



Applicant's Responses to Relevant Representations relating to the draft DCO (Appendix A)

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On behalf of
Oxfordshire Railfreight Limited

Prepared by Eversheds Sutherland (International) LLP
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Author	Eversheds Sutherland (International) LLP
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Appendix A

Applicant’s Responses to Relevant Representations relating to the draft DCO

RR	Respondee	DCO Article/ provision	Comment (wording is taken verbatim from the relevant representation unless stated otherwise)	Applicant’s response
RR-109	Oxfordshire County Council	Cover page	Since DCOs are not subject to parliamentary scrutiny and are not laid before Parliament, the words “ <i>Laid before Parliament</i> ” (between “ <i>Made</i> ” and “ <i>Coming into force</i> ”) should be left out.	The Applicant is content to remove this and this will be reflected in the next draft of the DCO submitted to the Examining Authority.
		Art.2 (interpretation)	The definition of “bridges” is “unless the context indicates otherwise, the bridges shown on the bridge plans;”. For the avoidance of doubt, where does the context indicate otherwise?	The Applicant agrees that there are several instances where different context applies and suggests that this can be resolved through: - the deletion of the definition; - where the context requires reference to bridges on the bridge plans, to add that drafting; and - in all other instances, the plain meaning of bridge will apply
		Art.2 (interpretation)	The definition of “chief officer of police” refers to “Oxfordshire Police Force”. Should the reference be to “Thames Valley Police”?	The Applicant agrees and has made this change. This will be reflected in the next draft of the DCO submitted to the Examining Authority.
		Art.2 (interpretation)	The definition of “commence” includes wide-reaching carve-outs which seem to go beyond the Explanatory Memorandum’s [APP-140]	It should be noted that this definition is well precedented (see the A122 Lower Thames Crossing Order 2025 and Gatwick Airport

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			description of them as “either non-intrusive or low impact” (page 14). While OCC note that certain requirements¹ apply to all works, including the carve-outs, it is not always clear how the carve-outs will be controlled. Similarly, it is not clear how the draft Order [APP-139] ensures the carve-outs are non-intrusive or low impact. OCC are aware of instances on other projects where inappropriately managed carve outs for purportedly minor operations have resulted in significant works being carried out without any control by the local planning authority. OCC want to avoid this happening here. OCC would comment as follows on the following carve-outs – “(a) site preparation, site security, ecological mitigation works and clearance works;” Absent any restriction on “site preparation” works, the scope here for large scale ground level changes is a concern. The prospect of	(Northern Runway Project) Development Consent Order 2025). In some cases, the activities may need to be carried out in order to ensure that applications to discharge requirements (which require the provision of details) are properly informed. Further, it is reasonable for certain works to be excluded so that they may be carried out by the Applicant before a pre-commencement requirement is discharged, thereby minimising the construction timetable. However, the Applicant is considering the definition in light of the comments made by OCC and CDC and will contact the Councils to discuss this further directly. In the meantime, in response to two of the specific points raised: - Article 23 is not intended to ensure that works will be non-intrusive or low impact. Its purpose is to provide the undertaker with the power to survey and investigate land. However, what it does require is for notice to be given on the owners and occupiers of the land and to provide for compensation to be payable for any

¹ For instance, the energy strategy (Requirement 18); the carbon management plan (Requirement 19); Flood risk and surface water drainage (Requirement 20); HGV routing (Requirement 24); and Construction hours (Requirement 25).

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			wide-ranging works also applies in respect of “clearance works”. Regarding “ecological mitigation works”, while OCC appreciate that ecological surveys might be required before commencement, “ecological mitigation works” should not. OCC consider these words should be removed from sub-paragraph (a). “(c) removal of hedgerows, trees and shrubs listed in Schedule 13;” While OCC appreciate the removal works would be subject to articles 49 to 51, as mentioned below, OCC are not comfortable with these provisions, as currently drafted. “(b) environmental surveys and monitoring; ... (d) investigations for the purpose of assessing ground conditions; (e) erection of construction plant and equipment;	loss or damage. This is a control on the exercise of the power. - As to (h), <i>display of site notices and advertisements</i>, the disapplication of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 only applies to the advertisements on the main site as shown on the parameters plan

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			(f) geotechnical or ground contamination investigation;” OCC understand sub-paragraphs (b), (d), (f) and (g) are subject to article 23 (authority to survey and investigate the land); however, it is not clear how article 23 will ensure these works will be “either non-intrusive or low impact”. In addition, in the light of the proposed disapplication of regulation 4 (requirement for consent) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, is there an indication in any of the application documents of the possible scale of the display of advertisements under carve-out (h)? Finally on this point, OCC consider it would be helpful if the Applicant could direct us to the relevant parts of the ES which assess the carve-out activities.	
		Art.3(1) (development consent granted by the Order)	The Applicant states in paragraph 5.15 of the Explanatory Memorandum [APP-140] that it may be necessary for the Applicant to use powers outside the Order limits, “particularly in relation to the powers to survey land (Article	Whilst the Applicant notes that OCC is considering the exercise of powers outside of the Order limits and may comment further in due course, the Applicant has reiterated below its previous comments to OCC on this provision made pre-

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			23) and to carry out protective works to buildings, structures and trees (Article 24)". OCC is considering the exercise of powers outside the Order limits and might comment further in due course.	application in relation to the specific Articles mentioned: The exercise of such powers outside of the Order limits would still be constrained by and subject to Articles 23 and 24, for example, both Articles provide that the powers only apply to land 'affected by' the proposed development. It is possible that land outwith the Order limits may be 'affected by' the proposed development. Permitting works in these instances is a less intrusive proposal than seeking temporary possession or compulsory acquisition. The Applicant has provided precedent for this in the Explanatory Memorandum and this approach was also authorised recently in The A122 (Lower Thames Crossing) Development Consent Order 2025. Whilst there are some examples of works/powers needed outside of the Order limits (see below), given the size and scale of this project (and the nature of a DCO being that some details are to be agreed post the grant of the DCO), it is necessary for the Applicant to be able to exercise this power outside of Order Limits in order to deliver the scheme. It is not intended that these powers extend to substantive activities such as 'earthworks' which

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				are governed by requirements. In addition to surveying and monitoring, Article 23 also authorises the undertaker to • make trial holes to investigate the nature of the surface layer and subsoil and to remove samples; • to carry out ecological and archaeological investigations; and • place apparatus and welfare facilities for use in connection with the surveying and monitoring of the land. In relation to Article 24, the Article includes reference to protective works to trees, as the Applicant is aware from its surveying work of at least one instance where there is a veteran tree outside of the Order Limits and therefore it may need to carry out protective works to prevent damage. It would not be proportionate to include this tree within the Order Limits as the land is not required for the purposes of the development. Both Articles require the Applicant to pay compensation if required as a result of any works carried out.

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		Art.4 (parameters of authorised development)	Article 4(2)(d) provides that in respect of bridges, the Applicant may deviate vertically from the levels shown on the bridge plans to a maximum of 1.5 metres upwards or downwards. OCC’s structures team are considering whether this is an acceptable level of deviation. It is expected that an update on the structures team’s position will be included in the Local Impact Report.	The Applicant requires OCC’s response on this point. This drafting has been in the draft DCO since statutory consultation. The Applicant requests that OCC kindly confirm its position without further delay.
		Part 3 (streets)	Generally, OCC have several concerns with the contents of Part 3 (and also with paragraphs 2 (Highways Act 1980) and 3 (New Roads and Street Works Act 1991) of Schedule 15 (miscellaneous controls)), including (for example) instances where the Applicant may carry out certain works without consent (see, for example article 9(1) (street works)) and how OCC will be resourced to carry out additional highways-related work proposed by the draft DCO. It is hoped that OCC’s concerns can be addressed in suitable protective provisions (“PPs”). Draft PPs for the protection of the local highway authority are included at Part 3 of Schedule 14 to the draft DCO [APP-139]; however, in their current form, these are not satisfactory. Discussions are ongoing with the	These articles are commonplace in DCOs. Article 9(1) is, as confirmed by Article 9(2), subject to the protective provisions for the benefit of National Highways and OCC as local highway authority. The Applicant does not follow OCC’s concern as to how it will resource additional highways work and this concern is therefore unfounded. The Applicant has been engaged in negotiating protective provisions with OCC for many months now. Before carrying out street works, the Applicant must put in place security for the benefit of OCC. Subject to ongoing negotiation between the parties, this will be either a bond or a parent company guarantee. In addition, the Applicant is also required to fund OCC’s administrative and supervision costs related to such works.

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			Applicant, and it is hoped a reasonable set of PPs can be agreed during the Examination.	The Applicant would also add that the works listed in Article 9(1) may only be exercised for the ‘purposes of’ the proposed development.
		Art.10 (power to alter layout, etc., of streets)	The dDCO includes several deeming provisions i.e. if a determination is not made within a certain period, it is deemed granted. For example, by article 10(1)(a) (power to alter layout, etc., of streets) an application to increase the width of the carriageway is, per article 10(2) subject to a deeming provision. Since the street authority must ensure proper consideration is given so that it does not affect the safety of the carriageway, it is questionable whether deemed consent is appropriate in these circumstances. In any event, the 42-day deeming period is too short. A longer period is more usual in recently made DCOs. Most pertinent to OCC is article 44(4) of the draft Botley West Solar Farm Order [REP7-007] (which application is currently being determined by the Secretary of State) because the Botley project is located within OCC’s (and CDC’s) administrative area. On 16 July 2026, in response to the Secretary of State’s second consultation, the Botley	As OCC states, the street authority must ensure proper consideration is given so that altering the layout of a street does not affect safety. The ability to consider that is not in any way removed by deemed consent. Deemed consent only applies to the Articles (not DCO requirements) and if OCC does not reply within 42 days. This is subject to an application made under Article 10 including a statement that deemed consent will apply and subject to the application being accompanied by ‘all relevant information’. An application which did not provide sufficient information for a determination would not trigger the start of the 42 day period. There is, therefore, ample opportunity for OCC to consider safety. If OCC does not consider that it has been able to consider safety in such time, it must acknowledge the request for approval from the Applicant and confirm that it is being considered. Deemed approval is sought in order to drive efficiency and ensure that matters are not left to lie on file. Network Rail, the statutory undertaker for railways, has agreed deemed consent and indeed this features in its precedent protective provisions.

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			applicant submitted a further draft DCO which provides a determination period of 12 weeks. Botley West is the first DCO application which affects Oxfordshire, the instant application is the second, and a third application is forthcoming. It would seem sensible if, as far as possible, there was consistency in the drafting of these Orders, particularly in respect of the timeframes in which they demand that decisions are taken. Consistency would be administratively convenient for each determining authority and OCC cannot see how a patchwork of timeframes in its area will benefit anyone. Moreover, if there is uncertainty on the part of OCC that a matter is satisfactory, OCC is more likely to refuse an application than allow a deemed approval. The additional time would allow time for further revision/ negotiation on a proposal, reducing the risk of a refusal. Examples of recently made DCOs which include longer consenting periods than 42 days are – Fenwick Solar Farm Order 2026 (SI 2026/151): 8 weeks (article 46(4);	The Applicant notes that the promoter of the Botley West Solar Farm has agreed a longer determination period; however, that approach is not relevant to this application. A strategic rail freight interchange is materially more complex to deliver than a solar farm and depends on multiple approvals from a range of statutory bodies. Delivery of the authorised development cannot be held in abeyance because of a failure to respond. By contrast, The Dogger Bank South East and West Offshore Wind Farms Order 2026 (SI 2026/577), which relates to a significantly more complex scheme, provides for deemed consent after 28 days. As this is a DCO application subject to Examination in which OCC is heavily participating, and has been involved in pre-application discussions for a number of years, the development is not an unknown for the Council. At the time details are submitted for approval, the project will already have been heavily discussed and the proposals reviewed. This will not, therefore, be an instance where OCC is receiving a request for approval 'out of the blue'. The Applicant therefore does not consider that revised time periods in the articles are appropriate.

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			• Cottam Solar Project Order 2024 (SI 2024/943): ten weeks (or such longer period as may be agreed between the undertaker and the relevant consenting authority in writing) (article 45(4)); • Gate Burton Energy Park Order 2024 (SI 2024/807): ten weeks (or such longer period as may be agreed between the undertaker and the relevant consenting authority in writing) (article 43(4)); • Mallard Pass Solar Farm Order 2024 (SI 2024/796): eight weeks (or such longer period as may be agreed between the undertaker and the relevant consenting authority in writing) (article 43(4)); and • Longfield Solar Farm Order 2023 (SI 2023/734): eight weeks (or such longer period as may be agreed between the undertaker and the relevant consenting authority in writing) (article 42(4)). OCC therefore requests that 42 days is replaced with 12 weeks in the following provisions: 10(2) (power to alter layout, etc. of streets); 12(7) (temporary closure, alteration, prohibition, diversion or restriction of use of streets); 14(3) (accesses); 18(8) (traffic	The Applicant is, however, willing to agree to an extended time period for the discharge of the DCO Requirements. This was discussed at a meeting between the parties on 8 September where it was discussed that an agreeable period would be 40 working days. The Applicant confirms that it will make this change in the next version of the dDCO to be submitted to the Examination.

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9.			regulation); 22(9) (discharge of water); 23(6) (authority to survey and investigate land). Similarly, in paragraph 1(2) (applications made for certain approvals) of Part 2 (procedure for discharge of certain approvals) of Schedule 2 (requirements), the deadline for determining requirements should be 12 weeks and not 42 days.	
		Art.10 (power to alter layout, etc., of streets)	OCC agrees with the inclusion of sub-paragraph (3) i.e. – “(3) An application made under paragraph (1) must include a statement that the provisions of paragraph (2) apply to that application”. The officers dealing with an application under article 10 might not be aware of the deeming provision and so it is reasonable for any application to inform the recipient of that significant power. In addition, the consequence of a failure to inform the recipient of the power should be included in the article and so paragraph (3) should be followed by – “(4) If an application for consent under paragraph (1) does not include the statement required under paragraph (3),	The Applicant agrees to the inclusion of the following wording where deemed consent is used: “(4) If an application for consent under paragraph (1) does not include the statement required under paragraph (3), then the provisions of paragraph (2) will not apply to that application”

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10.			then the provisions of paragraph (2) will not apply to that application”. An equivalent provision is included in the Gatwick Airport (Northern Runway Project) Development Consent Order 2025 (SI 2025/1054): article 53(3) and the National Grid (Bramford to Twinstead Reinforcement) Order 2024 (SI 2024/958): articles 11(5), 14(7), 15(11), 16(4), 19(11), 21(10), 46(10), and 47(7). An equivalent provision should also be included in the following provisions, each of which includes a deeming provision: article 12 (temporary closure, alteration, prohibition, diversion or restriction of use of streets); article 14 (accesses); article 18 (traffic regulation); article 22 (discharge of water); article 23 (authority to survey and investigate the land).	
		Art.12 (temporary closure, alteration, prohibition, diversion or	Article 12(7) (temporary closure, alteration, prohibition, diversion or restriction of use of streets) demands that an application for consent under that article must be determined within 42 days, otherwise consent is deemed to be granted. In addition to this, article 12(4) demands consent must not be unreasonably withheld or delayed. With the deeming provisions included there is no need to also	The Applicant disagrees with the contention that if deemed consent applies, that it is not necessary to require a decision not to be unreasonably withheld or delayed. Deemed consent is a fallback intended to address a situation where there has not been a decision. As a nationally significant infrastructure project,

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		restriction of use of streets)	say that the approvals must not be “unreasonably withheld or delayed”. In the Sea Link draft DCO [REP6-005], the applicant (National Grid Electricity Transmission) has included “unreasonably withheld or delayed” in the equivalent provision and the host authorities have sought the deletion of these words. At Deadline 6 of the Sea Link DCO examination, the ExA submitted its Schedule of ExA’s recommended amendments to the applicant’s dDCO [PD-024]. The ExA has recommended the deletion of these words for following reasons – “The ExA considers that the inclusion of “which shall not be or must not be unreasonably withheld or delayed” (or a variation of such words) would add ambiguity rather than clarity”. OCC agrees and considers article 12(4) should be amended as follows – “(4) Save as to streets in respect of which the undertaker is the street authority, the undertaker must not temporarily close, prohibit the use of, alter or divert any street without the consent of the relevant street authority which may attach reasonable	decisions on applications for approval should be made expeditiously. assuming all relevant information has been provided, in order that the project may progress. Whilst the Applicant notes the ExA’s comments on the Sea Link draft DCO, respectfully, the Applicant does not agree and notes that this wording has featured in many made DCOs, including: The Dogger Bank South East and West Offshore Wind Farms Order 2026 (SI 2026/577) A63 (Castle Street Improvement, Hull) Development Consent Order 2020 (SI 2020/556) Article 12(4) London Luton Airport Expansion Development Consent Order 2025 (SI 2025/463) Article 13(4) M5 Junction 10 Development Consent Order 2025 (SI 2025/795) Article 15(4) The Applicant further notes that such wording is included in hybrid acts, see: The High Speed Rail (London – West Midlands) Act 2017

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			conditions to any consent but such consent must not be unreasonably withheld or delayed.” It will be remembered that the Applicant has proposed the timeframe for determining an application and we can assume the Applicant considers the timeframe acceptable. The timeframe is also accompanied by a deeming provision. In the light of this, it is difficult to see how a consent could be delayed. In addition, by section 161(1)(b) of the Planning Act 2008 it is an offence, without reasonable excuse, for a person to fail to comply with the terms of a DCO. By section 161(4)(a) a person guilty of an offence under section 161 is liable, on summary conviction, to a fine not exceeding £50,000. Is it reasonable for these words to be included in the Order in the light of the sanctions that could arise because of a breach of a DCO? It is conceivable that somebody could say that if a discharging authority, subject to the provision as currently drafted, acts unreasonably in withholding or delaying their actions, they are committing a criminal offence. And that is a very good reason why this provision should not be included. OCC is not persuaded by the need for an additional	The High Speed Rail (West Midlands – Crewe) Act 2021 The Applicant considers OCC's concern that the 'unreasonably withheld or delayed' wording could expose local authorities to criminal liability under section 161 of the Planning Act 2008 is misconceived. Section 161(1)(b) creates an offence for a person to fail to comply with the terms of a DCO 'without reasonable excuse'. It is reasonable to assume that a local authority that withholds or delays consent on legitimate planning, safety, or procedural grounds would have a 'reasonable excuse' and would not be committing an offence. The Applicant considers that section 161 is directed at substantive non-compliance with DCO obligations, not at the exercise of a consenting discretion where the authority has reasons for its decision or the time taken to reach it. The Applicant is not aware of any reported case in which a local authority has been prosecuted under section 161 for withholding or delaying consent. In any event, prosecution requires the public interest test under the Code for Crown Prosecutors to be satisfied, and it is not considered likely that the Crown Prosecution Service would pursue a local

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11.			criminal sanction to regulate local authority behaviour and is unaware of evidence of dilatory behaviour by local authorities in dealing with applications for consent arising from DCOs. Local authorities understand there is a public interest in expeditious decision making and their good sense and understanding can be relied on. The words are unnecessary: the deeming provision and appeal provision are entirely adequate. Nothing else is needed. In addition to article 12(4), the words “but such consent must not be unreasonably withheld or delayed” (or similar wording) should also be omitted from the following provisions: article 22(4) (discharge of water); article 23(4) (authority to survey and investigate the land); and article 55(3) (discharge of requirements and other approvals etc).	authority acting in good faith in the discharge of its statutory functions. OCC's concern is theoretical and should not prevent the inclusion of standard DCO wording that has featured in numerous made Orders without incident. Finally, the Applicant points out that several statutory undertakers are comfortable with this wording, including Network Rail, which will have a significant role to play in approving details under the DCO pursuant to the protective provisions.
		Art.12 (temporary closure, alteration, prohibition, diversion or	By article 12(4) (temporary closure, alteration, prohibition, diversion or restriction of use of streets), the undertaker must not temporarily close, prohibit the use of, alter or divert certain streets without the consent of the relevant street authority “which may attach reasonable conditions to any consent but such consent	In relation to Articles that provide for ‘reasonable conditions’ to be attached and those which do not, the Applicant notes that conditions may be attached to the Articles which concern operational or temporary matters and not permanent, physical changes.

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		restriction of use of streets)	must not be unreasonably withheld or delayed”. The following provisions also include an ability to attach conditions to consents – • Article 17(7) (speed limits); • Article 18(2) (traffic regulation); and • Article 22(3) and 22(4) (discharge of water). There are other provisions in the draft Order which require the consent of a consenting body, but which are silent as to the power to attach or impose reasonable conditions, namely – • Article 10(1) (power to alter layout, etc., of streets); • Article 14(3) (accesses); and • Article 23(4) (authority to survey and investigate the land) For clarity and consistency with the drafting of articles 12(4), 17(7), 18(2) and 22(3) and (4), OCC considers articles 10(1), 14(3) and 23(4)	Taking Article 12 as an example, it is appropriate for the street authority to be able to impose conditions as it will remain the street authority and therefore has a responsibility in relation to the management of the street. By way of example, it could therefore be reasonable to impose a condition restricting closure during certain hours of the day. Turning to the Articles which do not provide for conditions to be attached: Article 10: This Article concerns physical alterations to streets within the main site and at junctions. These works are subject to detailed specifications in the Schedules and protective provisions (Schedule 14), therefore the local highway authority will have approval of the detailed design. Article 14: the locations of accesses are largely predetermined in Schedule 6, and consent for other accesses under paragraph (1)(b) is limited to whether the access is reasonably required (and requires the approval of the highway authority or street authority, as appropriate). Such accesses will be subject to the protective provisions,

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			should be amended to state explicitly that conditions can be attached to any consent issued under those articles.	therefore the local highway authority will have approval of the detailed design. Article 23: this Article provides powers for temporary surveys, investigations, and trial holes and requires 14 days' notice to owners and occupiers rather than consent. The nature of survey works is temporary and investigative—they do not permanently affect the land or require the type of ongoing coordination that would necessitate conditions.
		Art.13 (public rights of way - creation, substitution, stopping up and closure of level crossings)	OCC are considering the impact of this provision.	This Article has been in the draft DCO since consultation. Should OCC have any comments, the Applicant requires these as soon as possible so that it may address them before Deadline 1.
		Part 5 (powers of acquisition)	OCC are considering the impact of the proposed acquisition of certain of its interests and will comment on these in the LIR.	Noted. The status of the negotiations for land arrangements is detailed in the updated Land and Rights Negotiation Tracker (Document 4.4) submitted at Procedural Deadline A.
		Art.28 (compulsory acquisition of	OCC are considering the impact of this provision.	This Article has been in the draft DCO since consultation. The Applicant refers to paragraph 5.124 of the Explanatory Memorandum which

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		land - incorporation of the mineral code)		explains and justifies this heavily precedented Article as follows: <i>This Article incorporates the 'mineral code' into the draft DCO. The effect of this is that existing minerals under land are exempt from being automatically acquired pursuant to the exercise of compulsory acquisition. It also enables the undertaker to prevent a minerals owner from working existing minerals and provides the undertaker with the ability to compensate the owner for any inability to do so as a result of the development.</i> Compulsory acquisition should be limited to what is necessary for the development and therefore this Article allows the Applicant to exempt minerals from being automatically acquired where they are not required for the development. The Article incorporates the mineral code which provides a statutory process for dealing with the purchase of and compensation for minerals.
		Art.35 (temporary use of land for carrying out the	Paragraph (1)(b) allows the undertaker to – “(b) remove any buildings, apparatus, drainage, electric line, fences, debris and vegetation from that land that reasonably	The Applicant confirms it has amended Article 35 to exclude the threshing barn. This will be included in the next version of the DCO submitted to the ExA.

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		authorised development)	need to be removed in connection with the carrying out of the authorised development;” There is one listed building within the Order land, namely the threshing barn. The works to the threshing barn form part of Work No. 9 (central hub), which are subject to requirement 15 (central hub). Paragraph (a) of that work states: “retention and development of the threshing barn as shown on the listed building drawings as a welcome building;”. OCC understands the Applicant would be content to amend article 35 to make it clear that the threshing barn is excluded from “buildings” in paragraph (1)(b). OCC would welcome that amendment. A drafting point: paragraph (1)(b) refers to “that land”, as do paragraphs (1)(c) and (1)(g); however, paragraphs (1)(d), (1)(e) and (1)(f) refer to “the land”. It is not clear why different terms are used or what is the reason for the difference. Similarly, it is not clear what “land” is being referred to. If both “that land” and “the land” are intended to refer back to the land in paragraph (1)(a) OCC would suggest the same term (e.g. “that land”) is used in each of paragraphs (1)(b) to	The term ‘that land’ (rather than ‘the land’) is used correctly in Article 35(1)(a)(i), (b), (c) and (g) as the sub-paragraphs already contain a reference to a specific piece of land and therefore ‘that land’ is used to refer back to that identified parcel. However, in (b) this should be ‘the land’ and the Applicant has made this change. For the avoidance of doubt, the Article will read: <i>...remove any buildings (not including the Threshing Barn), apparatus, drainage, electric line, fences, debris and vegetation from the land that reasonably need to be removed in connection with the carrying out of the authorised development;</i> In relation to the reference to bridges, this is not a reference to a bridge on the bridges plans. If it were, it would be expressly stated. This should be clear once the amendment as explained in response to the query on the definition of “bridges” has been made in the next version.

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16.			(1)(g) and that, after (1)(h), a new paragraph is added to state – “(i) In sub-paragraphs (b) to (g) of paragraph (1), “that land” means the land referred to in subparagraph (a)”. Paragraph (1)(c) allows the undertaker to – “(c) construct any permanent or temporary works (including the provision of means of access), haul roads, fencing, bridges, structures and buildings on that land;” Is the reference to bridges here to the bridges shown on the bridge plans, or is this a wider power to construct bridges?	
		Article 50(1) (trees subject to tree preservation orders)	Article 50 allows the undertaker to fell or lop or cut back the roots of any tree or shrub which is subject to a tree preservation order “within or overhanging land within the Order limits” to prevent it obstructing or interfering with the construction, maintenance, operation or decommissioning of the authorised development or any apparatus used in connection with the authorised development.	There are no trees protected by a TPO or trees within a conservation area which are listed in Schedule 13. However, this power was included to allow works to the trees as it is possible that TPOs and conservation areas will be made between now and commencement of the development. This is set out in the Explanatory Memorandum. The Applicant considers that this is appropriate, however, the Applicant has reflected on OCC’s concern and PINS’ guidance on drafting development consent orders and therefore proposes to amend the Article to limit it to any

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			Paragraphs 22.2 and 22.3 of PINS Advice Note Fifteen: drafting Development Consent Orders state – “22.2 Applicants may also wish to include powers allowing them to fell, lop or cut back roots of trees subject to a Tree Preservation Order (TPO). This power can extend to trees which are otherwise protected by virtue of being situated in a conservation area. To support the ExA inclusion of this power should be accompanied by a Schedule and plan to specifically identify the affected trees. 22.3 Trees subject to TPO and/ or are otherwise protected (and likely to be affected) should be specifically identified. It is not appropriate for this power to be included on a precautionary basis. Proper identification of affected trees will enable the ExA to give full consideration to the particular characteristics that gave rise to their designation and the desirability of continuing such protection”. [Emphasis added]. Part 1 of Schedule 13 to the draft DCO [APP-139] lists trees to be removed. Does this list include trees which are subject to TPOs? (Paragraph 5.250 of the EM [APP-140] cross-	trees made subject to a tree preservation order which are listed in Schedule 13. The Applicant would also like to point out, more generally, the protections for trees in the Requirements and provisions relating to their removal as follows: <i>Construction environmental management plan</i> <i>10.—(1) No part of the authorised development is to commence until a phase-specific construction environmental management plan (“P-CEMP”) for that part of the authorised development, drafted in accordance with the principles set out in the CEMP, has been submitted to and approved in writing by the local planning authority or the relevant highway authority where the P-CEMP relates to the highway works.</i> <i>(2) Each P-CEMP must include where relevant to each phase—</i> <i>(a) the appointment of an ecological clerk of works, the role of which is described in the CEMP;</i> ...

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			refers to “Schedule 13 (Felling or lopping or cutting back of trees or shrubs subject to a tree preservation order)”, and this suggests TPO trees are listed; however, that is not the title of Schedule 13 in the draft Order [APP139] and it is not clear that TPO trees are included). If TPO trees which are subject to the power under article 50 are not identified, OCC considers they ought to be.	<i>(e) an arboriculture method statement detailing measures to protect retained trees and hedgerows, and the method statement for any translocation of hedges, including details of built development and construction buffers and root protection areas;</i> ... <i>(g) details of any precautionary measures required to protect habitats and species on site, including the timing of vegetation clearance and groundworks, buffers around watercourses, and any specific method statements required with regard to protected species; (h) details of existing and proposed landscaping which needs to be protected during construction, including any veteran trees outside the Order limits;</i> <i>Provision of landscaping</i> <i>11. No component of the authorised development on the main site which includes landscaping is to commence until a landscaping scheme for that component has been submitted to and approved in writing by the local planning authority. The landscaping scheme must be carried out in accordance with the parameters plan and the habitat management and monitoring plan and in</i>

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17.				<i>accordance with the landscaping principles established in the main site design approach document and must include details of all proposed soft landscaping works, including—</i> <i>(a) location, number, species, size, layout, method of trees’ support, plant protection measures and planting density of any proposed planting;</i> <i>(b) cultivation, importation of materials and other operations to ensure plant establishment;</i> <i>(c) details of existing trees to be retained, with measures for their protection during the construction period in accordance with British Standard 5837:2012, “Trees in relation to Design, Demolition and Construction Recommendations”, and to include a schedule of remedial tree works to be carried out in accordance with British Standard 3998:2010, “Tree Works Recommendations”, prior to construction commencing;</i> <i>(d) details of ecological mitigation; and</i> <i>(e) implementation timetable.</i>
		Article 59 (planning)	OCC understands this article is intended to address the possible effects of the Hillside	The Applicant has discussed this drafting with the Councils and is content to agree with this. The

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		permissions etc.)	decision (Hillside Parks Ltd v Snowdonia National Park Authority [2022] UKSC 30). OCC does not take issue with this intention. The effect of Article 59 is that if any development is carried out or used pursuant to a planning permission, or under another DCO or under permitted development rights, and that the carrying out or use is inconsistent with the instant DCO, no enforcement action may be taken in respect of the inconsistency. For clarity, OCC considers a new paragraph (4) should be added to the end of article 59 to emphasise that nothing in the article prevents any enforcement action under the Town and Country Planning Act 1990 or the Planning Act 2008 from being taken in relation to any breach of that permission or consent where that breach is not an inconsistency for the purposes of article 59(2), i.e. – <i>“(4) Where any development to which this article relates is carried out or used pursuant to a planning permission granted under the 1990 Act or development consent granted under the 2008 Act, nothing in this article prevents any enforcement action under the 1990 Act or the 2008 Act being taken in relation to any breach of that permission or</i>	Applicant will include the suggested wording in the next DCO to be submitted at Deadline 1. The Applicant understands that the article is agreed subject to the addition of this wording.

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18.			<i>consent where that breach is not an inconsistency for the purposes of paragraph (2)</i> ”.	
		Schedule 2 Paragraph 1 (interpretation)	The definition of “employment scheme” is preceded in the Northampton Gateway Rail Freight Interchange Order 2019 (SI 2019/1358). A drafting point: per paragraph 1 of Schedule 2 to the Northampton Order, and having discussed the matter previously with the Applicant, OCC understand the reference in the definition to “details of the reporting and monitoring of the above matters” should be (new) sub-paragraph (f) rather than (existing) sub-paragraph (e)(iv). In the light of the above, OCC considers the provision should be amended as follows – “employment scheme” means a scheme for the provision of employment and training for those employed at the authorised development comprising— (e) other measures where appropriate (including but not limited to) — (i) a recruitment and training programme for construction employees with	The Applicant agrees that ‘details of the reporting and monitoring of the above measures’ should be sub-paragraph (f) and will make this change in the next DCO to be submitted.

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19.			a focus on the job centres in locations where employment deprivation has been identified; (ii) provision of skills training; (iii) preference to be given to procurement of local products and services where efficient, cost effective and lawful; and (iv) details of the reporting and monitoring of the above measures;	
		Requirement 2 (time limits)	OCC note that clause 4.6.1 of the draft S.106 agreement [APP1-142] requires “the Owners” to provide CDC and OCC “with written notice of the intention to Commence Development no later than 10 Working Days prior to Commencement of Development;” For OCC to ensure it has the appropriate resourcing in place to deal with the requirements, a longer notice period is required. OCC will discuss this point with the Applicant directly as part of its negotiations on the draft S.106 agreement. However, if a reasonable period cannot be agreed, OCC might seek an amendment to the requirements to facilitate this.	The Applicant agrees to provide a longer notice period in the Section 106 agreement, such period to be agreed between the undertaker and the parties to the Section 106 agreement. The Applicant asks that OCC provides a timescale which would be suitable to it without delay so that it may be incorporated into the draft Section 106 agreement.

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20.		Requirement 5 (rail)	OCC and the Applicant have been in discussions in respect of this Requirement. In summary, OCC have raised the following concerns with the Applicant in respect of it - the meaning of "available for use"? - how the local planning authority will know when 232,258 square metres of warehouse have been provided; - the measures to ensure the development does not become a big logistics park, which is a particular concern for members; - how it will be demonstrated that section 26(4)(a) of the Planning Act 2008 has been satisfied (i.e. how the draft Order shows the RFI is capable of handling consignments of goods from more than one consignor and to more than one consignee); and - what provision in the Order shows that the works to ensure the rail terminal is capable of being served by W8 gauge will be complete in advance of the occupation of the 232,258 square	The Applicant has responded to these points previously but for the sake of reiterating its response to assist the Examining Authority, please see below: The Applicant considers that 'available for use' has its plain meaning i.e. the rail infrastructure is ready to be used (note that the requirement states that the infrastructure must have been constructed so there is no ambiguity that 'available for use' arises post construction). However, following a meeting with OCC and the Applicant's legal representatives, the Applicant is expecting drafting on this from OCC which it will consider; It is open to the LPA to request details in relation to this at any time and the LPA is in control of discharging requirements that will have been submitted for warehousing, therefore will have notice of when a warehouse is ready for occupation. However, the Applicant is content to provide for a specific notice obligation in the Section 106 agreement. The Applicant understands that this is agreed with the Council. Requirement 5 provides the appropriate control that the rail terminal must be delivered before a certain amount of warehousing.

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			metres of warehouse in line with paragraph 4.82 of the NNNPS. It is hoped that discussions on these points will continue with the Applicant and that OCC will be in a position to update its position in the LIR.	The SRFI will inherently satisfy provision (26(4)(a) of the Act once operational – the Act is merely describing what an SRFI needs to be capable of doing. There is no requirement to include a provision in the DCO specifying that this must be satisfied. OCC is referred to the following application documents which address this point: Document 5.4B/APP-163 – Planning Statement Appendix 2 (NPS Policy Compliance Tracker) explains the development's compliance with NPS paragraph 4.89. Document 7.2A/APP-312 – Rail Report (paragraphs 2.3 and 6.7.1) explains that "The site is intended to provide capacity for up to 12 trains per 24 hours, initially operating with 4 trains per day within the first phase of operation, increasing over successive years towards its maximum capacity." It also describes the phasing, with the initial phase deploying reach stackers across two handling sidings, equating to "a maximum capacity on site of 4 trains per siding or 8 in total." Document 7.2C/APP-314 – GB Rail Freight Capacity Report identifies the available rail paths, confirming that "Four return paths have been identified for services heading northwards to Crewe Basford Hall; two have been identified heading southwards to Wembley Yard and one

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				return path has been identified heading southwards to Eastleigh (for Southampton Docks)." Document 7.2A – Appendix E (Network Rail agreed position statement/APP-312) states "the studies have identified that there are at least four compliant return paths per day for the SRFI (i.e., 4 paths into the site and 4 paths out of the site per day)," which have been peer-reviewed by GB Railfreight and Network Rail. Regarding W8 gauge, the OxSRFI scheme provides rail access onto the Chiltern Main Line which is part of the strategic freight network. The line operates as a freight diversion route and will be cleared to Network Rail's W8 structure gauge as required by the NPS. The fact that gauging works need to be done in order to satisfy Network Rail's approval of the rail works is inherent in the consent and therefore covered by the protective provisions and arrangements with Network Rail. The OxSRFI will therefore fully comply with the NPS in terms of providing the required access to rail freight traffic. Further, a Statement of Common Ground (Document 8.1/AS-092) between the Applicant and Network Rail has been provided which confirms the suitability of the OxSRFI scheme on the Chiltern Main Line in respect of pathing and gauging for an SRFI. The Rail Report (Document 7.2A/APP-312) and GB

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21.				Rail Freight Supporting Statement (Document 7.2B/APP-313) confirm that the Chiltern Mainline is capable of enhancement to W8 gauge and explain the suitability of the Chiltern Main Line to accommodate rail freight. The following documents also deal with W8: <u>Document 3.1/APP-139 – Draft Development Consent Order</u> The Draft DCO contains Schedule 1, which identifies Work No.38 as "Works to Ardley Tunnel to provide W8 loading gauge clearance through the tunnel." <u>Document 5.4/ APP-161 – Planning Statement</u> The Planning Statement addresses compliance with paragraph 4.82 of the NNNPS, which requires that SRFIs be located on routes with at least W8 clearance.
		Requirement 6 (sustainable transport and travel plan)	Requirement 6(1) (sustainable transport and travel plan) states – "The provisions of the framework travel plan or any variation of such plan agreed by the sustainable transport working group must be complied with at all times following the commencement of the authorised	The Applicant is considering this. Its preference is for one authority to be responsible for discharging the requirement in consultation with the other, rather than it being a joint requirement, and therefore the Applicant would suggest this should be OCC.

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22.			development unless otherwise agreed in writing by the local planning authority”. [Emphasis added]. The subject matter of the requirement falls within the expertise (and statutory responsibilities) of CDC and OCC, and both consider “the local highway authority” and “the local planning authority” should discharge this requirement. In the light of the above, the references to “local planning authority” in sub-paragraphs (1), (2), and (9) should be followed by “and the local highway authority”.	
		Requirement 8(1) (design and phasing of highway works)	In the table in Requirement 8, certain works (12B,14B, 15B, 22, 23, 25B, 27B, 33 and 39) must be completed “prior to the occupation of more than 185,806 square metres of warehousing plus up to 61,967 square metres of mezzanine floor space to be occupied”. The bulk of the trip generating activity is in the warehousing floor space; however, a risk here is that the trigger for the completion of the works mentioned above might not be reached if (say) the mezzanine space is not built or occupied for any reason.	The Applicant has been engaging with OCC on potential alternative wording for this Phase 2 trigger and has proposed the following which the Applicant considers to be clear: <i>To be completed prior to the occupation of more than 185,806 square metres of warehousing (and if such warehousing includes mezzanine floorspace, no more than 61,967 square metres of mezzanine floorspace) to be occupied.”</i> The Applicant understands that OCC wants to ensure that ‘complete’ in sub-paragraph (1)

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			In the light of this, OCC consider the trigger should be linked to warehouse floor space only. OCC is working up a drafting proposal to achieve a more proportionate requirement and will share that with the Applicant in due course.	concerns completion so that the highway is open to the public. The Applicant is content to add a definition to Requirement 8 to address this.
		Requirement 8(6) (design and phasing of highway works)	Drafting point (1): in the light of the reference (in sub-paragraph (6)) to “sub-paragraph (1) or (2)” should sub-paragraph (6)(b) state – “(b) the local planning authority and the relevant highway authority agree that such alternative work should be carried out in lieu of the individual work specified in sub-paragraph (1) or (2), ... and either— ...” Drafting point (2): sub-paragraph (b) ends with “and either” and is followed by three options: (i), (ii) and (iii). At the end of sub-paragraph (6)(b)(i), should the word “or” be added? General point: what would prevent the power under sub-paragraph (6) from resulting in a materially different scheme from that proposed in sub-paragraph (1) or (2)?	Drafting point 1: The Applicant agrees and will make this change. This will be done in the next DCO submitted. Drafting point 2: The Applicant agrees and will make this change. This will be done in the next DCO submitted to the Examining Authority. General point: There are several reasons why sub-paragraph (6) being engaged would not result in a materially different scheme: Some highway works proposed are to mitigate the highway impacts of the development. Alternative works can only be proposed if they too would mitigate the impacts and this is agreed by the local planning authority and OCC. The authorities therefore have control over what can be delivered in lieu.

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				Further, this is not an open-ended substitution power. The mitigation must still be achieved, so the transport effects assessed remain mitigated. Article 54 is a backstop on environmental effects. Where agreement or approval is required under any requirement, it "must not be given if it would permit development which would give rise to any materially new or materially different significant effects on the environment" not assessed in the environmental statement. Paragraph 6 expressly provides that Parts 2 and 3 of Schedule 14 apply to the alternative works, so National Highways and the local highway authority retain detailed design approval.
		Requirement 9 (detailed design approval)	Since OCC have local standards for cycle, motorcycle and vehicle parking, OCC considers Requirement 9(2)(f) should be amended as follows – “(2) No component of the authorised development on the main site is to commence until the details of that component have been submitted to and approved in writing by the local planning authority. The details of each	The Applicant does not agree with the amendment and is in discussion with OCC in relation to the parking standards.

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			component must include details of the following where they are located within that component— ... (f) cycle, motorcycle and vehicle parking; in accordance with the local parking standards".	
		Requirement 10(1) (construction environmental management plan)	Requirement 10(1) states – "No part of the authorised development is to commence until a phase-specific construction environmental management plan ("P-CEMP") for that part of the authorised development, drafted in accordance with the principles set out in the CEMP, has been submitted to and approved in writing by the local planning authority or the relevant highway authority where the P-CEMP <i>relates to the highway works</i>". [Emphasis added]. The reference to "highway works" should be removed as each P-CEMP will also include details of the CTMP for HGV traffic and details of construction access, which the highway authority needs to determine, regardless of	The Applicant will consider this but does not agree that every P-CEMP will be relevant to the highway authority.

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			whether the P-CEMP relates to highway works. In the light of this, OCC and CDC consider the emphasised text should state – “... approved in writing by the local planning authority and the relevant highway authority”.	
		Requirement 10(2) (construction environmental management plan)	By article 10(2) (power to alter layout, etc., of streets), the 42-day determination period for a consent under that article begins “with the date on which the application is submitted ...”. Similar drafting is included in article 12(7) (temporary closure, alteration, prohibition, diversion or restriction of use of streets). By article 14(3) (accesses) the determination period begins “with the date on which the application was made”. By article 18(8) (traffic regulation) the determination must be made “within 42 days of receiving an application for consent ...”. Similar drafting is included in article 22(9) (discharge of water) and 23(6) (authority to survey and investigate the land). It is desirable for every period mentioned in the articles mentioned above to begin at the	The Applicant agrees and will make this change. This will be done in the next draft DCO submitted.

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			same time and OCC consider it reasonable for the period to begin when the application is received by the decision maker. OCC therefore considers articles 10(2), 12(7) and 14(3) should be amended to provide the 42-day period begins on receipt of the application.	
		Requirement 13(3) (earthworks)	The main body of OCC’s Relevant Representation states the scope of the “watching brief” referred to in this requirement (or a Written Scheme of Investigation) should be submitted as a control document into the examination and should be agreed with a credible palaeontological institution. A consequence of this is that Requirement 13(3) would need to be recast along the following lines – “Earthworks details in phases relevant to Zones A4, A5, B and C as shown on the parameters plan must be in accordance with the [relevant control document]”. An additional requirement would be needed, similar to requirement 14, which provides that the authorised development will be carried out in accordance with the approved control document.	This Requirement provides control as to the content of the ‘watching brief’. Details of the earthworks in relation to each component of the main site must be submitted and approved prior to commencement of that component. Sub-paragraph (3) is confirming that earthworks in specific zones must include details of the ‘watching brief’ by a palaeontologist. This must be in accordance with the principles of the Ardley trackways technical note, which is a certified document in the DCO. These will form part of the details to be approved pursuant to sub-paragraph (1). Sub-paragraph (2) provides that the earthworks are to be carried out in accordance with the approved details.

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			It goes without saying that OCC would need to be satisfied with the contents of the control document.	In light of the above already providing control, the Applicant does not consider it necessary to prepare a control document now.
		Requirement 14 (archaeology and built heritage)	Requirement 14 is titled “Archaeology and built heritage”; however, neither the Requirement nor the Archaeological Mitigation Strategy [APP-283], which is referred to in the Requirement, refer to “built heritage”. The title is therefore misleading, and OCC consider it should be amended to state, simply, “Archaeology”.	The Applicant agrees and is content to make this change. This will be done in the next draft DCO submitted.
		Requirement 15 (central hub)	Paragraph 15(1) seems to be missing words. OCC assumes the following words (or similar) should be included after sub-paragraph (i) – “has been approved in writing by the local planning authority”.	The Applicant agrees and will make this change. This will be done in the next draft DCO submitted.
		Requirements 20 to 22 (flood risk and surface water drainage)	In each of these requirements, where reference is made to a decision being taken by the lead local flood authority, OCC (the lead local flood authority) and CDC (the local planning authority) consider it would be preferable if it were taken by the local planning authority, in consultation with the lead local flood authority.	The Applicant agrees and will make this change. This will be done in the next draft DCO submitted.

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			(As mentioned in row [37], there is an agency agreement in place between OCC and the district councils within its area which allows the districts to determine applications under the LDA 1991. The districts in Oxfordshire are therefore used to determining matters which elsewhere would be dealt with by the county council. In the light of this, OCC and CDC consider the local planning authority is best placed to make a decision under requirements 20 to 22, having first consulted the lead local flood authority.	
		Requirement 33 (community liaison group)	To ensure the effective administration of the community liaison group, OCC consider it would be helpful if a protocol for its operation was agreed by the Applicant and OCC and CDC. In the light of this, OCC consider paragraph (3) should have the following words appended to the end: “...in accordance with a protocol agreed with the local planning authority and relevant highway authorities prior to the commencement of the authorised development.” It is noted that certain documents refer to the community liaison group, including: paragraph 4.10 of the Main Site DAD (doc 5.5A) [APP-166]; paragraph 3.11 of the CEMP (doc 6.2C – ES Appendix 2.3) [APP-	The Applicant considers that the current drafting is appropriate. Such further details can be determined as part of the establishment of the group. However, following a meeting with OCC and the Applicant’s legal representatives, the Applicant is expecting suggested drafting on this from OCC which the Applicant will consider.

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			189]; Commitments DE1 and SE3 of the PINS Commitments Tracker (doc 7.3) [APP-315]; and section 5 of the EqlA (doc 7.4) [APP-316]. However, none of these includes a protocol for the community liaison group. It would be helpful if such a provision could be included in requirement 33, including a reference to a minimum frequency of meetings (which could be caveated with “unless otherwise agreed by all members of the group”).	
		Schedule 2 Part 2, paragraph 1	Part 2, paragraph 1 provides 42 days for the discharge of requirements. While older DCOs included a 42-day turnaround, a longer period has become commonplace. For instance – - London Luton Airport Expansion Development Consent Order 2025 (SI 2025/463): depending on the type of application, either 13 weeks or 8 weeks, or such longer period as may be agreed between the undertaker and the discharging authority (paragraph 43 of Schedule 2). - M25 Junction 28 Development Consent Order 2022 (SI 2022/573): 8 weeks, or such longer period as may	The Applicant considers the time period to be reasonable (and in accordance with PINS model drafting). It should also be pointed out that the wording provides for a longer period to be agreed and therefore has flexibility, should the 42 days not be sufficient. Notwithstanding this, as explained above, the Applicant has considered OCC’s request and is content to agree to a determination period of 40 working days, effectively being eight weeks. The Applicant understands this is agreed with both OCC and CDC.

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			be agreed between the parties (paragraph 20 of Schedule 2). - Thurrock Flexible Generation Plant Development Consent Order 2022 (SI 2022/157): 13 weeks, or such longer period as may be agreed by the undertaker and the discharging authority (paragraph 25 of Schedule 2). - Riverside Energy Park Order 2020 (SI 2020/419): 9 weeks, or such longer period as may be agreed by the undertaker and the discharging authority (paragraph 2 of Schedule 12). - Abergelli Power Gas Fired Generating Station Order 2019 (SI 2019/1268): 8 weeks, or such longer period as may be agreed between the undertaker and the relevant planning authority (paragraph 1 of Schedule 12). OCC considers the timeframe in paragraph 1 of Part 2 of Schedule 2 should be increased from 42 to 12 weeks. This would be consistent with the 12-week timeframe	

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			included in the draft Botley West DCO, which was submitted to the Secretary of State on 16 July 2026 (paragraph 2(2) of Schedule 16).	
		Part 2, paragraph 2	OCC considers the provisions for requesting further information to be insufficient. As drafted, the discharging authority is permitted only 10 business days to request further information otherwise it is considered to have sufficient information. This is an unreasonable burden to place on the discharging authority. Deciding whether further information is needed requires an extensive review of the submitted documents by officers of various technical disciplines which will be challenging in 10 business days, particularly in the context of officers having other work to do. The draft Order makes provision of 42 days to decide applications, the bulk of which time will be spent reviewing the submitted documents to reach a conclusion on whether they fulfil the obligations set out in the requirement. It is only once the documents have been thoroughly reviewed that it can be decided whether an application includes sufficient information for the requirement to be	The Applicant disagrees that the model wording imposes an unreasonable burden on the discharging authority. The application is for a DCO subject to an Examination process of six months, preceded by two formal rounds of consultation and years of pre-application engagement during which the discharging authority will have had significant opportunity to familiarise itself with the scheme and the submitted documents. This is not a case where the discharging authority will first encounter the relevant technical materials when an application for discharge is submitted. On the contrary, by the time such applications are made, the discharging authority will have had substantial prior engagement with the project. Further, many of the requirements require details to be submitted in accordance with outline documents which the discharging authority will already have reviewed during examination. In such circumstances, the discharging authority's role will be to ensure that the details accord with the approved outline, rather than to conduct a first review of the scheme.

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			discharged. There is no limit to how many applications can be submitted to a discharging authority at once meaning it is possible for the discharging authority to be expected to review multiple applications amounting to many hundreds of pages of technical detail in just 10 business days. OCC considers a more reasonable time limit of 20 business days would give the discharging authority adequate time to decide whether an application contains sufficient information. If the Applicant maintains that 10 business days is reasonable, then this position should be justified in the EM [APP140] which currently lacks such a rationale. (It will be remembered that, for EIA development, the consultation period for statutory bodies is 30 days – 20 business days – and there is a risk that a shorter period will compromise the consultee’s ability to respond timeously).	As has already been stated, this is a nationally significant infrastructure project that requires approvals and consents from numerous statutory and other bodies. It is therefore imperative that it is able to proceed without delay from third parties. Nevertheless, having considered OCC’s request and recognising the importance of establishing an effective long-term working relationship with OCC, the Applicant is willing to include an initial assessment period of 15 business days.
		Part 2, paragraph 3	Part 2, paragraph 3 (fees) provides an unsatisfactory regime for the payment of fees to the discharging body for discharging requirements. Rather than the regime proposed in the dDCO, the Applicant and authorities should enter into a planning performance agreement (“PPA”) for the full	The Applicant does not agree that a Planning Performance Agreement is necessary or appropriate in this context. The fee regime in the draft Order follows the approach commonly adopted in made DCOs and reflects an established and workable model for the discharge of requirements. However, the Applicant is

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			recovery of the costs in discharging any application under the Order. It is unsatisfactory for several reasons – - First, while the discharging authority will be required to deal with applications for consent under articles and requirements, by paragraph 3(1) of Part 2 of Schedule 2, a fee is only payable in respect of requirements. OCC consider that fees should also be paid for dealing with applications under articles and requirements, and for responding to any consultation under it. There can be no reasonable justification for restricting fees to work done under requirements. - Second, the proposed fee is unreasonably low. Paragraph 3(1) says a fee must be the same as that which would have been paid for a reserved matters application under the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012. By paragraph 4(2) of Schedule 1 to those Regulations,	awaiting some proposed drafting from OCC so that it may consider this.

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			the fee is £578. This is too low. If we assume an hourly rate of £139 for an officer to deal with this work, the fee will mean the officer would have to deal with any discharge application within around 4 hours before dealing with the application started to cost the local authority money. It is unlikely that any application will be capable of determination within that period. While a council cannot, by law, make a profit for this work, it is reasonable for it to seek the full recovery of the actual costs incurred. Any other approach is unfair. It will be appreciated this is an application for a nationally significant infrastructure project under the Planning Act 2008, and the fee should reflect the work involved. • Third, this is not only about fairness but also about the way in which the Order is drafted. For example, by paragraph 1 of Schedule 2, the discharging authority will have 42 days to make its decision on any application and if no decision is made within that period, consent will be deemed to have been granted. The same applies	

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			in respect of consents sought under articles. Dealing with any application for consent under this Order will therefore be a matter of high priority for the discharging authority, diverting officer resource from other matters. The inclusion of the deeming provision and its effects on local authority resourcing is another reason why the full cost of doing this work should be covered by the Applicant. • Fourth, the refund provision under paragraph 3(2) of Schedule 2 is unreasonable. For example, if an application is rejected as invalid, the discharging authority will have done the work to reach that conclusion. Reaching this decision, based on the Applicant's inability to submit documents in a valid fashion, should not cost the discharging authority money. • Rather than the regime currently proposed in the Order, OCC and CDC consider it would be preferable if the Applicant, OCC and CDC entered into a PPA for the full recovery of both councils' costs in discharging (or being	

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			consulted on) any application under the Order.	
		Schedule 14, Part 3 (Protective Provisions for the Protection of the Local Highway Authority)	As mentioned in row 7, the draft DCO [APP-139] includes unsatisfactory PPs for the protection of the local highway authority. OCC has several concerns with the Applicant's proposed drafting, and the concerns relate to several important points including, but by no means limited to – - The appropriate form of security to be included in the PPs, - The Applicant's proposed departure from OCC's tried and tested way of calculating fees for county highway works, - The proposed inclusion of a deeming provision, and - The appropriate indemnity to be included in the PP. Discussions on the PPs are ongoing with the Applicant, and it is hoped these can be agreed during the Examination.	<u>Form of security</u> The Applicant's position is that there should be flexibility in the protective provisions as to the form of security, being either a parent company guarantee ("PCG") or a bond. OCC has, to date, resisted the inclusion of a PCG. A PCG is an acknowledged, acceptable form of security. It is accepted by many statutory undertakers in made DCOs, including SSE and National Grid. Further, a PCG is often accepted as a form of guarantee for payment of CPO compensation. In terms of the benefits of a PCG: - it can be seen from the Funding Statement that the ultimate parent company is exceptionally well funded; - it offers the same level of security to OCC, if not better, than a bond; - the parent company will be subject to reporting obligations, therefore its

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				financial standing can be independently assessed; - it will be much more straightforward to put in place for ORL. It is not affected by the state of the bond market at the time of the works, nor does it have the (substantial) administrative costs of a bond, which, when considering the extent of funds being expended by ORL to deliver the significant infrastructure up front, is a considerable consideration; - it would allow direct recourse to the parent company, avoiding the need to go through the bank and navigating the terms of the bond which may delay recovery. - the bond has the potential to be needed for a long period and a bond on these terms could be difficult to obtain. That does not apply to a PCG which can have no fixed end date; If the Applicant cannot secure a bond on the terms required, it would not be able to carry out the 'county highway works' as it is a requirement of the protective provisions that the security is in place prior to commencement. This would sterilise the

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				project due to something which is not within the control of the Applicant. The Applicant is simply seeking comfort to be included in the DCO that a PCG is a suitable and acceptable alternative form of security. The Applicant proposes to prepare a draft PCG for review by OCC in the hope that drafting can demonstrate OCC's apparent concerns can be addressed. OCC has raised a concern about highway works being left unfinished and it needing to utilise the security to complete these. The vast majority of the highway works are not on the local road network/adopted highway (namely the Ardley Bypass and Middleton Stoney Relief Road). OCC would therefore have no powers to step in and complete these works, nor would there be any need to do so given they do not affect the existing local road network. In any event, the Applicant has strong incentives to deliver these works. First, Requirements 7 and 8 prevent occupation of warehouse floorspace beyond specified thresholds until the highway works are delivered, creating a clear commercial imperative. Prospective tenants will require evidence of DCO compliance, making delivery essential to the Applicant's business interests. Second, and more importantly, breach of a DCO is a criminal offence under section 161 of the Planning Act 2008. This

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				provides the strongest possible incentive to secure compliance. <u>Fees for the County highway works</u> The Applicant's objection to the County Council's definition was the costs being calculated as a percentage of the cost of the works, which has no direct relationship to the costs to be incurred by the County Council. If the County Council's wording was accepted, the Applicant would be paying hundreds of thousands of pounds for the works fees. No justification has been provided as to how this figure relates in any way to the actual costs which may be incurred. Pursuant to s93 of the Local Government Act 2003 and section 3 of the Localism Act 2011, the County Council should not be profiting from the carrying out of its statutory functions yet this definition risks that. There is precedent for costs being related to the actual costs incurred, see The A303 Sparkford to Ilchester Dualling Development Consent Order 2021 (as well as East Midlands Gateway as referred to already). <u>Deeming</u>

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				The Applicant reiterates its comments in relation to deemed approval made elsewhere in this response. <u>Indemnity</u> The scope of the indemnity is under discussion but the Applicant is confident that agreement can be reached on this point.
		Schedule 15 (miscellaneous controls)	Paragraph 5 (Environment Act 1995) provides that no order, notice or regulation under the 1995 Act, in relation to the preservation of hedgerows, has effect in relation to the authorised development. The relevant provision(s) of the 1995 Act should be set out.	The DCO was amended to address this prior to submission. Paragraph 5 refers to section 97 of the 1995 Act.

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RR-024	Cherwell District Council	Article 2	In line with SRFI applications that have already been approved by the Planning Inspectorate, this Order seeks to define what works on the ground can be undertaken early on and what might constitute a formal commencement of work. This stage of work is important as formal commencement often links to a wide range of additional requirements e.g. ensuring detailed work proposals are signed off. As utility undertakers have a range of powers to work on power lines, drainage systems etc. Defining what undertakers can and can't do without the benefit of express planning permission is important to facilitate the delivery of the development if approved. As with the definition of the word 'commencement', Cherwell District Council alongside the County Council want this term focused on essential tasks and excessive rights are not unknowingly passed onto an operator.	The Applicant has provided a response to OCC's comments on the definition of 'commencement'. It is not clear whether CDC has additional points to raise but in accordance with the Examining Authority's comments in the Rule 6 letter, CDC is asked to propose alternative wording. It is not conducive for the Applicant to try and second guess what would be appropriate.
		Deeming provisions and Schedule 2	These set the timescales for the Council to respond to requests to discharge requirements (akin to conditions) in the Order. If no decision is made in a timely	

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			manner, then the request is deemed to have been approved. The Council accepts that a cut-off time may be needed and such provisions are common on DCO applications, but wishes to ensure that these provisions allow adequate time for reasoned and sound responses to be made, taking into account the resources the Council has available either in-house or externally supported by the associated planning performance agreement.	
		Schedule Requirements 2	A key aspect of this schedule is the mechanism to secure delivery of the rail infrastructure before too much warehousing is developed out. Whilst there is a trigger point of 232,258 square metres of warehousing that can be built out before the rail interchange is open and available, the Council wished to secure details of how this is monitored and what control powers exist to itself, or another party to prevent or mitigate a breach of the agreed threshold.	The Applicant does not consider this to be a necessary provision of the Requirement but is happy to build in a notification requirement in the Section 106 agreement. However, as a planning authority, CDC has powers to request information pursuant to section 167 of the Planning Act 2008.
		Article 49	The Council recognises the importance of ensuring that trees and hedgerows adjacent to the site do not interfere with the operation or maintenance of the proposed	Where a tree is expressly listed in Schedule 13, it has already been identified for removal because it conflicts with the proposed development. The Applicant cannot retain a tree which becomes

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			development and therefore accepts in principle, the terms set out in this article. The caveat in paragraph (6) which precludes the removal of any tree, shrub or hedgerow identified to be retained in the tree and hedgerow retention and removal plans without the agreement of the LPA is welcomed. However, the Council is mindful that during the ongoing lifetime of the proposed development, there is a constantly emerging potential for trees and hedgerows previously considered to be of limited value to become more significant in stature and their loss could become more harmful to the environment than considered at the time the Order is made. This is a particular concern in relation to trees which may accrue veteran status. Unlike ancient trees which are defined by their age and may possibly outlast the proposed development many times over, veteran trees are ones which develop habitat features such as hollowing, wounds or decay and can support a wide range of biodiversity.	veteran over its lifetime as this would prevent the development. Following a review of this Article, the Applicant has amended Article 49 so that consent is required where a tree or hedgerow is within the highway or on the railway. The Applicant has also amended the requirement to provide that any works to trees must be carried out in accordance with "Trees in relation to Design, Demolition and British Standard 3998:2010, "Tree Works Recommendations". As to veteran trees, the Applicant refers to Requirement 10 and the following which must form part of the P-CEMP: <i>(h) details of existing and proposed landscaping which needs to be protected during construction, including any veteran trees outside the Order limits;</i> In response to the Council's specific comments on a tree becoming veteran, the Applicant responds as follows: It is acknowledged that retained trees and hedgerows will continue to grow and change throughout the lifetime of the development and that some may increase in size, prominence, and environmental

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			As this process of decay or damage may occur over a much shorter period, it is considered that trees not identified for retention at the current time, may in a decade or two become eligible for veteran status. This classification is one not readily discernible to all who undertake arboricultural works and where a tree has suffered damage, it might not be seen as an indicator that the tree reached this important status and could be seen as a dying tree with limited potential and could therefore be lost to felling without further consideration. Accordingly, whilst the Council accepts the spirit of the proposed article, it would wish to see a check being incorporated to allow a review of any proposed felling or pruning works to ensure that the tree would not be classified as a veteran and therefore potentially saved.	value over time. However, this principle applies equally to almost all trees within the wider landscape and is not a reliable indicator of future arboricultural value. • The assessment of trees within the Arboricultural Assessment has been undertaken in accordance with BS5837 and its established cascade chart for tree quality assessment. This framework is specifically intended to provide a consistent, evidence-based assessment of a tree's current quality, condition, contribution, and suitability for retention, rather than relying on speculation regarding future development. Whilst trees may increase in stature, it does not necessarily follow that they will increase proportionately in arboricultural, landscape or ecological value. Equally, trees identified as being of limited quality at the time of assessment may remain of limited quality throughout their lifespan or may decline because of factors beyond the control of the development. • The purpose of the BS5837 categorisation process is to distinguish between those trees that make a meaningful contribution and warrant material consideration within the planning process and those that are of

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				lesser quality or value. The assessment therefore reflects the recognised industry approach of making retention decisions based on observable evidence and reasonable forecast lifespan, rather than on uncertain assumptions regarding future condition or significance. • The potential for trees to develop veteran characteristics in the future is acknowledged. However, veteran status is not conferred simply through the occurrence of decay, wounding, or branch failure. Veteran trees typically develop complex structural and ecological features over many decades because of a unique combination of age, growing conditions, genetic characteristics, and natural retrenchment processes. Whilst some trees may go on to develop veteran attributes, many will not, and their future condition will inevitably be influenced by a range of factors including climate change, pest and disease pressures, storm damage, and changing site conditions. • Arboricultural assessments must therefore be based on the condition, quality, contribution, and characteristics of trees as they exist at the time of survey, rather than on speculative assumptions regarding

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				what individual trees may become over the coming decades. The submitted Arboricultural Assessment has already given due consideration to trees exhibiting elevated habitat value or features indicative of future ecological potential, with such trees identified and assessed accordingly within the BS5837 framework. While it is possible that some of the trees identified to be removed could eventually develop veteran characteristics, it is not possible to reliably predict which individuals will do so, nor the timescale over which such development may occur. If future potential alone were considered sufficient justification for retention, then virtually any tree proposed for removal could be argued to warrant protection on the basis that it may increase in value or ecological significance over time. Such an approach would be inconsistent with the evidence-based assessment principles that underpin BS5837 and the wider planning process.
		Article 59	The matter of how overlapping planning consents should be handled came under scrutiny in the Supreme Court’s judgment in Hillside Parks v Snowdonia National Parks Authority in 2022. Four years on from this	The Applicant disagrees with this analysis, and understands that the article is now agreed following the Applicant’s agreement to an additional paragraph (see above in response to

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			judgment, debate still exists about the approach to be taken with overlapping consents and what implications may arise to either allow or hinder the implementation of development. It is understandable that for many parties involved in securing and then implementing planning consents, the Hillside judgment has the potential to significantly affect what works may or may not take place. The Council in its role as the LPA is mindful of this but is also aware that, uncontrolled, a blanket allowance to developers to implement each and every consent granted may result in unintended consequences arising through elevated levels of development occurring over time that were not expected to be undertaken due to newer consents essentially quashing earlier approved schemes. As drafted, Article 59 seeks to ensure that earlier schemes must not at any time be construed as preventing the further construction, maintenance or use of the development, or any part of it, as sought by the draft Order.	OCC) but welcomes clarification from CDC on that agreement. The Article was included to address a possible issue where two or more consents — a DCO and one or more Town and Country Planning Act permissions — overlap on the same land and the risk of losing the benefit of the DCO. The various sub-paragraphs do the following: - sub-paragraph (1) provides that implementing a 1990 Act permission inside the order limits does not expose the undertaker to prosecution for carrying out development without development consent or in breach of the DCO, and does not "sterilise" the DCO. - sub-paragraph (2) is intended to deal with the opposite issue to that set out above. Where development carried out under a 1990 Act permission, another development consent, or compliance with the conditions of such a permission, is <i>inconsistent</i> with the exercise of a power or right under the Order or with the authorised development, that inconsistency is to be disregarded in establishing whether the permitted development remains capable of physical implementation, and no 1990 Act enforcement action may be taken in

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			Whilst giving the applicants some flexibility to successfully implement the proposed development, it is considered that this article also has the potential to lead to additional levels of development occurring beyond that envisaged in the ES. It is recognised that the development as proposed must be delivered in accordance with the approved Order if granted and in theory, the potential for overlapping consents to occur is limited. However, with a site of this scale, it is considered that if additional development does occur, that impact may result in unacceptable consequences for the local community and environment. The absence of the article as proposed does not preclude the implementation of alternative schemes but it would necessitate further consideration of the impacts that may arise. This ability for potentially harmful development to be checked is considered important. Accordingly, the Council does not support the inclusion of this requirement in the proposed Order.	respect of that inconsistency, whether inside or outside the Order limits. - sub-paragraph (3) was added at the request of OCC and confirms that nothing in the article prevents enforcement action under either the 1990 Act or the 2008 Act in relation to a breach of the relevant permission or consent where the breach is <i>not</i> an inconsistency for the purposes of paragraph (2) Article 59 does not confer any power to carry out works. It also does not disapply the EIA Regulations. If consent was sought for EIA development pursuant to a 1990 Act permission, the Applicant would be required to assess the likely significant environmental effects and submit an environmental statement. Schedule 4 requires the environmental statement to describe the likely significant effects resulting from, among other things, the cumulation of effects with other existing and/or approved projects. The DCO would fall to be considered as such a project once the Order is made.

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		Requirement 5	This requirement seeks to set a threshold on the amount of warehouse development that can be provided before the rail infrastructure is fully operational to the standards required of an NSIP application (a minimum of four 775 metre trains per day). A threshold is considered necessary to ensure a rail interchange is provided before the majority of the development is completed and occupied. Without the trigger for the delivery of the rail interchange, there is a significant risk that the development would become a highways based logistics facility and not one that delivers the rail benefits sought by the national statement. Based on the threshold set in Requirement 5, the scale of development proposed at 232,258 sqm (2.2 million sq.ft.) of warehouse space (including ancillary office floor space but not including mezzanine floor space) is considered to be substantial out of a total allowance of 603,850 sqm (approx. 6.5 million sq.ft.) of warehousing plus an additional 201,283 sqm of additional floorspace in the form of mezzanines.	There is precedent for the approach of permitting occupation of warehousing prior to the delivery of the SRFI, therefore the Secretary of State has accepted that mechanism as adequate, see the following: • East Midlands Gateway Rail Freight Interchange and Highway Order 2016 — occupation of warehousing tied to the terminal being operational; • Northampton Gateway Rail Freight Interchange Order 2019 (as amended in 2023) — a floorspace cap on occupation until the rail terminal is available for use; • West Midlands Interchange Order 2020 — the same structure, with a phased floorspace threshold. Whilst the Applicant agrees that the authorised development will need to be built out in accordance with the Requirements, a development consent is permissive.

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			Whilst modelling indicates that the highway network can accommodate this level of development without severe harm occurring, the scale of development proposed without the provision of a rail interchange to integrate with would be significant and therefore the scheme would not meet its designed role as an SRFI. It should be noted that as unlike a planning application, a Development Consent Order application needs to be built out in accordance with the requirements. The Council would therefore wish to further explore the point at which the trigger point for the delivery of the rail infrastructure is set and the mechanisms for completion of the scheme should development stall.	
		Requirement 13	In addition to the requirements for details of how materials will be excavated and stored on site, the Council would also wish to see detailed routing plans for the transportation of materials onto and off the site within the DCO. It is noted part (e) seeks to secure details of the type of the materials to be moved but it is unclear if this just covers the quantity and type of material to be moved as opposed to the routes to be taken. This can be secured through a routing plan.	The Applicant refers to Requirement 10(2)(r) which requires the following to be submitted with each P-CEMP: <i>a construction HGV traffic routeing strategy for that phase which must accord with the principles of the CTMP;</i> The Applicant considers that this addresses CDC's concern.

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		Requirement 15	In addition to details for the proposed amendments to the listed threshing barn, the Council would also seek to secure details on the relationship of the building and its setting in relation to the neighbouring buildings and proposed changes to land levels and boundary treatments.	Details of the proposals to the threshing barn can be seen on the listed building drawings (Document series 2.14/APP-100 – APP-123). These detail the proposed elevations. In relation to the setting, the Applicant assessed this as part of ES Chapter 10 Heritage (built and archaeology) and Appendix 10.4 Built Heritage Statement of Significance (Document 6.10D/APP-279).
		Requirement 25	The normal hours of work are set as being between 07:00 and 19:00 hours on weekdays and 07:00 and 16:00 hours on Saturdays and not at all on Sundays nor on public holidays, unless otherwise agreed in writing by the local planning authority. Larger works including piling and ground reprofiling are further restricted to shorter working times. These arrangements are deemed acceptable. There are though some exceptions e.g. for highway works or emergency works and whilst most of these are acceptable, there are three exceptions contained within the DCO of note: (b) are carried out within existing buildings or buildings constructed as part of the authorised development;	The Applicant refers to each of the exceptions raised by CDC in turn: <u>Works within buildings</u> The Applicant considers it appropriate to carve this out as internal development works would not require planning permission. It would therefore be unreasonable to impose a cap on when they can be carried out. <u>Unfinished works</u> This appears in the Northampton Gateway and West Midlands Interchange orders and in numerous highways and energy orders. The rationale for this is practical: some activities, such as concrete pours cannot safely be abandoned midway, and stopping them at 19:00 would generate more disturbance, not less.

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			(f) seeks to allow works to complete an operation that would otherwise cause greater interference with the environment and the general public if left unfinished (h) aims to allow works which do not give rise to noise or vibration which cause an adverse impact at the boundary of the main site. These three exceptions have the potential to allow significant levels of activity on site which, in the view of a construction site manager, may be acceptable but may be more widely considered to be a significant nuisance to people surrounding the development. It is therefore proposed that these be removed and should any work be considered necessary out of the prescribed hours, this be agreed in advance with the Council.	<u>Noise or vibration</u> If works do not cause noise or vibration which would create an adverse impact, it is reasonable for them to be permitted outside of the core construction hours. The purpose of controlling the construction hours is to mitigate adverse impacts of construction. If these impacts are not occurring, in the interests of efficiency, they should be allowed to continue.
		Requirement 32	The provision of a liaison group is welcomed. Whilst the group is specified to operate for at least five years following the completion of the development, the requirement does not specify how often the group should meet nor how any actions will be recorded, undertaken and reported on.	The Applicant refers to its response to OCC above. Drafting is awaited for review.

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			To make this group effective, it is requested that it meets at least once each quarter and a website be arranged to allow both members and non-members to follow progress of any existing actions or to register new issues as they arise.	
		Schedule 15	Within Schedule 15, provision is put forward that the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 should not apply to areas identified on the parameters plan (EL Ref. APP-040). In principle, the Council accepts that scope should exist within the Order for signage for the proposal to be covered. As presented though, there are no limits proposed on the overall size or height above ground for the proposed signage. In addition, there are no controls on the type or intensity of any lighting associated with the signage or trigger points by which it should be removed. Accordingly, the Council would wish to see details either in the Order or on the parameters plan setting maximum levels for size, lighting and retention of the proposed	The DCO provides that the 2007 Regulations do not apply only where the advertisement is erected in the location and <i>in accordance with the parameters</i> shown on the parameters plan. The legend denotes 'areas for development signage'. With regards to lighting, this is addressed by Requirement 16 which states: <i>Prior to the commencement of each component of the authorised development on the main site which includes permanent lighting, details of the proposed permanent external lighting in that component must be submitted to and approved in writing by the local planning authority. The lighting details must accord with the principles established in the outline lighting strategy.</i> The Applicant is considering the suggestion in relation to further detail to be included on the parameters plan.

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			signage to ensure excessive harm to the surrounding environment does not occur.	
RR-101	Natural England	Requirement 12	Natural England request that we be included in this requirement as a consultee with an approval role. We wish to be consulted on the phase-specific habitat management and monitoring plans for any areas which are being relied upon as mitigation or compensation for impacts to the interest features of Sites of Special Scientific Interest.	The Applicant considers this to be a matter for Cherwell District Council as the discharging authority. The Applicant has asked CDC whether it would agree to including reference to NE in the requirements and awaits confirmation.
		General	We request confirmation that the land delivered as SSSI mitigation/compensation will be established prior to damage or destruction of interest features. It is not clear from the Requirements that this will be secured.	The timing for delivery of the ecological mitigation works will be determined as part of the phase specific HMMP. This is secured by Requirement 12.
		Requirement 13	Natural England request sight of the soil management plan so that we can provide comment or advice if necessary. We do not request that we are included in the Requirement or given an approval role.	[Responded to in main RR document]
RR-042	Environment Agency	Requirements 10, 22, 28 and 29	The Environment Agency should be named as a consultee for key DCO Requirements (10, 22, 28 and 29) affecting its regulatory remit, particularly the CEMP, floodplain	The Applicant proposes that this is a matter for the discharging authority to determine as it will be responsible for carrying out consultation. The Applicant has asked CDC whether it would agree

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			compensation, contamination management and remediation provisions. Contamination Requirements do not adequately secure Environment Agency involvement, management of previously unidentified contamination, or remediation of known contamination affecting the Principal Aquifer.	to including reference to EA in the requirements and awaits confirmation.
		Schedule 2	The Discharge of Requirements Procedure should include a minimum consultation period for named consultees to allow adequate technical review. 15 working days is proposed.	The length of time for a consultee to respond will be addressed by the discharging authority when it requests a consultation response.
		Requirement 10	Requirement 10 should be revised to remove ambiguous wording and improve the certainty and enforceability of the Construction Environmental Management Plan. The use of the phrases such as “in accordance with the principles of” and “substantially in accordance with” in DCO Requirements undermines enforceability and creates unnecessary uncertainty.	The Applicant does not agree with the EA’s assessment of Requirement 10. The wording is widely used in DCOs when an outline or framework document is certified by the Secretary of State and the DCO then obliges the undertaker to produce a detailed plan, see, for example, Schedule 2 requirements in the A122 Lower Thames Crossing Order 2025.
		Requirement 28	The EA proposes amended wording as follows:	The wording ‘within the identifiable perimeters of the area in which the suspected contamination is located’ is already included with the DCO

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			28. If, during the course of construction, previously unidentified contamination is discovered, construction must cease on that localised area of land within the identifiable perimeters of the area in which the suspected contamination is located within the Order limits and the contamination must be reported in writing to the local planning authority within 10 working days. Prior to the recommencement of construction on that localised area of land within the Order limits, suitable investigation and risk-based land contamination assessment for the discovered contamination (to include any required amendments to the remedial scheme and verification plan) must be submitted to and approved in writing by the local planning authority in consultation with the Environment Agency. The authorised development must then be implemented in accordance with the details approved by the relevant planning authority and, unless otherwise agreed in writing by the local planning authority, retained as such in perpetuity	submitted with the application. This change was made at the request of the Environment Agency following statutory consultation. As for the EA being named as a consultee, the Applicant reiterates that this is a matter for the discharging authority. The Applicant has asked CDC whether it would agree to including reference to EA in the requirements and awaits confirmation.
		Requirements 28 and 29	Clarify how the remediation of known contamination will be secured and implemented. If this is intended to be secured through the DCO, identify the	There is no known contamination outside of the landfill, which is to be governed by the landfill

RR	Respondee	DCO Article/Schedule	Comment (wording is taken verbatim from the relevant representation unless stated otherwise)	Applicant's Response
			relevant Requirement or amend the dDCO as necessary to ensure that the investigation, remediation and verification of known contamination are appropriately secured.	works requirement (30) and separate EA permit regime.
		Article 52	We are in discussions with the Applicant as to whether the drafting of Article 52 is appropriate and, whether it would allow us to effectively discharge our regulatory responsibilities. As such, we are not currently in a position to agree Article 52 and will provide a further update on our position at an appropriate time during examination. Our permitting position comments focus on whether the proposed landfill activities are technically feasible and capable of being authorised under the Environmental Permitting regime. We understand that the purpose of Article 52 is to establish a legal mechanism for managing the interface between the authorised development and the existing Ardley Landfill environmental permit, including any permit variations or partial permit surrender that may be required to	The Applicant has received an amended version of Article 52 directly from the EA and is grateful for the EA's proactivity in relation to this. The Applicant is reviewing the wording and will respond to the EA in due course.

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			facilitate the Proposed Development whilst maintaining regulation of the remaining landfill site.	
		General	Impact: Lack of clarity regarding the interface between the DCO and Environmental Permitting regimes, resulting in uncertainty over how activities will be regulated and how environmental risks will be assessed, managed, monitored and controlled throughout the Proposed Development. Solution: Provide a clear explanation of the interface between the DCO and environmental permitting regimes in relation to activities undertaken during the pre-construction, construction and operational phases, including the associated investigations, risk assessments, remediation measures and monitoring requirements.	The Applicant has addressed these points below, however, it firstly considers it important to state that the Applicant has engaged extensively with the EA in relation to the proposed approach to the landfill works and the landfill site, which is subject to an existing permit. The EA has been provided with preliminary risk assessments, enabling the EA's "in principle" agreement to the proposals as noted in Document 6.13A/APP-299 - ES Appendix 13.1 Landfill reprofiling technical note. The DCO provides development consent for the works and enables land acquisition and temporary possession of land, along with other consents and powers. However, the DCO does not replace the requirement for an environmental permit under the Environmental Permitting (England and Wales) Regulations 2016 ("the 2016 Regulations"). However, the DCO does seek to alter the application of the 2016 Regulations save for in relation to an existing permit only – this being Permit No. BV7346IM issued by the EA to Valencia Waste Management. Article 52 of the draft DCO ("Interface with waste operation permits") establishes a legal mechanism

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				for managing the interface between the authorised development and the existing Ardley Landfill environmental permit. It provides that before the undertaker carries out an authorised activity which would give rise to inconsistency or conflict with an existing permit, it may consult the EA and the permit holder on a draft environmental scheme, amend that scheme as appropriate, and submit the final scheme to the ES. Article 52(9) expressly preserves the requirement under the 2016 Regulations for a regulated facility to be authorised by an environmental permit. <i>(9) Nothing in this article affects— (a) the requirement under the 2016 Regulations for a regulated facility to be authorised by an environmental permit; or (b) the right of a permit holder to make an application for a variation or surrender of an environmental permit under the 2016 Regulations.</i> Article 22 (discharge of water) also expressly mentions the 2016 Regulations as follows: <i>(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the 2016 Regulations.</i> No other Articles in the DCO refer to or modify the 2016 Regulations.

RR	Respondee	DCO Article/Schedule	Comment (wording is taken verbatim from the relevant representation unless stated otherwise)	Applicant's Response
RR-077	Keith Stacey	Requirement (no current DCO requirement tying warehouse occupation to rail terminal completion); highway mitigation phasing	Asks that, at minimum, any Development Consent Order include a binding requirement that no warehouse floorspace be occupied until the rail terminal is fully established and connected to the Chiltern Main Line, capable of handling the minimum service level relied upon to justify the scheme's NSIP status. Also asks that the DCO include binding, funded requirements tying each phase of warehouse and rail terminal occupation to prior completion of highway mitigation works at Junctions 9 and 10, secured by financial bond or other enforceable mechanism.	The Applicant refers to its response to OCC above. The Applicant also wishes to draw attention to Requirements 7 and 8 which require a phased delivery of the highway works, tied to warehouse occupation levels.
RR-075	Keith Donald Kenneth Murray	DCO powers/Requirements (rail operator contractual commitment; phased warehouse occupation)	Submits that, as the Applicant is not itself a railfreight operator, the DCO powers should require the Applicant to provide evidence of a contract for operation of the terminal, for a period of not less than 10 years, by a recognised railfreight operator before any building commences, and that only a limited amount of warehousing should be allowed to be occupied until the railfreight terminal itself has been fully constructed.	The Applicant refers to requirement 5 which requires the rail freight to be available for use before occupation of 232,258 square metres of warehousing (plus ancillary office). This is in line with national policy. The Applicant refers to the footnote to paragraph 3.16 of the Planning Statement (Document 5.4/APP-161) which states: "National Policy (the NPS) explicitly recognises that warehousing on SRFI's may be delivered before final delivery or commissioning of rail connections (NPS paragraph 4.88)".

RR	Respondee	DCO Article/Schedule	Comment (wording is taken verbatim from the relevant representation unless stated otherwise)	Applicant's Response
				The NPS Policy Compliance Tracker (Document 5.4B/ APP-163) similarly confirms this approach aligns with paragraphs 4.85–4.89 of the NPS, which set out requirements on the scale and design of SRFIs, including phasing.
RR-140	Upper Ouse Water Management Board	DCO drainage/watercourse access provisions (general)	Notes that the proposal is proximate to, and immediately upstream of, the Board's district and that the Board requires 24/7 access to watercourse banks under its Land Drainage Act powers and byelaws. States that it is usual practice for the Land Drainage Act to be suspended when a DCO for major infrastructure comes into force, and that specific paragraphs are normally written into a DCO where relevant to drainage or watercourse access; asks to be consulted on any relevant plans and that required Land Drainage consents be sought prior to determination.	See response in main RR document, the Applicant understands that this will not be necessary, and in the event that it is, this is a matter for the discharging authority.