

A46 Coventry Junctions (Walsgrave) Scheme Number: TR010066

8.28 Applicant's Closing Summary Statement

The Infrastructure Planning (Examination Procedure) Rules 2010
Rule 17(1)

Planning Act 2008

Volume 8

September 2025

Deadline 6

Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning
(Examination Procedure) Rules 2010**

A46 Coventry Junctions (Walsgrave)
Development Consent Order 202[x]

APPLICANT'S CLOSING SUMMARY STATEMENT

Rule Number	Rule 17(1)
Planning Inspectorate Scheme Reference	TR010066
Application Document Reference	TR010066/EXAM/8.28
Author	A46 Coventry Junctions (Walsgrave) Project Team, National Highways

Version	Date	Status of Version
Rev 0	September 2025	Deadline 6

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1 Introduction

1.1 Introduction

- 1.1.1 This Closing Summary 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 (the “ExA”), Interested Parties and the Applicant during the course of the Examination of the A46 Coventry Junctions (Walsgrave) Scheme (the “Scheme”).
- 1.1.2 It is provided to assist the ExA, 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, however, 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 ExA and the Secretary of State to the evidence which is considered relevant to the application of section 104 of the Planning Act 2008.
- 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-014**).

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:

- a. Application version [APP-005](#),
- b. Procedural Deadline A version [PD1-003](#),
- c. Deadline 1 version [REP1-002](#),
- d. Deadline 3 version [REP3-004](#),
- e. Deadline 6 version – Final version (**TR010066/APP/3.1 Rev 4**).

2.1.2 A detailed explanation of the draft DCO is set out in the Explanatory Memorandum (**REP3-006**) to the DCO. In particular, this 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 ExA, 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). Part 1 has not changed since the application version.

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 (Consent to transfer benefit of Order). Part 2 has not changed since the application version.

2.4 Part 3: Streets

2.4.1 Part 3 of the draft DCO comprises Articles 10 (Application of the 1991 Act) to 20 (Traffic regulation).

2.4.2 There have been two substantive changes to this Part. The first is to amend Article 10 to align with Article 52(3), which disapplies the Traffic Management (Coventry City Council) Permit Scheme Order 2014. This change was made before the start of the Examination as a result of the Applicant becoming aware of an inconsistency in the drafting.

2.4.3 The second change is to delete the former Article 13(4) to reflect that the only bridge that is being constructed carries a trunk road link road and this article is therefore not relevant. This change was in response to the Examining Authority's First Written Questions (**PD-008**), Question DCO.1.25, which asked the Applicant to amend the wording in the DCO as the only new bridge carries a trunk road link road over the trunk road, so the maintenance responsibility would be with the Applicant and not the Local Authority.

2.4.4 For completeness, the word 'footpath' was added to Article 12(1)(b) to correct an inconsistency with Article 12(1)(a).

2.5 Part 4: Supplemental Powers

- 2.5.1 Part 4 of the draft DCO comprises Articles 21 (Discharge of water) to 26 (Trees subject to Tree Preservation Orders).
- 2.5.2 Two changes have been made to this Part. The first was to delete Article 21(10) to align with Article 52(1)(b), made before the start of the Examination. The second was to delete part of Article 22 to reflect that there are no protective provisions in Schedule 9 for the benefit of the Environment Agency, made at Deadline 3.

2.6 Part 5: Powers of Acquisition and Possession of Land

- 2.6.1 Part 5 of the draft DCO comprises Articles 27 (Compulsory acquisition of land) to 45 (Special category land).
- 2.6.2 The provisions in Part 5 are based largely on other made DCOs. There have been a number of amendments to the articles in Part 5, but all of these were minor, either made to correct typographical errors or to provide greater clarity and were all made before the start of the Examination.

2.7 Part 6: Miscellaneous and General

- 2.7.1 Part 6 of the draft DCO comprises Articles 46 (Application of landlord and tenant law) to 56 (Arbitration). The form of wording is substantially the same as other made DCOs. As with Part 5, there have been a number of amendments to the articles in Part 6, but all of these were minor, either made to correct typographical errors or to provide greater clarity.

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. Schedule 1 has not changed since the application version. The description, scale and scope of the authorised development 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 (REAC) (**TR010066/APP/6.5A Rev 4**) which is Appendix A of the First Iteration Environmental Management Plan (EMP) (**TR010066/APP/6.5 Rev 4**).
- 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 since the submission of the DCO application. The four substantive changes are set out below:
- 2.9.3 The first change has been to introduce three new management plans into Requirement 4, at Deadline 1. This change was to correct an omission made during earlier drafting. These management plans are:
- Traffic Management Plan

- Scheme Asbestos Management Plan
- Pollution Incident Control Plan

- 2.9.4 The second change has been to introduce an Ornithological Noise Monitoring Method Statement into Requirement 4 for the Combe Pool Site of Special Scientific Interest (SSSI). This change has been made to reflect an update to the REAC (**TR010066/APP/6.5A Rev 4**), which was done to reduce the likely significant effect of noise during operation as reported in ES Chapter 8 Biodiversity (**REP5-002**).
- 2.9.5 The third change has been an amendment to Requirement 8 to include an updated mechanism for dealing with protected species which were not previously identified in the Environmental Statement (ES). This change has been made in response to the Examining Authority's First Written Questions (**PD-008**) DCO.1.14, which asked the Applicant *"What is the approval mechanism for the written scheme that will be prepared and implemented in paragraph (2)?"*
- 2.9.6 The fourth change has been to change 'parties' in Requirement 15 to 'undertaker and the Secretary of State' in response to the Examining Authority's First Written Questions (**PD-008**) DCO.1.18, which asked the Applicant to *"Remove "between the parties" and replace with "between the undertaker and the Secretary of State" to avoid any confusion and improve precision."*

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 the relevant electricity, gas, water and sewerage undertakers. Details of negotiations with such parties can be found in the Applicant's Land and Rights Negotiations Tracker (**TR010066/EXAM/8.2 Rev 5**), a final version of which was submitted at Deadline 6.

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. Details of negotiations with such parties can be found in the Applicant's Land and Rights Negotiations Tracker (**TR010066/EXAM/8.2 Rev 5**). None of the parties the Applicant is still in negotiations with, namely National Grid Electricity Distribution, Neos Networks, Vodafone and Colt Technology Services, are asking for changes to the draft Development Consent Order (**TR010066/APP/3.1 Rev 4**).

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.

2.11.2 The Applicant updated the Consents and Agreements Position Statement (**REP1-004**) at Deadline 1 and Deadline 6 of the Examination to provide clarity in relation to consents under the Reservoir Act 1975, a flood risk activities permit and land drainage consent. The Consents and Agreements Position Statement (**TR010066/APP/3.3 Rev 2**) now provides clarity that:

- The Applicant, the Environment Agency and Coventry City Council agree that there is no expected need for a consent, license or agreement under the Reservoir Act 1975;
- The Applicant and the Environment Agency have agreed that an application for a flood risk activities permit will be submitted outwith the DCO consent if required; and
- The Applicant has agreed with Warwickshire County Council that an application for Land Drainage Consent will be submitted shortly after the DCO Examination period. The Applicant has yet to enter substantive discussions with Coventry City Council regarding Land Drainage Consent, this will be progressed in due course.

2.12 Section 127 and Section 138

2.12.1 In respect of section 127 of the Planning Act 2008, the only statutory undertakers who have made representations are National Grid Telecoms and National Grid Electricity Distribution. In neither case is it proposed to acquire the interests of those parties or divert or remove their apparatus. The Applicant is in discussion with these parties about protecting their apparatus during construction, and agreement has been reached in principle with National Grid Telecoms. In the absence of full agreement (which is expected to be obtained before the DCO application is decided) the default protective provisions in Schedule 9 will apply.

2.12.2 In respect of section 138 of the Planning Act 2008, again no rights of statutory undertakers are proposed to be extinguished, and no apparatus is proposed to be removed.

3 Compulsory Acquisition

3.1 Statement of Reasons

- 3.1.1 The Applicant has set out in their Statement of Reasons (**PD1-007**) 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 (**PD1-007**) was updated at Procedural Deadline A of the Examination due to changes in land from permanent acquisition to temporary possession for Coventry City Council. Details of why this update was made were submitted in the Land and Rights Negotiations Tracker (**PD1-013**) also submitted at Procedural Deadline A, which superseded Annex B of the Statement of Reasons (**APP-008**).

3.2 Funding Statement

- 3.2.1 The Applicant has provided a Funding Statement (**AS-006**), 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 this statement is to demonstrate that the Scheme will be adequately funded through the Road Investment Strategy (RIS).
- 3.2.2 The Applicant updated the Funding Statement (**AS-006**) as a Post Submission document following the ExA's advice to provide a most likely capital cost estimate of the Scheme.
- 3.2.3 The Applicant has responded to questions from the ExA in the Applicant's Responses to the Examining Authority's First Written Questions (**REP3-044**) (Question CA.1.3) confirming that the Scheme was listed in National Highways Delivery Plan 2024-2025 and was not highlighted as being subject to the spending review that was taking place. The Spending Review on 11 June 2025 confirmed the government will deliver notable improvements to people's everyday travel, improving commutes, school drop-offs and journeys into town, by providing £24 billion of capital funding between 2026/27 and 2029/30 to maintain and improve motorways and local roads across the country. This funding will allow National Highways and local authorities to invest in significantly improving the long-term condition of England's strategic road network, delivering faster, safer and more reliable journeys. The Applicant confirms that the Road Investment Strategy commitment to deliver the Scheme remains in place as set out in the Funding Statement (**AS-006**).

3.3 Book of Reference

- 3.3.1 The Applicant has prepared and updated the Book of Reference (**TR010066/APP/4.3 Rev 6**) 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.

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- 3.3.2 HM Land Registry records were checked for updates throughout the pre-application period and the Examination, and most recently in early September 2025. The Applicant thereafter updated the Book of Reference (**TR010066/APP/4.3 Rev 6**) at Deadline 6 of the Examination to reflect all updates to affected plots and interests.
- 3.3.3 The Applicant will continue to keep the Book of Reference (**TR010066/APP/4.3 Rev 6**) under review and carry out diligent enquiries, 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 28 February 2025.
- 4.1.2 In total, 13 Relevant Representations were received and published in the Examination library. The Applicant submitted responses to the Relevant Representations at Deadline 1 (Applicant's Response to Relevant Representations (**REP1-021**)) of the Examination.
- 4.1.3 A Written Representation was submitted by one Interested Party, Natural England, at Deadline 1 of the Examination. No written summaries of oral submissions made during initial hearings in May 2025 were submitted by parties other than the Applicant. However, the Environment Agency (**REP1-033**) and Coventry City Council (**REP1-037**) submitted responses to Issue Specific Hearing 1 (ISH 1) Action Points at Deadline 1 of the Examination. The Applicant submitted responses to all Deadline 1 submissions at Deadline 2 (**REP2-004** and **REP2-006**) of the Examination.
- 4.1.4 The Applicant has worked proactively with all of the Local Authorities: Coventry Country Council, Rugby Borough Council and Warwickshire County Council, in relation to the Scheme following the Preferred Route Announcement in June 2022, 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 Coventry City Council

Strategic support for the Scheme

- 4.2.1 Coventry City Council expressed their support for the Scheme in their response to the Scheme's statutory consultation carried out in early 2023. Coventry City Council supports the benefits it would bring including reduction in congestion, and the improvements this would have on journey times, reliability, safety and environment. Coventry City Council welcomes this Scheme going forward as a DCO application, their view remains that an all-movements junction is essential at this location. Their Local Impact Report (paragraph 12.2 (**REP1-036**)) highlights the importance of the Scheme for its potential to provide an opportunity to unlock a housing allocation, H2:3 of the Coventry Local Plan, and in turn provide potentially a much-needed 'blue light access' to and from the Coventry and Warwickshire University Hospital.

Matters agreed

- 4.2.2 A final and signed version of the Statement of Common Ground (SoCG) with Coventry City Council (**TR010066/EXAM/8.6 Rev 3**) was submitted at Deadline 6 of the Examination. All matters are 'agreed'.

4.2.3 This engagement allowed early agreement of nearly all matters in the SoCG (**REP1-023**) submission at Deadline 1 of the Examination, with only one matter 'under discussion' at that stage. Subsequent submissions were made at Deadline 4 (**REP4-018**) and 5 (**REP5-012**) of the Examination to amend wording and agree the final point at Deadline 6 (**TR010066/EXAM/8.6 Rev 3**). Agreed positions on matters include:

- Biodiversity: mitigation and enhancement, Net Gain, maintenance;
- Landscape and visual, viewpoints for assessment and photomontages;
- Noise & vibration;
- Cultural heritage: archaeological potential and unexpected finds, Hungerley Hall Farm listing and curtilage;
- Road drainage and the water environment: balancing ponds, Combe Pool flood mitigation scheme, flood mitigation;
- Walking, cycling, horse-riding (WCH): accessibility & integration;
- Design and engineering: public transport, additional links, speed limits, agricultural traffic, maintenance;
- Traffic & transport;
- The need for the Scheme;
- Construction impacts and management.

4.3 Rugby Borough Council

Strategic support for the Scheme

4.3.1 Rugby Borough Council supports the Scheme as part of its statutory role in the planning process. The Council recognises the Scheme's potential to improve traffic flow and reduce congestion, enhance highway safety, and support economic growth in the region.

4.3.2 Rugby Borough Council has actively participated in the planning process, including submitting formal responses during consultations and agreeing an SoCG (**TR010066/EXAM/8.8 Rev 3**) with National Highways.

4.3.3 In their Local Impact Report (**REP1-036**), Rugby Borough Council notes that the Scheme could help unlock development potential in Rugby's jurisdiction, which aligns with broader strategic planning goals.

Matters agreed

4.3.4 A final and signed version of the SoCG with Rugby Borough Council (**TR010066/EXAM/8.8 Rev 3**) was submitted at Deadline 6 of the Examination. All matters but one are 'agreed'.

4.3.5 At Deadline 1, all matters were agreed apart from one still 'under discussion' in the SoCG (**REP1-025**). Subsequent submissions being made at Deadline 4 (**REP4-019**) and 5 (**REP5-014**) of the Examination to amend wording and agree the final point at Deadline 6 (**TR010066/EXAM/8.8 Rev 3**). Agreed positions on matters include:

- Cultural Heritage: Brinklow Castle scheduled monument; landscape &

visual: viewpoints;

- Noise & vibration: Coombe Abbey Park residential receptors; and
- Material assets and waste: scoping out of assessment.

4.3.6 One point remains as 'not agreed' in the final SoCG (**TR010066/EXAM/8.8 Rev 3**), in relation to WCH. Rugby Borough Council remained of the position throughout the majority of the examination that the Applicant should provide Development Consent obligation agreements to improve other PRoW in the area (not within the Order Limits). However, as set out in point 5 of the SoCG (**TR010066/EXAM/8.8 Rev 3**), provided the Scheme secures the necessary land and makes the necessary passive provision to enable a new pedestrian and cycle route to Coombe Abbey to be delivered, Rugby Borough Council said that contributions to Local Cycling and Walking Infrastructure Plan (LCWIP) scheme Cy05 in addition would be unnecessary. The Applicant welcomes Rugby Borough Council's view that the DCO as applied for will provide the necessary land and passive provision to address this issue. In the unlikely event that the DCO that is granted does not contain such provisions, the Applicant will continue to work with Rugby Borough Council but does not agree that contributions to LCWIP scheme Cy05 should be provided as a fallback. Rugby Borough Council recognises that National Highways do not agree that such contributions would be justified and therefore this issue remains as 'not agreed' in the final SoCG (**TR010066/EXAM/8.8 Rev 3**).

4.4 Warwickshire County Council

Strategic support for the Scheme

4.4.1 Warwickshire County Council has expressed strong support for the Scheme, highlighting its strategic importance and anticipated benefits for the region. The council emphasises the A46's role in supporting the Midlands economy, which contributes £115 billion annually and supports 2.9 million jobs. Warwickshire County Council has worked closely with National Highways and other local authorities to align on the Scheme's goals and impacts. Warwickshire County Council sees the Scheme as a catalyst for economic development across Coventry, Leicestershire, Worcestershire, and Gloucestershire. In their Local Impact Report (**REP1-040**), Warwickshire County Council state that "*The scheme may allow development to take place in the corridor (both locally and strategically) that would have otherwise been constrained had the investment at Walsgrave not taken place.*"

Matters agreed

4.4.2 Early engagement allowed all matters in the SoCG with Warwickshire County Council (**REP1-024**) submitted at Deadline 1 of the Examination to be 'agreed'. A subsequent submission was made at Deadline 5 (**REP5-013**), which was the final signed version.

4.4.3 Agreed positions on matters include:

- Cultural Heritage: Value of archaeological remains, archaeological sensitivity and monitoring as mitigation, physical impact upon cultural heritage assets;
- Biodiversity: Assessment of Ecosites;

- Material Assets and Waste: mineral safeguarding areas, peat sterilization, waste safeguarding, cumulative assessment – landfill capacity, commercial and industrial wastes, imports of construction materials, proximity to Leicestershire, target for the use of recycled and secondary aggregates;
- Cumulative effects: Cumulative assessment – use of materials;
- WCH: Accessibility & integration;
- The need for the Scheme;
- Road Drainage and the Water Environment: flood risk, surface water drainage, balancing ponds, land drainage consent;
- Design and Engineering: maintenance, signage, maintenance.

4.5 Neighbouring Authorities

Hinckley and Bosworth Borough Council

- 4.5.1 Hinckley and Bosworth Borough Council confirmed that they had no comments to make on the Scheme at Deadline 3 (**REP3-048**).

North Warwickshire Borough Council

- 4.5.2 North Warwickshire Borough Council stated that they did not wish to submit any representations in respect of the proposals in response to the section 56 notice (**AS-022**).
- 4.5.3 No other neighbouring authorities made any representations into the Examination, except with regards to adequacy of consultation responses. All neighbouring authorities were happy with the adequacy of consultation, as shown in the Adequacy of Consultation Responses (responses were received from Coventry City Council, Stratford on Avon District Council, Warwickshire County Council, Leicestershire County Council, North Warwickshire Borough Council, Rugby Borough Council, and Staffordshire County Council (**AoC-001 to AoC-007**)). The Adequacy of Consultation Milestone Statement (**APP-0131**) also sets out how the Applicant sought the views of local authorities on the adequacy of the consultation undertaken for the Scheme.

4.6 Landowners

- 4.6.1 As set out within the Statement of Reasons (**PD1-007**), 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.
- 4.6.2 At the DCO submission, the Applicant provided a schedule of negotiation of compulsory acquisition within Annex B of the Statement of Reasons (**PD1-007**). This was then superseded by the Land and Rights Negotiations Tracker (**TR010066/EXAM/8.2 Rev 5**) which has been updated through the Applicant's Updates (Rule 6 Letter Annex F) (**PD-006**) throughout the Examination when necessary. Final positions at the end of the Examination are set out in the Land and Rights Negotiations Tracker (**TR010066/EXAM/8.2 Rev 5**) provided at Deadline 6.

- 4.6.3 The Applicant has provided a summary below 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 Walsgrave Hill Western Land Pool Trust

- 4.6.4 During the course of the Examination, in July 2025, Fisher German (acting as agent to the landowners) sent the Applicant information on ownership, and a Beneficial Owners and Partnership Summary/Transfer Document in respect of the formation of The Walsgrave Hill Western Land Pool Trust to the west of the A46. The Book of Reference (**REP4-004**) and Land Plans (**REP4-002**) were updated at Deadline 4 to reflect the information provided, though the Applicant noted that the changes had not yet been formally registered at the Land Registry at that time. In September 2025, the Land Registry had been partially updated with new Title numbers, although Title Plans were not available, therefore the Book of Reference (**TR010066/APP/4.3 Rev 6**) was updated at Deadline 6 to reflect the changes.
- 4.6.5 Fisher German said that it would share information regarding an Eastern Land Pool Trust in due course.
- 4.6.6 The details of the land interest held by the Walsgrave Hill Western Land Pool Trust which comprises the owners of Hungerley Hall Farm and Walsgrave Hill Farm, and the current status of negotiation is set out in the Land and Rights Negotiations Tracker (**TR010066/EXAM/8.2 Rev 5**). Prior to the formation of the Land Pool Trust, during the course of the examination and pre-application period, the Applicant was liaising with Fisher German who was acting on behalf of the separate landowners.
- 4.6.7 The Applicant has been proactive in contacting the parties of The Walsgrave Hill Western Land Pool Trust via Fisher German in the pre-application and Examination stages of the Scheme.
- 4.6.8 Fisher German raised a number of comments relating to the principle of the compulsory acquisition of land and Scheme design within the Eastern and Western Land Pool Trusts. These comments were discussed at a meeting in July 2025. The landowners of the Eastern or Western Land Pool Trusts (or their agent) have not submitted any representations into the Examination or objected to the Scheme. The Applicant will continue to engage with these parties.

Coventry City Council

- 4.6.9 The details of the land interests held by Coventry City Council and the current status of negotiation are set out in the Land and Rights Negotiations Tracker (**TR010066/EXAM/8.2 Rev 5**).
- 4.6.10 Coventry City Council are both owner and occupier of the alignment of the existing B4082. This is based on the highway vesting with Coventry City Council upon its adoption pursuant to s263(1) of the Highways Act 1980.
- 4.6.11 The Applicant has been in discussions with Coventry City Council as highway authority about various plots. A number of plots will be transferred to Coventry City Council upon completion of works as outlined in the Land and Rights Negotiations Tracker (**TR010066/EXAM/8.2 Rev 5**). The Applicant has not

engaged in negotiations for the majority of these plots as the realigned B4082 will be transferred back to Coventry City Council's ownership and thus did not consider negotiation by agreement necessary.

- 4.6.12 Coventry City Council has raised no objections to the permanent acquisition of these plots, apart from two. In September 2024, the Applicant sent a letter to Coventry City Council with the heading "*A46 Coventry Junctions (Walsgrave) Scheme – Letter seeking consent to discuss the acquisition of land by agreement*". The letter was aimed at beginning conversations with Coventry City Council about acquiring the land parcels 2/7 & 2/8 by agreement, as land was originally proposed to be acquired permanently as shown on original Land Plans (**APP-012**).
- 4.6.13 Coventry City Council raised concerns about the Applicant acquiring the land permanently due to planned future works in the area of Clifford Bridge Road and inquired if the work could be done via a license agreement. The Applicant agreed to change the land requirement for parcels 2/7 & 2/8 from permanent possession to temporary possession, which would still allow the Applicant to undertake the required work as part of the Scheme. The Book of Reference (**REP4-004**), Land Plans (**REP4-002**) and Land and Rights Negotiations Tracker (**REP4-016**) were updated at Deadline 4. The Applicant committed to continue working with Coventry City Council to enter into a license agreement if preferred.

4.7 Statutory Environmental Bodies

Natural England

- 4.7.1 A final and signed version of the SoCG with Natural England (**TR010066/EXAM/8.11 Rev 3**) was submitted at Deadline 6 of the Examination. Two matters are 'not agreed' between the Applicant and Natural England.
- 4.7.2 The Applicant worked proactively with Natural England to reach agreed positions on the issues identified by them in their response to the statutory consultation for the Scheme. The early agreement of positions has meant that issues such as impacts on barn owls, soil handling, mitigation area planning, Habitats Regulations Assessment, and Biodiversity Net Gain (BNG) have needed limited focus in the Examination.
- 4.7.3 The Applicant has also proactively sought to manage protected species licensing matters, securing a letter of no impediment in relation to badgers in June 2024, ES Appendix 8.14 (Natural England Letter of No Impediment) (**APP-089**), and as detailed in ES Appendix 8.14 (Draft Badger Licence Application (Confidential) (**APP-088**)). Proactive discussions will continue in relation to a European Protected Species Mitigation Licence for Bats as set out in the Consents and Agreements Position Statement (**TR010066/APP/3.3 Rev 2**).
- 4.7.4 The Applicant has liaised with Natural England regarding the noise impacts of the Scheme on Combe Pool SSSI and sought to reach agreement on construction and operational noise. However, matters related to noise disturbance on biodiversity during construction are 'not agreed' in the final SoCG with Natural England (**TR010066/EXAM/8.11 Rev 3**), however the

concerns regarding operational noise have now been 'agreed'.

- 4.7.5 ES Appendix 8.16 (Assessment of Noise Impacts of Ecological Features) (**APP-091**) details that the noise modelling for the operational phase of the Scheme has identified short term change noise levels (i.e. a change between Do Minimum Opening Year (DMOY) and Do Something Opening Year (DSOY)), including both reductions in noise impacting some areas and increases in noise impacting other areas, impacting Combe Pool between +3.5dB and -1.0dB. However, the area of Combe Pool impacted by increases in noise >3dB is less than 0.01ha in size, and as such the Applicant's case is that this increase beyond the recognised identifiable change threshold (i.e. 3dB) is considered to result in an insignificant impact. As no significant impact during operation is reported, mitigation is not required.
- 4.7.6 The Applicant undertook further assessment into the noise impacts of the Scheme and considered further mitigation in order to reduce noise impacts, including reviewing construction methods and programmes. At Deadline 3, the Applicant submitted an ES Addendum - Construction Noise Impacts at Combe Pool SSSI (**REP3-044**). As a result, a more specific temporal and spatially detailed construction programme has been developed for the programme months where the worst impacts across the SSSI were reported. The Addendum summarises and identifies those environmental aspects for which the assessment outcomes reported in the ES have changed as a result of the proposed mitigation measures to mitigate noise impacts upon the SSSI. The findings and conclusions of each ES Chapter were examined. This ES addendum concludes that the mitigation measures do not give rise to new or materially different environmental effects already reported in the ES, except for biodiversity. The change in effects for biodiversity are reported in the update to ES Chapter 8 (Biodiversity) (**REP3-012**), resubmitted at Deadline 3. This assessment identified that the installation of a temporary noise barrier results in a reduction in the significance of effect from that reported in ES Chapter 8 (Biodiversity) (**REP5-002**) for breeding and wintering waterbirds during construction from noise. No new impacts have been identified. Further mitigation to be employed alongside the noise mitigation barrier during the construction phase includes monitoring by an Ornithological Specialist.
- 4.7.7 The Applicant acknowledges Natural England's position that they do not agree with the conclusions of the assessment and believe that National Highways should enhance the environment by reducing road noise, supporting both construction phase and long-term mitigation.
- 4.7.8 The other matter 'not agreed' in the SoCG with Natural England (**TR010066/EXAM/8.11 Rev 3**) relates to the Combe Pool SSSI consent. Natural England does not agree with the disapplication of its powers under sections 28E and 28H of the Wildlife and Countryside Act (WCA) 1981 and asked for the wording in the draft DCO (**TR010066/APP/3.1 Rev 4**) Article 52 to be revised. However, the draft DCO (**TR010066/APP/3.1 Rev 4**) includes works to the Combe Pool SSSI. Article 52 of the draft DCO (**TR010066/APP/3.1 Rev 4**) disapplies sections 28E and 28H of the Wildlife and Countryside Act, which are the obligations to get consent from Natural England to carry out operations in a SSSI. Therefore, the Applicant confirms that SSSI assents are not required. The work in the SSSI is restricted by the draft DCO (**TR010066/APP/3.1 Rev 4**) both geographically (to a narrow strip on

its western edge) and in terms of what can be done (essentially just Work No. 3C – vegetation removal and replacement of timber fence – in compliance with the preliminary Scheme design, where any variations must be within what has been assessed in the Environmental Statement). Planning permission is a reasonable excuse for works in a SSSI by virtue of section 28P of the Wildlife and Countryside Act 1981; this disapplication has the same effect for this DCO.

Environment Agency

- 4.7.9 A final and signed version of the SoCG with the Environment Agency (**REP5-016**) was submitted at Deadline 5 of the Examination. All matters are 'agreed' between the Applicant and Environment Agency.
- 4.7.10 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.
- 4.7.11 The early agreement of positions has meant that issues such as contaminated land, invasive species, and BNG have not needed to be addressed during the Examination.
- 4.7.12 The Applicant has worked with the Environment Agency to resolve issues in relation to flood risk such as the requirement for a flood risk activity permit.
- 4.7.13 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 (**TR010066/APP/3.3 Rev 2**).

Historic England

- 4.7.14 A final and signed version of the SoCG with Historic England (**REP5-015**) was submitted at Deadline 5 of the Examination. All three matters are 'agreed' between the Applicant and Historic England. Historic England deferred consultation about Hungerley Hall Farm (a Grade II Listed Building) to Coventry City Council throughout the course of the application and examination process. They also deferred consultation about archaeology to the local authority's expert advisor on archaeological planning matters (at Coventry City Council).
- 4.7.15 The Applicant has engaged with Historic England about matters pertaining to the setting of the Grade II* Registered Park and Garden associated with Coombe Abbey and the listed buildings therein. The Applicant agreed with Historic England to amend commitment LV1 of the REAC (**TR010066/APP/6.5A Rev 4**) to review the landscaping around Coombe Abbey Park during detailed design to consider the points raised by Historic England.

Summary

- 4.7.16 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.
The scope of these agreements is set out in the Statement of Commonality for
the Statements of Common Ground (**TR010066/EXAM/8.12 Rev 3**).

5 Environmental Matters

5.1 Introduction

- 5.1.1 There are a number of matters that have been an area of focus for the ExA during the Examination. The ES 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 ES 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 ES Chapter 5 (Air Quality) (**REP3-010**).
- 5.2.2 Before mitigation, the construction phase of the Scheme is identified as having a 'large' dust risk potential, with the receiving environment sensitivity being 'high'. With the application of best practice construction mitigation measures, as included in the Scheme's First Iteration EMP (**TR010066/APP/6.5 Rev 4**), the impact of construction dust is unlikely to trigger a significant air quality effect.
- 5.2.3 Given the intermittent use of Non-Road Mobile Machinery (NRMM) and the transient nature of construction works, emissions from such plant will not have a material impact on air quality. Therefore, no further assessment has been undertaken. Similarly, the need for further assessment of construction vehicle emissions was scoped out (see the Scoping Opinion (**APP-061**)) due to the proposed construction traffic being below the Design Manual for Roads and Bridges (DMRB) LA 105 screening criteria. As such, the impact of emissions from construction vehicles will have no significant effect on local air quality and will not affect the UK's ability to comply with Air Quality Standards Amendment Regulations 2016.
- 5.2.4 A detailed and verified air quality modelling exercise was completed with respect to assessing operational phase air quality impacts at both human and ecological receptors. With respect to human health, a total of 94 discrete sensitive receptors were included in the assessment. The modelling has demonstrated that the air quality objectives for NO₂ and PM₁₀ are not predicted to be exceeded, both without and with the Scheme, in the opening year (2028). As such, there will be no likely significant air quality effect for human health.
- 5.2.5 The operational phase study area captured sensitive features and habitats within multiple ecological designations which were assessed with regards to NO_x, NH₃ and N-deposition. Where exceedances of the relevant critical levels and critical loads were modelled, they occurred in both the Do-Minimum (DM) and Do-Something (DS) 2028 scenarios, such that the Scheme is not predicted to introduce any new exceedances. However, a number of the modelled receptor transects were predicted to exceed the respective 1% significance screening criteria within some of the modelled designated sites, including but not limited to Combe Pool SSSI (N deposition), Herald Way Marsh SSSI (N deposition) and Willenhall Wood Local Wildlife Site (LWS)/ Local Nature Reserve (LNR) (NO_x, NH₃ and N deposition).

- 5.2.6 Following review of the ecological receptor results by the competent biodiversity expert for the project, it was confirmed that the transect receptors exceeding the 1% criterion represent, at worst, minor adverse impacts attributed to the Scheme. On this basis, and within the further discussion, (ES Appendix 8.15 (Assessment of Air Quality Impacts on Ecological Features) (**REP3-026**)), the competent biodiversity expert concluded that there are no likely significant air quality effects on the assessed designated sites.
- 5.2.7 A compliance risk assessment was undertaken to assess the potential for the Scheme to affect the UK's compliance with respective legal air quality limit values, specifically with respect to NO₂. The outcomes of the assessment demonstrate that there is no risk of the operational Scheme affecting national compliance.
- 5.2.8 The air quality assessment has adhered to the requirements set out in sections 5.12 and 5.13 of the National Networks National Policy Statement 2024 (NPS NN) and has concluded there will be no significant effects in terms of air quality on human and ecological receptors as a result of the Scheme.
- 5.2.9 The Consultation Report (**APP-115**) presents a summary of the engagement with Interested Parties in relation to environmental impacts including air quality, together with the responses received prior to the submission of the application. Discussions have been undertaken throughout the Examination with Natural England in regard to air quality. The focus of these discussions has been air quality impacts on ecological features including ammonia emissions and the methodology to assess the impact of emissions.
- 5.2.10 The Applicant agrees with including ammonia within the air quality assessment upon ecological receptors. Ammonia deposition has been modelled for the operational phase of the Scheme (23 May 2024). An assessment of the effects of air quality changes during operation has been undertaken and included within the ES.
- 5.2.11 The air quality assessment has been undertaken in accordance with the DMRB LA 105 Air Quality. Ecological features including designated sites, ancient woodland and veteran trees within 200m of the triggered links have been identified, and N deposition, NO_x and ammonia deposition has been modelled for the operational phase of the Scheme. An assessment of the effects of air quality changes during operation has been undertaken and included within the ES. As shown in the SoCG with Natural England (**TR010066/EXAM/8.11 Rev 3**), Natural England does not support the DMRB LA 105 Air Quality as there are aspects of it that Natural England does not agree with, however, Natural England are now in agreement with the air quality assessment and this is documented in the SoCG (**TR010066/EXAM/8.11 Rev 3**).
- 5.2.12 The Applicant updated ES Appendix 8.15 (Assessment of Air Quality Impacts on Ecological Features) (**REP3-026**) in line with the comments and clarifications provided by Natural England, and this was submitted at Deadline 3. The Applicant has worked closely with Natural England to resolve any issues and make changes to reflect and address their concerns.
- 5.2.13 Construction dust was also raised by Natural England, however, in Natural England's Relevant Representation (**RR-010**) it was stated "*We are satisfied that dust is unlikely to have a significant impact subject to best practice mitigation measures being employed*". The air quality assessment has been

undertaken in accordance with the DMRB LA 105 Air Quality and this considers the impact of dust during construction. Mitigation measures are also proposed, and these are outlined in the First Iteration EMP (**TR010066/APP/6.5 Rev 4**) Annex B.1 Outline Air Quality and Dust Management Plan, and a detailed Air Quality and Dust Management Plan will be produced as part of the Second Iteration EMP and will be secured by Requirement 4 of the draft DCO (**TR010066/APP/3.1 Rev 4**).

5.3 Cultural Heritage

- 5.3.1 Assessment of the Scheme's construction and operational impacts on cultural heritage is presented in ES Chapter 6 (Cultural Heritage) (**REP4-006**).
- 5.3.2 The assessment has been carried out in line with relevant legislation, policy, guidance and best practice. The assessment has identified no significant adverse effects following mitigation.
- 5.3.3 There are three slight adverse (not significant) effects:
- An effect as a result of a physical impact was identified at the listed Hungerley Hall Farm. A programme of Historic Building Recording is proposed to mitigate this effect.
 - An effect as a result of changes to setting was identified at the listed Hungerley Hall Farm. Landscape planting is proposed to soften this impact.
 - An effect as a result of changes to setting was identified at the registered park and garden, Coombe Abbey. Input during detailed design of landscape mitigation will seek to further reduce the impact from the Scheme.
- 5.3.4 The Scheme area has a very low archaeological potential. Any potential effects on further unexpected archaeological remains will be mitigated through the Unexpected Archaeological Finds Protocol (UAFP).
- 5.3.5 Agreement has been reached on all matters relating to cultural heritage with Historic England (refer to SoCG with Historic England (**REP5-015**)), who deferred impacts on Hungerley Hall Farm (Grade II Listed Building) and archaeology to Coventry City Council. Coventry City Council agree with the Applicant on all matters relating to cultural heritage (refer to the SoCG with Coventry City Council (**TR010066/EXAM/8.6 Rev 3**)).

5.4 Landscape and Visual

- 5.4.1 Assessment of the Scheme's construction and operational landscape and visual impacts is presented in ES Chapter 7 (Landscape and Visual Effects) (**APP-029**). Landscaping measures, to help mitigate visual impacts and integrate the Scheme into the surrounding landscape are detailed on the ES Figure 2.4 (Environmental Masterplan) (**APP-043**).

Construction

- 5.4.2 Overall, as a direct consequence of the construction stage there would be a Slight adverse (not significant) effect on the wider landscape character (Project Landscape Character Areas (PLCAs)) surrounding the Scheme.

Construction stage effects primarily result from the temporary presence of construction activities which comprise removal of existing vegetation, earthworks, and the introduction of new permanent features into the landscape, most notably the new grade separated junction and associated and overbridge and works relating to the associated B4082 link road extension.

- 5.4.3 The largest construction phase effects on visual receptors, particularly residential receptors, and users of footpaths (promoted or local) would be associated with those locations in closest proximity to the construction activities with the Scheme. As such some visual receptors would be subject to Large adverse to Moderate adverse (significant) visual effects, as assessed through the representative viewpoints.

Operation Year

- 5.4.4 Prior to the establishment of mitigation planting, these changes and key feature loss would be most evident at Year 1, altering the constitution of the landscape character. Moderate adverse (significant) effects on landscape character in Year 1 of operation of the Scheme and its immediate setting would occur in PLCA 1. This is largely due to:

- Clearance of hedgerows, trees, and woodland belt cover.
- Presence of new earthworks and related infrastructure associated with the grade separated junction and associated overbridge and B4082 link road extension works.

- 5.4.5 At Year 1 there would be Moderate to Large adverse (significant) effects on some visual receptors. Effects at Year 1 would be associated with the influence of the A46 highway corridor has upon views; due to the noticeable man-made features within the distant view and glimpsed views of large or high-sided vehicles prior to planting establishment.

Year 15

- 5.4.6 By Year 15 of operation, as the mitigation planting matures and reinstates key characteristics lost in PLCA 1, landscape changes due to the Scheme would have lessened and there would be an overall Neutral significance of effect. This reduction in significance reflects and balances the enhancements associated with new planting whilst also acknowledging some residual adverse effects of visible traffic movements (high-sided vehicles etc.) and related tall infrastructure elements (lighting, signage, or gantries) on the landscape character.
- 5.4.7 DMRB LA 107 requires that the combined effect of the Scheme on landscape and visual amenity as a whole is to be assessed independently and the outcome combined into a single conclusion on the overall likely significance of effect.
- 5.4.8 Although acknowledging a small number of visual receptors in close proximity to the Scheme would experience a residual Moderate adverse (significant) visual effect (Viewpoint 13), in the context and setting of the overall Scheme this would be relatively limited geographically. Having considered the residual (Year 15) landscape and visual assessments of effect, this assessment concludes that combining both landscape and visual effects, the Scheme

would not result in a significant long term adverse residual effect on overall landscape and visual amenity but beneficial (Slight).

- 5.4.9 Slight beneficial derives from the increase woodland blocks and hedgerow with tree planting along the embankment slopes along the A46 and B4082 link road, strengthening and improving the landscape character and visual amenity in comparison to the baseline scenario.
- 5.4.10 Part of the Scheme and wider study area within Rugby Borough Council is located within the Green Belt as shown on ES Figure 7.1 (Landscape Policy Context) (**APP-049**). ES Chapter 7 (Landscape and Visual Effects) (**APP-029**) includes consideration of effects on visual amenity and openness within the Green Belt, both for the immediate effect at Year 1 and Year 15, allowing for planting to mature.
- 5.4.11 In the Examining Authority's First Written Questions (**REP3-044**), the Local Authorities were asked if they agreed with the Applicant's conclusions regarding the likely significant effects on landscape and visual receptors arising from the Scheme. Rugby Borough Council in their response (**REP3-049**) advised they do not have the in-house expertise to advise on landscape and visual matters, therefore, were unable to respond to this question, and Warwickshire County Council (**REP3-050**) said this was not applicable to them, however Coventry City Council (**REP3-047**) agreed with the Applicant's conclusions.

5.5 Biodiversity

- 5.5.1 Assessment of the Scheme's construction and operational impacts on biodiversity is presented in ES Chapter 8 (Biodiversity) (**REP5-002**).
- 5.5.2 The Scheme is anticipated to have the following effects (worst adverse effects only reported), excluding neutral only effects, during the construction phase, assessed as not significant in accordance with DMRB LA 108:
- Slight adverse effect on Combe Pool SSSI
 - Slight adverse effect on Coombe Abbey LWS
 - Slight beneficial effect on Hungerley Hall Farm Ecosite
 - Slight beneficial effect on priority habitat hedgerows
 - Slight beneficial effect on ponds
 - Slight adverse effect on great crested newt (GCN)
 - Slight adverse effect on breeding birds including skylark, linnet, yellowhammer and song thrush
 - Slight adverse effect on barn owl
 - Slight adverse effect on wintering birds
 - Slight adverse effect on bats
 - Slight adverse effect on badger
 - Slight adverse effect on otter
 - Slight adverse effect on fish

- Slight adverse effect on hedgehog, brown hare and polecat

5.5.3 The Scheme is anticipated to have the following effects (worst adverse effects only reported), excluding neutral only effects, during the operation phase, assessed as not significant in accordance with DMRB LA 108:

- Slight adverse effect on Combe Pool SSSI
- Slight adverse effect on Herald Way Marsh SSSI, LNR and LWS (Claybrookes Marsh)
- Slight adverse effect on Willenhall Wood LNR, LWS and ancient woodland (irreplaceable habitat)
- Slight adverse effect on Gainford Rise LWS
- Slight adverse effect on Stretton Croft LWS
- Slight adverse effect on Coombe Abbey LWS
- Slight adverse effect on Piles Coppice LWS and ancient woodland (irreplaceable habitat)
- Slight adverse effect on Lower Sowe Meadows LWS
- Slight adverse effect on Stonebridge Meadows LNR and LWS
- Slight adverse effect on irreplaceable habitat ancient woodland and veteran trees (including veteran tree in Piles Coppice)
- Slight adverse effect on GCN
- Slight adverse effect on breeding birds, including skylark, linnet, yellowhammer and song thrush
- Slight adverse effect on barn owl
- Slight adverse effect on wintering birds
- Slight adverse effect on bats
- Slight adverse effect on badgers
- Slight adverse effect on otters
- Slight adverse effect on other notable species including hedgehog, brown hare and polecat

5.5.4 There would be no residual significant effects upon ecological features as a result of the Scheme during either construction or operation. Table 8-24 of ES Chapter 8 (Biodiversity) (**REP5-002**) summarises the assessment of significance of effects of the Scheme upon ecological features.

5.5.5 The Scheme provides a biodiversity mitigation area, which is a triangular shaped area of land to the east of the A46 immediately north of Combe Pool SSSI, which was identified at the options selection stage for compensatory planting, which is a type of mitigation involving the planting of new trees to directly replace those lost elsewhere within the Order Limits. The location has been chosen as it provides the greatest opportunity for habitat connectivity with the SSSI and associated woodland habitats, and will benefit the same habitats and species affected, so it is the most suitable location to replace the habitat types being lost. It also enables future maintenance to be facilitated

by Coventry City Council as part of the Coombe Abbey Country Park Estate. Locations elsewhere would not provide these benefits. Habitat creation multipliers within the Statutory Biodiversity Metric have been used as guidance to determine the appropriate area of mitigation planting. Early discussions with Coventry City Council were held to discuss this mitigation area being managed as part of Coombe Abbey Country Park. Further information is provided in ES Chapter 8 (Biodiversity) (**REP5-002**).

- 5.5.6 The Applicant was asked about maintenance agreements for this mitigation area and the final position in the 31 July 2025 Rule 17 Letter (**PD-009**). The Applicant provided a response at Deadline 5 (**REP5-021**) and clarified that Coventry County Council has agreed in principle to taking ownership of the mitigation wedge subject to agreeing terms and conditions such as a commuted sum. A maintenance schedule will therefore be produced at the detailed design stage.
- 5.5.7 Whilst land for mitigating the impacts of the Scheme can be included within the Order Limits and DCO application, any other landowner's land solely required for BNG cannot. At the time of the DCO application (Autumn 2024) there was no statutory requirement to provide for BNG for Nationally Significant Infrastructure Projects (NSIPs). However National Highways' organisational objective currently requires the Scheme to provide 10% BNG. The mitigation areas within the Scheme have been calculated for BNG and can provide the required 10% target. Reviews will be undertaken during detailed design to ensure the target is met. Further information on BNG is provided in ES Appendix 8.1 (Biodiversity Net Gain Report) (**APP-076**).
- 5.5.8 Concern over the impacts of the Scheme on biodiversity was an area of focus in the Relevant Representation received from the Environment Agency (**RR-012**), and at ISH 1 (see (**EV4-001**) the ExA wanted to better understand the effectiveness of the site-specific mitigation techniques the Applicant will use to reduce noise impacts upon Combe Pool SSSI, during the construction stage and operation stages. The Applicant responded at ISH 1 to the questions from the ExA and followed up with written responses in the Applicant's Summary of Issue Specific Hearing 1 (**REP1-031**).
- 5.5.9 At Deadline 3, ES Chapter 8 (Biodiversity) (**REP3-012**) was updated with regards to noise mitigation and was also updated with regards to lighting impacts on fish and air quality impacts upon ecological features.
- 5.5.10 The Applicant has liaised with Natural England regarding the noise impacts of the Scheme on Combe Pool SSSI and sought to reach agreement on construction and operational noise. At Deadline 3, the Applicant submitted an ES Addendum - Construction Noise Impacts at Combe Pool SSSI (**REP3-045**). This ES addendum concludes that the mitigation measures do not give rise to new or materially different environmental effects already reported in the ES, except for biodiversity, and that with mitigation, including the installation of a temporary noise barrier, there is a reduction in the significance of effect from that reported in ES Chapter 8 (Biodiversity) (**REP3-012**) for breeding and wintering waterbirds during construction from noise. Further mitigation to be employed alongside the noise mitigation barrier during the construction phase, includes that the Applicant, as part of the Second Iteration EMP, will produce an Ornithological Noise Monitoring at Combe Pool SSSI Method Statement, that will provide full details of the

monitoring mitigation and will be secured through Commitment BD10 of the REAC (**TR010066/APP/6.5A Rev 4**), compliance with which is secured through Requirement 4 of the draft DCO (**TR010066/APP/3.1 Rev 4**). The change in effects for biodiversity are reported in the update to ES Chapter 8 (Biodiversity) (**REP3-012**), resubmitted at Deadline 3. The details of the correspondence between the Applicant and Natural England are presented within the SoCG with Natural England (**TR010066/EXAM/8.11 Rev 3**).

- 5.5.11 In addition, at ISH 1 (see **EV4-001**) the ExA wanted to gain a deeper understanding of a number of topics related to biodiversity including the woodland creation proposals, the impacts of unnatural lighting on Combe Pool, water course and detention basin enhancements, and green engineering methods. The ExA also referred to the Environment Agency Relevant Representation (**RR-012**), which the Applicant responded to in the Applicant's Response to Relevant Representations (**REP1-021**), during the ISH 1, and in the Applicant's Summary of Issue Specific Hearing 1 (**REP1-031**). The Applicant has been able to work through issues with the Environment Agency in relation to biodiversity, as presented within the SoCG with Environment Agency (**REP5-016**), and all matters are 'agreed'.

5.6 Geology and Soils

- 5.6.1 Assessment of the Scheme's construction and operational impacts on geology and soils is presented in ES Chapter 9 (Geology and Soils) (**REP4-008**).
- 5.6.2 Only minor evidence of contamination from historical activities was recorded during the site investigation and no special remedial activities are recommended for the Scheme.
- 5.6.3 Minor impact from ground contamination was identified in the Ground Investigation (GI) work and hence there is limited potential for construction activities to mobilise contaminants within the underlying soils or introduce contaminants which may potentially harm human health or environmental receptors such as Smite Brook and Combe Pool. Potentially harmful construction activities will be identified, controlled and mitigated by measures set out in the First Iteration EMP (**TR010066/APP/6.5 Rev 4**) and will be detailed in the Second Iteration EMP and via the detailed design of the Scheme.
- 5.6.4 The delivery of the Scheme results in the permanent and temporary land take of some Grade 1 and Subgrade 3a agricultural land, which is considered to be Best and Most Versatile (BMV) land, as well as some Subgrade 3b agricultural land which is considered non-BMV land.
- 5.6.5 A Soil Handling Management Plan (SHMP) will be developed as part of the Second Iteration EMP to help preserve land quality on the temporary land take areas, and to make effective reuse of the soils taken from the areas of permanent land take. Provided that the mitigation and monitoring measures are effective, and areas of temporary land take are restored back to their former condition, the long-term residual effects on agricultural soils would be limited to the permanent loss of agricultural land. The permanent loss of Grade 1 land is considered to be of large adverse significance, the permanent loss of Subgrade 3a and Subgrade 3b agricultural land is considered to be of moderate adverse significance of effect.

- 5.6.6 The operational phase of the Scheme results in a reduced potential for harm as the underlying soils are no longer exposed or disturbed, effectively breaking potential pathways to receptors, and presents no further impacts to agricultural soils.
- 5.6.7 Natural England submitted a Relevant Representation (**RR-010**) in which they were concerned about BMV and monitoring and reporting, the Applicant provided more information to them, and they were satisfied and welcomed the proposal for the SHMP. The SHMP will include a Soil Resource Plan and a Soil Handling Strategy and will be secured via commitment GS3 in the First Iteration EMP (**TR010066/APP/6.5 Rev 4**).
- 5.6.8 The Applicant was asked final questions about soils and BMV in the 31 July 2025 Rule 17 Letter (**PD-009**), and was asked to provide a clear position in the SoCG with Natural England (**REP4-022**) with regards to monitoring and reporting of soil reinstatement and its return to agricultural use. The Applicant responded to the 31 July 2025 Rule 17 Letter (**PD-009**) at Deadline 5 and the Applicant worked on a SoCG with Natural England (**TR010066/EXAM/8.11 Rev 3**) in which geology and soils was one of the issues discussed and resolved by Deadline 5, marked as 'agreed' in the SoCG.
- 5.6.9 Proposals for the monitoring of soil protection, including reinstatement and return to agricultural use, are included in section 6 of ES Appendix 9.2 (Soil Resource Plan and Agricultural Land Classification) (**APP-093**) and will be in the SHMP.
- 5.6.10 At ISH 1 (see **EV4-001**), the ExA referred to protection of soil resources and the obligations set out in section 6 of the ES Appendix 9.2 (Soil Resource Plan and Agricultural Land Classification) (**APP-093**). The ExA wanted clarification from the Applicant on how these obligations will be collated into the relevant management plans. The Applicant responded and provided a summary in the Applicant's Summary of Issue Specific Hearing 1 (**REP1-031**). To manage the impacts on soils from temporary and permanent land take, Commitment GS3 in the First Iteration EMP Annex A REAC (**TR010066/APP/6.5A Rev 4**) refers to the production of the SHMP - including a Soil Resource Plan and a Soil Handling Strategy to be included in the Second Iteration EMP. The SHMP will be in parity with the obligations in section 6 of the ES Appendix 9.2 (Soil Resource Plan and Agricultural Land Classification) (**APP-093**). ES Chapter 9 (Geology and Soils) (**APP-031**) paragraph 9.3.16 – stated “*Soil Management Plan (including a Soil Handling Management Plan)*”. This was changed to – “*Soil Handling Management Plan (SHMP) - including a Soil Resource Plan and a Soil Handling Strategy*” (to align with GS3 wording, and ES Chapter 9 (Geology and Soils) (**REP1-008**) and was resubmitted at Deadline 1.

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 ES Chapter 10 (Material Assets and Waste) (**APP-032**).
- 5.7.2 Material assets and waste have not been an area of focus. The material assets and waste aspect was scoped out in its entirety in the Environmental Scoping Report (**APP-113**) in accordance with the question-based methodology in

DMRB LA 110 Material Assets and Waste (DMRB LA 110). This scoping exercise determined there was no significant effect and thus no further assessments were required. The Scoping Opinion (**APP-114**) provided by the Planning Inspectorate on behalf of the Secretary of State agreed to scope out certain aspects.

- 5.7.3 No consultees commented on the material assets and waste aspect in their responses to the Environmental Scoping Report (**APP-113**), subsequently the Planning Inspectorate suggested confirmation was obtained from the Environment Agency and Local Authorities to scope out this aspect in its entirety. The Planning Inspectorate also requested more robust quantitative data and justification for scoping out material assets and waste, given quantities used had been based upon an earlier design. The Environment Agency confirmed that the material assets and waste aspect could be scoped out of further assessment, however, they raised concerns relating to construction works over two historical landfills. This is discussed further in section 10.4 of ES Chapter 10 (Material Assets and Waste) (**APP-032**). Efforts were made to contact Coventry City Council and Warwickshire County Council, however a definitive response as to whether this aspect could be scoped out or not was not received. Rugby Borough Council was consulted, and they agreed that material assets and waste could be scoped out of further assessment. Further details regarding the consultation undertaken are presented in the Consultation Report (**APP-115**).
- 5.7.4 ES Chapter 10 (Material Assets and Waste) (**APP-032**) has been undertaken in compliance with the Planning Inspectorate's Scoping Opinion (**APP-114**) and provides an assessment of:
- consumption of materials and products (from primary, recycled or secondary, and renewable sources), the use of materials offering sustainability benefits;
 - and the use of excavated and other arisings that fall within the scope of waste exemption criteria (see ID 3.6.3 and 3.6.4 in ES Appendix 4.1 Scoping Opinion Response (**APP-061**)).
- 5.7.5 The potential impacts of the Scheme from the use of material resources were assessed against the baseline information on construction material assets generated by the relevant authorities, based on predicted regional demand projections.
- 5.7.6 Design, mitigation and enhancement measures will be implemented during construction and controlled through the Second Iteration EMP, in accordance with the requirements in the First Iteration EMP (**TR010066/APP/6.5 Rev 4**).
- 5.7.7 Overall, the recycled content of the materials used is predicted to be in excess of the regional target of 28%. If 'good practice' is achieved during construction, it is anticipated that an overall recycled content of 53% can be reached.
- 5.7.8 In addition, it has been estimated that the Scheme has the potential to incorporate a recovery rate of 95% for construction and demolition waste (CDW), which exceeds the Government's recovery target of 70% (DMRB target of 90%).
- 5.7.9 The assessment has concluded that the environmental effects on material assets of constructing the Scheme are likely to be slight adverse after the

application of the design and mitigation measures outlined in section 10.10 of ES Chapter 10 (Material Assets and Waste) (**APP-032**). Based on the DMRB LA 110 significance criteria provided in Table 10.5 of ES Chapter 10 (Material Assets and Waste) (**APP-032**), this would result in no significant adverse effects.

- 5.7.10 In the Examining Authority's First Written Questions (**PD-008**), the ExA asked questions about materials and waste. The main questions were in regard to: a commitment to recovering at least 70% (by weight) of non-hazardous construction and demolition waste; disposal sites, predictions of quantities of hazardous waste; and management plans. The Applicant responded to these in the Applicant's Response to the Examining Authority's First Written Questions (**REP3-004**). The Applicant was asked no further questions about materials and waste in the 31 July 2025 Rule 17 Letter (**PD-009**).

5.8 Noise and Vibration

- 5.8.1 Assessment of the Scheme's construction and operational impacts on noise and vibration is presented in ES Chapter 11 (Noise and Vibration) (**REP3-014**) and ES Appendix 8.16 (Assessment of Noise Impacts on Ecological Features) (**REP3-027**). Noise impacts on biodiversity are presented in ES Chapter 8 (Biodiversity) (**REP5-003**).

- 5.8.2 As part of the assessment, a baseline noise survey was undertaken in February and March 2024 to gain an understanding of the existing noise climate within the vicinity of the Scheme. The long-term measurement positions correlated well with the predicted values at those locations. No adjustments to the noise model were considered necessary based on the findings of the survey.

- 5.8.3 A construction noise assessment has been undertaken, identifying that adverse impacts that are likely to constitute significant effects would occur without mitigation at some of the receptors closest to construction works. Suitable means of minimising the potential for significant adverse effects have been presented, including the provision of temporary acoustic barriers. It is also necessary for the Principal Contractor to carry out further detailed construction noise assessments for overnight or weekend works where these could affect sensitive receptors for 10 or more days or nights, in any 15 consecutive days or nights. Where all mitigation is implemented effectively, significant residual construction noise effects will be reduced but may still occur. Furthermore, there are receptors that could experience significant effects due to noise from night-time or weekend works and this will also need further consideration once further detail regarding the scope and duration of these works has been defined.

- 5.8.4 An assessment of potential construction vibration impacts has identified that significant effects are not expected to occur at any residential receptors as a result of the proposed works. However, to demonstrate that Best Practicable Means have been observed, mitigation is proposed, including prior warning of residents, pre-condition building surveys, restrictions on the timings of the works, and vibration monitoring at the closest properties to these works. The Scheme is not predicted to give rise to significant vibration effects subject to monitoring and effective implementation of the identified mitigation.

- 5.8.5 A construction traffic assessment has been undertaken. It is concluded that, provided that the anticipated vehicle movements and routes are restricted as described in ES Chapter 11 (Noise and Vibration) (**REP3-014**) and defined in the Outline Traffic Management Plan (OTMP) (**REP1-014**), potential significant effects are unlikely.
- 5.8.6 Consideration has been given to the traffic diversion routes during road closures required to undertake the construction works. It is concluded that, as diversion routes will occur at night and will utilise local roads, the noise changes due to diverted traffic are highly likely to cause disturbance at receptors within 25m of the road. On this basis, mitigation measures, including use of varying routes, and advance notice to residents, are proposed.
- 5.8.7 The assessment of operational noise includes embedded mitigation in the form of a low noise surface along high-speed sections of the Scheme. The assessment of operational noise demonstrates that there are no significant adverse noise effects expected due to changes in road traffic noise. This applies to all receptors within the study area and the Noise Important Areas (NIAs) identified outside of the study area.
- 5.8.8 The assessment identifies proportionate and reasonable actions to avoid significant adverse impacts on health and quality of life from noise and vibration as a result of the Scheme, providing compliance with the main objectives of the National Planning Policy Framework, Noise Policy Statement for England, Planning Practice Guidance on noise and the NPS NN.
- 5.8.9 ES Appendix 8.16 (Assessment of Noise Impacts of Ecological Features) (**REP3-028**) details that the noise modelling for the operational phase of the Scheme has identified short term change noise levels (i.e. a change between do-minimum opening year (DMOY) and do-something opening year (DSOY)), including both reductions in noise impacting some areas of Combe Pool and increases in noise impacting other areas, impacting the Combe Pool between +3.5dB and -1.0dB. However, the area of the Combe Pool impacted by increases in noise >3dB is less than 0.01ha in size, and as such this increase beyond the recognised identifiable change threshold (i.e. 3dB) is considered to result in an insignificant impact. As a significant impact during operation is not reported, mitigation is not required.
- 5.8.10 At ISH 1 (see (**EV4-001**)) the ExA wanted to better understand the effectiveness of the site-specific mitigation techniques the Applicant will use to reduce noise impacts upon Combe Pool SSSI during the construction stage and the operation stage. The Applicant responded at the hearing and in the Applicant's Summary of Issue Specific Hearing 1 (**REP1-031**).
- 5.8.11 The Applicant 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-115**)) 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 DCO (**TR010066/APP/3.1 Rev 4**).
- 5.8.12 As detailed in section 4 above, the Applicant liaised with Natural England regarding the noise impacts of the Scheme on Combe Pool Site SSSI, and

sought to reach agreement on construction and operational noise.

- 5.8.13 The Applicant undertook further assessment into the noise impacts of the Scheme and looked at further mitigation in order to reduce noise impacts, including reviewing construction methods and programmes. At Deadline 3, the Applicant submitted an ES Addendum - Construction Noise Impacts at Combe Pool SSSI (**REP3-045**). The Addendum summarises and identifies those environmental aspects for which the assessment outcomes reported in the ES have changed as a result of the proposed mitigation measures to mitigate noise impacts upon the SSSI. The findings and conclusions of each ES Chapter have been examined. This ES addendum concludes that the installation of a temporary noise barrier results in a reduction in the significance of effect from that reported in ES Chapter 8 (Biodiversity) (**REP3-012**) for breeding and wintering waterbirds during construction from noise. No new impacts have been identified. The change in effects for biodiversity are reported in the update to ES Chapter 8 (Biodiversity) (**REP3-012**), resubmitted at Deadline 3.
- 5.8.14 At detailed design further options for mitigating the construction noise impacts on Combe Pool SSSI are being explored. The Applicant acknowledges Natural England's position that they do not agree with the conclusions of the assessment and that National Highways should enhance the environment by reducing road noise, supporting both construction phase and long-term mitigation, see the SoCG with Natural England (**TR010066/EXAM/8.11 Rev 3**).
- 5.8.15 The Applicant was asked final questions about noise mitigation and acoustic barriers in the 31 July 2025 Rule 17 Letter (**PD-009**). The Applicant was asked to explain why a permanent noise barrier was not considered as a possible embedded mitigation at this location and why a permanent noise barrier at the interface between the proposed realignment of the A46, and the Combe Pool SSSI does not currently form part of the DCO. The Applicant responded to the Rule 17 Letter (**REP5-021**) and set out its position in relation to noise in that:
- ES Chapter 11 (Noise and Vibration) (**REP3-014**) paragraph 11.10.17 details that a temporary barrier would be required throughout the construction programme. This noise barrier for construction is included within commitment NV2 of the REAC (**TR010066/APP/6.5A Rev 4**) (First Iteration EMP - Appendix A). A permanent operational noise barrier is not required as no significant effects are reported during operation in ES Chapter 11 (Noise and Vibration) (**REP3-014**).
 - A permanent barrier is not proposed as part of the DCO because ES Chapter 8 (Biodiversity) (**REP5-002**) Table 8-24 reports no significant effects on the Combe Pool SSSI during operation as a result of operational noise, therefore embedded mitigation is not required.
 - A permanent noise barrier is not proposed as it would require additional construction activities, foundations and new access tracks (to maintain the barrier during operation). These additional construction activities will increase the construction noise levels beyond what has been assessed in ES Chapter 8 (Biodiversity) (**REP5-002**). In addition, the required foundations and access track would likely impact the Combe Pool SSSI as a result of excavations that would be required within root protection zones. In addition, the provision of a maintenance access track would result in the footprint

of the Scheme encroaching into the flood zone area and triggering the requirement for flood compensation, which would likely require alterations to the Order Limits.

- 5.8.16 Overall, the Applicant's position is that additional permanent noise barriers are not required, should the Secretary of State be satisfied they are needed, proportionate and reasonable (paragraph 5.235 of the NPS NN DfT 2024), 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 ES.

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 ES Chapter 12 (Population and Human Health) (**APP-034**). 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); and
- Human health, which considers potential effects on population health linked to impacts on several determinants of health.

- 5.9.2 Overall, impacts on population and human health are predominately non-significant once the Scheme is operational.

- 5.9.3 Potential impacts of the Scheme during construction include disruption to accessing private property and housing, community land and assets and development land and businesses due to road closures and construction traffic, and disruption to WCH route use. A Construction Traffic Management Plan (CTMP) will be in place to mitigate construction traffic and road closure related impacts in accordance with the Outline Construction Traffic Management Plan (OTMP) (**REP1-014**).

- 5.9.4 During construction there are anticipated to be Very Large adverse effects on Hungerley Hall Farm in relation to access and infrastructure; and Moderate adverse effects on land take and on impacts to farming activities. There are also anticipated to be Large adverse effects at Walsgrave Hill Farm Partnership in relation to access and infrastructure. For WCH users, the temporary closure of the uncontrolled pedestrian crossing facility on the B4082 eastern arm of the Clifford Bridge Road roundabout would result in Moderate adverse effects. During operation there are anticipated to be some changes to access for private property and housing, community land and assets and businesses. This will result in some changes to journey lengths, however it is not anticipated that this would be significant.

- 5.9.5 During operation there are anticipated to be Moderate adverse effects on Hungerley Hall Farm in relation to farming activities, access and infrastructure and permanent land take. There are anticipated to be Moderate adverse effects on Walsgrave Hill Farm Partnership during operation in relation to

farming activities, Moderate adverse effects on access and infrastructure and Slight adverse effects on permanent land take. Some Slight beneficial effects are expected at Hungerley Hall Farm and Walsgrave Hill Farm Partnership in relation to environmental considerations at the farms, such as the potential for agri-environmental schemes and increased habitat areas supporting beneficial insects for pollination and pest control. For WCH users, there would be beneficial impacts during operation. The new signalised pedestrian crossing facility on the eastern arm of the Clifford Bridge Roundabout would provide safety benefits facilitating north to south movement across the B4082, resulting in a beneficial effect.

- 5.9.6 Incorporating mitigation outlined in ES Chapter 5 (Air Quality) (**REP3-010**), ES Chapter 7 (Landscape and Visual Effects) (**APP-029**), ES Chapter 9 (Geology and Soils) (**REP4-008**), and ES Chapter 11 (Noise and Vibration) (**REP3-014**), the majority of health outcomes are deemed to be Neutral or Positive during construction and operation. The exception is effects due to construction noise and construction traffic, which may result in a significant effect and therefore a Negative health outcome, albeit temporary.
- 5.9.7 At ISH 1 (see **EV4-001**), the ExA wanted a further understanding of the development of the WCH routes in the vicinity of the A46, and possible future connections across the trunk road and asked questions of both the Applicant and local highway authorities. The Applicant confirmed its position that the Scheme will not worsen existing connectivity points in the area. In addition, the introduction of a new signalised crossing of the B4082 road as part of the Scheme will improve connectivity in the area. The Applicant has been in discussions with Coventry City Council (see the SoCG with Coventry City Council (**TR010066/EXAM/8.6 Rev 3**)). To enable continued access for farm vehicles via the bridge, the vertical alignment of the B4082 had to be raised, and a crossing of the B4082 incorporated into the design. Upon review of the design, and considering the obligations of the NPS NN to consider enhancement opportunities for active travel (paragraph 4.72), and to address concerns raised by the Local Authorities and other stakeholders, it was recognised that this modification could incorporate provision for a future WCH route along the B4082, utilising the accommodation bridge rather than a longer route around the junction, which would be less desirable for WCH users and the operation of the junction. This concept, in addition to the retention of the Hungerley Hall Farm accommodation bridge, was discussed with Coventry City Council and other stakeholders, with the aim of promoting local improvements for active travel that would remove the need for additional land acquisition and significant changes at a later stage, reducing the overall cost to the public purse.
- 5.9.8 Coventry City Council has advised that this future route will feature in its LCWIP, due to be produced later in 2025. Demand for it is likely to increase as development land to the west of the A46 is brought forward for housing (see paragraph 12.8.3 of ES Chapter 12 (Population and Human Health) (**APP-034**)). Furthermore, the passive provision of the WCH route in the verge area has a purpose of improving the Scheme's earthworks cut and fill balance. Raising the B4082 reduces the amount of cut material generated and as such more material would need to be imported; by incorporating the WCH route, this impact is mitigated as more cut is generated meaning less

imported fill. This contributes to a reduction in vehicle movements associated with material import and helps reduce the overall carbon footprint of the Scheme's construction and construction traffic on the surrounding transport network.

- 5.9.9 The Applicant considers that all reasonable opportunities for connecting communities and enabling future active travel provision, including to other local schemes under development, have been explored. Details of the design mitigation and enhancement measures are shown on ES Figure 12.3 (Design mitigation and enhancement measures) (**APP-058**).
- 5.9.10 The Applicant was asked final questions about WCH provision in the 31 July 2025 Rule 17 Letter (**PD-009**). From Rugby Borough Council's position, the ExA understood that it is seeking funding from the Applicant towards improvements to provide better connectivity between Coombe Abbey and Coventry and wanted to understand what progress was being made and the final position. As shown in the SoCG (**TR010066/EXAM/8.8 Rev 3**), Rugby Borough Council remained of the position throughout the majority of examination that the Applicant should provide Development Consent obligation agreements to improve other PRoW in the area (not within the Order Limits). However, as set out in point 5 of the SoCG (**TR010066/EXAM/8.8 Rev 3**), provided the Scheme secures the necessary land and makes the necessary passive provision to enable a new pedestrian and cycle route to Coombe Abbey to be delivered, Rugby Borough Council said that contributions to LCWIP scheme Cy05 in addition would be unnecessary. The Applicant confirmed in the Applicant's Response to the 31 July 2025 Rule 17 Letter (**PD-009**) and the SoCG (**TR010066/EXAM/8.8 Rev 3**) that it welcomes Rugby Borough Council's view that the DCO as applied for will provide the necessary land and passive provision to address this issue. In the unlikely event that the DCO that is granted does not contain such provisions, the Applicant will continue to work with Rugby Borough Council but does not agree that contributions to LCWIP scheme Cy05 should be provided as a fallback. Rugby Borough Council recognises that National Highways do not agree that such contributions would be justified, and therefore this issue remains as 'not agreed' in the final SoCG (**TR010066/EXAM/8.8 Rev 3**).

5.10 Road Drainage and the Water Environment

- 5.10.1 No significant effects were identified for surface water, hydromorphology and flood risk during construction and operation of the Scheme. The assessment of the Scheme's construction and operational impacts on the water environment are presented in ES Chapter 13 (Road Drainage and the Water Environment) (**APP-035**). The assessment considers surface water, groundwater and 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.
- 5.10.3 The construction, operation and use of the Scheme is expected to increase the risk of contaminant runoff into watercourses if not mitigated. As well as this, the Scheme is expected to increase the risk of flooding to the Scheme and nearby receptors. These risks have been assessed throughout ES Chapter 13 (Road Drainage and the Water Environment) (**APP-035**) and their applicable appendices to assess these risks both prior to and following

mitigation. It is considered that the Scheme will only bring about slight adverse impacts to the surface water environment which was identified as a worst-case scenario.

- 5.10.4 Groundwater quality and routine runoff assessments were completed in ES Appendix 13.4 (Groundwater Assessment) (**APP-104**) to assess the risks of impacts upon groundwater quality from unlined road drainage. It was identified that road runoff poses a potential risk to groundwater receptors in terms of water quality. The use of filter drains, and unlined drainage ditches, will therefore require further reassessment at the detailed design stage and consultation with the Environment Agency to confirm the risk due to the presence of shallow groundwater across the Scheme.
- 5.10.5 ES Appendix 13.4 (Groundwater Assessment) (**APP-104**) considered potential hydraulic links between the Scheme and a designated site, Herald Way Marsh SSSI, to the south, and concluded negligible risk to the site in terms of groundwater quality and quantity due to significant distance from construction and operational activities, and embedded mitigation in the form of lined drains south of the Smite Brook culvert.
- 5.10.6 Therefore, the Scheme is not expected to give rise to significant adverse (moderate or greater) residual effects during the construction or operational phases and will comply with local, regional, and national policies. The outcome of this assessment is based on the mitigation measures described in ES Chapter 13 (Road Drainage and the Water Environment) (**APP-035**) which shall be managed through the implementation of the Second Iteration EMP which is secured under Requirement 4 of Schedule 2 of the draft DCO (**TR010066/APP/3.1 Rev 4**).
- 5.10.7 Plans of the drainage scheme were submitted as part of the DCO application - Drainage and Surface Water Plans (**APP-018**).
- 5.10.8 In response to advice received from the Planning Inspectorate under section 51 of the Planning Act 2008, the Applicant submitted a technical note added as Appendix G to ES Appendix 13.1 (Flood Risk Assessment) (**AS-012**). Flood Zone (FZ) 3 is defined as the 1 in 100-year flood extent. This can also be referred to as FZ3a. In order to define the FZ3b extent, a 1 in 30- year flood event had to be simulated, which was done as part of the technical note. Section 10 of the Flood Risk Assessment (**AS-012**) was amended to respond to the section 51 advice and provide reference to Annex G and was also amended to provide further clarity regarding there being no requirement for floodplain compensation.
- 5.10.9 As set out in section 4.2 and the SoCG with Coventry City Council (**TR010066/EXAM/8.6 Rev 3**), the Applicant proactively engaged with Coventry City Council in relation to the drainage strategy. This included discussing the location of the balancing ponds and flood risk assessment.
- 5.10.10 Coventry City Council were concerned about the assessment of residual risk associated with failure of Coombe Pool reservoir. This relates to concerns over the potential impacts on flood risk associated with changes to the A46 embankment on the boundary between the A46 and Coombe Pool, and Coventry City Council forwarded a sub-licence agreement to National Highways from the Environment Agency to facilitate the use of the Coombe Pool Breach Model to understand better the risks to the A46. However, with

regard to the issue of reservoir flooding, the Applicant considers that as Coombe Pool is classed as a reservoir under the Reservoirs Act 1975, it is subject to regular inspection and maintenance. It is considered that the residual risk from the reservoir is safely managed, as the Coventry City Council emergency planner would already have an emergency plan in place to manage the risk of reservoir flooding, and that this should be sufficient to manage the risk post-Scheme. The Environment Agency in their role as a statutory planning consultee and the relevant and enforcement authority under the Reservoirs Act 1975 agreed with the findings of the Flood Risk Assessment (RW.1.2 of **REP3-051**), in that the Scheme does not pose flood risk to itself and does not exacerbate flooding issues for other areas downstream. Therefore, there is no requirement for the submission of further information.

- 5.10.11 The Applicant was asked final questions about the Coombe Pool Breach Model – Sub-licence Agreement in the 31 July 2025 Rule 17 Letter (**PD-009**) and has provided a response in line with the above justification at Deadline 5 (see Applicant's Response to the Examining Authority's Rule 17 Letter 31 July 2025 (**REP5-021**)).
- 5.10.12 Proactive engagement will continue with Coventry City Council in relation to these matters in the post Examination phase as part of anticipatory steps towards discharge of requirements.
- 5.10.13 The Applicant was also asked final questions about the water pollution risk in the 31 July 2025 Rule 17 Letter (**PD-009**) and has provided a response at Deadline 5 (**REP5-021**). The Applicant confirms it has consulted with Natural England and received details of the information Natural England required. The Applicant provided additional information on water quality impacts to Natural England as detailed in the SoCG with Natural England (**TR010066/EXAM/8.11 Rev 3**).

5.11 Climate

- 5.11.1 Assessment of the Scheme's construction and operational impacts on climate is presented in ES Chapter 14 (Climate) (**REP-036**). 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.
- 5.11.2 A baseline assessment using the National Highways Carbon Forecasting Tool (v2.5.1) has been carried out as part of the development of the Scheme. This has allowed for the consideration of carbon throughout the design process, resulting in the development of a carbon baseline from which further reductions may be made as part of the detailed design stage and through opportunities during the construction phase.
- 5.11.3 The construction, operation and use of the Scheme is predicted to increase carbon emissions by approximately 377,791 tCO₂e over the appraisal period of 60 years (up to 2087). However, the contributions of the Scheme to the UK's carbon budget for the relevant carbon budget periods are not significant, less than 0.003% (including embedded mitigation within current design), and therefore it can be concluded that the GHG emissions impact of the Scheme would not have any material impact on the UK Government meeting its legally

binding carbon reduction targets.

- 5.11.4 The vulnerability of Scheme assets to projected changes in climate during operation has been assessed, and the Scheme has been deemed resilient to the current projections. Therefore, no significant effects as a result of climate change are anticipated.
- 5.11.5 In the Examining Authority's First Written Questions (**PD-008**), the ExA asked the Applicant questions about climate policy, GHG emissions and cumulative climate effects. There was an error in ES Chapter 15 (Combined and Cumulative Effects) (**REP3-016**) when referring to information in ES Chapter 14 (Climate) (**APP-036**), therefore ES Chapter 15 was updated at Deadline 3 to correct this error.
- 5.11.6 There were also questions about the assessment and mitigation in ES Chapter 14 (Climate) (**REP3-016**). The mitigation measures have been applied in accordance with the carbon emissions reduction hierarchy of PAS 2080:2023 (Commitment RD1 of the REAC (**TR010066/APP/6.5A Rev 4**)) and DMRB LA104. As part of the preliminary design stage, consideration was made to reduce the carbon emissions in accordance with PAS 2080:2023 and DMRB LA 104, and the mitigation design measures taken are detailed in paragraphs 14.10.9 – 14.10.10 of ES Chapter 14 (Climate) (**REP-036**). Further opportunities to reduce the carbon impact of the Scheme will be undertaken at the detailed design stage and will be reported within the Carbon Management Plan as part of the Second Iteration EMP, which will be secured through Requirement 4 of the draft DCO (**TR010066/APP/3.1 Rev 4**).
- 5.11.7 The Applicant has considered the impacts of climate change within the design to ensure the climate resilience of the Scheme. The new drainage infrastructure proposed under the Scheme has been designed and modelled using a 20% uplift in rainfall intensity for the effects of climate change (ES Appendix 13.6 (Drainage Strategy Report) (**APP-106**), section 3.3).

Greenhouse gas emissions

- 5.11.8 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 B.8 of the First Iteration EMP (**TR010066/APP/6.5 Rev 4**)), 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, 2024).

Positions on recent legal judgements

- 5.11.9 During the Examination the Applicant submitted a review of the implications for the findings of the environmental assessment undertaken for the Scheme for the: 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]).
- 5.11.10 The Applicant submitted a review of the implications of this judgement at

Deadline 5 (**REP5-022**) (*Applicant's response to R (on the application of Finch on behalf of the Weald Action Group) (Appellant) v Surrey County Council and others (Respondents)*) 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, that there are no implications for the climate assessment, and no different emissions need to be accounted for other than those reported in the ES.

5.12 Cumulative Effects

- 5.12.1 The assessment of cumulative effects undertaken for the Scheme is presented in ES Chapter 15 (Combined and Cumulative Effects) and was updated at Deadline 3 (**REP3-016**). 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 ES.
- 5.12.2 The Applicant submitted at DCO submission ES Figure 15.1 (Cumulative Effects Shortlisted Developments) (**APP-060**) and ES Appendix 15.1 (Cumulative Effects Long and Short List) (**APP-107**), to accompany ES Chapter 15 (Combined and Cumulative Effects) (**REP3-016**).
- 5.12.3 In summary, as a result of the residual effects of the Scheme as a single project, it is anticipated that there may be two significant cumulative effects during construction, in relation to Hungerley Hall Farm and Combe Pool SSSI. Combined effects on Combe Pool SSSI are also discussed in ES Chapter 8 (Biodiversity) (**REP5-002**).
- 5.12.4 During operation, as a single project it is anticipated that there may be significant cumulative effects on Hungerley Hall Farm, due to visual effects in both Year 1 and Year 15 of operation, and impacts on farming, in relation to permanent land take, access and infrastructure disruption and farming activities.
- 5.12.5 Two developments met the criteria for inclusion in the short list of developments in ES Appendix 15.1 (Cumulative Effects Long and Short List) (**APP-107**). It is not anticipated that the Scheme would result in any significant cumulative effects with these schemes. Whilst there are mutual receptors identified for landscape and visual and biodiversity, it is not anticipated that these would give rise to a significant cumulative effect.
- 5.12.6 In the Examining Authority's First Written Questions (**PD-008**), the ExA asked the Applicant to explain the steps that would be taken to keep information about other developments that are relevant to the cumulative effects assessment (ES Chapter 15 (Combined and Cumulative Effects) (**REP3-016**)) under review. The Applicant responded that the uncertainty log on which the cumulative effects assessment is based (in combination with a search of relevant local authority planning portals and consultation) will be updated during the detailed design stage to facilitate updated traffic modelling. Any changes will be reported in the Evaluation of Change Register (EoCR) and assessed if required. The Applicant continues regular discussion with the local authorities on matters that may be relevant to this Scheme.

- 5.12.7 In the Examining Authority's First Written Questions (**PD-008**), the ExA queried whether the ES Chapters were accurate, because in ES Chapter 14 (Climate) (**APP-036**) it was indicated that additional details regarding the cumulative effects of climate were found in ES Chapter 15 (Combined and Cumulative Effects) (**APP-037**); however, this merely directed the reader to ES Chapter 14. The Applicant subsequently updated ES Chapter 15 (Combined and Cumulative Effects) (**REP3-016**) at Deadline 3, to include a paragraph to rectify this.

5.13 Environmental Management Plan

- 5.13.1 The Applicant submitted and has updated the First Iteration EMP (**TR010066/APP/6.5 Rev 4**). The First Iteration EMP (**TR010066/APP/6.5 Rev 4**) 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 EMP (**TR010066/APP/6.5 Rev 4**) 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 REAC (**TR010066/APP/6.5A Rev 4**) which sets out mitigation measures proposed in the ES 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 REAC (**TR010066/APP/6.5A Rev 4**) to refine commitments and also secure additional commitments in response to submissions made during the Examination.
- 5.13.3 The First Iteration EMP (**TR010066/APP/6.5 Rev 4**) 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.
- 5.13.4 Following the Secretary of State's approval of the DCO for the Scheme, the First Iteration EMP (**TR010066/APP/6.5 Rev 4**) will be updated, to reference specific requirements relating to the various phases of construction. Management plans will be prepared or refined as part of the Second Iteration EMP.
- 5.13.5 The following management plans were added at Deadline 1 in the First Iteration EMP (**REP1-010**) to the list of Management Plans prepared as part of the Second Iteration EMP:
- Traffic Management Plan
 - Scheme Asbestos Management Plan
 - Pollution Incident Control Plan
- 5.13.6 The First Iteration EMP (**TR010066/APP/6.5 Rev 4**) will be developed into the Second Iteration EMP once the detailed design has been finalised (subject to DCO being granted). The Second Iteration EMP 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.

- 5.13.7 On completion of construction, a Third Iteration EMP will be prepared for the operational and maintenance phase of the Scheme.
- 5.13.8 The Applicant notes that there are no unresolved positions or matters not agreed with Interested Parties in respect of the First Iteration EMP (**TR010066/APP/6.5 Rev 4**) including the REAC (**TR010066/APP/6.5A Rev 4**). There are also no unresolved positions or matters not agreed in respect of the later iterations secured by Requirement 4 of the draft DCO (**TR010066/APP/3.1 Rev 4**).

6 Other Matters

6.1 Case for the Scheme

- 6.1.1 The Case for the Scheme (**REP3-036**) 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 Plans. It also provides details of the traffic assessment and related economic analysis on which the need for the Scheme is based. The Applicant submits that nothing during the Examination altered the conclusion that there is a compelling case for the Scheme to go ahead.

National Networks National Policy Statement (NPS NN) Accordance

- 6.1.2 The Scheme's application for development consent was accepted for Examination on the 12 December 2024.
- 6.1.3 The application for development consent was accepted after the new NPS NN was designated on 24 May 2024. Therefore, the Scheme has been assessed and examined against this version of the NPS NN.
- 6.1.4 The documents that were accepted for Examination included accordance tables (**APP-133**) which assessed the Scheme against the NPS NN.

National Planning Policy Framework

- 6.1.5 The Ministry of Housing, Communities & Local Government published a revised National Planning Policy Framework (NPPF) on Thursday 12 December 2024. Although the Applicant has not been asked during the Examination, the Applicant does not consider that the revisions to the NPPF have any implications for the Examination of this application.
- 6.1.6 The Applicant notes 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's position on Green Belt is set out in the Case for the Scheme (**REP3-036**) and the Applicant's Responses to the Examining Authority's First Written Questions (**REP3-044**) (response to question LV.1.3).

Rugby Borough Council Local Plan

- 6.1.7 Following acceptance of the application for the DCO, the Preferred Option Draft and Consultation Documents were published by Rugby Borough Council on 24 March 2025 and the Council invited comments on this until 19 May 2025.
- 6.1.8 The Case for the Scheme (**REP3-036**) submitted as part of the DCO application was updated at Deadline 1 (**REP1-012**) of the Examination to update section 6 relating to Rugby Borough Council Local Plan. However, as this was in relation to the Local Plan Regulation 18 consultation, it was considered the draft policies did not currently carry material weight in planning decisions. In their Local Impact Report (**REP1-039**), Rugby Borough Council stated: *"It is not considered that proposed allocations in the Regulation 18 consultation document can be given weight in decision-making."*

Coventry City Council Local Plan

- 6.1.9 Following acceptance of the application for the DCO, Coventry City Council consulted on the Local Plan Review (Regulation 19 Proposed Submission) stage between 20 January and 3 March 2025. They are carrying out a full review which means that they are reviewing every policy to see what requires changing and why, and whether there are any new policies they should be introducing. To ensure clarity and to avoid unnecessary duplication, the Council is proposing to merge the Local Plan and the Area Action Plan into a single document. In line with national legislation, some policies have now been identified as Strategic Policies: as set out in Planning Practice Guidance (March 2019) these are the ones that address the priorities for an area. Non-strategic policies deal with more detailed matters. It is considered that the Scheme adheres to the draft updates to the Local Plan policies and to the new draft policies.
- 6.1.10 The Case for the Scheme (**REP3-036**) submitted as part of the DCO application was updated at Deadline 1 (**REP1-012**) of the Examination to update section 6 relating to Coventry City Council Local Plan. However, Coventry City Council consider the Regulation 19 draft policies did not currently carry material weight in planning decisions, as confirmed their Local Impact Report (**REP1-039**).
- 6.1.11 The application documents therefore demonstrate overall compliance with the most up to date planning policy relevant to the Scheme.

6.2 Transport Assessment

- 6.2.1 The Transport Assessment (**APP-134**) provides information relating to the transport analysis that has been undertaken as part of the development of the Scheme. The Transport Assessment (**APP-134**) 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 At a regional and local level, the Scheme will assist in delivering the required and supported key infrastructure which is essential to fluid connectivity and facilitating new housing and business developments, and support existing residential and commercial communities in the local area and wider region. The results of the modelling assessment show the Scheme fulfils its objectives by providing capacity, relieving congestion, improving journey times and increasing accessibility for the local communities. In terms of operational traffic impacts on the highway network, the modelling assessment shows the Scheme is operating successfully with 2043 forecasted demand. The junction improvements provided by the Scheme generate benefits with respect to congestion relief as well as road safety as it leads to a decrease in overall accidents.
- 6.2.3 During ISH 1 on 8 May 2025, the Applicant responded to questions relating to the Transport Assessment (**APP-134**), specifically traffic modelling sensitivity testing and local road changes. The Applicant also provided a summary of its responses at the hearing in the Applicant's Summary of Issue Specific Hearing 1 (**REP1-031**). The Applicant was also asked a question on the Transport Assessment (question TT.1.1) in Examining Authority's First Written Questions

(**PD-008**), and responded to this in the Applicant's Responses to the Examining Authority's First Written Questions (**REP3-044**). The Applicant has not updated the Transport Assessment (**APP-134**) during Examination.

6.3 Outline Traffic Management Plan

- 6.3.1 The Outline Construction Traffic Management Plan (OTMP) (**REP1-014**) sets out measures to manage traffic on construction site activities, including diversions for walkers, cyclists and horse riders. The key aim of the OTMP 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 11 of the draft Development Consent Order (**REP3-004**) a Traffic Management Plan based on the OTMP (**REP1-014**) must be approved prior to commencement, following consultation with the relevant highways authority.

6.4 Good Design

- 6.4.1 The Case for the Scheme (**REP3-036**) and the National Policy Statement for National Networks Accordance Tables (**APP-133**), 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-135**) 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 ExA raised questions relating to design in the Examining Authority's First Written Questions (**PD-008**). The Applicant submitted responses in the Applicant's Responses to the Examining Authority's First Written Questions (**REP3-044**). Overall, while some changes to the landscape will occur, the Scheme aims to maintain the area's character and biodiversity, making a positive contribution to the local landscape and beyond.
- 6.4.4 As discussed in Table 3-1 of the Scheme Design Report (**APP-135**) and the National Infrastructure Commission Design Group's Design Principles for National Infrastructure, page 4, good design enhances local culture and character while supporting local ecology, delivering net biodiversity gain and protecting wildlife corridors, as well as irreplaceable natural assets and habitats. In the Scheme Design Report (**APP-135**), section 4, "Principles of Good Road Design," Table 4-1 outlines how these design principles have been applied to the Scheme. This is further illustrated in the ES Figures, specifically ES Figure 2.4 (Environmental Masterplan), sheets 2 to 4 (**APP-043**). These design elements align with the objectives to integrate the Scheme into the surrounding landscape character and minimise visual intrusion.
- 6.4.5 The design principles are set out in the Applicant's Scheme Design Report (**APP-135**), to ensure that the detailed design for the Scheme is compatible with the preliminary Scheme design, subject to the commitments secured in the draft DCO (**TR010066/APP/3.1 Rev 4**). Detailed design is secured by Requirement 3 of the draft DCO (**TR010066/APP/3.1 Rev 4**).

7 Conclusion and Planning Balance

- 7.1.1 The Case for the Scheme (**REP3-036**) 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 DCO is determined in accordance with the relevant National Policy Statement, which in the case of the application is the 2024 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 DCO 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 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, and improving safety, which together support economic growth. The Case for the Scheme (**REP3-036**) has demonstrated the benefits of the Scheme against these objectives. The Scheme will increase capacity, relieve congestion and improve journey times along this section of the A46. These improvements will reduce lost productive time and subsequently increase business user and transport service provider benefits which may encourage housing and economic growth in the local area, as well as the A46 corridor, enabling the unlocking of sites for residential development, such as the adjoining allocated housing land to the west of the A46 and improving access to existing commercial areas.
- 7.1.4 The Applicant has also carefully considered the legal obligations set out in the NPS NN 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 it has demonstrated through the DCO application documents and the Examination process that the benefits of the Scheme outweigh any harm predicted and that therefore the Secretary of State should grant the application.