

# **M60/M62/M66 Simister Island Interchange**

**TR010064**

## **7.34 Applicant's Closing Statement**

APFP 5(2)(q)

Planning Act 2008

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

Infrastructure Planning

Planning Act 2008

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

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

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**APPLICANT'S CLOSING STATEMENT**

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# **1 Introduction**

## **1.1 Introduction**

- 1.1.1 This Closing Statement has been produced by National Highways (the "Applicant") to summarise its position, particularly on the matters that have been subject to submissions by the Examining Authority, Interested Parties and the Applicant during the course of the Examination of the M60/M62/M66 Simister Island Interchange Scheme (the "Scheme").
- 1.1.2 It is provided to assist the Examining Authority, and ultimately the Secretary of State, and sets out the Applicant's final position in relation to these matters.
- 1.1.3 This Statement does not make new points but instead draws on, and refers to, submissions made by the Applicant as part of its Development Consent Order Application and throughout the course of the Examination.
- 1.1.4 The document does not seek to address every matter which has been raised during the Examination but focusses on those which have been subject to multiple rounds of questions or representations. The Applicant has tried to avoid duplicating information but does re-state the overall benefits of the Scheme, and the Scheme's compliance with relevant policy, legislation, and guidance, and points the Examining Authority and the Secretary of State to the evidence which is considered relevant to the application of section 104 of the Planning Act 2008 ("2008 Act").
- 1.1.5 The document has been structured around the volumes of the Applicant's Development Consent Order Application as set out in the Introduction to the Application [AS-008].

# **2 Draft Development Consent Order**

## **2.1 Introduction**

- 2.1.1 The Applicant has prepared and updated the draft Development Consent Order (DCO) throughout the Examination [REP5-005] with a final revision submitted at Deadline 7.
- 2.1.2 A detailed explanation of the draft DCO is set out in the Explanatory Memorandum to the DCO [REP5-007] with a final revision submitted at Deadline 7. In particular, it confirms that the draft DCO is based on the model provisions as well as the precedent set by other made DCOs. It has been informed by and amended during the Examination to address matters raised by the Examining Authority, those making Relevant Representations and other key stakeholders.

## **2.2 Part 1: Preliminary**

- 2.2.1 Part 1 of the draft DCO comprises articles 1 (Citation and commencement) and 2 (Interpretation). A number of changes have been made to article 2 during the Examination, most of which are in consequence of changes made to other provisions of the draft DCO.

## **2.3 Part 2: Principal Powers**

- 2.3.1 Part 2 of the draft DCO comprises articles 3 (Development consent etc. Granted by this Order) to 9 (Planning permission).
- 2.3.2 One of the changes made to this Part has been to article 6 (Limits of deviation) to address the Examining Authority's concerns about when it is permissible to deviate from the limits of deviation, namely when such deviation will not give rise to any 'materially new or materially worse effects'. This term has been the subject of significant debate throughout the Examination, most recently in the Applicant's response to the Examining Authority's recommended changes to the draft DCO submitted at Deadline 7.
- 2.3.3 A further change in this Part is to article 8 (Consent to transfer the benefit of Order) to make it clear that where the benefit of the compulsory acquisition powers in the Order is transferred then the undertaker will remain liable for any compensation.

## **2.4 Part 3: Streets**

- 2.4.1 Part 2 of the draft DCO comprises articles 10 (Street works) to 17 (Traffic regulation).
- 2.4.2 The only substantive change to this Part is to provide that the Applicant may use any private road within the Order limits for the purposes of or in connection with the authorised development subject to paying compensation for any loss or damage. This change has been included on the recommendation of the Examining Authority to address concerns about the use of private streets and, in particular, Egypt Lane.

## **2.5 Part 5: Powers of Acquisition and Possession**

- 2.5.1 Part 5 of the draft DCO comprises articles 21 (Compulsory acquisition of land) to 35 (Recovery of costs of new connections).
- 2.5.2 The provisions in Part 5 are based largely on other made DCOs. The extent to which the Applicant is able to acquire new rights and impose restrictive covenants over the temporary possession plots pursuant to article 30(9) of the draft DCO and whether the Applicant may vest new rights and impose restrictive covenants in favour of statutory undertakers pursuant to article 24(1) has been the subject of much debate throughout the Examination, including most recently in the Applicant's response to the Examining Authority's recommended changes to the draft DCO submitted at Deadline 7.
- 2.5.3 The Examining Authority has further interrogated the extent of the land subject to compulsory acquisition powers and the Applicant has provided justification for the need for each plot in the Statement of Reasons [APP-018 and updated at Deadline 7]. See section of this statement.

## **2.6 Part 6: Operations**

- 2.6.1 Part 6 of the draft DCO comprises only article 36 (Felling or lopping of trees and removal or management of hedgerows). The article has been updated during the Examination to provide clarity that the general power in article 36(1) does not apply to trees or shrubs in ancient woodland. The Applicant made further changes to Schedule 8 (Hedgerows to be removed or managed) to specify the nature of the works to be undertaken to each hedgerow in response to the Examining Authority's request for further detail.

## **2.7 Part 7: Miscellaneous and General**

- 2.7.1 Part 7 of the draft DCO comprises articles 37 (Application of landlord and tenant law) to 45 (Disapplication and modification of legislative provisions). The form of wording is substantially the same as other made DCOs. The only substantive change made during the Examination has been to delete article 45(2) in respect of the Community Infrastructure Levy Regulations 2010 ("CIL"). This change has been made as the Scheme is not in an area for which there is an adopted CIL charging schedule.

## **2.8 Schedule 1: Authorised Development**

- 2.8.1 The works which constitute the authorised development and any associated development are detailed in Schedule 1 of the draft DCO, which has been updated throughout the Examination. Whilst a number of minor amendments have been made to the descriptions of the works to provide clarification or correct errors, the scale and scope of the authorised development as whole remains unchanged.

## **2.9 Schedule 2: Requirements**

- 2.9.1 If the DCO is made then the carrying out of the authorised development will be subject to compliance with the Requirements set out in Schedule 2 of the draft DCO. The Requirements sit alongside the commitments given in the Register of Environmental Actions and Commitments of the First Iteration Environmental Management Plan [REP6-006].
- 2.9.2 The form of wording used in the requirements is substantially the same as other made DCOs. There have however been a number of changes made during the Examination of the DCO Application.
- 2.9.3 One change has been to introduce into Requirement 3 a provision requiring the Applicant to undertake the detailed design of the authorised development so that it is compatible with the design principles set out in the design principles report [REP6-010]. The design principles report was submitted at Deadline 6 of the Examination in response to the Examining Authority seeking further clarification and assurances around how the Scheme would be designed, particularly with regard to the new structures of Pike Fold Viaduct and Pike Fold Bridge.

- 2.9.4 Another change, this time to Requirement 4, has been to introduce the need for a Construction Lighting Plan. The Examining Authority recommended that provision be made for a plan in light of some concerns being raised regarding night-time working and the types of lighting which will be used during construction works.
- 2.9.5 Requirement 4 has been further amended to provide that the third iteration EMP include provision for the retention of the environmental mitigation areas for the life of the authorised development. This has, again, been incorporated into the draft DCO submitted at Deadline 7 based on the Examining Authority's recommendation to address any concerns that necessary mitigation of the Scheme might not be retained and maintained to fulfil its purpose of mitigating the impact of the Scheme on the local area.
- 2.9.6 Changes have been made to Requirement 7, landscaping, including to expand the scope of the required landscaping scheme but also to make provision for it to be in accordance with the arboricultural impact assessment and for it to include details showing the extent and form of ball stop netting adjacent to Pike Fold Golf Course.
- 2.9.7 Additional protections have been included in Requirement 6, previously unidentified contaminated land and groundwater, and Requirement 7, protected species, and Requirement 9, archaeological remains.
- 2.9.8 The process for discharging Requirements has also been amended to provide for consultation and clear timescales.

## **2.10 Schedule 9: Protective Provisions**

### **Part 1: Electricity, Gas, Water and Sewerage Undertakers**

- 2.10.1 The protective provisions in Part 1 are for the protection of electricity, gas, water and sewerage undertakers unless expressly provided in another part of Schedule 9. The wording in Part 1 is in the same form as other made DCOs. The Applicant has consulted electricity, gas, water and sewerage undertakers but, save for United Utilities (see paragraph 2.11.9 of this Statement) or where express provisions are included in another part of Schedule 9, there has been no response or engagement from them in response to the DCO Application.

### **Part 2: Electronic Communications Code Networks**

- 2.10.2 The protective provisions in Part 2 are for the protection of operators of electronic communications code networks. The wording in Part 2 is in the same form as other made DCOs. The Applicant has consulted operators of electronic communications code networks but there has been no response or engagement from them in response to the DCO Application.

### **Part 3: Cadent Gas**

- 2.10.3 The protective provisions in Part 3 are for the protection of Cadent Gas Limited. The wording in Part 3 is substantially the same form as other made DCOs.

There has been extensive engagement between the Applicant and Cadent Gas Limited, and the wording of Part 3 is agreed.

#### **Part 4: National Grid**

- 2.10.4 The protective provisions in Part 4 are for the protection of National Grid Electricity Transmission plc ("NGET"). These protective provisions were added into the draft DCO at a later date following the making by NGET of a Relevant Representation in respect of the DCO Application. The form of wording mirrors that agreed with NGET on other made orders.
- 2.10.5 The Applicant has engaged with NGET both pre-Application and during the Examination about the form of wording but it is not yet agreed. The Applicant will continue to engage with NGET up to and beyond the end of the Examination with a view to agreeing the wording as soon as possible.

### **2.11 Other Consents and Agreements**

- 2.11.1 The Applicant has set out what additional consents and agreements are expected to be needed for the Scheme, along with the Applicant's intended strategy for obtaining those consents and agreements. The Applicant updated the Consents and Agreements Position Statement at Deadline 1 of the Examination [REP1-008] to include reference to a conditional Letter of No Impediment issued by Natural England in respect of badger licensing.
- 2.11.2 The Applicant notes agreed positions which relate to consents and licences in the Statements of Common Ground with Natural England [REP1-017] and the Environment Agency [REP1-018]. The positions are summarised in section 4.6 of this Statement.
- 2.11.3 The ExA requested that where agreement has not been reached with statutory undertakers, the Applicant includes representations in respect of sections 127 and 138 of the 2008 Act at Deadline 7. The Applicant has submitted a further copy of the Statement of Reasons (SoR) [APP-018] at Deadline 7. Paragraphs 7.4.1 and 7.4.2 set out the legislative tests in section 127 that must be satisfied for a DCO to authorise the compulsory acquisition of a statutory undertaker's land or rights over land. Paragraph 7.4.3 confirms that there is no permanent compulsory acquisition of statutory undertaker's land required for the Scheme. The draft DCO, if made, will authorise the temporary possession of statutory undertaker's land comprising plots 1/5aaf and 1/9 (both National Grid Electricity Transmission) and plot 2/6 (Electricity North West Limited).
- 2.11.4 The Applicant has, during preparation of the DCO application, been in discussions with Electricity North West Limited, National Grid Electricity Transmission, Cornerstone (Vodafone & Telefonica), Open Reach, United Utilities and Virgin Media regarding the impacts of the Scheme on the interests and/or apparatus of those parties within the Order Limits. Through these discussions it has been established that the land in which these statutory undertakers' assets exist are in private ownership. None of the land to be acquired for the Scheme is Statutory Undertakers' land for the purposes of Section 127(3) of the 2008 Act.

- 2.11.5 A DCO may only include provision for the extinguishment of the relevant right, or the removal of the relevant apparatus, if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the Scheme to which the DCO relates (Section 138(4) of the 2008 Act)
- 2.11.6 The draft DCO includes provision to authorise necessary interference by the Applicant with the apparatus of statutory undertakers, in connection with the delivery of the Scheme.
- 2.11.7 The Applicant proposes to permanently acquire land with existing permanent rights in favour of statutory undertakers as described in the Book of Reference [REP5-009] and shown on the Land Plans [REP3-004] and set out in Annex C of the Statement of Reasons [APP-018 and updated at Deadline 7].
- 2.11.8 The relevant utility diversions required for the Scheme that have been defined as specific works within the development are listed within Schedule 1 of the DCO [REP5-005 and updated at Deadline 7] and include Work numbers 41, 45, 48- 52. These works are also shown on the Works Plans [REP5-004].
- 2.11.9 Protective Provisions for statutory undertakers have been included in the draft DCO [REP5-005 and updated at Deadline 7] as recorded in the preceding section of this statement. At the date of this Closing Statement the Applicant has not reached agreement with National Grid Electricity Transmission and United Utilities. The Applicant has however included protective provisions in favour of National Grid Electricity Transmission in the form they agreed with the Applicant on other made orders. United Utilities submitted a representation at Deadline 6 [REP6-017] confirming that the Applicant and United Utilities have exchanged wording and are close to concluding an agreement. The Applicant expects to achieve an agreed and satisfactory position with National grid Electricity Transmission and united Utilities by the close of the Examination or, in any event, before determination of the application by the Secretary of State.

## **3 Compulsory Acquisition**

### **3.1 Statement of Reasons**

- 3.1.1 The Applicant has set out in their Statement of Reasons [APP-018] the compelling case in the public interest to justify the Applicant's exercise of powers of compulsory acquisition in order to acquire land and rights permanently and to use land temporarily to enable it to construct, operate and maintain the Scheme.
- 3.1.2 The Statement of Reasons [APP-018] was updated at Deadline 7 of the Examination to remove reference to Crown land following confirmation from the Department for Education that the land believed to be Crown land is not, in fact, Crown land.
- 3.1.3 There was also a minor update to Annex A of the Statement of Reasons [APP-018] to reflect the splitting of plot 1/1a following a request from the Examining Authority. A full response on this issue can be found at R.6 in the Applicant's

responses to the Examining Authority's Rule 17 letter dated 28 January 2025 [REP6-012].

## **3.2 Funding Statement**

- 3.2.1 The Applicant has provided a Funding Statement [APP-019], prepared and submitted in compliance with Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the "2009 Regulations") and in accordance with the Department for Communities and Local Government guidance 'Planning Act 2008: Guidance related to procedures for compulsory acquisition' (September 2013). The purpose of that statement is to demonstrate that the Scheme will be adequately funded through the Road Investment Strategy (RIS).
- 3.2.2 The Applicant has responded to questions from the Examining Authority confirming that the Secretary of State for Transport has commissioned a review of the Department for Transport's spending portfolio, including current and future road schemes. At the date of this Statement, the review is ongoing and the funding commitment to the Scheme remains in place. The Applicant understands that the outcome of the review is expected in spring 2025.

## **3.3 Book of Reference**

- 3.3.1 The Applicant has prepared and updated the Book of Reference [REP5-009] throughout the Examination. The Applicant has identified all parties who own or occupy land and/or have an interest in or right over the land affected by the Scheme, and/or who may be entitled to make a 'relevant claim' as defined in Section 57 of the 2008 Act.
- 3.3.2 The Examining Authority asked a number of questions in relation to unknown/unregistered land and the steps taken by the Applicant to ascertain the owners. At Deadline 3, the Applicant provided a response to the Examining Authority's First Written Question CA.1.3 [REP3-023] confirming that site notices were erected on a number of occasions in the locations of unknown/unregistered land. The Applicant erected further notices during the Examination period prior to Deadline 5. The Applicant confirms that the notices to date have prompted two responses in total, both from neighbouring landowners, none of which resulted in any positive identification of an interest.
- 3.3.3 HM Land Registry records were checked for updates most recently in late December 2024. The Applicant thereafter updated the Book of Reference [REP5-009] at Deadline 5 of the Examination to reflect all updates to affected plots and interests.
- 3.3.4 The Applicant will continue to keep the Book of Reference under review and carry out diligent enquiry, including further requests for updates to HM Land Registry records, if development consent is granted and prior to implementation.

## **4 Engagement**

### **4.1 Relevant Representations**

- 4.1.1 The Applicant certified compliance with Sections 56 and 59 of the 2008 Act and Regulation 16 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 on 8 July 2024.
- 4.1.2 In total, 58 Relevant Representations were received and published in the Examination library. The Applicant submitted responses to the Relevant Representations at Deadline 1 [REP1-020] of the Examination.
- 4.1.3 Written Representations were submitted by ten Interested Parties at Deadline 1 of the Examination. Written submissions of oral submissions made during initial hearings in September 2024 were submitted by three Interested Parties at Deadline 1 of the Examination. The Applicant submitted responses to all Deadline 1 responses at Deadline 2 [REP2-007] of the Examination.
- 4.1.4 Written submissions of oral cases made at hearings in November 2024 were submitted at Deadline 4 by two Interested Parties and Bury Metropolitan Borough Council. The Applicant submitted responses to all Deadline 4 submissions at Deadline 5 [REP5-032] of the Examination.

### **4.2 Bury Metropolitan Borough Council**

#### **Strategic support for the Scheme**

- 4.2.1 Bury Metropolitan Borough Council expressed their support for the Scheme in their response to the Scheme's statutory consultation carried out in early 2023. Bury Metropolitan Borough Council support the benefits it would bring including reduction in congestion, and the improvements this would have on journey times, reliability, safety and environment. Bury Metropolitan Borough Council also highlighted the importance of the Scheme in the context of Greater Manchester's ambitious current and future plans for economic growth. This support was reiterated in Bury Metropolitan Borough Council's Local Impact Report in paragraph 15.1 [REP1A-001].

#### **Matters agreed**

- 4.2.2 A final and signed version of the Statement of Common Ground with Bury Metropolitan Borough Council [REP5-028] was submitted at Deadline 5 of the Examination. All matters except for one, addressed in paragraph 4.2.5, are agreed.
- 4.2.3 The Applicant has worked proactively with the Bury Metropolitan Borough Council in relation to the Scheme following the Preferred Route Announcement in January 2021, including engagement and consultation on the Statement of Community Consultation, development consent order process discussions and workshops, topic discussions relating to public rights of way, air quality, noise and vibration, drainage and water environment, contamination, local highways interfaces, cultural heritage, and the draft DCO, which included early sight of draft application documents.

- 4.2.4** That engagement allowed early agreement of the Statement of Common Ground [REP5-028] and submission at Deadline 1 of the Examination, with a subsequent submission being made at Deadline 5 of the Examination solely to make minor corrections. Agreed positions on matters including construction and operational air quality impacts, impacts on designated sites, noise and vibration, contamination, protected species impacts, invasive species, important/priority habitats, biodiversity net gain, water quality, surface water drainage, cultural heritage (built environment and archaeology), compulsory acquisition, public rights of way diversions and the draft DCO has assisted in informing, and in some cases limiting, the matters to be considered through Examination.

### **Matters not agreed**

- 4.2.5** Notwithstanding detailed engagement in relation to the issue of Air Quality, the Applicant and Bury Metropolitan Borough Council, have not reached an agreed position in relation to Operational Air Quality Monitoring.
- 4.2.6** The position of the Applicant is set out in its response to the Examining Authority's Second Written Question (ExQ2) AQ.2.4 [REP5-033] and response to R.4 in Table 2-1 of the Applicant's Response to the Examining Authority's Rule 17 Letter Dated 28/01/25 [REP6-012]. In particular, Bury Metropolitan Borough Council is seeking operational air quality monitoring to be secured through requirement 4 of the draft Development Consent Order, as set out in Bury Metropolitan Borough Council's response to ExQ2 AQ.2.3 [REP5-037]. The Applicant is unable to support post Scheme opening monitoring because there are no predicted exceedances of the annual mean nitrogen dioxide (NO<sub>2</sub>) limit values (refer to R.4 in the Applicant's Responses to the ExA's Rule 17 Letter dated 28/01/25 [REP6-012]).

## **4.3 Neighbouring Authorities**

### **Rochdale Metropolitan Borough Council**

- 4.3.1** Rochdale Borough Council expressed their support for the Scheme in their response to the Scheme's statutory consultation carried out in early 2023. Rochdale Borough Council support the benefits it would bring including reduction in congestion, and the improvements this would have on journey times, reliability, safety and environment. Rochdale Borough Council also highlighted the importance of the Scheme in the context of Greater Manchester's ambitious current and future plans for economic growth.

### **Greater Manchester Combined Authority**

#### **Atom Valley Greater Manchester Mayoral Development Zone Board**

- 4.3.2** Atom Valley Greater Manchester Mayoral Development Zone Board (Atom Valley Board) expressed their support for the Scheme in their response to the statutory consultation carried out in early 2023. The Atom Valley Board consider the planned upgrades of the Scheme critical to the current employment offer and future employment aspirations of Greater Manchester and the wider north of England.

## **Transport for Greater Manchester (“TfGM”)**

- 4.3.3 The Applicant met and corresponded with technical and legal representatives from TfGM early in the pre-application stage of the Scheme. The Applicant adjusted the Order limits to remove two small areas of land which were intended for compulsory acquisition but which overlapped with TfGM’s freehold interest associated with their infrastructure near junction 17. The Applicant further provided a detailed description of the proposed works adjacent to TfGM’s infrastructure.
- 4.3.4 The Applicant understands that TfGM does not have any outstanding concerns about the Scheme. The Applicant confirmed this position in oral submissions in Issue Specific Hearing 1 and provided a written response to Issue Specific Hearing 1 action point 29 [REP1-024]. A representative from TfGM then attended the Compulsory Acquisition Hearing 1 and confirmed in oral submission that TfGM are satisfied with the proposals and, from a transport perspective, are supportive of the Scheme. The Applicant will continue to liaise with TfGM as required during the later stages of the Scheme.

## **4.4 Landowners**

- 4.4.1 As set out within the Statement of Reasons [APP-018], the Applicant has consulted all persons affected by the compulsory acquisition and temporary possession powers during the preparation of the DCO Application and in the design of the Scheme.
- 4.4.2 The Applicant provided a Schedule of Negotiation of Compulsory Acquisition within Annex B of the Statement of Reasons [APP-018]. This has been updated through the Applicant’s Updates (Rule 6 Letter Annex E) [REP6-008] throughout the Examination. A final position as at the end of Examination is set out in the Applicant’s Updates (Rule 6 Letter Annex E) [REP6-008] provided at Deadline 7 of the Examination.
- 4.4.3 The Applicant has provided a summary of positions in relation to the main landowners affected by the Scheme, and how the Applicant has proactively engaged and sought to overcome issues identified by the landowners where feasible.

### **The Hillary Family**

- 4.4.4 The details of the land interest held by the Hillary Family and the current status of negotiation is set out in Appendix A of the Applicant’s Updates (Rule 6 Letter Annex E) [REP6-008].
- 4.4.5 The Applicant has been proactive in contacting the Hillary Family in the pre-application and Examination stages of the Scheme.
- 4.4.6 The Hillary Family, early in the process, identified concern with the extent of compulsory acquisition, including the location and extent of Pond 1 and the extent of land for environmental mitigation. In the pre-application stage the Applicant was able to significantly reduce the overall amount of permanent land to be acquired for environmental mitigation (see Table 5-14 Reference 1 of the

Consultation Report [REP-021]) including areas of the Hillary Family's Land, addressing some of the concerns voiced.

- 4.4.7 The Hillary Family has, throughout the Examination, maintained an objection to the extent of their land to be acquired compulsorily in order to deliver the Scheme, which is reflected in their Relevant Representations [RR-013], attendance at the November hearings and subsequent written submissions at Deadline 1 [REP1-040], Deadline 4 [REP4-031] and Deadline 5 [REP5-039] of the Examination.
- 4.4.8 The Applicant understands that the position of the Hilary Family at Deadline 5 of the Examination [REP5-039] was that the compulsory acquisition of their land for the road infrastructure (described as operational land) can be accepted, subject to appropriate compensation. However, the Hilary Family maintains its objection to the extent of their land required for environmental mitigation areas in the context of the emerging draft policy JPA1.1 Northern Gateway (Heywood/Pilsworth) strategic employment allocation (JPA1.1). The Applicant believes that the Hilary Family's position remains unchanged at Deadline 7.
- 4.4.9 The Applicant has consistently provided justification as to the location of Pond 1 and the environmental mitigation area on the Hillary Family land within the pre-application and Examination stages of the Scheme. Justification at the pre-application stage for the Scheme design, and why the design change requested by the Hillary Family could not be made is set out in Table 5-15, (Reference 24 and 43) of the Consultation Report [REP-021] with further detail provided in Annex Q of the Consultation Report [APP-038]. Following the hearings held in November 2024 relating to compulsory acquisition and environmental matters, the Applicant provided further detailed justification for the location of Pond 1 (response CAH1-2) and the environmental mitigation areas (ISH2 action point 30 response) [REP4-028]. The Applicant's latest position in relation to the relationship of the environmental mitigation areas with draft policy JPA1.1 is set out in the Applicant's responses to Examining Authority's Second Written Questions at CA.2.4 [REP5-033] submitted at Deadline 5 of the Examination.
- 4.4.10 The Applicant acknowledges that the Hillary Family continue to object to the Scheme. However, the Applicant is satisfied that the Scheme's impact on the Hillary Family's land is necessary, proportionate and justified, and that there is a compelling case in the public interest for the proposed compulsory acquisition powers.

### **The Massey Family**

- 4.4.11 The details of the land interest held by the Massey Family and the current status of negotiation is set out in Appendix A of the Applicant's Updates (Rule 6 Letter Annex E) [REP6-008]. The Applicant has been proactive in contacting the Massey Family in the pre-application and Examination stages of the Scheme.
- 4.4.12 The Massey Family has maintained an objection to the extent of their land to be acquired compulsorily in order to deliver the Scheme, as reflected in their Relevant Representations [RR-038], and written submissions at Deadline 1 [REP1-035 and REP1-039], and Deadline 3 [REP3-041] of the Examination.

The Massey Family has taken issue with the need for Pond 2, its location, and the cost of compulsory purchase in light of the emerging draft policy JPA1.1.

- 4.4.13 Whilst the requirement for and proposed location of Pond 2 for water quality treatment is not able to be changed (see No.25 in Table 5-15 of the Consultation Report [REP-021]). The Applicant has been proactive in working to refine the design and construction of Pond 2 to reduce the permanent and temporary land acquisition. As set out in Table 5-14 of the Consultation Report [APP-021] the permanent land required for Pond 2 was reduced, coupled with a redesign of the shape and size of the pond, to make it fit better with the current field shape. Information was provided on the construction compound, and operational access requirements for Pond 2 (see No.45 and 59 in Table 5-15 of the Consultation Report [APP-021]). The Applicant understands that this has helped to address some of the Massey Family's concerns.
- 4.4.14 The Applicant acknowledges that the Massey Family continues to object to the Scheme. However, the Applicant is satisfied that the Scheme's impact on the Massey Family's land is necessary, proportionate and justified, and that there is a compelling case in the public interest for the proposed compulsory acquisition.

### **The Trustees of Pike Fold Golf Club**

- 4.4.15 The details of the land interest held by The Trustees of Pike Fold Golf Club (PFGC) and the status of negotiation is set out in Appendix A of the Application of the Applicant's Updates (Rule 6 Letter Annex E) [REP6-008].
- 4.4.16 The Applicant and the Trustees of PFGC have been engaged in the pre-application and examination stages of the Scheme. Engagement has focused on the impacts that the Scheme would have on PFGC as a result of the proposed temporary land uses and the subsequent acquisition of permanent rights, and the proposed permanent land acquisition.
- 4.4.17 PFGC concerns set out in their Relevant Representation [RR-013] relate to the continued operation of PFGC during construction, reducing play to a 14-hole golf course, and the reduction of safety margins and screening as a result of the permanent works. Without agreement, PFGC consider there is a significant risk to PFGC business, its income and future sustainability. The Trustees of PFGC requested to be heard at a Compulsory Acquisition Hearing [REP1-042]. However, his request was withdrawn in advance of the November hearings.
- 4.4.18 The Applicant has been activity engaged with the Trustees of PFGC for several years to ensure any impacts on the PFGC are satisfactorily addressed. Heads of terms have been agreed, and a legal agreement has been drafted and is under consideration. The Applicant and the Trustees of PFGC are positively engaged to reach an agreement.

### **Joseph Holt Limited (location of the Frigate Pub)**

- 4.4.19 The details of the land interest held by Joesph Holt Limited and the status of negotiation is set out in Appendix A of the Application of the Applicant's Updates (Rule 6 Letter Annex E) [REP6-008]. The Applicant has been proactive in contacting Joesph Holt Limited in the pre-application and examination stages of the Scheme.

- 4.4.20 Joesph Holt Limited in their Relevant Representation [RR-007] and a written submission to the ExA [REP-0033] set out concerns relating to the justification for the temporary use of plot 1/33a and the permanent acquisition of rights on plot 1/33b to allow access to existing motorway communication and technology cabinets location north of the M60 eastbound. Joseph Holt Limited considered that the temporary use of the car park would have an adverse impact on the business, and the permanent acquisition of rights over land would affect future business and ownership plans, without adequate justification and consideration of alternatives.
- 4.4.21 The Applicant's continued proactive engagement with Joseph Holt Limited, has enabled an agreement in principle for the voluntary acquisition of the rights over their land. Solicitors have been formally instructed, and an agreement is being formalised.

### **James E France and Company Limited**

- 4.4.22 The details of the land interest held by James E France and Company Limited (James E France) and the status of negotiation is set out in Appendix A of the Applicant's Updates (Rule 5 Letter Annex E) [REP6-008].
- 4.4.23 The Applicant has been proactive in contacting James E France in the pre-application stage of the Scheme and has where possible tried to respond positively to design change requests. The focus of engagement has been in relation to the location of Pond 7 and the maintenance access track. While not able to change the location of Pond 7, the Applicant has ensured that access can be maintained to retained sections of the James E France land through the provisions of an access point on the new maintenance access track to Pond 7 (refer to Table 5-15 Reference 62 of the Consultation Report [REP-021]).
- 4.4.24 The Applicant notes that the landowner has not submitted a relevant representation.

### **Wilton Estate**

- 4.4.25 The details of the land interest held by the Wilton Estate and the status of negotiation is set out in Appendix A of the Applicant's Updates (Rule 6 Letter Annex E) [REP6-008].
- 4.4.26 The Applicant has been proactive in contacting the Wilton Estate in the pre-application stage of the Scheme and has where possible tried to respond positively to design change requests. The focus of engagement has been in relation to the location of Pond 5, the extent of environmental mitigation and the construction and maintenance access to Pond 5. Whilst the requirement for and location of Pond 5 is not able to be changed (refer to No1. in Table 5-14 of the Consultation Report [REP-021]) the Applicant was able to create an access directly off the M60 northbound carriageway removing concern about the access to Pond 5 and reduce the land for environmental mitigation (refer to No.6 and No.7 in Table 5-15 of the Consultation Report [REP-021]), this helped to address some of the Wilton Estate concerns.
- 4.4.27 The Applicant notes that notes that the landowner has not submitted a relevant representation.

## **4.5 Statutory Environmental Bodies**

### **Natural England**

- 4.5.1 A final and signed version of the Statement of Common Ground with Natural England [REP1-017] was submitted at Deadline 1 of the examination. All matters are agreed between the Applicant and Natural England.
- 4.5.2 The Applicant worked proactively with Natural England to reach agreed positions on the issues identified by Natural England in their response to the statutory consultation for the Scheme. Detailed engagement on these matters prior to the submission of the application for the Scheme allowed for Natural England's feedback to be taken into account in the development of the application documents and resulted in positive change to the drafting of documents such as Appendix F of the Outline Soil Management Plan [REP1-014]. The early agreement of positions has meant that issues such as impacts on designated sites, Habitats Regulations Assessment, Habitat Directive Annex 1 Habitats and Biodiversity Net Gain have needed limited focus in the Examination.
- 4.5.3 The Applicant has also proactively sought to manage protected species licensing matters, securing a Great Crested Newt District Level Licence Impact Assessment and Conservation Payment Certificate with Natural England in late 2023 (refer Appendix 8.15 of the Environmental Statement Appendices [APP-105]), and securing a letter of no impediment in relation to Badgers in July 2024 as detailed in Appendix 8.14 Draft Badger Licence Application (Confidential) [REP1-029]. Proactive discussions will continue in relation to European Protected Species Mitigation license for Bats as set out in the Consents and Agreements Position Statement [REP1-008].

### **Environment Agency**

- 4.5.4 A final and signed version of the Statement of Common Ground with the Environment Agency [REP1-018] was submitted at Deadline 1 of the Examination. All matters are agreed between the Applicant and Environment Agency.
- 4.5.5 The Applicant worked proactively with the Environment Agency to reach agreed positions on the issues identified by the Environment Agency in their response to the statutory consultation for the Scheme. Detailed engagement on these matters prior to the submission of the application for the Scheme allowed for the Environment Agency's feedback to be taken into account in the development of the application documents and resulted in positive change to the drafting of documents such as Appendix 13.1 Water Framework Directive Compliance Assessment and Appendix 13.6 Flood Risk Assessment of the Environmental Statement Appendices [APP-121], the Register of Environmental Actions and Commitments and Appendix H Outline Surface and Ground Water Management [REP3-016] of the First Iteration Environmental Management Plan [REP6-006], and the draft Development Consent Order [REP5-025].
- 4.5.6 The early agreement of positions has meant that issues such as flood risk, water quality, compliance with water framework directive regulations, impacts of

dewatering, impacts on ground water bodies, design of the ponds and the relationship to the water table, protection of controlled waters, species and habitat exclusion zones have not needed to be addressed during the Examination.

- 4.5.7 Proactive engagement with the Environment Agency will continue in the post examination phase as the Applicant takes anticipatory steps towards compliance with any requirements, and as the detailed design progresses to allow engagement in relation to the consents and licenses as set out in the Consents and Agreements Position Statement [REP1-008].

### **Historic England**

- 4.5.8 A final and signed version of the Statement of Common Ground with the Historic England [REP1-019] was submitted at Deadline 1 of the Examination. All matters are agreed between the Applicant and Historic England.

### **Summary**

- 4.5.9 The Applicant's proactive early engagement of the Statutory Environmental Bodies in the pre-application stage and the early stages of the examination resulted in positive changes to the application documents, where applicable, and all matters being agreed by Deadline 1 of the Examination. The scope of these agreements being set out in the Statement of Commonality [REP2-004].

## **5 Environmental Matters**

### **5.1 Introduction**

- 5.1.1 There are a number of matters that have been an area of focus for the Examining Authority during the Examination. The Environmental Statement and supporting figures and appendices set out the full assessment methodology and conclusions on the likely significant residual effects on the environment as a result of the Scheme. This information is not repeated in full here but an overarching summary for each environmental topic addressed in the Environmental Statement is provided below, together with details on the positions reached during the Examination.

### **5.2 Air Quality**

- 5.2.1 Assessment of the Scheme's construction and operational impacts on air quality is presented in Chapter 5: Air Quality of the Environmental Statement [APP-044].
- 5.2.2 The effect of the construction of the Scheme on air quality at human health receptors and on Limit Value compliance receptors is considered to be not significant. Chapter 8: Biodiversity of the Environmental Statement [REP3-010] considers the potential impact from changes in nitrogen deposition on sensitive habitats within designated sites and concludes that there would be no significant effects from nitrogen deposition during construction of the Scheme. For construction dust, the assessment concludes that with the construction phase mitigation measures included in the First Iteration Environmental

Management Plan [REP6-006] in place, there would be no significant effects resulting from construction dust.

- 5.2.3 During operation the effect of the Scheme on air quality at human health receptors and on Limit Value compliance receptors is considered to be not significant and Chapter 8: Biodiversity of the Environmental Statement [REP3-010], concludes that there are no significant effects from nitrogen deposition on sensitive habitats within designated sites.
- 5.2.4 The Consultation Report [APP-021] presents a summary of the engagement with Interested Parties in relation to environmental impacts including air quality, together with the responses received. Air quality impacts have been an area of focus. Relevant Representations received on the Scheme from Friends of Carrington Moss, Sale Civic Society, Save Greater Manchester Green Belt, Steady State Manchester, Transport Action Network and individual representations, raised similar concerns in relation to both construction (dust) and operational air quality impacts. Friends of Carrington Moss attended the November Issue Specific Hearing on Environmental Matters and submitted a number of representations at the Stage of Relevant Representation [RR-005], Deadline 1 [REP1-045], Deadline 3 [REP3-027] and Deadline 4 [REP4-030]. Of the Examination
- 5.2.5 As stated in Section 4 above agreement has been reached with Natural England regarding nitrogen deposition within designated sites, and Bury Metropolitan Borough Council on all air quality matters excluding operational air quality monitoring (discussed further below).
- 5.2.6 Areas of focus in the Examination are set out below with references to the Applicant's final position on these matters;
- the location of air quality receptor locations
    - The Applicant considers the air quality receptor locations to be in accordance with DMRB LA 105 and paragraphs 5.11 to 5.13 of the NPS NN (DfT, 2015) as set out in AQ.1.5 in the Applicant's Responses to ExA First Written Questions [REP3-023]. Bury Metropolitan Borough Council [REP3-031] and Rochdale Metropolitan Borough Council [REP3-040] confirmed agreement with the receptor locations at Deadline 3 of the Examination.
  - The Environmental Targets (Fine Particulate Matter) (England) Regulations 2023 (Fine Particulate Matter Regulations 2023).
    - The Applicant considers the Fine Particulate Matter Regulations 2023 to not be applicable to the Scheme as no PM2.5 monitoring stations are affected by the Scheme as set out in AQ.1.5 in the Applicant's Responses to ExA First Written Questions [REP3-023]
  - Transport Modelling

- The Applicant's sets out the position relating to the transport assessment in section 6.2 below. The Applicant considers the Air Quality methodology and baseline year for the transport and air quality assessments to meet DMRB LA 105 as set out in response to ISH2 Action Point 25 [REP4-028] and Examining Authority's Second Written Questions AQ.2.1 [REP5-033]
- Cumulative Air Quality Impacts Assessment
  - The Applicant updated the inter-project cumulative effects assessment to take into account the submission of a scoping opinion for JPA1.1 Northern Gateway (Heywood/Pilsworth) allocation in response to ISH2 Action Point 3 [REP4-028]. Updated versions of Chapter 15 Assessment of Cumulative Effects of the Environmental Statement [REP5-011], Appendix 15.1 Inter-project Cumulative Effects of the Environmental Statement Appendices [REP5-019], and Figure 15.1 Shortlisted Other Developments for Inter-project CEA of the Environmental Statement Figures [REP5-015], were provided at Deadline 5 of the Examination.
- Dust mitigation
  - The Applicant considers that the mitigation measures in the Outline Air Quality and Dust Management Plan [APP-128] at Appendix A of the First Iteration Environmental Management Plan [REP5-023] secured through requirement 4 of the draft Development Consent Order [REP5-005] would result in no significant effects resulting from construction dust, and these measures would be successful as set out in response to ISH2 Action Point 23 [REP4-028]
- Operational air quality monitoring
  - Notwithstanding Bury Metropolitan Borough Council's request for Air Quality Monitoring as set out in their response to ISH2 Action Point 24 [REP4-029] the Applicant does not agree that operational air quality monitoring is required (refer to REP4-029c in the Applicant's Responses to Deadline 4 Submissions [REP5-032]) and therefore no change to requirement 4 of the draft Development Consent Order [REP5-005] is required.

## 5.3 Cultural Heritage

- 5.3.1 Assessment of the Scheme's construction and operational impacts on cultural heritage is presented in Chapter 6: Cultural Heritage of the Environmental Statement [REP4-008].

- 5.3.2 During construction the Scheme would have no significant effects on cultural heritage, with slight adverse effects occurring on seven assets.
- 5.3.3 There would also be no significant effects on cultural heritage during operation, with slight adverse residual effects at two assets only.
- 5.3.4 Chapter 6, Cultural Heritage of the Environmental Statement [REP4-008], Appendix 6.1: Cultural Heritage Desk-Based Assessment of the Environmental Statement Appendices [REP4-018] and the First Iteration Environmental Management Plan [REP6-006] were updated during Examination to include a new commitment, CH3, in the Register of Environmental Actions and Commitments to include archaeological monitoring and recording on the excavation of Pond 7 in the north-west quadrant of the Order Limits, made in response to the Examining Authority's First Written Question HE.1.9 and Bury Metropolitan Borough Council's subsequent response at Deadline 3 [REP3-031] of the Examination.
- 5.3.5 Agreement has been reached with Bury Metropolitan Borough Council (refer to sections 17 to 24 in the Statement of Common Ground with Bury Metropolitan Borough Council [REP5-028]) and Historic England (refer to the Statement of Common Ground with Historic England [REP1-019]) on all matters relating to Cultural Heritage.

## **5.4 Landscape and Visual**

- 5.4.1 Assessment of the Scheme's construction and operational landscape and visual impacts is presented in Chapter 7: Landscape and Visual of the Environmental Statement [REP4-010]. Landscaping measures, to help mitigate visual impacts and integrate the Scheme into the surrounding landscape are detailed on the Figure 2.3: Environmental Masterplan of the Environmental Statement Figures [REP5-017].
- 5.4.2 The assessment concludes that there would be a significant adverse effect on LCA 26: Prettywood, Pilsworth and Unsworth Moss during construction due to the partial loss of existing landscape features and addition of new noticeable features. In addition, the assessment also concluded that significant adverse visual effects would occur at 18 of the 30 representative viewpoints as the Scheme would become the dominant feature or would form a noticeable feature of the view. For the remaining receptors the effects on the landscape and visual aspect would be not significant.
- 5.4.3 During the opening year of operation, significant adverse visual effects would occur at 17 of the 30 representative viewpoints as the Scheme would continue to be the dominant feature or would form a noticeable feature of the view but by Year 15 significant adverse effects would only remain for one viewpoint. For the remaining landscape and visual receptors there would be slight adverse, neutral or slight beneficial effects, which is not significant.
- 5.4.4 Concern over the visual impact of the Scheme, and Northern Loop in particular, was an area of focus in the Relevant Representations received on the Scheme. These impacts were raised by landowners including The Trustees of PFGC and the Hillary Family, in addition to individual representations.

- 5.4.5 As detailed in paragraph 4.4.18 above, the Applicant has proactively engaged with the Trustees of PFGC to address their concerns, including screening, with a legal agreement expected to be secured between the two parties.
- 5.4.6 As detailed in paragraph 4.4.9 above, the Applicant has consistently provided justification for the extent of the landscape mitigation within the north-east quadrant of the Scheme in response to queries raised by the Hillary Family throughout the Examination. During the Examination the Examining Authority raised questions regarding what contribution the planting in the north-east quadrant makes to the mitigation of landscape character impacts and visual impacts at the visual receptors represented by viewpoints 3, 5 and 7 due to construction of the Northern Loop and Pond 1. The Applicant's latest responses to these questions are provided in response references R.8.1 and R.8.3-R.8.6 of the Applicant's Responses to Examining Authority's Rule 17 Letter dated 28/01/25 [REP6-012]. The Applicant is satisfied that the landscaping scheme ensures that there would be no significant landscape or visual effects by year 15 within the north-east quadrant of the Scheme.
- 5.4.7 The Applicant notes that there were other updates made to the Landscape and Visual documents including the following;
- Updates were made to Chapter 7 Landscape and Visual Effects of the Environmental Statement [REP4-010], Chapter 7 Figures and Photomontages of the Environmental Statement Figures [REP4-012, 013 and 016] and Appendix 7.4: Schedule of Visual Effects of the Environmental Statement Appendices [REP4-020] during the Examination in response to the Examining Authority's First Written Questions LV.1.5 to LV.1.9 relating to photomontage locations and representation of tree heights with regard to visual effects [PD-011].
  - At Deadline 6 of the Examination the Applicant submitted a revision of the Appendix 7.5 Arboricultural Impact Assessment of the Environmental Statement Appendices [REP6-004] to make a correction to the site clearance data used to ensure it is in alignment with the assessment undertaken and related documents in the Environmental Statement. These revisions have not affected the overall assessment conclusions.

## **5.5 Biodiversity**

- 5.5.1 Assessment of the Scheme's construction and operational impacts on biodiversity is presented in Chapter 8: Biodiversity of the Environmental Statement [REP3-010].
- 5.5.2 The assessment identified no likely significant residual biodiversity effects both during construction and operation of the Scheme, with the following mitigation; as detailed in the Register of Environmental Actions and Commitments within the First Iteration Environmental Management Plan [REP6-006], ecological mitigation areas as detailed on Figure 2.3: Environmental Masterplan of the Environmental Statement Figures [REP5-017], and the protected species licensing requirements for Great Crested Newts, Badgers and Bats as set out in the Consents and Agreements Position Statement [REP1-008].

- 5.5.3 The assessment also concluded that the construction and operation of the Scheme would lead to no significant effects from nitrogen deposition on sensitive habitats within designated sites including the Rochdale Canal Special Area of Conservation and Site of Special Scientific Interest.
- 5.5.4 Concern over the impacts of the Scheme on biodiversity was an area of focus in the Relevant Representations received on the Scheme. Matters raised included loss of biodiversity, impacts on protected species, impacts on habitats, levels of biodiversity net gain, and justification for environmental mitigation areas. At the September Open Floor Hearing 1 concern was raised by an Interested Party in relation to protected species impacts [REP1-044]. Justification of the extent of the environmental mitigation area on the Hillary Land was a focus at the ISH2 on Environmental Matters.
- 5.5.5 As noted in Section 4.7 of this Statement, all matters were agreed between the Applicant and Natural England at Deadline 1 of the Examination. The detail of the agreements between the Applicant and Natural England are presented within the Statement of Common Ground with Natural England [REP1-017]. Concurrent to this the Applicant submitted a revised Chapter 8 Biodiversity of the Environmental Statement [REP3-010] and Appendix 8.14: Draft Badger Licence Application (Confidential) of the Environmental Statement Appendices [REP1-029] to reflect the consultations with Natural England to secure a letter of no impediment in relation to Badgers in July 2024.
- 5.5.6 All matters relating to biodiversity (issue reference 25-37) were also agreed with Bury Metropolitan Borough Council as detailed in the Statement of Common Ground with Bury Metropolitan Borough Council [REP5-028].
- 5.5.7 As noted in Section 4.4.9 and 4.4.26 the extent of environmental mitigation areas has been refined from statutory consultation, allowing a reduction in the amount of land required from both the Hillary Family land and the Wilton Estate Land. , The Applicant has consistently provided justification for the extent of the biodiversity mitigation within the north-east quadrant of the Scheme in response to queries raised by the Hillary Family and the Examining Authority throughout the Examination (refer to ISH2 Action Point 29 and 30 in REP4-028)).
- 5.5.8 The Applicant addressed a matter raised by the Examining Authority (refer to ExQ1.1.7 response in [REP3-023]) to refine commitment B15, relating to exclusion zones, in the Register of Environmental Actions and Commitments within the First Iteration Environmental Management Plan [REP6-006]. The Applicant submitted a revised First Iteration Environmental Management Plan at to address this matter.
- 5.5.9 Within the Examining Authority's most recent Schedule of Changes to the draft Development Consent Order [PD-016], the Examining Authority are seeking to amend requirement 4 to secure the provision for the retention of the environmental mitigation areas in perpetuity. The Applicant has submitted a proposed amendment to the draft Development Consent Order [REP5-005] at Deadline 7 to provide for retention of environmental mitigation areas for the life of the authorised development.

## 5.6 Geology and Soils

- 5.6.1 Assessment of the Scheme's construction and operational impacts on geology and soils is presented in Chapter 9: Geology and Soils of the Environmental Statement [APP-048].
- 5.6.2 During construction the Scheme would have significant adverse effects on agricultural land with Agricultural Land Classification (ALC) grades 2 (Best and Most Versatile (BMV)), 3a BMV and 3b soils due to temporary and permanent land take requirements. The Scheme would have no significant effects on geology and soils during operation. Whilst the permanent loss of agricultural land would persist during operation of the Scheme it is not considered as an additional effect.
- 5.6.3 The Applicant responded to the Examining Authority's queries in relation to grading of land, loss of soils and compliance with policy 5.176 of the NPS NN (DfT, 2015) in the first round of questions reference GS.1.1 [REP3-023].and the second round of questions reference GS.2.1 and GS.2.2 [REP5-033].
- 5.6.4 During statutory consultation Natural England asked about the extent of peat within the Order Limits and potential impacts on this resource as a result of the Scheme. Natural England further stated that they do not support the planting of trees on areas of peat and that the location of peat should therefore be taken into consideration with regard to the Scheme landscaping design. During extensive engagement, as set out above in Section 4.5.2, further information was presented based on Ground Investigation and soil (ALC) survey data, and Natural England agreed that this demonstrates that the peat is not continuous and that impacts would be localised. This detailed agreed position is recorded in Section 2: Peat and Habitat Directive Annex 1 Habitats of the Statement of Common Ground with Natural England [REP1-017] which was submitted at Deadline 1 of the Examination. This agreement was reiterated within Natural England's Relevant Representation which stated that; *'Based on the evidence provided Natural England is satisfied the project will not impact potentially restorable deep peaty soils, and has no objections regarding the project on account of impact on peat'* [RR-009]. The Applicant responded to the Examining Authority's query on this matter during Examination to the first round of questions GS.1.2 [REP3-023].
- 5.6.5 The Applicant responded to the Examining Authority's queries in relation to land instability relating to coal and the lack of need for a Coal Mining risk Assessment to support the Scheme's application in GS.1.3 [REP3-023].The Coal Authority's subsequent submission at Deadline 3 of the Examination confirmed that a Coal Mining Risk Assessment was not required [REP3-029].

## 5.7 Materials Assets and Waste

- 5.7.1 Assessment of the Scheme's construction and operational impacts on materials and waste is presented in Chapter 10: Material Assets and Waste of the Environmental Statement [APP-049].
- 5.7.2 Good practice measures would be implemented throughout the design and construction of the Scheme to reduce the use and consumption of primary construction materials, unnecessary sterilisation of safeguarded mineral resources, and the production and disposal of waste to landfill in the north-west

region. The assessment concluded that that after the application of these measures there would be no significant effects on material assets and waste from constructing the Scheme.

- 5.7.3 In accordance with DMRB LA 110, and as confirmed by the Planning Inspectorate's Scoping Opinion [APP-144] operational effects were scoped out of the environmental material assets and waste assessment. Notwithstanding this, the design process would inherently seek to reduce the consumption and use of material assets, and the generation of waste throughout the life cycle of the Scheme. Design choices and the choice of materials would make a significant contribution to reducing the environmental impacts associated with material assets and waste during operation, by influencing the required method and frequency of maintenance, and facilitating opportunities to recover and regenerate materials and products at the end of first life.
- 5.7.4 During Examination the Examining Authority raised questions relating to materials and waste management, sources of materials, distances for materials to be transported and how this has been accounted for in the transport assessment. Responses to these questions were provided in the Applicant's Responses to the Examining Authority's First Written Questions [REP3-023] and the Applicant's response to Action Points from CAH1 and ISH2 [REP4-028].
- 5.7.5 In the Environment Issue Specific Hearing 2 Action Point 40 [EV10-002] the Examining Authority specifically asked why it is appropriate to scope out waste generation during operation in light of the use of very low noise road surfacing which may create more waste during operation. In REP4-028]. The Applicant responded that, in accordance with point ID 4.6.3 of the Planning Inspectorate's Scoping Opinion *'These matters are proposed to be scoped out of the assessment on the basis that maintenance activities would be undertaken in accordance with the requirements of DMRB LA110 and are not expected in the first year of operation (timescale defined by DMRB LA110) or beyond. The Inspectorate is content to agree to scope this matter out on this basis'*.
- 5.7.6 Notwithstanding this, the Applicant confirmed that greenhouse gas emissions resulting from the disposal of waste surfacing materials during the operational maintenance of the Scheme have been assessed in Chapter 14: Climate, of the Environmental Statement [APP-053], and its supporting Appendix 14.1: Estimation of Greenhouse Gas Emissions, of the Environmental Statement Appendices [APP-123]. As per paragraphs 3.11 and 3.11.1 of DMRB LA 114, greenhouse gas emissions associated with the Scheme have been estimated and reported for the operational phase over a 60-year appraisal period.

## 5.8 Noise and Vibration

- 5.8.1 Assessment of the Scheme's construction and operational impacts on noise and vibration is presented in Chapter 11: Noise and Vibration of the Environmental Statement [APP-050].
- 5.8.2 The assessment concludes that during construction, with the mitigation as detailed in the Register of Environmental Actions and Commitments within the First Iteration Environmental Management Plan [REP6-006], there would be

temporary significant adverse effects on noise sensitive receptors during some construction activities.

- 5.8.3 Provision of a conventional low noise surface with a Road Surface Influence (RSI) of -3.5 decibels (dB) on all sections of carriageway within the pavement works for the Scheme is embedded into the Scheme design. In addition, provision of a better performing low noise surface than a conventional low noise surface with a RSI of at least -6.0dB(A) is identified as an essential mitigation measure, which would eliminate all identified significant adverse effects of the Scheme from road traffic noise during operation. The inclusion of this essential mitigation would provide significant reductions in road traffic noise for 1,585 residential receptors on Scheme opening. This essential mitigation is provided as commitment NV4 in the Register of Environmental Actions and Commitments, within the First Iteration Environmental Management Plan [REP6-006].
- 5.8.4 Whilst the provision of a road surface with better noise reducing properties than a conventional LNS is required as essential mitigation for sensitive receptors where potential significant effects are likely, this will also provide road traffic noise reduction for other receptors within the study area where potential significant effects are not likely (with conventional low noise surfacing). The surfacing with better noise reducing properties than a conventional LNS will therefore constitute an enhancement for those receptors.
- 5.8.5 The Applicant has proactively engaged with Interested Parties in the pre-application stage to share the results of the Noise and Vibration Assessment (refer to Table 3-1 of the Consultation Report [APP-021]) and to communicate the effects of the embedded and essential mitigation proposed as part of the Scheme and secured through Requirement 4 of the draft Development Consent Order [REP5-005].
- 5.8.6 The Applicant secured agreement with Bury Metropolitan Borough Council in relation to construction and operational noise impacts, early in the Examination process, at Deadline 1. The Statement of Common Ground with Bury Metropolitan Borough Council [REP5-028] documents the concerns raised by Bury Metropolitan Borough Council, and how these were addressed with the mitigation set out in the commitments detailed in the Register of Environmental Actions and Commitments within the First Iteration Environmental Management Plan [REP6-006] as secured by Requirement 4 of the draft Development Consent Order [REP5-005].
- 5.8.7 The Relevant Representations received on the Scheme raised concern in relation to both construction and operational noise impacts.
- 5.8.8 The Examining Authority has raised questions in relation to the methodology of the noise assessment (ISH2 Action Point 14 and 21) and consideration of further mitigation measures in the form of additional noise barriers (ISH2 Action Point 22).
- 5.8.9 The Applicant provided responses to confirm the approach taken with regard to the condition of Mode Hill Lane (ISH2 Action Point 14) and activity time assumptions (ISH2 Action Point 21) in the Applicant's response to Action Points from CAH1 and ISH2 [REP4-028].

- 5.8.10 The Examining Authority have encouraged further consideration of extending existing noise barriers, citing paragraph 5.200 of the NPS NN (DfT, 2015) regarding consideration of opportunities to address the noise issues associated with Noise Important Areas. The Applicant has consistently provided responses to the Examining Authority's comments regarding the provision of additional noise barriers to state the position that additional noise barriers over and above the proposed essential mitigation provided by means of the low noise road surface with better noise reducing properties than a conventional low noise surface (with a -6.0 decibel (dB) Road Surface Influence (RSI), are not considered to be warranted because provision of that surfacing would eliminate all identified significant adverse effects of the Scheme from road traffic noise. Consequently, the Applicant contends that in accordance with paragraph 5.197 of the NPSNN, additional mitigation measures are not needed for operational noise over and above those which form part of the application.
- 5.8.11 The Applicant explained in REP5-033 that the provisional noise modelling exercise completed by the Applicant in response to a request from the ExA, was performed in isolation and did not include an assessment of other environmental factors that would be relevant and necessary before the Secretary of State could lawfully grant consent for additional noise barriers to be included as part of the Scheme (Regulations 4 and 21 of the Infrastructure Planning (Environmental Impact Assessment) Regulation 2017 refer).
- 5.8.12 Notwithstanding the Applicant's position that additional noise barriers are not required, should the Secretary of State be satisfied they are needed, proportionate and reasonable (paragraphs 5.197 and 5.198 of the NPS NN DfT 2015), a requirement to secure delivery will need to ensure that this departure from the preliminary Scheme design is only mandated where a supporting assessment confirms it would not give rise to any materially new or materially worse environmental effects in comparison with those reported in the environmental statement. I

## 5.9 Population and Human Health

- 5.9.1 Assessment of the Scheme's construction and operational impacts on population and human health is presented in Chapter 12 Population and Human Health of the Environmental Statement [APP-051]. The chapter considers the following topics:
- Land use and accessibility, which addresses the matters of private property and housing; community land and assets; development land and businesses; agricultural landholdings; and access for walkers, cyclists and horse riders (WCH).
  - Human health, which considers potential effects on population health linked to impacts on several determinants of health.
- 5.9.2 The assessment concludes that there would be significant adverse effects during construction, as follows:

- Moderate (significant) adverse effects on one agricultural landholding due to permanent land take, and on three agricultural landholdings due to temporary and permanent land take.
- Very large (significant) adverse effect on users of the permissive path via Haweswater Aqueduct underpass, and a moderate (significant) adverse effect on users of footpath 84BUR (west of the M66) due to temporary closure and diversion of these routes during construction. There would also be a temporary moderate (significant) negative effect on users of footpath 9WHI which would be closed for at least three years during construction until a replacement route has been provided.
- Moderate (significant) negative effect for residents of Besses ward during construction, due to impacts on access to the natural environment and outdoor recreation from temporary diversion of footpaths, reductions in recreational amenity of some footpaths from disruption by construction traffic, and loss of greenspace as a result of vegetation clearance and temporary and permanent land take from agricultural landholdings.
- Large (significant) negative effect on quality of life in all wards within the study area due to construction-related noise.
- Moderate (significant) negative effect for the mental wellbeing of residents in Besses, Unsworth and Holyrood wards, due to the combination of construction noise, localised dust, lighting and changes to accessibility and severance during construction is likely to lead to annoyance among residents of the communities most affected by construction works.

5.9.3 During operation there would be a permanent large (significant) positive effect on health outcomes (morbidity and mortality) in all wards within the study area due to overall reductions in long-term exposure to traffic noise, which is associated with health benefits at a population level.

5.9.4 The Examining Authority raised comments during the Examination on the potential for improvements for accessibility for non-motorised users and specifically regarding the potential for improvement to the Haweswater Aqueduct underpass permissive path.

5.9.5 In the Applicant's Responses to ExA's First Written Questions [REP3-023] the Applicant confirmed that improvement of the permissive path is not within the scope of the Scheme but advised that an opportunity to deliver some improvements through National Highways' designated funding for delivery outside of the Scheme is being explored. Notwithstanding this response the Applicant has also updated the Register of Environmental Actions and Commitments, contained within the First Iteration Environmental Management Plan [REP6-006], to include commitment G9. Commitment G9 states that prior to reinstatement of Plots 1/1k and 2/1a, the Principal Contractor will consult with the relevant planning authority, Bury Metropolitan Borough Council and United Utilities to discuss and endeavour to agree retention of temporary surface treatment to improve access along the permissive path through Haweswater

Aqueduct underpass. This commitment would potentially have a beneficial impact on human health determinants.

- 5.9.6 In addition, in the Applicant's Responses to the ExA's Second Written Questions [REP5-033] the Applicant confirmed that the landscape planting in the vicinity of Pond 1 in the north-east quadrant of the Scheme would represent an enhancement to the character and attractiveness of footpath 9WHI in the long term as this regularly used route would change to follow a more diverse landscape with the combination of species-rich grassland, Pond 1 and wet woodland.

## 5.10 Road Drainage and the Water Environment

- 5.10.1 The assessment of the Scheme's construction and operational impacts on the water environment are presented in Chapter 13: Road Drainage and the Water Environment of the Environmental Statement [REP1-027]. The assessment considers the following matters:
- Surface water: water quality (construction, routine runoff and spillage); water resources; and hydromorphology.
  - Groundwater: water quality (routine runoff and spillage); groundwater levels and flows; groundwater dependent terrestrial ecosystems (GWDTE); and groundwater abstractions.
  - Flood risk (all sources) and surface water drainage.
- 5.10.2 No significant effects were identified for surface water, hydromorphology and flood risk during construction and operation of the Scheme. Significant adverse effects were identified in relation to groundwater as follows:
- During construction, there would be significant effects on Cowl Gate Farm, Castle Brook South, and Egypt Lane South GWDTE sites from potential changes to groundwater flows, levels and quality due to ground disturbance (associated with ground compaction, piling, soil stripping, vegetation clearance, and construction of haul roads, compounds, and temporary works areas).
  - During operation, there would be long-term disturbance of groundwater levels and flows) on the Cowl Gate Farm, Castle Brook South, and Egypt Lane South GWDTE sites due to the presence of permanent underground infrastructure.
- 5.10.3 The Applicant updated Chapter 13: Road Drainage and the Water Environment of the Environmental Statement [REP1-027] during Examination to reflect agreements between the Applicant and the Environment Agency. The updates included additional wording added to commitment W9 within the Register of Environmental Actions and Commitments of the First Iteration Environmental Management Plan [REP6-006], which relates to prevention of pollution incidents to surface waters arising from construction works, to require the seeding of material stockpiles within 10m of a watercourse. The Applicant advised, in response to RDWE1.3 in the Examining Authority's First Written Questions

[REP3-023] that this update will also be included within the Soil Management Plan when the Outline Soil Management Plan [REP1-014] is updated as part of the Second Iteration Environmental Management Plan, as secured by Requirement 4 of the draft Development Consent Order [REP5-005] notwithstanding that it remains the Applicant's intent to place stockpiles more than 10m away from existing watercourses.

- 5.10.4 The detail of the agreements between the Applicant and Environment Agency are presented within the Statement of Common Ground with the Environment Agency [REP1-018]. As noted in Section 4.5.4 of this Applicant's Closing Statement, all matters are agreed between the Applicant and Environment Agency. The Applicant's engagement with the Environment Agency will continue in the post-examination phase as part of anticipatory steps towards discharge of requirements, and work relating to permitting as set out in the Consents and Agreements Position Statement [REP1-008].
- 5.10.5 As set out in Section 4.2 of this response and the Statement of Common Ground with Bury Metropolitan Borough Council [RE5-028], the Applicant proactively engaged with Bury Metropolitan Borough Council in relation to the drainage strategy in the pre-application stage. This included highlighting the sensitivity testing done in relation to climate change allowances, and confirmation as to the mechanism for securing this through Requirement 8 of the draft Development Consent Order [REP5-005]. Proactive engagement will continue with Bury Metropolitan Borough Council in relation to this matter in the post examination phase as part of anticipatory steps towards discharge of requirements.

## **5.11 Climate**

- 5.11.1 Assessment of the Scheme's construction and operational impacts on climate is presented in Chapter 14: Climate of the Environmental Statement [APP-053]. The chapter considers both the impact of the Scheme on climate (for example, the nature and magnitude of greenhouse gas (GHG) emissions), and the vulnerability of the Scheme to climate change.

### **Greenhouse gas emissions**

- 5.11.2 Whilst mitigation measures have been and will be implemented to reduce GHG emissions (e.g. through the implementation of the Outline Carbon Management Plan, which is included in Appendix O of the First Iteration Environmental Management Plan [APP-142]), the Scheme is estimated to result in an increase in GHG emissions during both its construction and operation. The impact of the Scheme on climate (i.e. GHG emissions) is, however, considered to be not significant as it is considered unlikely to have a material impact on the ability of UK Government to meet its carbon reduction targets. Therefore, no significant residual effects are expected to occur, and the Scheme is considered to comply with the relevant requirements of the NPS NN (DfT, 2015).
- 5.11.3 The Applicant responded to the Examining Authority queries in relation to the greenhouse gas assessment methodology and measures to off-set residual carbon emissions, in the First Written Questions reference CC.1.1 and CC.2.1 [REP3-023], and the Second Written Questions reference CC.2.2 [REP5-033].

- 5.11.4 The Examining Authority, in their First Written Questions [PD-011], asked Bury Metropolitan Borough Council to confirm if they agree with the methodology and assessment findings in Chapter 14 Climate of the Environmental Statement [APP-053], particularly in respect of estimated GHG emissions (question CC.1.3 [PD-011]). In their response to question CC.1.3 [REP3-031], Bury Metropolitan Borough Council stated that while they agree with the findings that have been produced by the methodology, they believe that the Scheme should be compared with local emissions rather than national emissions to assess whether it has a significant impact.
- 5.11.5 Subsequently, following the ISH2 on environmental matters held in November 2024, the Examining Authority asked Bury Metropolitan Borough Council to identify what policies could be relied upon to support the request to consider local carbon budgets as well as the national budgets (ISH2 Action Point 26 [EV10-002]). Bury Metropolitan Borough Council stated in their response to Action Point 26 [REP4-029] that no such policies could be identified to support such a request to consider local carbon budgets rather than national.
- 5.11.6 As set out in the Applicant's response to Bury Metropolitan Borough Council's Deadline 3 submission [REP4-027], the Applicant believes that it is most appropriate to compare estimated changes in GHG emissions associated with Nationally Significant Infrastructure Projects, such as the Scheme, to carbon budgets at a national level, rather than those which are set at a local level.
- 5.11.7 The commitment made by 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. Instead, the relevant planning policy ( NPS NN, (DfT, 2015) states in paragraph 5.17 that *"for road projects applicants should provide evidence of the carbon impact of the project and an assessment against the Government's carbon budgets"*. This approach is also supported by the NPS NN designated in March 2024. It is therefore clear that the most appropriate level of assessment is against statutory carbon budgets, 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].

### **Vulnerability to changes in climate**

- 5.11.8 Assets and infrastructure designed as part of the Scheme are likely to be affected by climate change. A number of potential risks have been identified and assessed which would be mitigated by applying robust design standards as part of the embedded design measures or implementing relevant mitigation measures and incorporating such measures into relevant asset management processes.
- 5.11.9 The assessment indicates that, with embedded and essential mitigation measures in place, it is unlikely the potential climate-related hazards identified would result in significant impacts during the construction or operational phases of the Scheme.
- 5.11.10 Therefore, no significant residual effects are deemed likely during construction and operation due to vulnerability to changes in climate and the Scheme is

considered to comply with the relevant requirements of the NPS NN (DfT, 2015).

- 5.11.11 The Applicant responded to Issue Specific Hearing 2 (ISH2) Action Point 28, regarding details of the sensitivity tests undertaken relating to climate resilience, at Deadline 4 [REP4-028].

### **Positions on recent legal judgements**

- 5.11.12 During examination the Examining Authority asked the Applicant to confirm if the following legal judgements handed down after the application was accepted for Examination would have any implications for the findings of the environmental assessment undertaken for the Scheme:
- UK Supreme Court in Finch R (on the application of Finch on behalf of the Weald Action Group) (Appellant) v Surrey County Council and others (Respondents) [2024]
  - High Court in Friends of the Earth and Ors v SSDESNZ [2024]
  - Friends of the Earth Ltd & South Lakeland Action on Climate Change vs SSLUHC, West Cumbria Mining Ltd & Cumbria CC [2024]
- 5.11.13 The Applicant submitted a review of the implications of these judgements for the Scheme environmental assessment, 'Applicants Response to Examining Authority's Written Questions on Recent Legal Judgements' [REP5-034], which concluded that there are no likely indirect effects which are considered to be significant that have not already been captured by the existing environmental impact assessment for the Scheme (Finch) and, for the Friends of the Earth judgements, that there are no implications for the Climate assessment and no different emissions need to be accounted for other than those reported in the Environmental Statement

## **5.12 Cumulative Effects**

- 5.12.1 The assessment of cumulative effects undertaken for the Scheme is presented in Chapter 15: Assessment of Cumulative Effects of the Environmental Statement [REP5-011]. The chapter focused on inter-project cumulative effects (cumulative effects arising from other developments together with the Scheme), as combined effects (interrelationships between topics) were reported within the relevant environmental aspect chapters of the Environmental Statement.
- 5.12.2 The inter-project cumulative effects assessment concluded that there would be no significant inter-project cumulative effects.
- 5.12.3 During Examination the Examining Authority requested that the Applicant provide an update to the inter-project cumulative effects assessment following submission of a request for a scoping opinion in the Places for Everyone JPA.1.1 site allocation (Northern Gateway) and any other known developments (Issue Specific Hearing 2 (ISH2) Action Point 3 [EV10-002]).
- 5.12.4 The Applicant submitted at Deadline 5 of the Examination updated versions of Chapter 15: Assessment of Cumulative Effects of the Environmental Statement

[REP5-011], Appendix 15.1: Inter-project Cumulative Effects of the Environmental Statement Appendices [REP5-019], and Figure 15.1: Shortlisted Other Developments for Inter-project Cumulative Effects Assessment of the Environmental Statement Figures [REP5-015]. The updated documents provided an assessment of potential inter-project cumulative effects arising in combination with other known developments in the planning system following the cut-off date of 31 October 2023 that was used for the cumulative effects assessment for the application for development consent. Two other known developments were progressed to Stage 4 of the updated inter-project cumulative effects assessment:

- ID BMBC-APP-035, application reference 70449: Prestwich Regeneration hybrid planning application constituting EIA Development
- ID BMBC-APP-040, application reference 71262: Request for environmental impact assessment (EIA) scoping opinion for proposed Northern Gateway site (JPA 1.1).

5.12.5 The updated assessment concluded that there would be no significant effects arising from the Scheme in combination with the Prestwich Regeneration scheme. However, there would be potential for significant cumulative effects arising from the Scheme in combination with Northern Gateway allocation JPA1.1 during construction and/or operation. However, this assessment conclusion is uncertain based on the information available. The assessment is based on the Scoping Report prepared for the site, which does not contain a full EIA. Detailed construction phasing and works plans are not yet known, and an environmental statement (including mitigation measures to reduce effects) has not yet been submitted for the site. It is expected that the relevant planning application submission for the Northern Gateway JPA1.1 site will be accompanied by an environmental statement containing an assessment of cumulative effects with other development, including the Scheme. Full details of uncertainties relating to the assessment of cumulative effects with Northern Gateway JPA1.1 can be found in Table 4.1 of Appendix 15.1: Inter-project Cumulative Effects of the Environmental Statement Appendices [REP5-019].

## 5.13 Environmental Management Plan

5.13.1 The Applicant submitted and has updated the First Iteration Environmental Management Plan [REP6-006]. The First Iteration Environmental Management Plan [REP-006] provides an essential Scheme specific tool to manage on-site construction activities that may affect the environment. It sets out the practices and standards to be applied in the construction of the Scheme. The key aims of the First Iteration Environmental Management Plan [REP6-006] are to ensure that all environmental mitigation, DCO requirements, consents and licences are met, and to minimise and manage the risk of adverse environmental effects. It also includes a Register of Environmental Actions and Commitments which sets out mitigation measures proposed in the Environmental Statement and indicates which requirements address the mitigation, or how it has been embedded in the Scheme's design.

- 5.13.2 The Applicant has updated the Register of Environmental Actions and Commitments to refine commitments and also secure additional commitments in response to submissions made during examination.
- 5.13.3 The First Iteration Environmental Management Plan [REP6-006] is accompanied by a series of appendices which include outline management, control and prevention plans to minimise and manage the risk of adverse environmental effects. To accompany submissions made during examination, the following management plans were updated and submitted during examination:
- Deadline 1 – Appendix D Outline General Ecology Management Plan [REP1-012] and Appendix F Outline Soil Management Plan [REP1-014]
  - Deadline 3 – Appendix H Outline Surface and Groundwater Management Plan [REP3-016]
- 5.13.4 The Examining Authority included the requirement for an additional construction lighting plan to be added to the Second Iteration Environmental Management Plan in the ExA Schedule of Changes to the draft DCO [PD-016]. The Applicant agrees to the inclusion of this additional management plan at Deadline 7 of the Examination.
- 5.13.5 The First Iteration Environmental Management Plan [REP6-006] will be developed into the Second Iteration Environmental Management Plan once the detailed design has been finalised (subject to DCO being granted). The Second Iteration Environmental Management Plan will include more detailed information and methodologies on the design and construction of the Scheme. It would also include the implementation of appropriate industry standard practices and control measures for environmental impacts arising from construction works.
- 5.13.6 On completion of construction, a Third Iteration Environmental Management Plan will be prepared for the operational and maintenance phase of the Scheme.
- 5.13.7 The Applicant notes that there are no unresolved positions or matters not agreed with Interested Parties or Bury Metropolitan Bury Council in respect of the First Iteration Environmental Management Plan [REP6-006] including the Register of Environmental Actions and Commitments. There are also no unresolved positions or matters not agreed in respect of the later iterations secured by Requirement 4 of the draft Development Consent Order [REP5-005].

## **6 Other Matters**

### **6.1 Case for the Scheme**

- 6.1.1 The Case for the Scheme [REP3-018] sets out the case and need for the Scheme including how the Scheme relates to and complies with government policy and the relevant planning policy context including the relevant Development Plan. It also provides details of the traffic assessment and related economic analysis on which the need for the Scheme is based.

- 6.1.2 The ExA made a procedural decision [PD-005] to request that the Applicant reviews the application documents in light of the National Policy Statement for National Networks (NPS NN) designated in May 2024. In response to this request, the Applicant provided a comparative review of the draft NPS NN (March 2023) which the Case for the Scheme [REP3-018] had assessed and the designated NPS NN (May 2024). This is contained in the additional submission accepted at the discretion of the Examining Authority – M60, M62, M66 Simister Island Interchange Scheme Letter to PINS 05.07.24 [AS-007]. The outcome of this additional assessment was that the NPS NN designated in May 2024 did not materially impact any of documents submitted as part of the DCO application and that the conclusions of documents did not need to be amended.
- 6.1.3 The Examining Authority's First Written Question reference GB1.1 also requested further assessment of the impact of the Scheme on the openness of the Green Belt. The Applicant provided an assessment of each work area on the openness of the Green Belt at Deadline 2 of the Examination as Appendix C of [REP3-023]. The Applicant responded to the Examining Authority's Second Written Questions (GB.2.1, GB.2.2 and GB.2.3) on the impact of temporary uses on the Green Belt and also provided an update on "any other harm" in its response [REP5-033]. The Issue Specific Hearings did not specifically consider Green Belt.

#### **National Policy Statement for National Networks Accordance**

- 6.1.4 The Scheme's application for development consent was accepted for examination on the 30 April 2024.
- 6.1.5 The application for development consent was accepted prior to the new National Planning Policy Statement for National Networks (NPS NN) being designated on 24 May 2024. Under the transitional arrangements, the Scheme has been examined against the National Policy Statement for National Networks designated in January 2015. However, the Applicant understands that the NPS NN designated in May 2024 may still be an important and relevant for the Secretary of State in the determination of the DCO.
- 6.1.6 The documents that were accepted for examination included two separate accordance tables which assessed the Scheme against the NPS NN designated in January 2015 [APP-147] and against the draft version of the NPS NN that had been published in draft in March 2023 [APP-148].
- 6.1.7 As outlined above, in response to the ExA request the Applicant provided a comparative review of the draft NPS NN (March 2023) and the designated NPS NN (May 2024) and this is contained in the additional submission accepted at the discretion of the Examining Authority – M60, M62, M66 Simister Island Interchange Scheme Letter to PINS 05.07.24 [AS-007].

#### **National Planning Policy Framework**

- 6.1.8 The Ministry of Housing, Communities & Local Government published a revised National Planning Policy Framework (NPPF) on Thursday 12 December 2024. The Examining Authority's Second Written Question (CG.2.1) asked whether

any of the changes would have any implications for the Examination of the application.

- 6.1.9 The Applicant responded in [REP5-033] to EXQ2 BCG.2.1 that it does not consider that the revisions to the NPPF have any implications for the Examination of this application. The Applicant noted that with respect to Green Belt, the revised NPPF at paragraph 143 does not alter the five purposes of Green Belt. Paragraph 153 reiterates the need to consider whether development is inappropriate and the need to demonstrate very special circumstances and the list of potential exceptions is set out at paragraph 154. The Applicant notes that Bury Metropolitan Borough Council in their response to the same question confirmed that they considered the changes did not have any implication for the examination. The Applicant's position on Green Belt set out in the Case for the Scheme [REP3-018] and in subsequent written responses [REP2-008], [REP3-023], [REP4-027] and [REP4-028] remained unchanged.

#### **Greater Manchester Spatial Strategy – Places for Everyone**

- 6.1.10 In addition to the above, the Spatial Strategy for Greater Manchester Places for Everyone was adopted in March 2024 following acceptance of the application for the DCO. This plan provides the overarching Development Plan policy for ten Greater Manchester Authorities (including Bury Council) and therefore superseded many of the adopted policies of the Bury Unitary Development Plan. The Case for the Scheme [REP3-018] submitted as part of the DCO application was updated at Deadline 3 of the Examination to update the sections relating to Places for Everyone and the Bury UDP.
- 6.1.11 The application documents have therefore been updated during the examination and demonstrate overall compliance with the most up to date planning policy relevant to the Scheme.

#### **Consultation Draft Northern Gateway Development Framework Supplementary Planning Document (SPD)**

- 6.1.12 The draft Northern Gateway Development Framework Supplementary Planning Document (SPD) was published by Bury Metropolitan Borough Council prior to the Examining Authority's Second Written Questions. This sets out the overall framework for developing the Places for Everyone Strategic Policy JP Allocation 1.1 'Heywood / Pilsworth (Northern Gateway) Allocation. Due to its interaction with the north east corner of the Order Limits of the Scheme, the SPD was submitted during the Examination by the Bury Metropolitan Borough Council at deadline 5 [REP5-036]. The Applicants response in relation to Examining Authority's questions in relation to the effect of the publication of the SPD during examination is set out in paragraphs 5.12.3 to 5.12.5.

## **6.2 Transport Assessment**

- 6.2.1 The Transport Assessment [APP-149] provides information relating to the transport analysis that has been undertaken as part of the development of the Scheme. The Transport Assessment [APP-149] presents the assessment results for the impact of the construction and operation of the Scheme on the

strategic and local highway network, including an assessment of road safety impacts.

- 6.2.2 The Scheme will help relieve traffic congestion and improve the journey experience for motorists at M60 J18. Traffic wanting to travel eastbound to southbound on the M60 will use the free flow loop instead of the M60 J18 circulatory thereby significantly reducing traffic flows on the M60 J18 circulatory and freeing up capacity for other movements at the junction.
- 6.2.3 In addition, the Scheme provides additional capacity between M60 J17-18 with the upgrade to a dual 5-lane motorway, providing five lanes in both directions and reducing delays associated with merging and diverging traffic. As a result of the Scheme, M60 J18 is forecast to operate within capacity up to and beyond 2044.
- 6.2.4 During the Examination, the Applicant has responded to a number of submissions from Interested Parties relating to the Transport Assessment [APP-149] and the data and methodology used to carry out the assessment. The Applicant has not updated the Transport Assessment [APP-149] during examination.
- 6.2.5 Transport assessment related matters were discussed during Issue Specific Hearing 2. The Applicant provided responses to action points 4 and 19 in Annex B of Written submissions following November hearings and responses to action points from CAH1 and ISH2 [REP4-028].
- 6.2.6 The Examining Authority has also requested submissions from Bury Metropolitan Borough Council on matters relating to transport assessment. In response to the Examiner's First Written Question TT.1.1 [REP3-031], Bury Metropolitan Borough Council confirmed that they were satisfied with the transport modelling undertaken and that the overall effects of the Scheme on the local highway network would be minimal, with the Scheme resulting in more traffic remaining on the Strategic Road Network (SRN) network, rather than diverting off it to avoid congestion.

### **6.3 Outline Traffic Management Plan**

- 6.3.1 The Outline Construction Traffic Management Plan [REP6-013] sets out measures to manage traffic on construction sites activities, including diversions for walkers, cyclists and horse riders. The key aim of the Outline Construction Traffic Management Plan is to ensure all mitigation, DCO requirements, consents and licenses are met and to minimise and manage the risk of adverse traffic impacts. In accordance with Requirement 10 of the draft Development Consent Order [REP5-005] a Traffic Management Plan based on the Outline Traffic Management Plan [REP6-013] must be approved prior to commencement, following consultation with the Local Highways Authority (Bury Metropolitan Borough Council).
- 6.3.2 The Applicant responded to the Examining Authority's request for further information [REP6-012], reference R.19 relating to securing of joint inspection of work locations with Bury Metropolitan Borough Council and any remedial works, the Applicant updated the Outline Traffic Management Plan [REP6-013] to include an additional paragraph (5.6.6) clarifying the responsibilities of the

Principal Contractor in this regard. The Applicant will continue to work proactively with Bury Metropolitan Borough Council in relation to this matter.

## **6.4 Good Design**

- 6.4.1 The Case for the Scheme [REP3-018] and the National Policy Statement for National Networks Accordance Tables [APP-147] and Draft National Policy Statement for National Networks Accordance Tables [APP-148], set out how the Scheme complies with the NPS NN (criteria for good design particularly paragraphs 4.28 – 4.35 of the NPS NN designated in January 2015, which are most relevant to the Examination).
- 6.4.2 The Scheme Design Report [APP-151] submitted by the Applicant as part of the DCO application set out the Design Principles and the process the Applicant followed and how this influenced the design of the Scheme.
- 6.4.3 The Examining Authority requested structures visualisations for Pike Fold Viaduct and Pike Fold Bridge, which were submitted by the Applicant at Procedural Deadline A [PD1-007].
- 6.4.4 The Examining Authority raised questions relating to design in writing and during Issue Specific Hearing 2. The Applicant has submitted responses in the following documents:
- Applicant's responses to ExA's First Written Questions [REP3-023], refs DES.1.1-3.
  - Written submissions following November hearings and responses to action points from CAH1 and ISH2 [REP4-028], Annex B refs 5-11.
- 6.4.5 A key outcome of the Examining Authority's requests is that the Applicant has provided a Design Principles Report [REP6-010]. This describes the Design Principles that are proposed to be secured by Requirement 3 of the draft Development Consent Order [REP5-005] and to be certified pursuant to article 41 and Schedule 10 of the draft Development Consent Order [REP5-005]. The design principles are set out in the Applicant's Scheme Design Report [APP-151], to ensure that the detailed design for the Scheme is compatible with the preliminary Scheme design, subject to the commitments secured in the draft Development Consent Order [REP5-005].

## **7 Conclusion and Planning Balance**

- 7.1.1 The Case for the Scheme [REP3-018], demonstrates a clear need for the Scheme which is grounded in national, sub-regional and local planning and transport policy.
- 7.1.2 The Planning Act 2008 requires that the Development Consent Order is determined in accordance with the relevant National Policy Statement, which is the case of the application is the 2015 NPS NN and is the primary basis for decision making. Section 104(3) of the Planning Act 2008 states that the Secretary of State must decide the Development Consent Order application in

accordance with any relevant NPS, except in certain circumstances specified in subsection (4) to (8) which do not apply here.

- 7.1.3 The NPS NN (DfT, 2015) sets out the nationally important role of national networks that meet the country's long-term economic needs, by reducing delays, improving journey time reliability, improving safety which together support economic growth. The Case for the Scheme [REP3-018] has demonstrated the benefits of the Scheme against these objectives. The positive benefits of improving Simister Island Interchange will be realised by the local population through more reliable journeys, at a Greater Manchester sub region level through supporting development such as those already being delivered for the Northern Gateway and Atom Valley and at a national level by resolving long standing network issues at this nationally important strategic motorway junction.
- 7.1.4 The Applicant has also carefully considered the legal obligations set out in the NPS NN (DfT, 2015) including the Habitats Regulations and Water Framework Directive. The international obligations of the United Kingdom have also been addressed.
- 7.1.5 The Scheme incorporates environmental mitigation that will reduce any potential negative environmental effects as far as possible. Measures have also been designed into the Scheme which not only provide mitigation for any negative effects of the Scheme, but where feasible provide an overall enhancement of the environment.
- 7.1.6 The Applicant considers that they have demonstrated through the DCO application documents and the examination process that the benefits of the Scheme outweigh any harm predicted.