



MetroWest+

Portishead Branch Line (MetroWest Phase 1)

TR040011

Applicant: North Somerset District Council

9.24 ExA.ISH3.D4.V1 – Applicant's Oral Case and response to Representations at the Issue Specific Hearing 3 (ISH3)

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The proposed Portishead Branch Line (MetroWest Phase 1) Order

Statement of Case and Applicant's response to Representations at the Issue Specific Hearing 3 (ISH3) held on 12 January 2021 at 10am

1. Introduction

- 1.1 The third Issue Specific Hearing (**ISH3**) for the Portishead Branch Line – MetroWest Phase 1 (**DCO**) application was held virtually on Microsoft Teams on Tuesday 12 January 2021 at 10am.
- 1.2 The Examining Authority (**ExA**) invited the Applicant to respond to matters raised at the Hearing but also in writing following the ISH. This document summarises the responses made at the ISH by the Applicant and also seeks to fully address the representations made by Affected Parties, Interested Parties and other parties attending.
- 1.3 The Applicant has responded to the topics raised by each of the attending parties in the order the ExA invited them to speak and provides cross-references to the relevant application or examination documents in the text below. Where it assists the Applicant's responses, the Applicant has appended additional documentation to this response document.

2. Post-hearing submissions in response to matters raised at ISH3

Ref:	Comment/ Representation by:	Questions/Issues Raised at the ISH	Applicant's Response at the ISH	Applicant's Written Response
1.	ExA Panel	The ExA Panel queried if there were any implications for the rest of the dDCO arising out of the Applicant's request to remove Work 16D from the scheme?	The Applicant confirmed that there were no implications of the change request relating to Work 16D on the rest of the dDCO.	The Applicant does not believe there are additional implications arising from the change request.
2.	ExA Panel	<p>The ExA Panel asked the Applicant if there were any implications for the application arising out of the policy paper on the Habitats Regulations 2017 recently published by DEFRA?</p> <p>The ExA Panel also asked if Mr Tromans QC would be providing an additional legal opinion?</p>	<p>The Applicant confirmed that the government policy paper dated 1 January 2021, <i>Policy Paper: Changes to the Habitats Regulations 2017</i>, provides guidance on the changes to The Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations 2017) which have been made by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 to reflect the UK's withdrawal from the EU.</p> <p>The substance of the Habitat Regulations 2017 has not changed for the purpose of the HRA. The tests to be applied are the same and the terms and processes of the Habitat Regulations 2017 have not changed. The main change to the Habitat Regulations 2017 is in relation to the consideration of qualifying woodland as a priority habitat of the SAC. The effect of the change is that the opinion on IROPI will now be provided by the Secretary of State (SoS), in consultation with the relative devolved administrations, the Joint Nature Conservation Committee and any other person the</p>	The Applicant has submitted further information on this topic at Deadline 4, in response to ISH3 action point 3 (Document reference 9.27 ExA.FI.D4.V1)

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			<p>SoS considers appropriate, instead of the European Commission.</p> <p>The Applicant confirmed that Mr Stephen Tromans QC would provide an updated legal opinion by Deadline 6 to address subsequent developments in law and policy in relation to the Habitats Regulations 2017.</p>	
3.	ExA Panel	<p>The ExA Panel asked the Applicant to provide an update on the HRA and the progress towards the Statement of Common Ground (SoCG) with Natural England (NE)</p>	<p>The Applicant noted that the standalone version of the HRA is in the examination library - reference AS-027 (clean) and AS-028 (tracked changes). There have been a number of further developments since the HRA was amended in September 2020 and there may be further amendments to the HRA to deal with these developments. The main HRA development relates to the provision of compensation in the form of whitebeam planting Package 2 and positive woodland management on Forestry Commission land.</p> <p>Substantial progress has been made on the SoCG with NE and there is a very high measure of agreement between the parties. Version 2 of the SoCG (REP3-017) was submitted at Deadline 3 and further amendments have since been agreed with NE. At NE's request, the Applicant has provided a different presentation of figures in relation to critical loads for air quality that NE has agreed. This agreement has been added to the SoCG. Forestry Commission. There has been a further amendment to the SoCG to reflect that there is only one toad breeding pond (Pond 32). The Applicant is submitting the updated SoCG with NE at Deadline 4. The outstanding matters relating to the</p>	<p>The Applicant has submitted an updated version of the SoCG with NE at Deadline 4, in response to ISH3 action point 2 (Document reference 9.3.6 ExA.SoCG-NE.D4.V3)</p> <p>At a virtual meeting between the Applicant and representatives of the Forestry Commission on 18 January 2021 the parties committed to work to seek to deliver a completed agreement for the provision of compensatory measures comprising whitebeam planting Package 2 and positive woodland management on Forestry Commission land by Deadline 6.</p>

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			<p>Avon Gorge Vegetation Management Plan (AGVMP) are discussed below.</p> <p>The final signed version of the SoCG is not expected to be submitted until the end of the Examination because the Applicant hopes there will be a clearer resolution of the outstanding matters by that time.</p>	
4.	ExA Panel	The ExA Panel asked the Applicant for an update on the SoCGs with the National Trust, Forestry Commission and the Woodland Trust.	<p>The Applicant confirmed that it has attempted to contact the Woodland Trust several times, but has not yet had a response.</p> <p>SoCGs have not yet been agreed with the National Trust or Forestry Commission. Up to now, the Applicant has instead been concentrating on negotiating with these bodies to progress signed agreements. The negotiations with Forestry Commission are advanced and heads of terms have been agreed. The Applicant expects to have made substantial progress in relation to those agreements by Deadline 5. Further updates on the SoCGs with National Trust, Forestry Commission and the Woodland Trust will be provided at that stage.</p>	The Applicant will submit further information on this topic at Deadline 5, in response to ISH3 action point 5.

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5.	ExA Panel	The ExA Panel asked the Applicant for an update on the positions of Bristol City Council (BCC) and North Somerset Council (NSC) on the biodiversity and ecology aspects of the scheme.	The Applicant explained that it expects to be in a position to submit signed SoCGs with NSC and BCC by Deadline 5. There is currently a high level of understanding between the Applicant and the two local authorities in question.	The Applicant expects to submit SoCGs with BCC and NSC at Deadline 5, in response to ISH3 action point 6.
6.	ExA Panel	<p>The ExA Panel asked Natural England, NSC and BCC for their positions on their SoCGs with the Applicant.</p> <p>NSC agreed that the Applicant's statement was accurate and stated that it was confident that NSC would be in a position to agree on the matters discussed at ISH3 in the SoCG with the Applicant by Deadline 5. NSC is in ongoing discussions with the Applicant and NSC is satisfied with the Applicant's overall approach.</p> <p>BCC also agreed that the Applicant's summary was an accurate reflection of the current position with regard to the SoCG. BCC is confident that the SoCG will be fully signed by Deadline 5.</p> <p>Natural England confirmed that the Applicant's summary was an</p>	N/A	<p>The Applicant expects to submit SoCGs with BCC and NSC at Deadline 5.</p> <p>The Applicant also hopes to provide a final draft SOCG with Natural England at Deadline 6 with the signed version to follow thereafter. This is dependent on the timetable for finalisation of the proposed agreement between the Applicant and the Forestry Commission in respect of compensatory measures on Forestry Commission land and on the finalisation of the ES and HRA (to ensure that cross references are accurate).</p>

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		accurate reflection of the current position with regards to the SoCG.		
7.	ExA Panel	<p>The ExA Panel noted that the proposed compensation package is still uncertain and asked the Applicant to provide an update on Package 2 and explain:</p> <p>a) if Package 1 is likely to fall way or kept as a fall back</p> <p>(b) if the IROPI position will need to be amended if Package 2 is progressed?</p>	<p>The Applicant confirmed that Packages 1 and 2 relate to the replacement of lost whitebeam trees. As there may be losses up to 27 whitebeam trees, the Applicant has agreed with NE that replanting whitebeam trees will be on a ratio of 2:1 (54 trees). The methodology for the propagation of the trees has been agreed with NE. The outstanding issue is the specific location of the whitebeam planting sites. NE's concern is about two of the four proposed planting sites in the original planting proposal (now referred to as Package 1): Nightingale Valley 1(a) and Miles Dock Embankment, both of which contain features of ecological interest.. NE's concern is that these features of interest might be lost or adversely affected if new whitebeam trees are planted on these sites.</p> <p>In response to NE's concerns, the Applicant has developed an alternative Package 2 that omits the two sites that NE has reservations about and instead includes the red oak plantation site on Forestry Commission land, which does not have the same level of interest as the two sites of concern to NE. . Whilst the Applicant considers that the Package 1 measure are appropriate, its preference is to deliver Package 2.</p>	<p>The Applicant has submitted further information on this topic at Appendix 1 to this document.</p> <p>Nightingale Valley 1(a) and Miles Dock Embankment both contain tree species that indicate correspondence with <i>Tilio-Acerion</i>, the qualifying feature of the SAC. NE's concern with using these sites for whitebeam planting is that the existing woodland could be adversely affected by the site preparation required to plant the new whitebeams.</p> <p>At a virtual meeting between the Applicant and representatives of the Forestry Commission on 18 January 2021 the parties committed to work to seek to deliver a completed agreement for the provision of compensatory measures comprising whitebeam planting Package 2 and positive woodland management on Forestry Commission land by Deadline 6.</p>

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			<p>NE also has concerns about the location of the provision of positive management measures proposed by the Applicant as compensation for the loss of <i>Tilio Acerion</i> qualifying woodland. NE's concern is in relation to the provision of woodland compensation on Network Rail (NR) land because of the difficulty in distinguishing between the proposed compensation measures and the positive management that NR is already obliged to carry out under the Habitats Directive as the owner of the land. To overcome these concerns, the Applicant is proposing to provide positive woodland management measures on a Forestry Commission site adjacent to the SAC as an alternative to the sites on NR land. The Applicant and NE's preference is to use the Forestry Commission land for woodland compensation if possible.</p> <p>The Applicant is expecting that agreement will be reached with Forestry Commission to secure both whitebeam planting and positive woodland management measures on Forestry Commission land. Heads of terms, which have largely been agreed with Forestry Commission, provide the Applicant with access to Forestry Commission's land to carry out surveys. It is proposed that Forestry Commission will undertake the works at the cost of the Applicant with step in rights for the Applicant if the work is not done adequately. It is also agreed that monitoring will be undertaken for 10 years to ensure that the works are carried out effectively.</p>	

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			<p>The Applicant is not aware of any reason why agreement will not be reached with the Forestry Commission.</p> <p>As soon as the Applicant has reached a final agreement with the Forestry Commission and DEFRA, whitebeam planting Package 1 and the positive woodland management measures on NR land will no longer be required and can be removed from the scheme. However, until the Forestry Commission land has been secured, it is necessary for the Applicant to retain whitebeam planting Package 1 and the positive woodland management measures proposed on NR land as a contingency proposal, in the unlikely event that the Forestry Commission land cannot be secured for some reason.</p> <p>The Applicant has explained in the HRA its view that the sites comprised in whitebeam planting Package 1 and the positive woodland management on NR land are suitable compensation.</p> <p>The Applicant confirmed that the case for IROPI remains as originally set out in the HRA whether Package 1 or Package 2 is delivered.</p>	

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8.	ExA Panel	The ExA Panel asked if it would be possible for the Applicant to propose a hybrid of Package 1 and Package 2 to address NE's concerns with package 1?	<p>The Applicant confirmed that in relation to whitebeam planting, a hybrid between the two options is not proposed - the options are either Package 1 or Package 2 (although it is worth noting that two of the proposed planting sites, Nightingale Valley 1(b) and Clifton bridge No. 2 tunnel, are included in both packages).</p> <p>In relation to positive woodland management measures (which are not included in Package 1 or Package 2), there is likely to be more flexibility in that sites from both NR and Forestry Commission land could be used to deliver the required compensation. However, the Applicant's preference is for all the positive woodland management measures to be delivered on Forestry Commission land.</p>	The Applicant has no further comments to make.
9.	ExA Panel	<p>The ExA Panel asked NE to comment on the proposed compensation package.</p> <p>Natural England confirmed that the Applicant's summary was accurate. There is a need for clarity over the positive woodland management measures. As there are direct losses of ancient woodland, any compensation measures proposed need to be over and above the measures that ought to be undertaken anyway by the owner of a SAC. Natural England recognises that the agreements with FE have</p>	<p>The Applicant noted that it was not previously aware of NE's concerns about the proposed grassland compensation for loss of 0.06ha of qualifying grassland. If NE is suggesting at this late stage that the grassland compensation needs to be provided offsite, this will present a serious issue for the Applicant.</p> <p>The Applicant explained that grassland compensation for the loss of 0.06ha qualifying grassland is provided for within the HRA at section 11.4 (AS-027). The locations of the areas for positive management are shown in Annex F of the AGVMP (AS-044). As there is no grassland on FE land, the proposed grassland compensation in respect of losses on NR land can only be provided on NR land as that is where the SAC</p>	<p>The Applicant has submitted further information on this topic as part of its Deadline 4 submissions, in response to ISH3 action point 10 (see Document 9.27 ExA.FI.D4.V1, Appendix 1)</p> <p>In the latest version of the SoCG with NE (version 3, submitted at Deadline 4 (Document reference 9.3.6 ExA.SoCG-NE.D4.V3), NE agreed with the Applicant's proposals for compensation for the loss of grassland.</p>

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		<p>not yet been finalised but NE hopes that the positive management measures on NR land will no longer be required.</p> <p>Natural England added that the scheme also includes the loss if a small area of qualifying grassland in the SAC on NR land. As the same issue applies to grassland compensation as to woodland compensation measures, the Applicant may need to explore finding an alternative location for grassland compensation measures offsite (outside NR land). Natural England asked for clarification on how this issue might be addressed by the Applicant.</p>	<p>grassland exists. The majority of qualifying grassland that is to be lost (0.04ha) is located on a proposed construction compound for Quarry Underbridge No.2, on land owned by the National Trust. The 0.04ha of lost grassland on this compound will be restored when the construction works are complete and the compound is no longer needed. The remainder of the grassland that is to be lost is on rock faces. Other measures are being taken to compensate for the loss of this grassland. These measures include a strategy for Bristol Rock Cress (provided at Annex K of the AGVMP), which also covers other rare grassland species. The total area proposed for positive management of grassland is double the area of qualifying grassland that is to be lost.</p>	
10.	ExA Panel	The ExA Panel asked if section 106 agreements would be required to secure the alternative compensation packages?	The Applicant explained that the general mechanism for securing the compensation measures is through the AGVMP and the detailed drafting of Requirement 14 of the DCO. There may be a need to amend the wording of Requirement 14 when it is clear that Package 2 is deliverable because agreement has been reached with Forestry Commission. The Applicant does not believe there is a need for a section106 agreement at this stage.	The Applicant has no further comments to make.

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11.	ExA Panel	<p>The ExA panel asked the Applicant and NE to confirm the position on bats from the most recent bat surveys.</p> <p>NE confirmed that it is happy with the approach as summarised by the Applicant. The additional surveys confirmed that the horseshoe bats at Pill Station are not linked to the North Somerset and Mendip Bats SAC.</p>	<p>The Applicant explained that there are 2 main issues concerning the protection of bats. The first issue is the retention of vegetation and supplementary planting around Royal Portbury Dock to facilitate bat habitats in this area. These measures are set out in the HRA and ES Chapter 9 and secured by Requirement 24 of the dDCO.</p> <p>The second issue is lighting at Pill Station. It has been ascertained through further survey work that the horseshoe bats at Pill Station are not linked to the North Somerset and Mendip Bats SAC. However, as bats are still a protected species, mitigation measures are still proposed to protect bats in this location. These measures are secured at Requirement 28 of the dDCO.</p> <p>It has been agreed that any measures installed at Pill Station to restrict artificial lighting will only be needed for 10 years as sufficient vegetation grown will have by this time to restrict lighting naturally.</p>	<p>Please refer to the Applicant's response to question DCO.1.45 of the Applicant's responses to the Examining Authority's Written Questions ExQ1 [REP2-013].</p> <p>The Applicant's ecological consultants have confirmed that the maintenance period for the lighting scheme should be ten years, on the basis that after ten years the habitats on the railway corridor will be established. After this period of time, any changes to the operational lighting that may affect bats would need to be managed by Network Rail in accordance with its policies and procedures.</p>

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12.	ExA Panel	<p>The ExA Panel asked BCC to comment on the issues BCC raised in respect of lighting contour plans and conservation trust guidance secured through the CEMP.</p> <p>BCC confirmed that it is satisfied that sufficient controls will be secured through the CEMP and Requirement 28 of the dDCO. This is noted in the SoCG with the Applicant.</p>	N/A	The Applicant has nothing further to add.
13.	Mr Tarr	<p>Mr Tarr raised the issue of an oak tree subject to a TPO on the Pill Tunnel compound site which he believes to be a bat habitat. Mr Tarr asked about the impact of the scheme and an adjacent housing development on that tree and whether it needs to be protected.</p> <p>The ExA asked Mr Tarr to confirm if the tree in question was a bat roost or a habitat that bats forage in. Mr Tarr confirmed it was a bat roost.</p>	<p>The Applicant explained that information is in the process of being collated to provide a response to Mr Tarr's various queries and this will be submitted at Deadline 4.</p> <p>The tree in question has been identified in the Phase 1 habitat surveys as having the potential to be a bat roost. The landscaping plan provides that the trees identified with bat roosting potential are to be retained as part of the scheme. Further information will be provided at Deadline 4.</p>	The Applicant has submitted further information on this topic as part of its Deadline 4 submissions, in response to ISH3 action point 18 (see Document 9.27 ExA.FI.D4.V1)

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14.	ExA Panel	<p>The ExA panel asked if the Applicant could provide an update on the implications of the DLL for GCN for the DCO Scheme. If the DLL has been confirmed, does this mean that certain works will now be removed from the scheme?</p>	<p>The Applicant explained that the DLL for GCN has been confirmed. The protection of GCN will be achieved by a DLL rather than by European Protected Species licensing. There has been some knock-on implications from the DLL in relation to the works that would have otherwise been required under the legislation. Those matters which would have been addressed through European Protected Species (EPS) licencing are listed in the Master CEMP, The Applicant will consider adding measures to mitigate effects on amphibians (including newts and toads) to the Reptile Mitigation Strategy.</p> <p>There are three main Works in the dDCO that are affected: Works 10C, 12B and 16B. These three works are currently secured by the requirements in Schedule 2 of the dDCO. It is likely that both Schedule 1 and 2 will now need to be amended to reflect that these works are no longer needed.</p> <p>It is anticipated that, as it did for the changes proposed for the removal of Work 16D , the Applicant will submit a list of the proposed changes to the dDCO to the ExA Panel for approval in advance of making the changes.</p>	<p>The Applicant has submitted a change request in relation to the removal of works 10C, 12B and 16B with its Deadline 4 submissions (see Document 9.28 ExA.F1.D4.V1).</p> <p>The Applicant proposes to retitle the Reptile Mitigation Strategy as "Reptile and Amphibian Mitigation Strategy", and to include within it the application of appropriate measures for the protection of amphibians including newts and toads, for submission as a draft at Deadline 6. Further toad surveys are proposed at Lodway Farm at the end of February or the beginning of March, which is the peak time for toad movement. The Applicant will use the information obtained at Lodway Farm to confirm the mitigation proposals that have been identified, and to submit the final version of the Reptile and Amphibian Mitigation Strategy for Deadline 7.</p>
15.	Mr Tarr	<p>Mr Tarr noted that there is a connecting ditch at Ham Green HRA that may have potential to contain GCN. Local residents have confirmed that toads and GCN are present in the pond on the other side of the bridge at Ham Green. Mr Tarr raised a concern that</p>	<p>The Applicant confirmed that it has considered this issue in detail and carried out further GCN surveys in association with the works required at Ham Green Lake. The Applicant is aware of the GCN population at St Katherine's School. This issue will be addressed in further detail in a written response.</p>	<p>The Applicant has submitted further information on this topic as part of its Deadline 4 submissions, in response to ISH3 action point 14. (see Document 9.27 ExA.F1.D4.V1)</p>

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		sufficient mitigation will be provided to protect this wildlife if the DLL option is taken forward.		
16.	ExA Panel	The ExA Panel asked the Applicant for an update on the proposed mitigation strategy for the reptiles and amphibians.	<p>The Applicant confirmed that the mitigation which will be undertaken for reptiles will be the same for amphibians. As far as toads are concerned, discussions with Pill Toad Patrol are ongoing. Further toad surveys are proposed at Lodway Farm at the end of February or the beginning of March, which is the peak time for toad movement.</p> <p>The Applicant will use the information obtained at Lodway Farm to confirm the mitigation proposals that have been identified. The Applicant has discussed the proposed mitigation with Mr Harvey from Pill Toad Patrol and he is satisfied with the measures and surveys proposed by the Applicant.</p>	See response to point 14 above.
17.	ExA Panel	The ExA asked about the timescales for providing information on potential additional mitigation measures for toads - such as half pipes under the railway - and whether these additional mitigation measures would have any impact	The Applicant confirmed that it has looked at the need for further mitigation measures to be installed to assist toads to cross the railway line once it is operational. The Applicant is currently in discussions with NR about whether half-pipes can be installed safely under the rails. The Applicant is expecting to receive further information from NR on how they have accommodated toad crossings on other railways. The Applicant will	The Applicant will provide further information at Deadline 5 in response to ISH3 action point 16.

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		on Environmental Masterplan or the ES?	provide an update on the feasibility of providing additional mitigation measures for toads at Deadline 5.	
18.	Mr Tarr	Mr Tarr asked if further work was needed on reptiles as the information in the HRA and mitigation measures proposed do not appear to meet the tests for IROPI.	The Applicant explained that Ham Green is not located within a European Site which means that the HRA and IROPI do not apply to this area. However, the reptiles at Ham Green have been taken into account in the reptile mitigation strategy.	The Applicant has nothing further to add.
19.	The ExA Panel	<p>The ExA panel asked NE if they have any comments to make on reptiles?</p> <p>NE confirmed it is satisfied with the approach being taken by the Applicant and content that the Applicant is in discussions with Pill Toad Patrol.</p>	N/A	The Applicant has nothing further to add.

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20.	The ExA Panel	<p>The ExA Panel asked BCC for an update on planting at Clanage Road and Portbury Hundred.</p> <p>BCC confirmed that it has no further concerns to raise. BCC is currently in discussions with the Applicant regarding replacement planting.</p>	<p>The Applicant confirmed that it has been in discussion with BCC on this issue. It is not anticipated that the proposed planting will result in a Development Consent Obligation to secure a contribution. Instead it is anticipated the contribution is to be paid up front and this will be recorded in the SoCG with BCC.</p> <p>In relation to the proposed planting at Portbury Hundred planting, the Applicant has provided NSC with an indication of the proposed planting and NSC is satisfied that sufficient controls to secure this planting are contained in the dDCO requirements.</p>	The Applicant will submitted a revised SoCG with BCC, which will include an update on this topic, at Deadline 5.
21.	The ExA Panel and Mr Tarr	<p>The ExA asked if there were any other tree matters to discuss such as the protected oak tree at Ham Green?</p> <p>Mr Tarr added that over time, the construction works could result in the degradation of the tree root system and there was therefore a need to ensure that the tree would not be damaged by the works.</p>	<p>The Applicant confirmed that the protected tree at Ham Green is to be retained as part of the scheme.</p> <p>The Applicant will provide a mark-up of the location of this tree to demonstrate that the construction works plant will not adversely affect the tree or its root protection zone.</p>	<p>The Applicant has submitted further information on this topic as part of its Deadline 4 submissions, in response to ISH3 action point 18 (see Document 9.27 ExA.FI.D4.V1 and Appendix 2 to that document)</p> <p>The protected tree at Ham Green is outside of Order limits.</p>

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22.	Mr Luke Bonham	Mr Bonham asked if the Applicant was proposing to plant additional trees to offset the carbon generated from the creation of the railway and the ongoing omissions from the diesel trains during operation?	<p>The Applicant confirmed that it is not proposing to offset carbon generated by the scheme through tree planting.</p> <p>The Applicant has carefully considered the correct legal and policy framework. As the scheme is a NSIP, the scheme has to adhere to the National Policy Statement (NPS) for National Networks. There is no requirement in the NPS for an NSIP to deliver biodiversity net gain. However, the Applicant is actively considering enhancement opportunities and is seeking to provide biodiversity net gain wherever possible.</p>	The Applicant has submitted further information on this topic as part of its Deadline 4 submissions, in response to ISH3 action points 19 and 20 (see Document 9.27 ExA.FI.D4.V1)
23.	The ExA Panel	The ExA Panel asked if the additional table on air quality provided by the Applicant with regard to NO _x , had any knock-on effects for the dDCO requirements or the HRA?	The Applicant confirmed that the additional table on air quality submitted with the Applicant's comments on responses to ExQ1 AQ.1.2 (REP3-030) was prepared to provide reassurance to NE that the increase in NO ₂ concentration and N and acid deposition would be below the 1% threshold stipulated in NE's guidance on the assessment of road traffic omissions (Natural England Internal Guidance, V1.4 Final, June 2018). This point has also been added to the SoCG and will be included in the revised ES and HRA. A further revision was incorporated in the revised ES Chapter 7 Air Quality and Greenhouse Gas Emissions paragraph 7.6.34 (AS-029). This is the revision of the calculation of N deposition in Avon gorge which has been reduced from 0.7 to 0.1 kg N ha ⁻¹ yr ⁻¹ because of a re-verification of the model used.	The Applicant will include the additional table on air quality in the updated HRA and ES to be submitted at Deadline 6, in response to ISH3 action point 21.

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24.	The ExA Panel and Mr Luke Bonham	The ExA Panel asked the Applicant about the use of diesel trains and the potential for the scheme to use cleaner trains in the future.	The Applicant confirmed that its response to this point is set out in the Applicant's response to EXQ1 CC.1.1. The government has tasked NR with decarbonising the rail network by 2040, which will result in a move away from diesel. NR has published a decarbonisation strategy for their traction network (ExA reference REP2-019) and there is emerging technology on using hydrogen for traction. There is also emerging technology in relation to bi-modal and tri-modal operation. We are currently in a transition period in relation to new rail technology particularly in relation to batteries. Trains could be converted to battery traction and partly electrified or they may be converted to hydrogen power. While the scheme will initially be introduced with diesel-only trains, this is expected to be for a relatively short period of time.	<p>The Applicant refers to its response to the ExQ1 question CC.1.1 (REP2-013) and associated appendix introducing the NR Traction Decarbonisation Network Strategy (REP2-19) – "TDNS" – into the examination.</p> <p>The TDNS is not a policy document, rather it sets out evidence gathered by NR to inform emerging policy for transport decarbonisation and a strategy for delivering on the policy objectives.</p> <p>As described in the preface to the TDNS, the document arose following the recommendations of the Rail Industry Decarbonisation Taskforce. This taskforce was set up in 2018 following the Government's challenge to the rail industry to develop a vision for the removal of all diesel-only trains from the network by 2040. The taskforce made recommendations to organisations across the rail industry, including NR. The TDNS is NR's response.</p> <p>The Applicant appends at Appendix 2 to this document the DfT Policy Paper 'Decarbonising Transport: Setting the Challenge' published in March 2020. The Applicant refers the ExA to paragraphs 2.30 to 2.44 concerning passenger rail. The TDNS has contributed to the evidence base for the emerging policy described. The resulting Transport Decarbonisation Plan is now expected to be published in Spring 2021.</p>

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				<p>It is the Applicant's view that the TDNS should be given some weight in the DCO examination. The Government's overarching aim of removing all diesel-only trains from the rail network by 2040 is likely to be confirmed in the Spring 2021 Plan, and the TDNS provides the detailed strategy for achieving that target.</p> <p>The Applicant will endeavour to update the Panel if the Spring 2021 Plan is published prior to the close of the Examination.</p>
25.	The ExA Panel and Mr Bonham	<p>The ExA Panel asked the Applicant to explain the current restrictions on electrification posed by the historic tunnels on the existing line.</p> <p>Mr Bonham added that there is a concern that diesel trains are old technology which may be out of date in a few years. If this is the case, will the scheme be able to switch easily to electric trains?</p>	<p>The Applicant confirmed that conventional overhead line electrification (OLE) will not be possible on the DCO Scheme line due to the four tunnels on the line. However, the technology is in a transitional phase and NR are moving towards non-continuous electrification through the use of bi-modal trains.</p> <p>Bi-modal trains have been introduced and are currently in operation on other routes (such as the line from Weston-Super-Mare to Paddington. These trains run on diesel from Weston-Super-Mare to Bristol Parkway, then in electric mode from Bristol Parkway to London.</p> <p>Technology is currently advancing so that a battery can propel a train when it is not electrified. On the DCO Scheme, the train could be electrified between Portishead and Pill, and the battery topped up to take the train through the non-electrified sections of the line.</p>	The Applicant has nothing further to add.

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26.	The ExA Panel	The ExA Panel asked the Applicant if the scheme was being future-proofed to allow for the line to be electrified in the future	The Applicant confirmed that the potential for the electrification of the line has been considered in the Applicant's response to EXQ1 CC.1.1. Passive provision has been made in the design of the scheme for future electrification. More space would however be needed around the line for equipment such as substations, gantries and overhead wires on an electrified line.	Please refer to the Applicant's response at issue 24 above in respect of NR's strategy and emerging policy to move away from diesel-only trains.
27.	The ExA Panel	The ExA Panel asked the Applicant if decarbonisation of the line by 2040 was secured anywhere in legislation to provide certainty to the ExA Panel that this is likely to happen?	The Applicant confirmed it would respond in writing on this point.	Please see the Applicant's response to point 24 above.
28.	Mr Barry Cash	Mr Cash raised the issue of the possibility of having a busway which used the old railway line between Portishead and Pill and then switched to the highway network via the M5 Avonmouth Bridge and the A4 Portway, as an alternative to the current scheme. A busway could connect with Metrobus and would be cheaper and more flexible than a rail scheme.	<p>The Applicant explained that the problem with Mr Cash's proposal is that if the disused railway was used as a busway, the benefits would be limited. Such a scheme would not achieve a sufficiently shorter journey time to attract enough people to shift transport modes.</p> <p>The journey time from Portishead to Bristol with the currently proposed rail scheme is 23 minutes compared to an hour on the bus. There is also systematic traffic congestion at both ends of the route at peak times.</p>	The Applicant has nothing further to add.

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29.	Mr Bill Ovel	<p>Mr Ovel raised the issue that if there is a government target of decarbonisation by 2040, there is a concern that the railway might become financially unviable at this point, because of the difficulties and additional cost of electrification. It would be unfortunate if all the disruption to residents that would be caused by the current scheme was be to provide a railway which only operated for 16 years.</p> <p>NR explained that around Bristol, there are existing plans to electrify the main lines first. The technology is changing quickly and there are outline plans in place for how NR will achieve decarbonisation by 2040 on a national level.</p>	<p>The Applicant explained that there is no intention to decommission the railway at any point in the future. The entire rail industry will need to respond to government requirements to phase out diesel trains. All branch lines across the country will be in the same position. As noted above, rail technology is currently at a transition stage moving towards electrification. Battery technology is continually improving, and the Applicant is confident that the rail industry will have adapted to the decarbonisation target by 2040.</p>	<p>The Applicant has nothing further to add.</p>
30.	ExA Panel	<p>The ExA panel noted that in Chapter 7 of the ES, (AS-029), it states at para 7.2.7 that the Paris Agreement was expected to come into force in 2020. The ExA Panel asked the Applicant if the ES was written on basis that the Paris Agreement was going to come into force in the future, do any of the conclusions in the ES need to be</p>	<p>The Applicant agreed that there are a number of areas where policy has moved on since the ES section on climate change was written. The most recent policy changes make no material difference to the conclusions drawn in the ES. However, there is a need to review ES Chapter 7 and update the references in it to reflect any policy changes that have come about since the DCO was submitted in November 2019.</p>	<p>The Applicant will review Chapter 7 and submit an updated ES at Deadline 6, in response to ISH3 action point 1.</p>

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		updated now that the agreement has come into force?		
31.	ExA Panel	The ExA Panel asked the Applicant if the ES takes into account more recent developments in caselaw in Habitats such as the Sweetman case?	The Applicant confirmed that the Sweetman case was taken into account in the HRA. The Applicant will review the HRA and Chapter 9 of the ES to ensure that all references are up to date.	The Applicant will review Chapter 9 and the HRA and submit an updated ES at Deadline 6, in response to ISH3 action point 1.
32.	ExA panel	<p>The ExA Panel asked NSC to confirm if there are implications for the scheme arising out of NSC's declaration of a climate emergency last year.</p> <p>Bill Ovel noted that Pill and Easton in Gordano Parish Council has also declared a climate emergency and are keen to see a reduction in carbon as soon as possible.</p> <p>NSC confirmed that NSC declared a climate emergency a year ago on the election of the new administration. The Council aims to become a net-zero carbon council,</p>	N/A	The Applicant has nothing further to add.

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		<p>promote 'reduce, reuse and recycle' and reduce emissions from transport.</p> <p>There is an action plan that accompanies the declaration. The plan aims to encourage a shift from private car use, develop policies that deliver connections to public transport and encourage residents to use public transport. The highway network across North Somerset is very congested and often becomes gridlocked during the holiday season or as a result of accidents. A significant challenge for NSC is to envisage how the road network can be improved and made more resilient.</p> <p>The DCO Scheme is particularly helpful to NSC in achieving the objectives mentioned above.</p> <p>NSC explained that a nature emergency was also declared in July 2020. A significant part of the nature emergency covers transport emissions and trying to achieve a modal shift. Statistics show that car ownership has increased by 12% since 2009.</p>		

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33.	ExA Panel and Mr Luke Bonham	<p>The ExA Panel asked NSC to comment on the issue that the use of diesel trains will increase emissions in the short term. How does that sit with NSC's declaration of a climate emergency?</p> <p>Mr Bonham added that he had reservations that the use of diesel trains will not achieve the target of carbon neutral status by 2040 and will increase emissions in the short term.</p> <p>NSC stated that it was accepted that there would be some local impacts on emissions along the route in places. However, NSC is of the view that the scheme will lead to an overall reduction in emissions in the long term. Air quality targets are not expected to be exceeded. There will be some temporary air quality impacts during the construction phase and during the operation phase, there will be emissions from the diesel train. However, as a form of transport, rail is expected to give rise to less pollution per passenger than car transport.</p>	The Applicant noted that it would respond to this point in written submissions.	<p>Please refer to the Applicant's response at the ISH to items 24, 25 & 26 above.</p> <p>GWR operates a fleet of diesel train on the Bristol suburban railway. As the industry develops and implements the decarbonisation strategy then a fleet of bi-mode and electric trains will have to be implemented. Many of the DMUs operating local services will be life expired around 2030-2035 and the roll out of infrastructure and rolling stock changes will need to align. At present the priority on the Western route is to finish the main line work to complete electrification of the routes to Bristol Temple Meads and Oxford and then other strategic sections such as the freight line at Acton, extending from Newbury to Westbury and then suburban routes round Bristol.</p> <p>In addition GWR has a franchise obligation to evaluate the success of the Chiltern Hydrive Angel Trains trial and put the technology in to their own class 165 and 166 fleet if it's deemed suitable.</p> <p>Angel Trains is investing £3.5m in research and development to determine if excess power and energy generated by braking can charge a battery that runs an electric motor which propels the train for short periods. This will increase its range and efficiency and, when near stations, reduce pollution and noise.</p>

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34.	ExA Panel	<p>The ExA Panel requested an update on progress and additional information requested in the EA's Deadline 2 response [REP2-040], along with an update on progress through the Statement of Common Ground ("SoCG").</p>	<p>The Applicant explained that rather than responding to the EA's Deadline 2 document REP2-040 in the Applicant's responses to Written Representations submitted at Deadline 2 (REP3-036) and to avoid duplication, the Applicant considered that the most efficient way to address the points raised by the EA was to respond to the salient points in the travelling draft of the SoCG at REP3-010 . This document contains not only the Applicant's responses to REP2-040 but also the EA's comments received at DL3 on 21 December 2020. The document has been the platform for seeking to reach agreement with the EA on issues. Discussions are ongoing with telephone calls and meetings in the last week and emails between the parties up until late on 11 January. As background to the matters currently at issue, the Flood Risk Assessment ("FRA") – ExA Doc Ref. APP-173 – was reviewed following the ExA's Section 51 letter of January 2020 requesting more information on climate change allowances (ExA Doc Ref. PD-006) and the Applicant's response (ExA Doc. Ref AS-007).</p> <p>The Applicant has kept the FRA under review as it seeks to account for the most up-to-date policy. On climate change allowances in particular, further work has been undertaken and the FRA will be updated.</p> <p>To provide some clarity to a complex subject the Applicant explained that by far the most important effect on flooding of the DCO Scheme are sea levels and tidal impact. The Applicant had used the correct climate change allowance for tidal flooding at the time of submission. The model used the Coastal Flood Boundary (CFB) 2011 Extreme Water Levels (EWL)</p>	

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			<p>used in the Bristol City Council Central Area Flood Risk Assessment (CAFRA) model with UK Climate Projections UKCP09 Sea Level Rise allowances applied. However, prior to the submission of the application in November 2019, the CBF EWLs were updated to the CBF 2018 EWLs. These were assessed in the submitted FRA and found to be lower than the CFB2011 EWLs, thus overstating the modelled tidal flood levels compared to the latest CFB2018 dataset. This is explained in paragraph 4.2.17 of the FRA. The climate change allowances were then updated in the NPPF in December 2019 to the UKCP2018 allowances after DCO submission. The Applicant revised the model using the up to date UKCP2018 Sea Level Rise allowances, as well as the up to date CFB 2018 EWLs and provided its findings for future flooding due to climate change in AS-007.</p> <p>The current position with the EA is that the revised modelling with CFB 2018 EWLs and updated climate change allowances (for predicted future flooding) is now agreed as being fit for purpose.</p> <p>The model used in the FRA is considered by the Applicant to overestimate flood levels based on consideration of (i) the more up to date coastal flood boundary dataset (CFB2018) Extreme Water Levels (EWLs) and (ii) available long term flood history and actual flooding events such as the extreme flood event observed on 12 March 2020, for example. This was one of the highest tidal flooding events on record. The Applicant has provided photographs of the effects (ExA Doc. Ref. REP3-013), and the Clanage Road</p>	<p>It should be noted that the revised FRA modelling does not simulate present day flooding which is used to determine flood zone (FZ) boundaries. For this purpose the model completed in November 2019 is relevant and still uses the CFB2011 EWLs.</p> <p>During the March event the peak level at Avonmouth was slightly above the CFB2018 20 year return period EWL at Avonmouth and this did not result in flooding to the railway and Clanage Road compound at Bower Ashton which is consistent with the railway and Clanage Road compound being outside of Flood Zone 3b.</p>

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			<p>compound was not affected whilst much of Bristol City Centre harbour side was flooded.</p> <p>Other evidence supplemental to the modelling, which has emerged recently, includes the Bristol Avon Flood Strategy Outline Case (ExA Doc. Ref. REP3-012) (BASF) which provides early stage plans for major flood defence schemes, for consultation, and covers the DCO scheme.</p> <p>In December 2020, Bristol City Council also published its Strategic Flood Risk Assessment, in which Flood Zone 3b is defined based on updated CAFRA model simulations. This shows the railway at Bower Ashton and the Clanage Road compound to be outside of Flood Zone 3b presumably because the up to date CFB2018 extreme water levels were applied in the modelling.</p> <p>Based on the Applicant's interpretation of modelling simulations and taking into account flooding history and the recent extreme flood event as well as the contents of the SFRA results, in the Applicant's opinion the Clanage Road Compound and adjoining railway, is not within the FZ3b functional flood plain. Indeed no part of the DCO Scheme is within FZ3b save for the railway crossing at Easton-in-Gordano Stream.</p>	

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35.	Environment Agency	<p>The EA has advised the Applicant that the Bristol SFRA consultation should not be relied upon to protect the scheme. There is still uncertainty over the infrastructure proposed in Bristol.</p> <p>As regards the updated position of the Applicant based on the SFRA, the Applicant's own modelling and site-specific FRA shows the Clanage Road compound in Flood Zone 3b, and this should be relied on above the strategic area-wide assessment.</p>	-	The Applicant has nothing further to add.
36.	ExA Panel	<p>The ExA panel asked if the references to Flood Zone 3a and 3b mere semantics? What practical difference does it make?</p> <p>Is it not the priority to simply know if and how the Clanage Road Compound will flood? The parties seem to agree that it will flood, but what measures are in place to ensure it is flood resilient?</p>	<p>The Applicant does not rely on any possible interventions proposed in the BAFS. However it is important to note the document shows a direction of travel towards major intervention in Bristol in respect of flood risk. Decision makers are unlikely to acquiesce to the flooding of central Bristol without the urgent delivery of flood defences.</p> <p>It is agreed that site-specific modelling is preferred. However, the application of EWLs at Avonmouth is different between the site-specific modelling and SFRA data (the difference between the 2011 and 2018 data as outlined). Whilst it is not stated in the SFRA what boundaries were used, it is consistent with the 2018 data having been used. This indicates the Clanage</p>	The Applicant has nothing further to add.

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			<p>Road compound should be Flood Zone 3a (not 3b) and so this is relevant.</p> <p>Flood Zone 3b, from the EA's perspective, must be preserved as functional flood plain. Any development in this area which reduces its capacity to take flood water must be compensated for. Save for this requirement, the policy test is the same for both Flood Zone 3a and 3b, namely the exception test.</p> <p>Regardless of the flood zone, the Applicant has built in extensive measures to ensure that the Clanage Road site is as resilient as possible and does not increase flood risk elsewhere.. The Applicant is conscious of how the compound would be used and this is presented at ExA Doc Ref. APP-189 – this shows the flood plan for the site and covers operations which will take place here. The EA says wherever there is storage in the compound this takes away flood plain capacity so there should not be storage for any length of time.</p>	
37.	Environment Agency	The EA has deemed the Applicant's modelling ring to be fit for purpose. Based on the Applicant's comments today, is the EA now to understand the modelling is incorrect?	The modelling is correct, but the Applicant is interpreting the data as it should do noting the coastal boundary flood data applied is precautionary (as the water level is higher in the 2011 dataset used compared to the new 2018 data). The FRA clearly states the specification of Flood Zone 3b for Clanage Road is precautionary and there is justification for specifying 3a – see paragraph 4.2.17 of the FRA (ExA Doc Ref. APP-173). The Applicant considers the precautionary approach to be appropriate for present day modelling purposes but wider evidence is vital in	The Applicant has nothing further to add.

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			<p>assessing risk and FZ boundaries and the publication of new 2018 data is part of that, as is flooding history of the site, the March flooding event and the SFRA.</p>	
38.	ExA Panel	<p>The ExA Panel asked the Applicant to confirm the way in which the tests for Flood Zone 3a and 3b are different.</p>	<p>The policy tests for 3a and 3b are the same, save for if the land is in Flood Zone 3b other land should be set aside to compensate for any loss of storage here as it is considered to be functional flood plain.</p> <p>It is worth noting the land at Clanage Road required for the compound is also in the green belt, and if the Applicant needed additional land it would need a case from a compulsory purchase perspective. The Applicant has sought to balance these factors and to use the least land it can.</p>	<p>NPS paragraph 5.109 states: "In addition, any project that is classified as 'essential infrastructure' and proposed to be located in Flood Zone 3a or b should be designed and constructed to remain operational and safe for users in times of flood; and any project in Zone 3b should result in no net loss of floodplain storage and not impede water flows."</p> <p>The Applicant has in any event provided floodplain compensation within the compound</p>
39.	ExA Panel	<p>The ExA understands the Applicant proposes to drop the level of the compound to increase flood capacity. Does this not provide the necessary mitigation?</p>	<p>On this point the Applicant and EA are closer to being in agreement.</p> <p>The Clanage Road compound is a small site, which requires a ramp to reach the railway. The current Above Ordnance Datum (AOD) level is 7.5 metres. The proposal to provide floodplain compensation by lowering ground levels in the compound is the same whether the compound is considered to be in FZ3a or FZ3b. but FZ3b is not more onerous in this regard. To minimise the slope the Applicant's preferred AOD level</p>	<p>The Applicant has nothing further to add.</p>

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			<p>is 7.4 metres. As the compound's space is needed for vehicles turning, a welfare cabin and storage this was determined to be the most appropriate AOD level.</p> <p>The Applicant has undertaken hydraulic modelling to compare the pre- and post-development situation for this site, including the mitigation effect of lowering the land. For the ground level of 7.4m AOD the simulated difference in water level pre- and post- scheme is within +1mm. This is within the model tolerance of 10mm accuracy.</p>	
40.	Environment Agency	The difference between Flood Zones 3a and 3b also concerns the annual probability of flooding in these areas. The Applicant's modelling has shown in some areas there is a 1 in 5 return period. The EA's real concern is that it is only with recent Bristol SFRA that has caused Applicant to change its mind.	<p>The Applicant has consistently said the Clanage Road compound should be considered to be in Flood Zone 3a.</p> <p>The original modelling for the present day shows the DCO Scheme will not to be flooded for the 5 year return period, but may be flooded for the 10 year return period. But this is with the conservative approach as outlined using the CFB2011 dataset in the model not the more recent CFB2018 dataset. The FRA details the conservative downstream boundary condition and the Applicant says the compound should be Flood Zone 3a as defined in terms of present day risk (noting the Applicant's earlier comments in respect of observations of the 12 March 2020 flood event) which is how flood zones are calculated.</p>	The Applicant has nothing further to add.
41.	ExA	The ExA Panel noted that as we are in month 3 of the Examination,	The Applicant has provided as much information as is possible in the FRA and subsequent SoCG iterations.	The Applicant has nothing further to add.

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	Environment Agency	<p>are we looking to get this issue concluded before the close of Examination, or will it be outstanding? If so, what information will be available to the ExA to make a recommendation to the Secretary of State?</p> <p>What weight can be given to Bristol SFRA?</p> <p>The Bristol SFRA should be a first reference document for developers – a site-specific FRA should still be undertaken, which the Applicant has done and this shows the compound is in the functional flood plain.</p>	<p>The Applicant would hope by Deadline 5 there will be a signed SoCG though it may have to detail the issues which are not yet agreed.</p>	
42.	ExA Panel	<p>The ExA Panel noted that it seems clear this issue is unlikely to be resolved, though both parties should continue to seek agreement before close of the Examination.</p> <p>Not all matters need to be agreed in the SoCG. However it needs to be made clear to the ExA what matters are outstanding so ExA can make a decision.</p>	<p>The Applicant agreed to prepare a plan of Clanage Road showing the flood risk based on the modelling.</p>	<p>The Applicant has submitted a number plans on this topic as part of its Deadline 4 submissions, in response to ISH3 action point 27 (see Document 9.27 ExA.FI.D4.V1, Appendix 3)</p> <p>The Applicant has produced two FZ plans for the Bower Aston area, one showing the area it considers to be FZ3a and the other showing FZ3b which just shows the main rivers and culverts running through the area as also show on map 15 of the SFRA .</p> <p>The Applicant has also produced two layout plans for the Clanage Road compound, one showing the</p>

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		<p>It would be helpful if SoCG could include a couple of sets of plans – one from Applicant showing areas it feels are in 3b, and 3a, and a similar plan from EA showing their interpretation.</p> <p>The ExA appreciates there is further detail which will come later at GRIP5, but it would be useful to see more on which areas of the site are an issue and what could be done to alter the site layout, for example.</p>		<p>possible layout during construction to include the temporary compound and the other showing the layout of the permanent compound. As provided for in APP-189, the welfare facilities will be provided at a level of 8.1 m AOD and if necessary on engineered stilts to avoid any take up of space in the event of flooding.</p>
43.	ExA Panel	<p>The ExA Panel invited further comments on the policy position.</p>	<p>On the 'exception test' in the National Policy Statement for National Networks ("NPS") the Applicant has made progress with the EA.</p> <p>The NPS says the DCO Scheme must be safe for users and remain operational. In REP3-015, the Applicant submitted a detailed emergency plan for extreme weather (provided by Network Rail). The EA has accepted this. Bristol City Council's emergency planner would also need to be informed.</p> <p>In terms of the DCO Scheme remaining operational, in REP3-015 there is a table of flood incidents in the South West and the time it takes to remedy them. These are as assumed by the Applicant in its appraisal of recovery times. The Applicant has found minimal interference with the train service and considers the DCO Scheme satisfies the exception test.</p>	<p>The Applicant has nothing further to add.</p>

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44.	Environment Agency	It is not the EA's responsibility to assess recovery times. Referring back to REP2-040 – there could be a considerable recovery time if line flooded to a significant depth. This could impact the integrity of line itself. This should be taken into account by the operator. Other than issuing flood warnings, the EA has no other role in emergencies – the planning authority does this.	-	The Applicant has nothing further to add.
45.	ExA Panel	The ExA Panel asked if there were any site specific issues?	<p>The Applicant has considered representation concerning the Longmoor Brook and Colliter's Brook culverts and the potential issue over structural loading over the culverts due to the DCO Scheme. There will be a Flood Risk Action Plan ("FRAP") for these areas which will be dealt with through the consents and licensing before any works are undertaken, so it is not proposed to go into further detail at this stage. The EA agree the issue can be dealt with at the FRAP stage.</p> <p>The Applicant and the EA are progressing the SoCG on other sites within the DCO Scheme such as at Jenny's Meadow, the Underpass in Pill and other smaller sites which the EA has indicated are of some concern.</p>	The Applicant has nothing further to add.
46.	ExA Panel	The ExA Panel asked how topographic surveys for Cattle Creep Bridge would be secured? This cannot be done through the	<p>The Applicant agrees and will respond post-hearing on how it would prefer to secure the surveys.</p> <p>When construction takes place, there are other Victorian culverts which will be used anyway. Further, there is no intention of changing the levels at Cattle</p>	The Applicant has prepared additional drafting on this point which it will shortly share with the Environment Agency and the relevant planning authority. It is hoped that the parties can then agree to a provision being included within Schedule 2

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	Environment Agency	SoCG. It could be secured through, for example, the CEMP. The EA added that it would wish the surveys to be secured and through the CEMP would be acceptable.	Creep Bridge. The Applicant will undertake pre- and post- works topographic surveys to confirm this.	(Requirements) in the dDCO submitted for Deadline 5.
47.	North Somerset Levels Internal Drainage Board ("NSLIDB")	The NSLIDB noted that on the issue of climate change allowances, where there are minor culverts (which are not EA main river culverts), the Applicant is proposing to retain them. Have they been assessed in the context of the impact climate change will have on them? The NSLIDB has accepted like-for-like replacement in the SoCG but this query arises following the discussions in this hearing.	It is agreed there are a number of culverts below the disused railway which have been assessed at GRIP 3 - APP-186 GRIP 3 track Drainage Design and Culvert Survey which will be repaired and improved. This is not something which will be done in more detail until GRIP5 detailed design. The current proposal is to repair the Victorian culverts or replace them, on a like-for-like basis. The Applicant also notes any larger culverts could have unintentional consequences for flood risk downstream however clearing silt from the culverts will have the effect of improving their capacity.	The Applicant has nothing further to add.
48.	ExA Panel	The ExA Panel invited comments on the potential for contamination, the effects on the Severn Estuary, and need for a verification plan.	This issue relates to the wording of Requirement 17. The EA has provided the Applicant with alternative wording to consider, though the EA has no concern in principle to what Requirement 17 does. The Applicant will consider the EA's proposed alternative wording and respond in the ongoing SoCG.	The Applicant has nothing further to add.

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49.	Environment Agency	The EA has provided amended wording for Requirement 17 which it considers is clearer on the matter of the verification plan.		
50.	Mr Tarr	Mr Tarr explained he has been asked to raise a concern about run-off from the proposed tarmac loading point into the Ham Green Lake. Will the contamination plan address this?	The Applicant will provide a full written response, but in short the Drainage Strategy APP-192 covers this issue and the Applicant will direct Mr Tarr to the relevant parts at action point 30.	Please refer to APP-192 (6.26) Surface Water Drainage Strategy for Portishead and Pill Stations, haul roads and compounds. Drawing 467470.BQ.04.20-DS-C9 – C9 Ham Green Compound Drainage Strategy (page 243 of 356).
51.	Environment Agency	The EA noted that there has been lots of discussion about Flood Zone 3a and 3b. The EA is trying to ensure the appropriate flood risk designation is fully considered to inform the emergency evacuation plan, in turn to ensure safety. The Applicant has taken every opportunity to say the land is in Flood Zone 3a not 3b, despite the Applicant's own modelling. We hear the FRA is conservative and has only changed after the Bristol SFRA has been published. The EA is trying to ensure the safety of the line.	-	The EA has misconstrued the Applicant's FRA and the modelling it has undertaken. Briefly (i) FZ boundaries are determined by simulated present day flooding (ii) The FRA modelling for present day simulated flooding uses the earlier CFB2011EWLs which produces higher flood levels than the CFB2018EWLs (iii) modelling for present day simulations is not to be confused with the revised modelling undertaken by the Applicant which uses both the updated CFB2018EWLs and the most recent UKCP2018 climate change allowances for future flooding predictions. Climate change allowances are not relevant for determining present day flooding simulations. (iv) The Applicant has taken into account in the FRA and more latterly the lower CFB2018EWLs, the March flooding event and the recently released SFRA to conclude that no part of the DCO Scheme is within FZ3b. Moreover, the Applicant and Network Rail take safety on the line and in the operation of compounds very seriously

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				and propose extensive measures to ensure that the DCO Scheme is resilient to flooding.
52.	ExA Panel	<p>The ExA Panel asked if the DCO Scheme is inappropriate development in the green belt, and are there very special circumstances?</p> <p>The Applicant states this is a local transport infrastructure scheme and so is not classed as inappropriate. However, there is a caveat in paragraph 146 of the National Planning policy Framework ("NPPF"), saying it is not inappropriate provided it preserves openness. The main area where this could be a problem is the ramp at the Clanage Road compound.</p> <p>In the Applicant's Deadline 2 responses it says this will be screened so openness will be retained. However, openness has a spatial as well as visual element.</p> <p>If the development does not preserve openness, it is still inappropriate development, and then very special circumstances must be shown.</p>	<p>There was an extensive site selection process for the compound located at Clanage Road. This is a very small site with screening and the Applicant has chosen a site which is as small as possible as a means of constructing the railway. Any local transport infrastructure would require some spatial impact, but ultimately this has been made as minor an impact as possible.</p>	<p>The Applicant notes that BCC is of the view that the ramp at Clanage Road and indeed the DCO Scheme does preserve the openness of the green belt. Notwithstanding the opinion of the LPA, if the ExA comes to the conclusion that openness is not preserved, there are very special circumstances including the provision of as small a permanent site as possible together with those very special circumstances outline in paragraph 6.5.14 onwards of APP-208 and the site selection process demonstrating the necessity of this particularly site in APP-189.</p>

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53.	Bristol City Council Local Planning Authority	BCC's position is that openness is retained, as set out in the SoCG (REP1-017). BCC's believes the DCO Scheme would retain the openness of the green belt owing to the effect of proposed landscaping.	-	The Applicant has no further comment.
54.	North Somerset Council Local Planning Authority	<p>NSC (as LPA) also considers the DCO Scheme maintains the openness of the green belt.</p> <p>On whether paragraph 146 of the NPPF is satisfied, NSC (as LPA) believes the two parts of the test are met if the second limb is necessary. The DCO Scheme is safeguarded through policy DM22 creating the very special circumstances.</p>	-	The Applicant has no further comment.
55.	Mr Tarr	Mr Tarr noted that the NPPF and IROPI both set a high bar for NSIPs. Mr Tarr is not satisfied from the environmental aspects that these tests have been met. On traffic movements and impact the Pill tunnel compound will have on McRae Road and Chapel Pill Lane, Mr Tarr believes this is a major issue and mitigations will not be sufficient. Has any consideration been given to an alternative access	The Applicant did not respond as the ExA considered this comment to be outside the scope of the IROPI issue and concerning green belt and openness, please see the Applicant's response at query 52 above.	The Applicant has no further comments to make.

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		to the south side of the line utilising the former Ham Green Holt?		
56.	Chris Burton and Carl Tonks, Mannheim and ETM	<p>Mannheim and ETM noted that Bristol City Council policy BCS8 (in its Core Strategy) recognises in policy that employment sites should be protected. Such sites are also protected in the NPPF – see paragraph 108(c) on impacts on the highway network.</p> <p>Mannheim and ETM do not believe paragraph 108c has been dealt with to pass this test. Further, at paragraph 182 the agent of change test is not satisfied. The Applicant said it is not relevant as up to 40 freight vehicles per day are already permitted. However, the reality is the freight movements are minimal now. There needs to be a realistic prospect of 40 freight trains for this to be relied on by the Applicant.</p>	The Applicant directs Mannheim and ETM to Appendix N of the Transport Assessment (APP-172). This is where the assessment of the Ashton Vale junction is set out. Given the discussion at the ISH2 concerning the traffic modelling, the Applicant will respond in writing (at Deadline 5 once Mannheim and ETM have provided their written submissions at Deadline 4).	The Applicant will respond in writing at Deadline 5.
57.	Bristol City Council Local Planning Authority	BCC (as LPA) explained that the benefits of the DCO Scheme are set out in the Local Impact Report. BCC notes the stated impact on the business estate, but based on the modelling BCC sees no unacceptable impact. BCC will	-	The Applicant has no further comment at this time but may wish to comment on BCC's further submissions.

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		make further post-hearing written comments.		
58.	ExA BCC (as LPA) NSC (as LPA)	<p>The ExA asked the Local Planning Authorities to say if there have been any changes to emerging policies since their responses to ExQ1.</p> <p>NSC (as LPA) explained they are still at the initial stages of a new local plan (regulation 18 stage). A 'Choices' consultation finished in the middle of December 2020, on general approaches to the spatial strategy.</p> <p>BCC referred to its ExQ1 response to question GC.1.1.21 – BCC is in the early stages of developing a local plan review including studies, calls for sites, etc. Issues and options under regulation 18 are to be consulted on later in 2021. There is no update since the ExQ1 response.</p>	-	The Applicant has no further comments to make.
59.	ExA Panel	The ExA Panel asked what is the current status of the neighbourhood plans?	-	The Applicant has no further comments to make.

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	<p>Bill Ovel, Pill and Easton-in-Gordano Parish Council</p> <p>NSC (as LPA)</p>	<p>Mr Ovel explained that the Pill and Easton-in-Gordano plan is complete and was submitted to North Somerset Council on 2 November 2020. There will be a 6 week consultation period and it will then go to an examiner. It will be subject to a referendum before it is adopted, though there is no detail on when this will be held.</p> <p>NSC (as LPA) explained that the NSC Executive report went to committee on 9 December, and it was decided it could proceed to examination. The 6 week consultation is likely to start in February/March 2021. It is likely a referendum will be held in early Autumn 2021, meaning the plan would be made towards the end of 2021.</p>		
60.	ExA Panel	<p>The ExA Panel noted that Mr Tarr refers to allocation for 16 affordable houses at Chapel Pill Lane – is this on the same site as the permanent compound?</p> <p>It would assist the ExA Panel to have a map to show where the proposed site is in relation to the compound</p>	<p>The DCO Scheme plans do show the allocated site and there is no conflict with the access for the DCO Scheme.</p> <p>The Community Land Trust has engaged with the Applicant to assess the implications across the two schemes. However, the housing proposal has no connection with the DCO. The DCO Scheme does not make any allowance for the housing proposal or provide any enabling development designed to assist the housing proposal.</p>	NSC (as LPA) agreed to take the action to engage with the CLT to obtain a plan for the ExA Panel's reference.

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		suggested that the housing development would not meet NR safety requirements given its close proximity to the track.		The Applicant may respond further in writing at Deadline 5 following any further submissions by Mr Tarr.