership of the Hillary Family within the Order limits falls within the "potential developable area". Conversely, the applicant's response to BMBC's response to ExQ1 CICE.1.3 in [REP4-027] on page 34 states "The Applicant also notes that the draft masterplan does not include any development parcels on land affected by the Northern Loop proposal".</p> <p>Can the Hillary Family and applicant clarify their respective positions by signposting to where in the draft framework this is detailed.</p>	<p><i>PfE allocation JPA1.1 – Northern Gateway and Hillary Family Ownership</i></p> <p>The whole of the Northern loop proposal in the NE quadrant of the proposed Simister Island redevelopment falls within the red line Allocation Boundary of JPA1.1 (see plans referenced below). Land in the ownership of the Hillary family (plots 2/16a, 2/16b, 2/16c, 2/16d, 2/16e, and 2/16f) comprises by far the largest proportion of the NE quadrant. The Hillary land is identified on the attached Title plan ref. GM706922.</p> <p>The majority of the 'Operational Land' area required for permanent acquisition under the DCO similarly falls within the ownership of the Hillary family. The whole of the two Environmental Mitigation Areas (EMA) outside and to the east and southeast of the northern loop, as identified in blue hatching on the Works Plans, falls within the ownership of the Hillary family.</p> <p><i>Northern Gateway Development Framework (JPA1.1) Supplementary Planning Document Consultation Draft – November 2024</i></p> <p>At P17, Fig 3 Indicative Development Framework Plan shows areas allocated for Employment Uses and this includes, in the far SW corner. The plan is duplicated at p85 and at p87 Fig 16 Built Form Plan similarly shows the extent of the area allocated for Employment Development. Various other plans replicate the extent of development in identically.</p> <p>All of the plans show the two EMA areas, referenced</p>	<p>The Applicant provided its response to ExQ2 CA.2.4 [REP5-033] at Deadline 5 of the Examination. The Applicant notes Maro Development's response on behalf of the Hillary Family and has no further comment.</p>

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			<p>above, as Employment Development Areas.</p> <p>The Hillary Family have no objection to the Compulsory Purchase of the 'Operational Land' comprising the area required for the permanent works construction of the Northern Loop itself, subject to appropriate compensation recognising its status and value as land allocated for Employment Development. Similarly, they have no objection to the occupation of the two EMAs on a temporary basis for as short a time as is practically necessary, including a period for its reinstatement, as was originally proposed, again subject to appropriate compensation for its temporary use. They do object to the two EMAs being acquired permanently (see REP4-031).</p>	
REP5-040 – United Utilities				
REP4-040a	DCO.2.10	Wording for Protective Provisions <p>The ExA noted the applicant's update during CAH1 listing the parties whereby they considered additional / alternative wording to that presently in the draft DCO would be required.</p>	<p>United Utilities has recently forwarded a copy of our preferred wording for Protective Provisions to the applicant for their consideration. There were sent in the form of a draft side agreement. A copy of this document is enclosed.</p>	<p>The comments are consistent with the Applicant's understanding that United Utilities (UU) is understood to be content with the majority of the arrangements for the protection of its assets which are to be confirmed in a separate agreement between the Applicant and UU. The Applicant is working with UU to resolve its final comments concerning arrangements for connections, if any, into UUs assets. The Applicant therefore expects to conclude the agreement with UU before Deadline 7 of the Examination.</p>
REP4-040b	NV.2.1	Vibration, settlement and/or loading of assets <p>In [RR-015] United Utilities raised a concern regarding the potential effect of vibration, settlement and/or loading of their assets which may result from the construction of the proposed scheme. The applicant responded to this concern in [REP1-020]. Please confirm if you are satisfied with this response or detail any outstanding concerns.</p>	<p>United Utilities welcomes the meaningful engagement with the applicant regarding the protection of its assets and operations both during construction and during the operational life of the proposed development. Alongside the detail of our wider dialogue and correspondence with the applicant, United Utilities notes the content of RR-015. This acknowledges the applicant's responsibility for the protection of United Utilities' assets during the construction of the scheme, a need to consider the impact of any potential settlement and vibration, and that there should be no additional load bearing impact on our assets during or after construction. RR-015 set out the applicant's intention to continue discussions with United Utilities in relation to its assets including a commitment to ensure that the 'Standard Conditions for Works Adjacent to Pipelines' document is complied with during the design development and construction of the scheme.</p> <p>Subject to final agreement of the Protective Provisions,</p>	<p>The Applicant notes and welcomes United Utilities (UU) comments regarding the constructive dialogue between the parties. The comments are consistent with the Applicant's understanding that UU is understood to be content with the majority of the arrangements for the protection of its assets which is to be confirmed in a separate agreement between the Applicant and UU. The Applicant is working with UU to resolve its final comments concerning arrangements for connections, if any, into UUs assets. The Applicant therefore expects to conclude the agreement with UU before Deadline 7 of the Examination.</p>

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			<p>which we have submitted for the applicant's consideration, United Utilities would be satisfied with the proposed approach.</p> <p>Moving forward, we respectfully request that you continue to consult with United Utilities on this proposed DCO. If you have any queries or would like to discuss this submission, please do not hesitate to contact me at [REDACTED]</p>	
REP5-041 – Bury Metropolitan Borough Council -				
REP4-041	N/A	The Applicant's updates – refer to Annex E of the Rule 6 letter	BMBC can also confirm that the amended Statement of Common Ground (SoCG) submitted by the Applicant at Deadline 5 has been agreed with the Council and therefore represents the most up to date position.	The Applicant submitted the amended Statement of Common Ground with Bury Metropolitan Borough Council [REP5-028] and submitted at Deadline 5 of the Examination.