



MetroWest+

Portishead Branch Line (MetroWest Phase 1)

TR040011

Applicant: North Somerset District Council

9.19 ExA.FI.D3.V1 – Applicant's response to the ExA's Actions from the Compulsory Acquisition Hearing (CAH1)

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Document No. 9.19 ExA.FI.D3.V1**TR040011 - Application by North Somerset Council for an Order granting Development Consent for the Portishead Branch Line – MetroWest Phase 1****Applicant's Comments on Hearing Action Points arising from the Compulsory Acquisition Hearing held virtually on Friday 4 December 2020**

Action	Description	Action by	When	Applicant's Comments
1	All parties to continue to negotiate and where possible conclude voluntary agreements for the land that would be needed to enable delivery of the proposed development.	All parties	By the end of the Examination	Noted. The Applicant will continue to negotiate with the relevant parties.
2	Applicant, if they wish, to submit full script of initial presentation setting out case for Compulsory Acquisition (CA) and Temporary Possession (TP) against s122 and s123 of the Planning Act 2008 as the time for the presentation was limited at the Hearing.	Applicant	Deadline 3	Please see the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.
3	Applicants contact details to be provided to Ms Bigwood so a site meeting can be arranged.	National Infrastructure Case Team	ASAP	Please see the update set out in Ref: 1 of the table in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.
4	Written submission to	Applicant	Deadline 3	Please see the update set out in Ref: 3 of the

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	<p>explain how Work No.29 (Parson Street Junction) which is to provide a compound for the proposed junction works which would be carried out under the Town and Country Planning (General Permitted Development) Order would be associated development.</p>			<p>table in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.</p>
5	<p>Written submission providing an explanation as to why temporary possession for the whole of the area covered by plots 01/22 and 02/250 (Galingale Way pond area) would be required.</p> <p>Clarify whether CA rather than TP would be required for the proposed street lighting columns or whether this would be covered by an existing s106.</p>	Applicant	Deadline 3	<p>Please see the update set out in Ref: 4 a) of the table in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.</p>

Action	Description	Action by	When	Applicant's Comments
6	Update on need for plots 02/20 (Fennel Road) and 03/30, 03/32 and 03/33 (Station Rd – Elm Tree Park) in their entirety if the Applicant chooses to go down the route of Direct Local Licencing (DLL) to deal with the issue of Great Crested Newts (GCN).	Applicant	Deadline 3	Please see the update set out in Ref:4 b) of the table in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1
7	<p>a) To clarify the apparent anomaly between the work plans and the land plans between Work Nos 10b and 11b.</p> <p>b) To clarify whether the access that Work No 11b would provide to Western Power Distribution (WPD) could be provided through other legislation and without the need to acquire a right in the land.</p> <p>c) Applicant to provide a summary of what rights provided under the Hinkley C Connector DCO would be extinguished and what would be re- provided in relation to Shipway Farm.</p>	Applicant and WPD	Deadline 3	<p>a) Please see the update set out in Ref: 4 c) of the table in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.</p> <p>b) Please see the update set out in Ref: 8 of the table in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.</p> <p>c) The Applicant does not seek to affect the proposed easements or new rights for overhead or underground cables to be created for the benefit of either National Grid Electricity Transmission PLC (NGET) or WPD pursuant to the Hinkley C Connector DCO. To date NGET has only used temporary powers in the Hinkley C Connector DCO to access the Applicant's land and carry out works. The Applicant will continue to seek to agree the position with both parties regarding the rights those parties seek over the</p>

Action	Description	Action by	When	Applicant's Comments
				<p>Applicant's land.</p> <p>The Applicant would however wish to agree with both NGET and WPD that, when the Hinkley C Connector DCO rights are sought by either of those parties over the Applicant's land, those rights do not include rights to access the railway at surface level, so that (in respect of WPD) the accommodation crossing at Shipway Gate Farm may be closed and (in respect of NGET) no new accommodation crossing is created west of the bridge carrying the highway of Sheepway over the railway (Sheepway Bridge).</p> <p>It is believed that NGET can use the Sheepway Bridge for its surface access purposes as this is close to the point where the new electricity transmission cables will cross the railway.</p> <p>For WPD it is intended that a new right is created to allow WPD to access its underground 132 kv cable from Sheepway, south of Sheepway Bridge without needing to cross the railway at the current accommodation crossing (at plot 02/125 on Land Plan sheet 2 [AS-012]). The new right would be provided by the Applicant securing new rights over plot 02/121 as well as the land or rights over plot 02/55.</p> <p>The Applicant is working with WPD to agree a proposal for the creation of the required rights</p>

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				<p>to be put to Mr Crossman and secured by agreement. This would allow for provisions for an agreed relocation of the route of the new right at a later date if required by Mr Crossman or his successors, and would also allow the right to be created over a route outside of Order limits if that is preferable to Mr Crossman. The Applicant hopes to be in a position to propose terms to Mr Crossman early in the New Year.</p> <p>See further the Applicant's submissions in response to Mr Crossman at CAH1 – Item Ref 8 in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.</p>
8	Clarify whether the land shown within the Order Limits on the top right-hand corner of sheet 2a of the works plan is or needs to be included in the land plans.	Applicant	Deadline 3	See further the Applicant's submissions in response to Mr Crossman at CAH1 – Item Ref 4(d) in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.

Action	Description	Action by	When	Applicant's Comments
9	<p>Applicant to revise Compulsory Acquisition Schedule (CAS) to show where voluntary agreements have been concluded; where they are in negotiation and when it is expected that agreements would be concluded. Full details of the parties involved rather than just initials. Applicant advised to look at the CAS submitted by Esso for Southampton to London Pipeline DCO as an example of the layout and information that the ExA require.</p>	Applicant	Deadline 3	Please see the updated Compulsory Acquisition Schedule (DCO Document Reference: 9.11 ExA.CA.D3.V2) submitted at Deadline 3.
10	<p>Applicant and Freightliner to confirm whether the route provided by plot 17/15 is correct or whether an alternative access route to the proposed construction compound would be needed and if an alternative route is needed what the implications for CA/ TP would be.</p> <p>Applicant to confirm why the eastern end of plot 17/15 which is currently used by Freightliner for parking would be needed.</p>	Applicant and Freightliner	Deadline 3	Please see the update set out in Ref: 6 of the table in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.

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11	<p>Applicant to provide further clarification re plot 05/85 and whether it would be amended/ removed as a result of change request to remove Work No. 16d.</p> <p>Applicant to provide conformation as to whether the remaining kite shaped parcel of plot 05/85 would still be required if GCN are dealt with through DLL option.</p>	Applicant	Deadline 3/4	Please see the update set out in Ref: 7 of the table in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.
12	Mr Crossman is noted in the Book of Reference [REP1-007] as having an interest in plots 02/50, 02/53, 02/90 and 02/101 but these plots are not listed in the CAS – Applicant to check and amend as necessary.	Applicant	Deadline 3	Please see the update set out in Ref: 5 of the table in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.
13	<p>a) Applicant and Mr Crossman to have further discussions to try and progress a voluntary agreement.</p> <p>b) Applicant to confirm why they need the full extent of plot 02/55.</p>	Applicant	On-going	<p>a) The Applicant will continue to hold discussions with Mr Crossman to reach a satisfactory outcome for both parties.</p> <p>b) Please see the update set out in Ref: 8 of the table in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.</p>

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14	<p>RR-018 raised a concern that Plot 16/155 might encroach on land in their ownership. Applicant to check and action accordingly.</p> <p>CAS to be amended to include plot 16/35.</p>	Applicant	Deadline 3	Please see the update set out in Ref: 11 of the table in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.
15	Update on progress with negotiations on plots 04/20, 04/21, 04/35 and 04/36.	Applicant	Deadline 3	Please see the update set out in Ref: 13 of the table in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.
16	Explain why ETM Contractors not included as category 3 when other plots around the junction are?	Applicant	Deadline 3	Please see the update set out in Ref: 15 of the table in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.
17	Statement of Common Ground with WPD to be prepared	Applicant and WPD	Deadline 4	Please see the update set out in Ref: 17 of the table in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.

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18	<p>National Trust (NT) to provide written response regarding maintenance arrangements and who would bear the on-going expense of these.</p> <p>Submission of details of current arrangements with Network Rail (NR) for the freight line and rock fencing and maintenance.</p>	Applicant NT NR	Deadline 3	The Applicant remains in discussions with National Trust and progress is being made to resolve the extent to which the Applicant may assist the National Trust with regard to its future liabilities.
19	Note on Forestry England/Forestry Commission definitions/roles	Applicant	Deadline 3	Please see the update set out in Ref: 19 of the table in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.
20	Note on what the implications for the project are if Crown consent is not forthcoming by close of the Examination and whether the project could proceed if all Crown land had to be removed from the Order land?	Applicant	Deadline 6	The Applicant will respond to this action from the ExA before Deadline 6.

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21	Clarification from Burgess Salmon regarding whether the Escheat land plot 06/240 was acquired subject to a restrictive covenant and if it is whether Crown consent would be required or whether this is covered by AS-004.	Applicant	Deadline 4	Please see the update set out in Ref: 20 of the table in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.
22	Legal submission identifying the statutory source/ authority for the Statutory Undertaker powers that they are relying on, setting these out in a document that extracts the relevant statute/ order and provision and then has an explanatory text, saying what the provision does. Explain how undertakings were transferred given that Bristol Port and Harbour were controlled by the corporation of Bristol and Bristol City Council and therefore whilst some Statutory Undertaker powers might have been transferred to Bristol Port Company (BPC), other powers may have been	BPC	Deadline 4	-

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	reserved for the Council to enable the ExA to understand the roles and functions of BPC and whether the proposed development would be affecting commercial or statutory functions.			
23	Comments on protective provisions suggested by BPC in their REP2-064.	Applicant	Deadline 3	<p>Please see the update set out in Ref: 25 of the table in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.</p> <p>Given the progress in discussions the Applicant believes it will be more efficient for it to respond to this action from the ExA before Deadline 4, to allow further discussion between the parties, as the content of the agreement proposed (and now the subject of negotiation) will impact on a number of BPC's specific drafting points in its suggestions regarding protective provisions.</p>
24	Submission of s127 case if matters with statutory undertakers remain outstanding by the close of the Examination.	Applicant	Deadline 7	The Applicant will respond to this action from the ExA before Deadline 7.

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25	Confirmation as to whether there would be any implications for CA regarding Natural England's suggestion for alternative locations for mitigation planting.	Applicant	To be discussed at ISH in January	Please see the update set out in Ref: 26 of the table in the Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1) – DCO Document Reference 9.15 ExA.CAH1.D3.V1.