



# MetroWest+

## Portishead Branch Line (MetroWest Phase 1)

TR040011

Applicant: North Somerset District Council

9.20 ExA.FI.D4.V2 – Applicant's response to the ExA's Actions from the Issue Specific Hearing (ISH1)

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**Document No. 9.20 ExA.FI.D4.V2**

**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 Issue Specific Hearing held virtually on Monday 7 December 2020**

| <b>Action</b> | <b>Description</b>   | <b>Action by</b>   | <b>When</b> | <b>Applicant's comments</b>  |
|---------------|--|--|-------------|--|
| 1             | Article 22 (Discharge of water)<br><br>Discussion regarding maintenance to be had at ISH2/3 when other flood risk and drainage issues will be discussed. | Examining Authority (ExA)<br>Applicant<br>Environment Agency (EA) North Somerset Council (NSC) | ISH2/3      | <b>Deadline 3:</b><br><br>No further comments – the Applicant agrees with the ExA's suggestion to defer this matter until ISH2/3.<br><br><b>Deadline 4:</b><br><br>See Applicant's post-hearing written submissions for ISH2 (DCO Document Reference 9.23 ExA.ISH2.D4.V1) and ISH3 (DCO Document Reference 9.24 ExA.ISH3.D4.V1). |

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|--------|--|--|----------|---|
| 2      | <p>Article 2 (Commencement)</p> <p>(i) Applicant and the Local Planning Authority's (LPAs) to continue discussion of how this is to be defined to enable the carving out of preliminary works.</p> <p>(ii) Applicant to check that all preparatory/ preliminary works are captured eg clearance of vegetation; works to secure rocks to prevent rock falls; works to trees including protective fencing; laying out of temporary compounds. Article to be amended as necessary.</p> <p>(iii) Applicant and LPAs to review how the carrying out of any preparatory/ preliminary in accordance with the Code of Construction Practice (CoCP); the outline Construction Environmental</p> | Applicant NSC<br>Bristol City Council<br>(BCC) | On-going | <p><b>Deadline 3:</b></p> <p>(i) Discussions continue. The Applicant has discussed items (ii) and (iii) below but the relevant planning authorities have not seen the Applicant's revised drafting or these (and related) responses.</p> <p>(ii) Please see the Applicant's Oral Case and response to Representations at the Issue Specific Hearing 1 (ISH1) – DCO Document Reference 9.16 ExA.ISH1.D3.V1, Section 3 Issue Reference 2.</p> <p>(iii) Please see the Applicant's Oral Case and response to Representations at the Issue Specific Hearing 1 (ISH1) – DCO Document Reference 9.16 ExA.ISH1.D3.V1., Section 3, Issue Reference 4.</p> |

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|        | <p>Management Plan (CEMP) and Construction Traffic Management Plan (CTMP) would be secured.</p>  |               |               | <p><b>Deadline 4:</b></p> <p>The Applicant continues to engage with both relevant planning authorities and aims to clarify the position with Article 2 in the next iteration of the Statement of Common Ground at Deadline 5.</p>   |
| 3      | <p>Article 44 (Hedgerows)</p> <p>Discussion between the Applicant and NSC as to whether article 44 is sufficient or whether a requirement is needed to address NSC concerns.</p> | Applicant NSC | Before ISH2/3 | <p><b>Deadline 3:</b></p> <p>The Applicant has amended Article 44 and does not consider an additional requirement is necessary. The Applicant has provided a note to NSC explaining the approach and agrees the matter be reviewed at ISH2/3.</p> <p>For the Applicant's full response on this issue please see the Applicant's Oral Case and response to Representations at the Issue Specific Hearing 1 (ISH1) – DCO Document Reference 9.16 ExA.ISH1.D3.V1, Section 3 Issue Reference 7.</p> |

| Action | Description  | Action by     | When       | Applicant's comments  |
|--------|--|---------------|------------|---|
|        |  |               |            | <p><b>Deadline 4:</b></p> <p>The Applicant has received a copy of the email from the Relevant Planning Authority to the Panel to confirm that Article 44 is agreed. This point will be covered in the Statement of Common Ground between the parties submitted at Deadline 5.</p>   |
| 4      | <p>Article 46 (defence to proceedings in respect of Statutory notice)</p> <p>NSC to provide further detail as to why they are requesting a 12-week notification period.</p> <p>Applicant to provide detail as to why they consider a 4-week period would be appropriate.</p> | NSC Applicant | Deadline 3 | <p><b>Deadline 3:</b></p> <p>The Applicant believes the ExA was referring to Article 46 (traffic regulation) rather than Article 45 (defence to proceedings in respect of statutory nuisance).</p> <p>The Applicant has agreed to NSC's preferred 12-week notice period. Please see the Applicant's Oral Case and response to Representations at the Issue Specific Hearing 1 (ISH1) – DCO Document Reference 9.16 ExA.ISH1.D3.V1, Section 3 Issue Reference 8.</p> |
| 5      | <p>Requirement 5</p> <p>Applicant to check with EA whether the requirement as drafted addresses their</p>  | Applicant EA  | ISH2/3     | <p><b>Deadline 3:</b></p> <p>The Applicant and EA remain in dialogue and the Applicant agrees</p>   |

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|        | <p>concerns regarding waste management and if not the EA to provide their preferred wording.</p>   |           |            | <p>with the ExA's suggestion to defer this matter until ISH2/3.</p> <p><b>Deadline 4:</b></p> <p>This matter was not expressly dealt with at ISH2/3 but the Applicant is seeking to agree the drafting of Requirement in the next iteration of the Statement of Common Ground to be submitted at Deadline 5.</p> |
| 6      | <p>Requirement 11</p> <p>Applicant to review and respond to NSC suggested alternative wording for requirement 11(c) provided in their Deadline 2 (D2) response to First Written Questions [REP2-038]</p> | Applicant | Deadline 3 | <p><b>Deadline 3:</b></p> <p>Please see the Applicant's Oral Case and response to Representations at the Issue Specific Hearing 1 (ISH1) – DCO Document Reference 9.16 ExA.ISH1.D3.V1., Section 3, Issue Reference 12.</p>   |
| 7      | <p>Requirement 16</p> <p>Change to start time to be discussed as part of discussion on construction impacts at ISH2/3</p>  | ExA       | ISH2/3     | <p><b>Deadline 3:</b></p> <p>Noted. The Applicant will liaise with the Relevant Planning Authorities ("RPAs") in the interim.</p>  |

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|        |  |              |               | <p><b>Deadline 4:</b></p> <p>The relevant planning authorities indicated their satisfaction in ISH1 with the amended wording of Requirement 16 (introduced at Deadline 2). The Applicant expects to formally record this as an agreed issue in the revised Statement of Common Ground to be submitted at Deadline 5.</p> |
| 8      | <p>Requirement 17</p> <p>Applicant to review revised wording suggested by EA regarding the need to submit a verification plan.</p> <p>Applicant to review either including the additional wording suggested by the EA regarding previously unidentified contamination either within Requirement 17 or whether it should be a separate requirement.</p> | Applicant EA | Before ISH2/3 | <p><b>Deadline 3:</b></p> <p>Please see the Applicant's Oral Case and response to Representations at the Issue Specific Hearing 1 (ISH1) – DCO Document Reference 9.16 ExA.ISH1.D3.V1., Section 3, Issue Reference 14.</p>   |
| 9      | <p>Requirement 4 versus Requirements 18, 32 and 33.</p> <p>Applicant to review whether these Requirements 18, 32 and 33 duplicate Requirement 4 and whether</p>  | Applicant    | Deadline 3    | <p><b>Deadline 3:</b></p> <p>The Applicant has removed each of the listed works from Requirement 4 and amended the relevant specific requirements accordingly.</p>   |

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|        | Requirements 18, 32 and 33 should be retained and reference to works No 28, 18 and 27 should be deleted from Requirement 4 or whether Requirement 4 should be reworded and Requirements 18, 32 and 33 should be deleted. |           |            | Please see the Applicant's full response in the Applicant's Oral Case and response to Representations at the Issue Specific Hearing 1 (ISH1) – DCO Document Reference 9.16 ExA.ISH1.D3.V1, Section 3 Issue Reference 16.   |
| 10     | <p>Off-site tree planting on land not within order limits</p> <p>Issue of whether this is needed and if it is how it would be secured in the dDCO to be discussed at ISH2/3.</p>   | ExA       | ISH2/3     | <p><b>Deadline 3:</b></p> <p>The Applicant agrees with the ExA's suggestion to defer this matter until ISH2/3.</p> <p><b>Deadline 4:</b></p> <p>This matter was not expressly dealt with at ISH2/3 save for the Applicant confirming there was no further update from that in to ExQ1 (REP2-013) at question BIO.1.26. The Applicant refers to its response to ExQ1 (REP2-013) at question BIO.1.26 in respect of planting adjacent to the Portbury Hundred.</p> |
| 11     | <p>Requirement 30</p> <p>NSC to comment on the proposed wording.</p>   | NSC       | Deadline 3 | <p><b>Deadline 3:</b></p> <p>The RPA has confirmed its satisfaction with Requirement 30 to the Applicant.</p>  |



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| 12     | <p>District Level Licensing (DLL)</p> <p>Applicant to review whether the dDCO would need to be amended if the Applicant chooses to opt for DLL rather than on-site mitigation with particular reference to Work Nos 10c, 12b and 16b and Requirement 34.</p>                        | Applicant            | ISH2/3<br>Deadline 4 | <p><b>Deadline 3:</b></p> <p>Please see the Applicant's Oral Case and response to Representations at the Issue Specific Hearing 1 (ISH1) – DCO Document Reference 9.16 ExA.ISH1.D3.V1, Section 3 Issue Reference 19.</p> <p><b>Deadline 4:</b></p> <p>See the Applicant's post-hearing written submissions for ISH3 (DCO Document Reference 9.24 ExA.ISH3.D4.V1) at issue 14. In its Deadline 4 submissions the Applicant includes a formal change request as a result of DLL having been secured – see DCO Document Reference 9.28 ExA.FI.D4.V1.</p> |
| 13     | <p>Applicant to review dDCO in light of the comments contained in NSC Local Impact Report (LIR) [page 133, REP1-033] regarding suggested amendments to address bat and bird habitat issues, landscape design and whether the CEMP should be informed by ecological constraints.</p> | Applicant ExA<br>NSC | ISH2/3               | <p><b>Deadline 3:</b></p> <p>The Applicant has reviewed the points raised by the RPA. The Applicant responded in detail to the RPA on 18 December 2020 by email. This email is appended at Appendix 1 to the Applicant's Oral Case and response to Representations at the Issue Specific Hearing 1 (ISH1) – DCO Document</p>  |

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|        |   |                   |                                   | Reference 9.16 ExA.ISH1.D3.V1.   |
| 14     | <p>Construction Workers Travel Plan (CWTP)</p> <p>Further consideration of whether the CWTP should be a certified document and whether it needs to be referred to in Requirement 5.</p> | NSC BCC Applicant | Statement of Common Ground (SoCG) | <p><b>Deadline 3:</b></p> <p>Please see the Applicant's Oral Case and response to Representations at the Issue Specific Hearing 1 (ISH1) – DCO Document Reference 9.16 ExA.ISH1.D3.V1, Section 3 Issue Reference 21.</p> |
| 14     | Correct typo at beginning of Schedule 17  | Applicant         | Deadline 3                        | <p><b>Deadline 3:</b></p> <p>The Applicant has corrected the typographical error in the revised dDCO submitted at Deadline 3 (DCO Document Reference 3.1, Version 4).</p>  |
| 15     | Submission of copies of the Letters of No Impediment (LoNI) by Natural England in relation to bats and badgers.   | Applicant         | Deadline 3                        | <p><b>Deadline 3:</b></p> <p>The Applicant has submitted the LoNI at Deadline 3 – see DCO Document Reference 9.21 ExA.FI.D3.V1.</p>  |
| 16     | Applicant to provide an update on whether the provisional Impact  | Applicant         | ISH2/3                            | <p><b>Deadline 3:</b></p> <p>Noted.</p>  |

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|        | Assessment Conservation Payment Certificate has been received and completed.   |               |                     | <p><b>Deadline 4:</b></p> <p>See the Applicant's post-hearing written submissions for ISH3 (DCO Document Reference 9.24 ExA.ISH3.D4.V1) at issue 14. In its Deadline 4 submissions the Applicant includes a formal change request as a result of DLL having been secured – see DCO Document Reference 9.28 ExA.FI.D4.V1.</p> |
| 17     | Update on progress with obtaining Crown consent.   | Applicant     | Deadline 4          | <p><b>Deadline 4:</b></p> <p>Please see the Applicant's Cover Letter to its Deadline 4 submissions, DCO Document Reference 9.22 ExA.CL.D4.V1.</p>  |
| 18     | Update on progress with obtaining the relevant consents/ permits from the EA.  | Applicant EA  | Deadline 4/<br>SoCG | <p><b>Deadline 4:</b></p> <p>The relevant consents will be sought if development consent is issued by the Secretary of State.</p>  |
| 19     | Applicant to review whether consents under s61 of the Control of Pollution Act should be added to the list of other permits/ consent that the Applicant would need to obtain and if they do an | Applicant NSC | Deadline 4          | <p><b>Deadline 3:</b></p> <p>Agreed as a Deadline 4 action though the Applicant notes s61 consents are already included in the list of consents and licences required under other</p>  |

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|        | update as to when and how these would be applied for/obtained.   |               |            | <p>legislation [APP-073].</p> <p><b>Deadline 4:</b></p> <p>The Applicant has submitted an updated list of other consents and licences (DCO Document Reference 5.3 (Version 2)). Please note item 14 covering Section 61 of the Control of Pollution Act. It is expected these consents will be applied for post-issue of development consent.</p>  |
| 20     | BCC/ Applicant to confirm whether the proposed upgrade of the pedestrian crossing to Ashton Road would be secured through a s106 agreement or through s278 of the Highways Act. To then be added to the list of other permits/ consents that the Applicant would need to obtain. | BCC Applicant | Deadline 4 | <p><b>Deadline 3:</b></p> <p>The Applicant will provide an update to the list of other consents and licences required at Deadline 4.</p> <p><b>Deadline 4:</b></p> <p>The Applicant has submitted an updated list of other consents and licences (DCO Document Reference 5.3 (Version 2)) to include the S278 Agreement. The Applicant does not propose to settle a development consent obligation to deal with a tree</p> |

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|        |   |                  |                      | <p>contribution and will confirm the position regarding the provision of a contribution to tree planting in the SOCG with Bristol City Council. Also see the Applicant's post-hearing written response following ISH1 (REP3-028) issue no. 23.</p>   |
| 21     | <p>BCC/ Applicant to confirm how, if required, the contribution towards trees to compensate referred to in BCC LIR [REP1-032] would be secured.</p> <p>If S106 or unilateral undertaking - what would the timescale be for the submission of the completed obligations to the Examination?</p> <p>BCC and Applicant to have discussion about the need for these (and other) off-site contributions.</p> | BCC<br>Applicant | ISH2/3<br>Deadline 4 | <p><b>Deadline 3:</b></p> <p>The Applicant is discussing the process for payment with BCC and proposes that it updates the ExA at ISH2/3. The Applicant does not envisage that a development consent obligation will be used.</p> <p><b>Deadline 4:</b></p> <p>The Applicant continues to discuss this issue with BCC and expects to be able to record the matter as resolved in the next iteration of the Statement of Common Ground at Deadline 5.</p> |
| 22     | <p>If any S106 agreements or Unilateral Undertakings required by the proposal – completed obligations need to be submitted by Deadline 7.</p>   | Applicant        | Deadline 7           | <p><b>Deadline 3:</b></p> <p>Noted.</p>  |

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| 23     | The list contained in article 13 (1) of the dDCO to be amended to include the two additions suggested by BCC.   | Applicant    | Deadline 3 | <p><b>Deadline 3:</b></p> <p>The additional works have been added to the dDCO submitted for Deadline 3 (DCO Document Reference 3.1, Version 4).</p> |
| 24     | Applicant to seek a separate letter (rather than the EA's D2 response [REP2-040]) to confirm that the EA has no objection to the proposed change request. | Applicant EA | Deadline 3 | <p><b>Deadline 3:</b></p> <p>The Applicant was informed on 18 December that the Environment Agency is content with the proposed change.</p>         |