



MetroWest+

Portishead Branch Line (MetroWest Phase 1)

TR040011

Applicant: North Somerset District Council

9.44 ExA.FI.D6.V1 – Applicant's response to the ExA's Actions from the Issue Specific Hearing 4 (ISH4)

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Application by North Somerset Council for an Order granting Development Consent for the Portishead Branch Line – MetroWest Phase 1

Hearing Action Points arising from the Issue Specific Hearing 4 on the draft Development Consent Order (dDCO) held virtually on Tuesday 2 March 2021

Action	Description	Action by	When	Applicant's response
1	Requirement 5 - To review whether the CEMP for works other than those for Work Nos 26, 28 and 29 (ie those works within NSDC) should also include the requirement for a construction workers travel plan	NSDC	Deadline 6	-
2	Review whether the wording of the last line of Requirement 5 should include a reference to the CTMP	Applicant	Deadline 6	The dDCO has been revised and provided to the relevant planning authorities for comment.
3	Check if Works 1B and 1C should be covered by either Requirement 6 or 7	Applicant	Deadline 6	<p>The Applicant has discussed with matter further with the relevant planning authority. The Applicant's position is that landscaping is not required in relation to Works No. 1B or 1C. Whilst the area around Lodway Close/Avon Road is shown on the landscaping plans, this is only from reseeding of the existing railway embankment following works to install the new bridge between Avon Road and Lodway Close. On that basis the Applicant does not believe that these works should be covered by a landscaping requirement.</p> <p>The Applicant will be discussing the matter further with the relevant planning authority and hopes to settle the position in the relevant Statement of Common Ground and in any event by Deadline 7.</p>
4	Consider if Requirement 8 should specify a time specific removal period (eg within 6 months) or require the submission of a timetable for removal and if this would be secured by a timetable whether (1) should be amended to include reference to the fact	Applicant/ Network Rail	Deadline 6	<p>The Applicant has added the following wording to the end of Requirement 8(1):</p> <p><i>"together with a timetable for its installation and removal"</i></p>

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	that the submitted details must also include a timetable for their removal			
5	<p>Applicant: Review wording to Requirement 11 to reflect whether the additional wording suggested by the North Somerset Levels Internal Drainage Board should be included</p> <p>Environment Agency: review wording of the requirement as currently drafted and confirm if they are satisfied with the amended wording</p>	Applicant/ Environment Agency	Deadline 6	<p>The requirement has now been updated to include the following wording in Requirement 11(2):</p> <p>"for the lifetime of the development"</p>
6	Consider if Requirement 12(4) should include a specific time period for removal of temporary fencing or whether (1) should include a reference that the arboricultural method statement needs to include a timetable for the removal of the protective fencing	Applicant	Deadline 6	<p>The Applicant has added the following wording to the end of Requirement 12(1):</p> <p><i>" including a timetable for the installation and removal of the proposed protective measures"</i></p>
7	Review and confirm if Requirement 17 as now drafted is as they requested	Environment Agency	Deadline 6	-
8	Consider if the requirement to use palladin fencing at the Clanage Road compound should go in Requirement 25 or 31	Applicant	Deadline 6	The revised dDCO places the provision in Requirement 31.
9	Consider if Requirement 25 should include a timescale for implementation of fencing works or the use of a similar phrase to that on Requirement 26(3) which requires that works must be installed prior to the first commercial use of Work Nos 1 and 1A	Applicant	Deadline 6	<p>The Applicant has added the following wording to Requirement 25(1):</p> <p><i>"together with a timetable for its installation "</i></p>
10	Consider re-wording of Requirement 25 in terms of latest General Arrangement Plans	Applicant	Deadline 6	The Applicant has amended requirements 14 and 25 to refer to a new document summarising the types of fencing indicated on the General Arrangement Plans.

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11	Provide wording of an additional point to Requirements 14 and 25 to include the ability for Network Rail to change the type of fencing for railway safety reasons	Applicant	Prior to ISH5 on 4 March	The words <i>"unless alternative type fencing is required for railway operational safety reasons"</i> have been added to both requirements.
12	Confirm why Requirement 30 doesn't include Work 25	Applicant	Deadline 6	It is anticipated Work No 25 would be accessed via Bristol and not J19 M5. In any event the volume of traffic generated will be very small.
13	Confirm acceptance of wording of Requirements 31 and 33	Environment Agency	Deadline 6	-
14	Consider removal of 'if relevant' (in relation to LLFA) from Requirement 31	Applicant	Deadline 6	The words have been removed from the latest dDCO
15	Clarify the purpose of Requirement 36 and how it meets the test for requirements	Applicant	Deadline 6	The following made orders have include provision identical to or similar to Requirement 36 – anticipatory steps towards compliance: <ul style="list-style-type: none"> ▪ The A1 Birtley to Coalhouse Development Consent Order 2021 (2021 No.74) – under its Requirement 21, ' Anticipatory steps towards compliance with any requirement'. This was principally the same as requirement 36. ▪ Southampton to London Pipeline Project Development Consent Order (2020 No. 1099) –requirement 21, ' Anticipatory steps towards compliance with any requirement'. This was substantially the same as requirement 36. ▪ The Great Yarmouth Third River Crossing Development Consent Order 2020 (2020 No. 1075) –Requirement 35, 'Anticipatory steps relevant to specified consent'. The draft does differ as the following: <p>Anticipatory steps relevant to specified consent 35.—(1) In the discharge of its functions under this Schedule, a</p>

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				<p>discharging authority may treat and take account of any pre-commencement action as if it had occurred after the coming into force of this Order.</p> <p>(2) in this paragraph "pre-commencement action" means any act of the undertaker or any other person which—</p> <p>(a) is of relevance to the seeking or obtaining of a specified consent; and</p> <p>(b) occurred before the coming into force of this Order.</p> <ul style="list-style-type: none"> ▪ A38 Derby Junction DCO – requirement 21, 'Anticipatory steps towards compliance with any requirement'. This was substantially the same as requirement 36. ▪ A19 Downhill Lane Junction Improvement –requirement 16, 'Anticipatory steps towards compliance with any requirement'. This was substantially the same as requirement 36. ▪ The A38 Derby Junctions Development Consent Order 2021 (2021 No. 51) ▪ The A19 Downhill Lane Junction Development Consent Order 2020 (2020 No. 746) <p>Overall, the purpose of requirement 36 is to provide clarification that measures undertaken before the DCO is made may be considered as measures discharging requirements, even if documentation is submitted or actions take place before the Order has been made by the Secretary of State.</p> <p>This is of particular relevance in relation to ecological matters such as installation of bat boxes in advance of construction works, which will be acquired by both licences settled with Natural England and provisions under requirement 5 for the discharge of the Construction Environmental Management Plan (CEMP) together with requirement 24(4). If measures are carried out during 2021 having been agreed with Natural England then it is submitted that such measures should be</p>

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				<p>submitted as discharging the obligation to provide mitigation under requirement 24(4) so that there is not an additional burden for the discharge of that requirement placed on the Applicant by the relevant planning authority.</p> <p>In relation to bat navigational routes in the vicinity of the Portbury Hundred A369 highway, planning would be best undertaken in advance of the removal of vegetation along the disused railway, to provide an appropriate alternative to the bat corridor along the disused railway. Given that the land is controlled by North Somerset Council as highway authority it is possible for the Applicant to carry out the works in advance of the Order being made. This advance work would then be part discharge of requirement 24(2) and would allow the Applicant to progress its works sooner than if requirement 36 were not included in the Order.</p> <p>In addition, some works for undertaking planting of Whitebeams within the Avon Gorge may be capable of being carried out in advance of the Order being made as part discharge of the provisions of requirement 14 and the Avon Gorge Vegetation Management Plan.</p> <p>For these reasons, the Applicant believes that the inclusion of requirement 36 is necessary, appropriate, reasonable and justified in all the circumstances.</p>
16	Correct typo in Requirement 37 to refer to Requirement 38	Applicant	Deadline 6	This has been corrected in the revised dDCO.
17	Consider whether Requirement 40 could be added to Requirement 1 or whether it needs to be retitled Part 2 rather than Schedule 2	Applicant	Deadline 6	This has been retitled Part 2 of Schedule 2 in the revised dDCO.
18	Provide a list of documents to be certified that may be missing from Schedule 17 as currently drafted (see attached appendix)	ExA	Deadline 7	This will be provided by deadline 7.
19	Update Schedule 17 to ensure that the latest version of plans and documents are referred to and to remove the plan number for the GCN Indicative Pond Plans and to	Applicant	Deadline 7	This will be provided by deadline 7.

Action	Description	Action by	When	Applicant's response
	include any omissions that may have arisen as a result of action point 18			
20	Amend the Explanatory Note – to refer to the availability of electronic copies of the Order Plans and the Book of Reference	Applicant	Deadline 6	The Applicant has added reference to the Planning Inspectorate's website. It is considering with the relevant planning authority whether the relevant planning authority will be able to host the electronic documents and may further amend the explanatory note at Deadline 7.

Appendix 1 – Schedule 17 – Documents to be certified

At the ISH the ExA queried whether or not the following documents should be omitted, amended or included within Schedule 17 – documents to be certified, in order to secure the works/ mitigation shown or within those documents (or the latest version of those plans):

1. Bridleway Extension under the elevated M5 plan is potentially listed twice as it has its own entry and then would also be included in the Design Drawings (which refer back to Requirement 4)
2. Section Drawings – Applicant to clarify which section drawings are being referred to (cross section plans [APP-032], longitudinal profile of railway alignment (section plan)[App-016] or Engineering sections [APP-015] – or the relevant latest versions of these plans).
3. APP-021- Cattle Creep proposed general arrangement plan
4. APP-023 – Earthworks
5. APP-029/030 – Diversion routes for pedestrians and cyclists
6. APP-033 – National Cycle Network Temporary and Permanent Work Plans
7. APP-037 – Easton in Gordano Flood Mitigation Plan
8. APP-192 – Surface Water drainage Strategy for Portishead and Pill Stations, haul roads and compounds
9. APP-196 – Design and Access Statement