



MetroWest+

Portishead Branch Line (MetroWest Phase 1)

TR040011

Applicant: North Somerset District Council

9.59 ExA.CWR.D7.V1 – Applicant's response to Written Representations submitted for Deadline 6

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Applicant's Responses to submissions received at Deadline 6

No.	Type / Category	Response topic	Response	Applicant's response
001294 -D6- 001	Town Legal LLP on behalf of Freightliner Limited	Freightliner depot	<p>We write further to our Deadline 5 submission and in advance of the second compulsory acquisition hearing tomorrow. Freightliner and Network Rail have agreed heads of terms for an agreement for lease and Freightliner has also agreed in principle the outline for an agreement with the applicant which would resolve the issue between them. It is hoped that the agreements can be progressed swiftly enough to allow for the withdrawal of Freightliner's relevant representation before the close of the Examination but we will keep you and the Examining Authority informed of progress at appropriate junctures or at the Examining Authority's request.</p> <p>In the circumstances and in order to avoid incurring costs unnecessarily we will not be attending the second compulsory acquisition hearing tomorrow.</p>	<p>Commercial terms have been agreed and legal documents are currently in draft form and both parties' legal representatives are working towards agreeing the final wording.</p> <p>The Applicant and Freightliner are settling a statement of common ground (to be submitted at before the close of the examination) which will allow the withdrawal of the objection by Freightliner in time for the close of examination (see draft document ref: 9.3.19 ExA.SoCG-FL.D7.V1)</p>
001295 -D6- 001	Stuart Tarr on behalf of Ham Green and Chapel Pill Lane residents and their supporters	Ham Green compound area	<p>1. Following a robust exchange of views at ISH 5 on 4th March 2021 and in considering a request for more information on cycling and traffic numbers from the planning inspector, I have consulted with senior representatives of the group of residents I represent at these hearings.</p>	Noted.

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001295 -D6- 002			<p>2. The outcome from these discussions is that residents remain unconvinced by the explanation that MetroWest changed the access from Hayes Mayes Lane to Chapel Pill Lane for operational reasons in November 2015 noting that had this been the case, given the significance of this change, then an explanation of the reasons for the change would have been included as an addendum or appendix to the Report on the DCO Stage 1 Consultation dated December 2015. Conversely, if residents accept the operational change as having been made in November 2015, noting that the Community Land Trust was formed in August 2016 prior to commissioning a Housing Needs Survey in November 2016, then it is entirely possible that decisions which had been made purely on rail operational grounds notified in the Stage 2 documentation of autumn 2017 were subsequently influenced and modified in discussion with the CLT to permit shared access to enable a housing development to proceed.</p>	<p>The Applicant has already set out the decision-making process in response to Mr Tarr's email of 24 February which was issued on 3 March [AS-065]. The Applicant's response demonstrates clearly that the decision to use Chapel Pill Lane was made well before the Community Land Trust (CLT) proposals.</p> <p>Please also see lines 49, 50 and 51 of the Applicant's submission of its Oral Case and response to Representations received at ISH5 (Document Ref: REP6-021).</p>
001295 -D6- 003			<p>3. It is for these reasons that residents believe that the background papers, emails and notes of meetings etc between MetroWest (NSC), Network Rail and the Community Land Trust, need independent examination by the Planning Inspectorate to determine what has taken place, when and why, noting that had Network Rail been the applicant for the MetroWest project and not North Somerset Council, then shared access to the site would have been refused and reserved solely for the use of Network Rail. A concern which throws doubt on the claim which has been made that the applicant for the MetroWest project (NSC) is not supporting or facilitating the CLT's housing development proposals. Moreover, the CLT has refused access to the minutes of its meetings which may have shed light on these enquiries had they been disclosed.</p>	<p>The location and design of the compound has been developed by the Applicant and Network Rail.</p> <p>The access road will be used by Network Rail and the owner of the Ham Green Lake. Network Rail wishes to take the freehold of the secure compound and to not be responsible for a stretch of shared access which would instead be the responsibility of North Somerset Council to maintain.</p> <p>The Applicant cannot comment on, and has no responsibility for, the decisions of the CLT.</p>
001295 -D6- 004			<p>4. Residents have however taken heed of WBD's (on behalf of the applicant) advice that for wildlife habitat and environmental reasons they would want to avoid inflicting serious damage to the</p>	<p>The Applicant has already set out the justification for a permanent access point here [REP5-033; DCO document reference 9.34 ExA.CWR.D5.V1], being</p>

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			<p>Hayes Mayes Lane tree line and hedgerow if, with careful trimming back and management of the means of access, that might be avoided. Here they point to the use of cellular concrete blocks rather than tarmac to provide the necessary grip for HGV and emergency vehicles traversing Hayes Mayes Lane and to a request for the re-examination of the operational business case for a permanent maintenance compound at the proposed site provided rail tunnel emergency access is maintained.</p>	<p>required for emergency and maintenance access to the tunnel portal and the northern part of the railway line through the Avon Gorge.</p>
001295 -D6- 005			<p>5. Equally, however, if after a careful re-examination of the operational business case that is evidenced in fact and not on assertion, it is demonstrated that access to the compound must be via Chapel Pill Lane, then residents would ask for the entrance to the field and track to the compound to be constructed of cellular concrete blocks to provide the required level of grip for HGV, heavy lifting equipment and emergency vehicles. If, however, despite the evidence that a screed trackway was successfully used by Heavy Goods Vehicles when the rail line and tunnel were renovated and repaired for rail freight traffic in 2000-2001 (the gradient of the field remaining unchanged) it can be shown that cellular concrete blocks cannot guarantee the level of grip that is required on the steepest part of the access to the compound, then only in those exceptional circumstances, restricted to this section of the track, should tarmac be laid. In addition, it is felt that in order to preserve agricultural and grazing uses, and Rights of Way access, a cattle grid should be installed at the entrance to the field whether gated or not.</p>	<p>The Applicant previously responded to this point [REP4-033; DCO document reference 9.29 ExA.CAS.D4.V1]. As previously stated, the proposed access to the permanent compound is on a slope and a sealed surface "tarmac" road is required for the safe use by large vehicles, including emergency service vehicles.</p> <p>There is currently no cattle grid from Chapel Pill Lane to the adjacent land and the landowner has never requested one. MetroWest Phase 1 has no reason to install a cattle grid at this location.</p>
001295 -D6- 006			<p>6. Finally, in terms of the number of cyclists using Chapel Pill Lane that is part of the Avon Cycleway, I will forward a separate email thread (from which residents' names should be redacted) between David Lucas (Bristol City Council) and Iain Stewart (Sustrans). A good deal of data is contained therein, but the key point is that the number of cyclists peaked at 1312 cyclists on Monday 25th May 2020 (a bank holiday). The 7-day average for that week was 908</p>	<p>As previously stated [REP5-033; DCO document reference 9.34 ExA.CWR.D5.V1] the compound will have very low usage. During construction there is estimated to be one HGV accessing the site each day on average.</p>

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			<p>cyclists per day. Secondly, in terms of traffic flow, this is taken from paragraph 5.8 of the Neighbourhood Plan www.n-somerset.gov.uk/pillplan which states that there are 450 motor vehicle movements per day. A recent cycling safety risk assessment is also to be forwarded which shows a medium to high level of risk to cyclists (and other users) unless invasive mitigations detrimental to green belt and wildlife habitats are accommodated that would significantly harm the hedgerows and tree lines of Chapel Pill Lane from the junction with Macrae Road down to the site entrance opposite Penny Brohn Cancer Care UK. Yet this is precisely what is proposed in the GCH Chartered Architects Pre-application Design Statement dated 19th February 2020 for the housing development which relies on shared access being granted. Photographs of the Hayes Mayes Lane gated entrances referred to in previous submissions are attached. Approximately 40 residents are in a named residents' email group which opposes the housing development with another 140+ supporters on the Friends of the Lake Facebook page.</p>	<p>Post-construction, Network Rail have confirmed that routine site traffic attending site approximately once every week using small vehicles (such as transit vans). Material deliveries are likely to occur once every 8 to 12 weeks and will be undertaken during the night time period to align with track possessions. It is noted that there may be more significant renewal works annually where a low loader may be required.</p>
001296 -D6- 001	Bill Ovel on behalf of Pill & Easton-in-Gordano Parish Council	ISH 5 Action point 31	<p>Issue Specific Hearing 5, Dealing With Environmental Matters, 4th March 2021</p> <p>Action No. 31 for Applicant: "Provide a written response to the concerns raised orally at the hearing by Mr Ovel and Mr Berry regarding a possible siding at Lodway and why the haul road cannot be made 2 way to accommodate construction workers traffic"</p> <p>I have the following observations to make on behalf of Pill & Easton-in-Gordano Parish Council regarding the wording of this Action:</p> <p>1. Action 31 makes no mention of the concerns that Mr Berry and I expressed at the hearing regarding the unsuitability of the Pill and Easton-in-Gordano road system for construction HGV traffic. On</p>	<p>The Applicant's response to Action 31 provides a signpost to point 46 of Doc 9.41 Applicants Oral Case and Response at ISH5 (DCO document ref. 9.41 ExA.ISH5.D6.V1), which dealt with the issue of the option of a temporary siding at Lodway during construction. The points raised by Mr Ovel and Mr Berry regarding Bristol Port's perimeter access track and the use of HGV's in Pill were dealt with by the Applicant in point 32 to 35 of that document.</p> <p>The Applicant wishes to correct an error in point 33 "There is no intention to use the narrow sections of road in the village (such as the narrow section of Priory Road) for regular HGV traffic" should read:</p>

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			<p>the routes identified in the DCO for Metro West construction traffic we have particular concerns with regard to Lodway and The Breaches, especially for movements to/from the Lodway Farm Compound, due to the narrow and winding villages roads. We strongly disagree with Mr Willcock's assessment, expressed during the hearing, that these roads are suitable for construction HGV traffic. We raised the questions about the haul road and the railway siding mentioned in Action 31 because of these concerns. It is fundamental to the safety and well being of the village residents who use these roads that the overwhelming majority of the HGV traffic using the Lodway Farm Compound be channelled along the haul road alongside the disused railway. For this to be the uninterrupted case throughout the construction phase, the haul road must be made fit for purpose from the outset. This will require:</p>	<p>"There is no intention to use the narrow sections of side roads in the village for regular HGV traffic".</p> <p>The Applicant also adds the short section of narrow width of Priory Road will be used by HGV's to access the secondary access to Lodway compound, particularly in the later stages of construction when the permanent works to rebuild the current dis-used line through the M5 railway underbridge have been completed and as a result there is no longer a through HGV route available to Lodway compound, via Marsh Lane. This short section of narrow width of Priory Road (the main highway route through Easton-in-Gordano/Pill) is used every day by double deck buses and HGV's.</p>
001296 -D6- 002			<p>a. The load-bearing surface to be strong enough and durable enough to sustain intensive movements of heavily laden vehicles for a period of up to two years. If the haul road had to be closed for repairs for more than a day or two during the construction phase this would inevitably place huge pressure on the contractors to divert HGV traffic to The Breaches access to Lodway Farm.</p>	<p>The points raised by Mr Ovel and Mr Berry regarding Bristol Port's perimeter access track and the use of HGV's in Pill were dealt with by the Applicant in point 32 to 35 of Doc 9.41 Applicants Oral Case and Response at ISH5 (DCO document ref. 9.41 ExA.ISH5.D6.V1).</p> <p>The section of the Breaches closest to Church Road and Debeccas Lane will not be used for HGVs.</p>
001296 -D6- 003			<p>b. The haul road to be widened wherever possible to enable two HGVs to pass one another. It is our contention that this is essential in order to make the haul road route viable for multiple inbound and outbound journeys to/from the Lodway Farm Compound. Otherwise, it can be envisioned that a one-way system might be instituted using The Breaches to ingress Lodway Farm and the haul road for outbound traffic in order to maintain traffic flow through the compound. This should be specifically ruled out in the DCO, as it would place an unacceptable burden on the surrounding roads.</p>	<p>The points raised by Mr Ovel and Mr Berry regarding Bristol Port's perimeter access track and the use of HGV's in Pill were dealt with by the Applicant in point 32 to 35 of Doc 9.41 Applicants Oral Case and Response at ISH5 (DCO document ref. 9.41 ExA.ISH5.D6.V1).</p> <p>Priory Road will be used by HGV's to access the secondary access to Lodway compound, particularly in</p>

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			<p>Mr Willcock stated that water features adjacent to the haul road preclude this. There are, indeed, short sections of the haul road where that might be the case but from personal observation I believe that there is space for the great majority of the road to be widened to two-lane width to enable vehicles to pass safely. The underlying objection from MetroWest to making the haul road fit for purpose appeared to be one of cost. We recognise that cost control is very important but contend that not to upgrade the haul road prior to the start of the construction phase would be a false economy. Indeed it was conceded by Mr Willcock that the road would, in all probability, have to be repaired at the end of the construction phase, so money will have to be spent on it anyway.</p>	<p>the later stages of construction when the permanent works to rebuild the current dis-used line through the M5 railway underbridge have been completed and as a result there is no longer a through HGV route available to Lodway compound, via Marsh Lane. The applicant wishes to point out that this short section of narrow width of Priory Road (the main highway route through Easton-in-Gordano/Pill) is used every day by double deck buses and HGV's.</p> <p>The section of the Breaches closest to Church Road and Debeccas Lane will not be used for HGVs.</p>
001296 -D6- 004			<p>2. With regard to my comments at the Hearing about the possible railway siding into the Lodway Farm Compound mentioned in the DCO, it is clear that a viable haul road capable of sustaining two-way traffic will be required anyway. Provided that MetroWest project HGV's are kept away from the village road structure, it is not of direct concern to us whether the materials are transported to/from the Lodway Farm Compound via the haul road or by rail. Intuitively, it seems that a dedicated railway siding would be the better option for the local environment. However, it was clear from the comments made by Mr Willcock and, I think, Mr Willmot that, for a variety of reasons, this would not be a practicable solution. The appearance of the railway siding option in the DCO is therefore something of a red herring. This again, reinforces the necessity of ensuring that the haul road is improved to make it fit for purpose from the outset.</p>	<p>The points raised by Mr Ovel and Mr Berry regarding Bristol Port's perimeter access track and the use of HGV's in Pill were dealt with by the Applicant in point 32 to 35 of Doc 9.41 Applicants Oral Case and Response at ISH5 (DCO document ref. 9.41 ExA.ISH5.D6.V1).</p> <p>Priory Road will be used by HGV's to access the secondary access to Lodway compound, particularly in the later stages of construction when the permanent works to rebuild the current dis-used line through the M5 railway underbridge have been completed and as a result there is no longer a through HGV route available to Lodway compound, via Marsh Lane.</p>
001296 -D6- 005			<p>3. I became aware during the course of the Hearing of a new factor potentially affecting the haul road when it emerged that the direction of laying of the new track laying would now be to the west commencing from the Pill end. On the DCO 2.4 General Arrangement Plan the haul road is shown as running through the</p>	<p>It is not possible to construct the scheme without some HGV's being routed via Priory Road. Given the scheme cannot be constructed without Lodway compound. It provides the required lay down area for the new railway bridge over the path between Avon</p>

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			<p>M5 overbridge in the same space as the railway line. Given the narrow width through the overbridge, it seems very unlikely that there is room for the haul road to run side-by-side with the railway, especially when the new line is being laid through the over bridge. Thus, there is a severe risk that once laying of the new line commences it would be only a short time before the haul road access to the Lodway Farm Compound would become unviable. In that case, the only other access identified for Lodway Farm would be via The Breaches. This takes us back to the heart of our concerns about continuous availability of the haul road. Therefore, I request that the Applicant also address this issue when responding to Action 31.</p>	<p>Road and Lodway Close as well as a suitable location for a compound for works to construct the railway. As the Marsh Lane HGV route will not be available in the later stages of construction, some HGV's will have to be routed via Priory Road.</p>
001296 -D6- 006			<p>4. Finally, I would like to reaffirm Pill & Easton-in-Gordano Parish Council's continuing broad support for the MetroWest scheme. However, we are concerned to ensure that realistic plans exist to keep the village streets free from the vast majority of the Lodway Farm Compound traffic, particularly HGVs. We therefore request assurance from the Applicant that it shares this objective with us and that it is also enshrined in the DCO, specifically the Construction Traffic Management Plan, rather than being left to the discretion of the contractor (when one is eventually engaged), as is the situation currently. We accept that some light vehicle traffic to/from Lodway Farm may need to use the access from The Breaches, but not HGV traffic.</p>	<p>The final Construction Traffic Management Plan must be submitted to the Local Planning Authority in relation to the discharge of DCO Requirements.</p>
001297 -D6- 001	Simon Bluck	Ham Green compound access track	<p>I have been made aware (through local concerns and the consultation information put forward by Alliance Homes in early February) that your intention to use Hayes Mayes Lane, as proposed in 2015, for your access to the Pill Railway Tunnel has been moved into the field adjacent to Hayes Mayes Lane.</p> <p>If this is true then why?</p>	<p>Please see lines 49, 50 and 51 of the Applicant's submission of its Oral Case and response to Representations received at ISH5 (Document Ref: REP6-021).</p> <p>In 2015 we had contemplated the use of Hayes Mays Lane, but a number of factors came to light during the course of the design and technical development of our</p>

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			<p>It seemed sensible that you will need dedicated and exclusive access to the end of the tunnel for construction, maintenance and emergencies. The choice of an existing track appeared to be the most practical solution with the added benefit that it consumed the minimal amount of a Green Belt field.</p> <p>The revised proposal will consume a sizeable quantity of open Green Belt land, will not be exclusively for your use in an emergency and could endanger lives in the event of an accident in the tunnel and opens the way to half of the field to be used for a housing development in a Green Belt field whose ecology supports that of a lake of noted wildlife importance.</p>	<p>proposals between mid-2015 and late 2017. In our formal Stage 2 Public Consultation launched in late 2017 we proposed a revised arrangement to use the alignment previously used by Network Rail in 2001 for the works to bring back into use the section of railway that is currently known as the Portbury Freight Line (ref page 17 of the 2017 formal consultation leaflet). This alignment from Chapel Pill Lane down to the railway follows close to the boundary of the field to the east of Hayes Mays Lane and results in the least possible environmental impact. The factors that led to our decision to use this alignment in favour of using Hayes Mays Lane were as follows:</p> <p>In order to undertake the necessary construction works, HGV access is required to the section of railway from the northern end of Avon Gorge to Pill tunnel eastern portal. There is no highway access to the railway for over 5 kilometres from south of the Avon Gorge to Pill. This HGV access point is will provide a vital point of access to the railway, although this access point will be a minor access in respect of the frequency of HGV movements. Access is also required for the emergency services for fire engines and ambulances in the event of an accident or incident either in Pill tunnel or along the section of railway from the Avon Gorge to Pill tunnel.</p> <p>The width of Hayes Mays Lane is not sufficient to accommodate HGV's with hedgerows and mature trees in close proximity on both sides. It would therefore be necessary to remove the hedgerow and</p>

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				<p>trees along one side to accommodate HGV's. The alignment that we selected in 2017 does not entail removal of hedgerow other than a very small section of hedgerow at the northern end of Hayes Mays Lane in order to widen the access into the field to re-instate the former track down to the railway used in 2001.</p> <p>Furthermore, our previous proposal in 2015 which entailed creating a compound on the field to the south of Hayes Mays Lane, would have resulted in greater landscape and visual impacts. This is because the land to the south of Hayes Mays Lane has open views across an expansive area, whereas the location of the compound that we have proposed since late 2017 is at the bottom of a sloping field and will be largely out of view except for the track, but this is a relatively narrow width.</p> <p>In respect of the Community Land Trust, MetroWest is not supporting or facilitating the Community Land Trust's proposals. The Community Land Trust proposals are a matter for the North Somerset Local Planning Authority to determine.</p>
001298 -D6- 001	Sutherland Property & Legal Services Ltd on behalf of ETM Contractors Ltd and Manheim Auctions Limited	Ashton Vale Road level crossing	The DCO submission should be up to date and relevant at the time of its reliance by the Inspectors. My previous submission confirmed that the model was neither up to date, nor relevant. Your assertion that the ETM increases on their own are insufficient to be considered significant misses my point that any, or all employers should have the opportunity to develop their business and you have made no allowance for this in your model.	<p>Chronology of responses</p> <p>This is the latest in a series of submissions by Sutherland/cTc, in which they reiterate previous points, and rely on out of date information, with little or no significant new information or evidence. The Applicant has provided responses at each juncture, but it is considered useful to note the chronology of some submissions by Sutherland/cTc, to indicate how</p>

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			<p>For the avoidance of doubt, in regard to the adequacy of the model, my position and that of my clients remains that; Your traffic model was compiled using data collected at an unrepresentative time due to substantial roadworks; Your claims that the road works did not alter the traffic usage of the junction, as judged by your enumerators can be afforded no weight as no information is provided to justify this. Furthermore, the results of your model are not recognised by the employers within the Ashton Vale Industrial Estate as being representative of the junction operation as they see it day-to-day; The traffic surveys upon which you rely to validate the model also took place at times of significant road works on Winterstoke Road, hence do not reflect normal highway operation; Whilst I acknowledge the presentation of a Linsig model alongside the VISSIM, this also relies on traffic data collected at the same time as for the VISSIM model and subject to the same unusual influence of road works.</p> <p>In considering the above I draw your attention to the submission of my colleague, Mr Burton, on Planning Matters. He identifies the importance of this site to the employment market of Bristol, as espoused in the Bristol City Local Plan. In policy terms, this site requires to be protected and a precautionary approach needs to be taken to anything with potential to adversely impact on the efficiency of the site to serve Bristol's employment needs. Whilst a mass transit system into Bristol City Centre has been needed for many years, the scheme as presented has a significant likelihood of materially harming the accessibility of the Ashton Vale Industrial Estate and therefore the above precautionary approach must be taken.</p> <p>It is essential that the analyses on which the Applicant relies are robust and clearly confirm that any undue impact will be</p>	<p>some of their key points are not always being stated in context.</p> <p>Sutherland/cTc initial 'relevant representation' [RR-019 (see REP1-029; DCO document reference 9.4 ExA.RR.D1.V2)], prior to commencement of the Examination, makes most of the key points that are reiterated and elaborated in subsequent submissions. The Applicant responded to the relevant representation at Deadline 1 [REP1-029; DCO document reference 9.4 ExA.RR.D1.V2].</p> <p>Sutherland/cTc's written representation expanded on the relevant representation. The Applicant provided a response at Deadline 3 [REP3-036 & REP3-038; DCO document ref. 9.18 ExA.CWR.D3.V1], but it is important to draw out three key issues:</p> <ul style="list-style-type: none"> Although submitted in November 2020, their response contained no direct acknowledgement or references to the Applicant's response to the initial relevant representation [REP1-029; DCO document reference 9.4 ExA.RR.D1.V2)], or to information in the DCO application from the Transport Assessment [APP-155; DCO document ref. 6.25] and its appendix of Ashton Vale Road analysis [APP-172; DCO document ref. 6.25]. For instance, there is no recognition that the Transport Assessment included a comparison of traffic count data over several years and that the most recent analysis was undertaken using two models (VISSIM and LinSIG) not one.

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			<p>satisfactorily mitigated. The approach taken to constructing and presenting the traffic models relies on inappropriate data and is therefore anything but robust. It is our position that the Applicant's initial proposal to provide a wholly new access to the industrial estate was reflective of the required precautionary approach. There was the potential for significant traffic impact by increasing the closure of the sole access to an important employment site, hence the logical and precautionary approach was to provide alternative access. This made sense and would have been entirely acceptable in principle to my clients.</p> <p>Having dropped this original proposal, the precautionary approach would have required collection of representative data to construct a model which adequately validates against similarly representative data. This model would then be used to forecast future issues and to measure opportunities for mitigation. The approach followed by the Applicant's team does not reflect the precautionary principle and is therefore contrary to policy in regard to this important site.</p> <p>The concerns of numerous employers within the estate have been voiced in letters submitted over a three-year period, culminating in the DCO Hearing and confirm that the fundamental issues identified in the traffic model result in a submission in which the occupiers of Ashton Vale Industrial Estate have no confidence. My technical review, assisted by SYSTRA on matters of model detail, has confirmed that this lack of confidence is well founded.</p> <p>Our concern and that of our clients is not specifically in regard to the impact of any individual company's expansion, but of the cumulative impacts of organic expansion of businesses across the estate. Whilst your demonstration yesterday concluded that the ETM growth was not significant of itself, our concern is that all</p>	<ul style="list-style-type: none"> • Their November 2020 response included a report prepared for cTc by Systra that provided a critique of VISSIM modelling of the Ashton Vale Road Junction. cTc/Sutherland have referred to it many times since, both in written submissions and at the Issue Specific Hearings (including the most recent Deadline 6 submission [REP6-041]). However, this report is dated November 2019 and did not consider modelling that was carried out and reported in DCO documentation; and it has never been updated to do so. As such, the continued reliance on this report, without recourse to where it is no longer relevant, should be seen in that context. The Applicant's response at Deadline 3 [REP3-036 & REP3-038; DCO document reference 9.18 ExA.CWR.D3.V1] provided a critique of where comments in the Systra report had been superseded by subsequent work. • The 'agent of change' argument was introduced in this document. <p>Sutherland/cTc provided a submission at Deadline 4 [REP4-050], as per Action Point 23 from Issue Specific Hearing 2 [EV-009e], responding to the Applicant's Deadline 3 submission [REP3-036 & REP3-038; DCO document reference 9.18 ExA.CWR.D3.V1]. This response provided extensive further critique of traffic data and modelling, albeit much was reiteration of previously raised issues. Again though, information used in support of arguments in the response was out of date, and several 'quotes' from the Applicant's analysis that were cited came from analysis in the</p>

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			<p>businesses will be naturally seeking organic growth and within an important business location they are entitled to do so. Although we are not appointed to represent all of the businesses within the estate, it is to be expected that cumulative growth of all companies could result in a significant increase in traffic using the existing access.</p> <p>On busy days there is already concern in regard to the operation of the junction and significantly increasing the closure time of the level crossing can only reduce traffic capacity and increase queue lengths. I accept that implementing MOVA will assist, but your other improvements comprise adding further queue storage. This of itself is an acknowledgement that queues are inevitably expected to grow and must be safely accommodated. The concern of my clients is that whilst in your view the growth of any individual company is unlikely to cause significant impact on the operation of the junction, your client's proposals represent the Agent of Change and thereby you must robustly demonstrate how your impact will be mitigated in order to retain the ability of my clients' businesses to grow, in the face of cumulative expansion of others within this key employment location. The model as it currently stands fails to achieve this demonstration.</p> <p>Although this opportunity to engage is welcomed, I question what can be achieved from it in light of the above confirmation of our lack of confidence in your model. Unless and until your model matrices are recompiled on the basis of new and more relevant information, I am unclear as to how you propose to move matters forward.</p>	<p>Preliminary Environmental Impact Report (PEIR), that was superseded by the ES in the DCO submission. Significantly though, it acknowledged that little regard had been paid by Sutherland/cTc to Appendix N of the TA [APP-172; DCO document ref. 6.25], the most recent modelling work and traffic count data that supported it. Moreover, it was suggested that it was not for Sutherland/cTc or its clients to have significant regard for this information, as evidenced by the quote from REP4-050 below:</p> <p><i>It is suggested that the large volume of data generated from compromised data may have been submitted in order to obfuscate and deter detailed consideration of the flawed model; to coin a colloquialism; “never mind the quality, feel the width.” The time and cost of reviewing this flawed data should not have been required and cTc’s clients have suffered additional expense as a result.</i></p> <p>On this and other points, the response included various unsubstantiated allegations about the way that analysis was being carried out and information provided in documentation.</p> <p>The Applicant responded at Deadline 5 [REP5-034; DCO document ref. 9.34.1 ExA.CWR.D5.V1].</p> <p>Also at Deadline 5, Sutherland/cTc provided a submission [REP5-044], partly in response to the ExA’s ExQ2 [PD-14] request for further information about traffic movements at ETM’s site. The Applicant sought to clarify the numbers provided, which resulted in an</p>

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				<p>exchange of correspondence between cTc and the Applicant's representatives prior to Issue Specific Hearing 5, some of which was reported after the hearing. The main content of this exchange is contained in:</p> <ul style="list-style-type: none"> • REP6-019 (section TT.2.4) – includes the letter from the Applicant's representatives to cTc; • AS-063 – initial response from cTc, which does not fully address the questions; • AS-066 – second letter from the Applicant's representatives; analysis of figures provided, to estimate information requested in PD-14; and • REP6-041 – second response from cTc (included in the post hearing submission). • REP6-019 and REP6-021 – the Applicant's post hearing response. <p>It is not proposed to restate the issues discussed through this correspondence, but it is apposite to note that Sutherland/cTc ultimately accepted the Applicant's interpretation of its figures, and comparison with counts in the area. cTc/Sutherland then though chose to increasingly focus on growth of all businesses on the Ashton Vale Road Industrial Estate, something that they had not previously identified, and offered no specific details other than ETMs application.</p> <p>It is important to note that the growth at ETM from 2017 to 2020 detailed by Sutherland/cTc was not particularly significant to the operation of the junction</p>

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				<p>of Ashton Vale Road with Winterstoke Road [REP6-021].</p> <p>In summary therefore, Sutherland/cTc have varied the specificity of their approach with each submission, MOVA system, the Ashton Vale Road/Winterstoke Road junction can operate satisfactorily with the level crossing in operation, to <u>allowing for movements of both passenger services and freight trains.</u></p> <p>used information that has been superseded to highlighted supposed deficiencies in the analysis, and not updated their own assessments to account for the most recent work when this has been suggested.</p> <p>Alternative access</p> <p>The response herein [REP6-041] notes that the concept of an alternative access to the industrial estate is supported (“entirely acceptable in principle to my clients”). ES Chapter 3, contains details of the Scheme Development and Alternatives Considered [APP-098], this includes the rationale for not progressing the alternate access to the industrial estate.</p> <p>Agent of Change</p> <p>Since introducing the concept [REP2-060], Sutherland/cTc have continued to suggest that the DCO scheme is an ‘agent of change’, including in their most recent submission [REP6-041]. The Applicant does not accept that the DCO scheme represents an</p>

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				<p>agent of change, for reasons stated initially in REP5-034, and again in REP6-021 and at ISH5. The railway has been in situ since 1867.</p> <p>Industrial Estate Growth</p> <p>Sutherland/cTc have sought to represent the Applicant's recent analysis [AS-066] as focused entirely on growth in traffic at ETM's site and that what they really meant was that potential growth at all sites in the industrial estate should be considered. However, guidance on modelling traffic impacts of future development is clear that this should not be speculative, but based on changes that it is reasonably certain will happen. DfT's TAG is clear that only committed developments should be assumed when forecasting for core scenarios [noted in REP6-021]. Sutherland/cTc have never produced any evidence of traffic generated by changes planned at businesses on the estate that satisfies this criteria.</p> <p>Ashton Vale Road/Winterstoke Road junction</p> <p>Concluding remarks from the Transport Assessment (Part 18 of 18) - Appendix N Ashton Vale Road [APP-172; DCO document ref. 6.25] include the following: <i>The highway measures proposed as part of the MetroWest scheme include an extension of the Winterstoke Road left turn lane to a length of circa 150 metres. The aim of this change is to ensure that vehicles queuing to turn left into Ashton Vale Road during level crossing closures can be stored without impeding the adjacent ahead movement. The other</i></p>

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				<p><i>main element of the MetroWest highway measures works in this locality is an upgrade of the mode of control of the Winterstoke Road/Ashton Vale Road signals to MOVA This is a highly adaptive form of signal control that can respond very quickly to changes in traffic volumes.</i></p> <p><i>The modelling results obtained from both LinSIG and VISSIM exhibit a high degree of correlation in predicting the additional delay and level of queuing expected on Ashton Vale Road following a level crossing closure during the critical weekday PM peak period. Both confirm that any expected impact would not be severe, whilst recovery to normal operating conditions on this side road is likely to be achievable in only one or two signal cycles following the lifting of the barrier. The main reasons for what is expected to be broadly a 'neutral' impact, and certainly not a severe one, are as follows:</i></p> <ul style="list-style-type: none"> <i>• The expected barrier down-time is no longer than the typical cycle times needed now in the weekday AM and PM peak hours. As such, drivers arriving on the Ashton Vale Road approach would, at worst, have the appearance of the stage controlling this arm curtailed only once;</i> <i>• Lost green time to Ashton Vale Road incumbent on a closure is capable of being compensated for fully in the first 'normal' cycle following the event, or at worst two cycles;</i> <i>• The expected closure frequency with two passenger trains per hour and even an intervening freight service, have sufficient duration between them to ensure full</i>

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				<p><i>'compensation' and return to normal traffic operation between successive closures; and</i></p> <ul style="list-style-type: none"> <i>Whilst additional green (compensation) time is needed to clear the build-up of queuing in Ashton Vale Road post-closure, the critical southbound movement on the A3029 also benefits from less interruptions to its green time during the closure when only a 4-5-6 stage sequence operates. As such, these effects tend to cancel each other out when considering the overall capacity and PRC at the junction over a given hour.</i> <p>In the exchange of information in the lead up to and at ISH5, Sutherland/cTc acknowledged that the proposed implementation of MOVA control at the junction could improve its operation, albeit were still critical, and did not acknowledge the full benefit of the MOVA functions [REP6-021].</p> <p>Subsequently they have sought to seek assurances related to the effectiveness of the MOVA installation to be written into requirements in the DCO itself [REP6-042]. The response from the Applicant [AS-068] sets out that this is not acceptable.</p> <p>Bristol City Council, as local highway authority, will be responsible for the installation, and not the Applicant. Bristol City Council are content that the traffic assessment methodology was agreed with BCC's Traffic Signals team and modelling is acceptable, and that MOVA control proposed will address any anticipated issues [REP5-038].</p>

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				See also 00146-D6-001.
001299 -D6- 001	BDB Pitmans LLP on behalf of National Grid Electricity Transmission plc	Compulsory Acquisition Hearing 2 Action point 9	<p>We are instructed by National Grid Electricity Transmission plc (NGET) in relation to the interaction of North Somerset Council's proposed MetroWest Phase 1 Order and the National Grid (Hinkley Point C Connection Project) Order 2016 and Correction Order 2017.</p> <p>In accordance with the Examination Timetable and Action Point 9 of the Hearing Action Points arising from the Compulsory Acquisition Hearing 2 which was held virtually on Wednesday 3 March 2021, please now find enclosed NGET's written summary of its case made orally at that hearing.</p>	<p>The Applicant notes the comments of NGET and is working to agree a set of protective provisions agreeable to both parties.</p> <p>The Applicant's commented in detail on the position can be found in the Applicant's S127 Case.</p>
001329 -D6- 001	North Somerset Council	Compulsory Acquisition Hearing 2 Action Point 11 Annexe 4	<p>Map extract, see:</p> <p>https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR040011/TR040011-001329-North%20Somerset%20Council%20-%20CA%20Hearing%202%20Action%20Point%2011%20Annexe%204.pdf</p>	Both North Somerset Council and the Applicant provided plans at Deadline 6 showing the highway land in the vicinity of the Marsh Lane bridge (REP6-033 and REP6-025 respectively).
001330 -D6- 001	North Somerset Council	ISH 5 Action point 17 Annexe 5	<p>West of England Local Cycling and Walking Infrastructure Plan, see:</p> <p>https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR040011/TR040011-001330-North%20Somerset%20Council%20-%20ISH%205%20Action%20Point%2017%20Annexe%205.pdf</p>	The Applicant has no comments.
001331 -D6- 001	North Somerset Council	ISH 5 Action Point 27 Annexe 6	<p>Map extract, see:</p> <p>https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR040011/TR040011-001331-North%20Somerset%20Council%20-%20ISH%205%20Action%20Point%2027%20Annexe%206.pdf</p>	The Applicant has no comments.

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001332 -D6- 001	North Somerset Council	Annex 1 to Submission by North Somerset Council in respect of Action point 19 ISH 5 - Environmental matters March 2021	<p>Full response available at https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR040011/TR040011-001332-North%20Somerset%20Council%20-%20ISH%205%20Action%20Points19,%2020%20Annexe%201%20Additional%20comments.pdf</p> <p>Summary</p> <p>Following receipt of the cross-sectional details of the proposed Trinity footbridge North Somerset Council as Local Planning Authority considers that in relation to the impacts of overbearing impact and adverse visual impact these may be slightly less severe than we had feared previously.</p> <p>We are satisfied that overshadowing is unlikely to be a significant issue, with possibly minor impacts, only in the winter solstice. There is a significant detour required on home to school trips for residents with primary age school children if living south of line The benefit appears to be more limited than we first thought, if the school catchment figures are used. See below The omission of the bridge limits the potential improvement options for walking and cycling in the Local Cycling and Walking Infrastructure Plan.</p> <p>We do not consider that privacy screens are required over the whole length of the ramps to the bridge and this is an advantage, but we are not clear what length will be required in the absence of a block plan to be able to relate this more clearly to the nearest houses. Evidence elsewhere suggests privacy screens will be more prone to graffiti. The area below a footbridge has the potential for litter to gather although this may be a management issue rather than a constructional one</p>	The Applicant has no further comment on the helpful analysis provided by Mr Wilmott. The Applicant will work with the local planning authority, pursuant to requirement 4, and the ExA's proposed new requirement to address screening and lighting issues at the detailed design stage, if the Order is made including Work No 7 as part of the authorised development and the proposed requirement is included.

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001333 -D6- 001	North Somerset Council	ISH Hearing 5 Action point 27 Annexe 3	Court House Farm Easton-in-Gordano decision notice, see: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR040011/TR040011-001333-North%20Somerset%20Council%20-%20ISH%205%20Actions%20Annexe%203%20Court%20House%20Farm%20planning%20application%20decision.pdf	The Applicant has no comments.
001334 -D6- 001	North Somerset Council	ISH 4 Action Point 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	Yes, requirement 5 should include a requirement for a construction workers' Travel Plan for works in North Somerset as well as works in BCC.	An amended Requirement 5 was incorporated into the Applicant's revised draft Order submitted at Deadline 6 [REP6-008]. The amendments removes reference to specific works in BCC's authority area, with a CWTP added to the list of documents to be included in a CEMP for all stages regardless of authority area.
001334 -D6- 002		ISH 4 Action Point 11 Provide a copy of a plan for the area around the Marsh Lane bridge showing	See attached plan Annexe 4	See response at issue ref. 001329-D6-001 above.

No.	Type / Category	Response topic	Response	Applicant's response
		what land is highway land		
001334-D6-003		ISH 5 Action Point 8 Review the visuals [REP4-012] showing palisade fencing along the Avon Gorge and provide comments	The visuals have been taken from relatively distant viewpoints. It is difficult to see the palisade fencing, which appears to be largely screened by trees. A dark green colour may blend in better with the backdrop of the trees.	The visuals were taken from the Clifton Suspension Bridge in response to concerns over the views from the bridge. The proposal is for paladin fencing, selected for its relative transparency and of a colour which blends into the background. We have avoided the 'default' dark green colour. The visual showing the palisade fencing in a galvanised finish is presented to show the contrast in visibility between palisade fencing and what is actually proposed.
001334-D6-004		ISH 5 Action Point 16 Provide details (including a location plan) of the railway bridge visited by Mr Willmot in Weston Super Mare	Grid ref 335110 161354-best accessed via Worle Moor Road, Weston-super-Mare. See also Annexe 2 for site location plans showing M5 Jcn 21 and A370 (signed Town centre and seafront) to reach Worle Moor Road	The Applicant has no comments.
001334-D6-005		ISH 5 Action Point 17 Provide a copy of the Cycling/Walking Infrastructure	https://travelwest.info/projects/west-of-england-local-cycling-and-walking-infrastructure-plan N.B. Provided as separate pdf also Annexe 5	See response at issue ref. 001330-D6-001 above.

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		Plan referred to by Mr Willmot at the Hearing including confirmation of its status		
001334-D6-006		<p>ISH 5 Action Point 19</p> <p>Provision of a written version of Mr Willmot's oral submission on the proposed Trinity footbridge</p>	See attached paper-Annexe 1	See response at issue ref. 001332-D6-001 above.
001334-D6-007		<p>ISH 5 Action Point 20</p> <p>Provision of further details of destinations of users of the current crossing between Tansy Lane and Galingale Way as set out by Mr Willmot at the hearing.</p>	See attached paper-Annexe 1	See response at issue ref. 001332-D6-001 above.
001334-D6-008		ISH 5 Action Point 21	This bridge was not provided with privacy screens. 00/P/0196/F Provision of a pedestrian footbridge Moor Lane/ Railway Triangle, Locking Castle Development Area, Weston-Super-	-

No.	Type / Category	Response topic	Response	Applicant's response
		Review the planning consent for the 'recently consented' footbridge referred to by Mr Willmot at the Hearing to see if it had privacy screening and if relevant provide details of this proposal	<p>Mare, North Somerset (implemented and this was the one referred to by Roger Willmot at ISH 5).</p> <p>There is also another approved rail footbridge ref 98/2043 Provision of railway footbridge Land At Railway Triangle, Off Aspen Park Road (and Finch Close) Weston-Super-Mare North Somerset (approved and commencement occurred but bridge is not yet constructed due to land ownership and changing NR requirements). This did show privacy screens on one side, but details of screens are available.</p>	
001334 -D6- 009		<p>ISH 5 Action Point 26</p> <p>Provide comments on whether a requirement is necessary for a precondition survey and repair of the unsealed section of path on BPC land during works/ on completion</p>	<p>It is understood that this is outside of the NSC adopted highway and as such, we do not have jurisdiction over it. A precondition and post works survey is recommended to document current conditions and completed works and mitigate/enable response to any future enquires or disputes. The landowner and the applicant should make an agreement if deemed necessary. Accordingly, we do not consider this should be a Requirement. This is best dealt with via a private agreement between the parties.</p>	<p>The Applicant notes the planning authority's view that a Requirement is not an appropriate mechanism to secure surveys and works to the unsealed section of track. The Applicant also notes the proposed protective provisions for the benefit of BPC, along with application of the Compensation Code, provide appropriate protection/recourse to BPC.</p> <p>However, the Applicant has included the proposed requirement put forward by the ExA in the revised draft DCO, subject to proposed amendments relating to BPCs consent to the works, on the basis of the ExA's continuing preference for a requirement.</p>

No.	Type / Category	Response topic	Response	Applicant's response
001334 -D6- 010		ISH 5 Action point 277 Confirm that the planning permission for the replacement bridge for the at grade crossing to Court House farm has not expired	Planning application 16/P/1987/F was for "Development of the site for port related uses. Provision of hardstanding for storage of cargo in transit (e.g. motor vehicles) through Royal Portbury Docks, with associated infrastructure, including a crossing over the disused railway by a crossing at grade and or vehicle bridge between the current Royal Portbury Dock estate and the proposed site" at land to the west of Court House Farm. This permission was granted on 21/12/2016 with a condition that work should be begun before the expiry of three years from the date of this permission. A copy of the decision notice is attached as Annexe 3. This permission appears to have been implemented. Therefore, it has not expired. Annexe 6 shows aerial view that shows it is in usage for vehicle storage	The Applicant has no comments.
001334 -D6- 011		ISH 5 Action point 29 To confirm if the Highway Authority would be content for the dedication of a new bridleway link under the M5	We confirm that we are content in principle for the dedication of a new bridleway under the M5. The most expedient way to secure a dedication is via agreement under S25 of The Highways Act 1980 provided it is set out at a suitable width (minimum 3m) and has an appropriate low maintenance surface for horses (not tarmac).	The Applicant confirmed in its Deadline 6 submissions that it is content for the new public right of way to be established by a deed of dedication on appropriate terms. Until the deed is in place the Applicant will have to rely on the powers for freehold acquisition sought in the draft Order and application. A draft deed of dedication has been provided to BPC for its consideration. Please see the Applicant's own response on this issue in its ISH5 oral case and post-hearing responses [REP6-021] at issue ref. 38.
001335 -D6- 001	North Somerset Council	ISH 5 Action point 16 Annexe 2	Location Plans for Footbridge in Weston-super-Mare, see: https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR040011/TR040011-001335-	The Applicant has no comments.

No.	Type / Category	Response topic	Response	Applicant's response
			North%20Somerset%20Council%20-%20Annexe%202%20Location%20Plans%20for%20Footbridge%20in%20Weston.pdf	
001336 -D6- 001	Bristol Port Company	ISH 5 Action point 28	<p>Note on behalf of First Corporate Shipping Limited trading as The Bristol Port Company (BPC) on the construction of the bridge to replace the at-grade crossing at Court House Farm dated 15 March 2021</p> <ol style="list-style-type: none"> 1. This note is provided in response to action point 28 arising from Issue Specific Hearing 5 on 4 March 2021. BPC was asked to provide an estimated timescale for the replacement bridge for the at-grade crossing to Court House Farm. 2. BPC has engaged a suitably experienced contractor to carry out initial design and programming work in relation to the bridge which BPC would need to build if the current at-grade crossing between the two parts of the dock estate near Court House Farm were no longer to be usable by BPC. 3. The programme, and the information below, focusses on the time which would be needed from the start of the programme until BPC would be able to finish work to allow access for Network Rail's works at the at-grade crossing to start, wholly free from BPC's need for continued use of or access to the crossing. 4. The stages of the design and works process that have been identified as necessary include the following: <ul style="list-style-type: none"> • site investigation; • detailed design; • design approval from Network Rail; • site set up and mobilisation; • earthworks, including ground improvements and construction of reinforced earth embankments; 	<p>The Applicant re-iterates its oral submissions and post-hearing submissions following the CAH2 and ISH5. Please see documents:</p> <ul style="list-style-type: none"> • Line 46 of ISH5 Submissions (Document Ref: REP6-021) • Lines 19, 20, 21, 22 and 23 of the CAH2 Submissions (Document Ref: REP6-022) <p>Since the hearings in March, the Applicant has had numerous discussions with the Bristol Port Company and progress is being made with coming to an agreement on the outstanding issues.</p> <p>The Applicant has previously sought to find the details submitted under condition 16 of planning permission 16/P/1987/F but the approved details are not available on the LPA's web site. The Applicant notes the provisions of condition 16 and the need for BPC to not commence the use of the site for the storage of cargo in transit (e.g. motor vehicles):</p> <p><i>“until a programme of works (including timescales) for the introduction and removal of the temporary at-grade vehicle crossing and construction of the vehicular bridge across the railway line so as not to impede the re-opening of the Portishead Branch Line have been submitted (in consultation with MetroWest and Network Rail) to and approved by the Local Planning Authority.”</i></p>

No.	Type / Category	Response topic	Response	Applicant's response
			<ul style="list-style-type: none"> • drainage works; • construction of abutments and wingwalls; • construction of deck and edge beams; • construction of a culvert/tunnel through the bridge abutment to accommodate the bridleway which runs alongside the route of the new railway in this location; • road surfacing and finishings; and • removal of the crossing-at-grade, once the new bridge is operational. <p>5. The contractor's current estimate is that a period of 15 months would be required to complete the elements described in 4 above. This assumes BPC's works could be undertaken on a standalone basis, without interruption from any works in connection with the DCO scheme.</p> <p>6. BPC understands that the contractor considers that the principal risks to delivering this programme are:</p> <ul style="list-style-type: none"> • weather; • unexpected ground conditions; • delays in obtaining the various approvals from Network Rail, in relation to the stages and elements of the design and in relation to works affecting the railway; and • delays in obtaining the approval of North Somerset Council as local highway authority (NSC) in relation to the diversion of the bridleway through a new culvert/tunnel and in relation to temporary impacts on the bridleway during construction. <p>7. BPC understands that within its 15 months estimate, the contractor has made such time allowance as it considers is realistic and reasonable in relation to each of the risks above based on the best information currently available, but if, for example, it were to take longer than currently expected to obtain any approvals from</p>	<p><i>“Details of the at-grade vehicle crossing, bridge and above programme of works, once approved, shall be implemented in accordance with the approved details to the satisfaction of the Local Planning Authority. The temporary at-grade vehicle crossing must not be used after the Portishead Branch Line is re-opened to railway traffic.”</i></p> <p>The Applicant is not aware of consultation with it and Network Rail on the submitted details having occurred.</p> <p>The Applicant believes it is for BPC to address the clearly specified obligation in condition 16 to not impede the re-opening of the Portishead Branch Line and it is for BPC to ensure the required works are carried out in accordance with the details that were approved by the LPA before the use of the Court House Farm facility commenced and in any event before the MetroWest construction works commence.</p>

No.	Type / Category	Response topic	Response	Applicant's response
			Network Rail or NSC, then the overall construction period could be extended beyond 15 months.	
001337 -D6- 001	Bristol Port Company	ISH 5 Action point 26	<p>Note on behalf of First Corporate Shipping Limited trading as The Bristol Port Company (BPC) on the need for a surveys and repairs of the Marsh Lane track.</p> <p>4 page response, see:</p> <p>https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR040011/TR040011-001337-Bristol%20Port%20Company%20-%20Note%20for%20ExA%20in%20relation%20to%20Marsh%20Lane%20surveys%20(ISH5%20action%20point%2026).pdf</p>	<p>As set out in the Applicant's submission of its Oral Case and response to Representations received at ISH5 [REP6-021], at Line 35, the Applicant has confirmed that it is will to carry out:</p> <ul style="list-style-type: none"> • pre and post-construction surveys of the track • sealing of the 80 meters section of track at the Marsh Lane end which is unsealed • Repairs for any defects arising with track throughout the DCO Scheme's construction and to repair pot holes within a specified number of days • repairs to the track post construction arising from the post construction surveys. <p>See additional submissions at Appendix 1 of this document which references the accesses at Marsh lane and future ownership and the Applicant's S127 Statement.</p>
001338 -D6- 001	Bristol Port Company	ISH 5 Action point 24	<p>Note on behalf of First Corporate Shipping Limited trading as The Bristol Port Company (BPC) in relation to the Works Agreement dated 22 November 2000 between Railtrack plc and BPC.</p> <p>49 page response, see:</p> <p>https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR040011/TR040011-001338-Bristol%20Port%20Company%20-%20Note%20for%20ExA%20in%20relation%20to%20the%20Works%20Agreement%20dated%2022%20November%202000%20betwe</p>	<p>The Applicant notes the contents of the Works Agreement. The Applicant and Network Rail's Statement of Common Ground at appendix 2 includes a letter regarding Clause 15 of the Works Agreement (see document ref: 9.3.15 ExA.SoCG-NRIL.D7.V1.</p>

No.	Type / Category	Response topic	Response	Applicant's response
			en%20NRIL%20and%20BPC%20(ISH5%20action%20point%2024).pdf	
001339 -D6- 001	Bristol Port Company	Summary of oral case made at Compulsory Acquisition Hearing 2 on 3 March 2021	<p>Note on behalf of First Corporate Shipping Limited trading as the Bristol Port Company (BPC) on BPC's oral case made at Compulsory Acquisition Hearing 2 on 3 March 2021.</p> <p>3 page response, see:</p> <p>https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR040011/TR040011-001339-Bristol%20Port%20Company%20-%20Summary%20of%20oral%20case%20at%20CAH%203%20March%202021.pdf</p>	<p>The Applicant re-iterates the comments in its own summary of its oral case and post-hearing submissions for CAH2 [REP6-022].</p> <p>The Applicant has provided a revised draft of BPC's protective provisions to BPC for consideration and that version is included in the deadline 7 dDCO.</p> <p>The Applicant on 14 April 2021 wrote to BPC regarding the accesses to Marsh Lane and Plot 05/50. A copy of the letter is at appendix 1 to the Applicant's Rule 17 response. The Applicant believes the assurances required by BPC in relation to those plots is provided in the Applicant's letter.</p> <p>See additional submissions at Appendix 1 and the Applicant's S127 response.</p>
001340 -D6- 001	Bristol Port Company	Summary of oral case made at Issue Specific Hearing 5 on 4 March 2021	<p>Note on behalf of First Corporate Shipping Limited trading as the Bristol Port Company (BPC) on BPC's oral case made at Issue Specific Hearing 5 on 4 March 2021.</p> <p>3 page response, see:</p> <p>https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR040011/TR040011-001340-Bristol%20Port%20Company%20-%20Summary%20of%20oral%20case%20at%20ISH5%204%20March%202021.pdf</p>	<p>The Applicant re-iterates the comments in its own summary of its oral case and post-hearing submissions for ISH5 [REP6-021].</p>

No.	Type / Category	Response topic	Response	Applicant's response
001342 -D6- 001	National Trust	Landowner liability	<p>15 March 2021 update</p> <p>Following the Compulsory Acquisition Hearing on the 3rd March I wanted to reiterate the position of the National Trust. As we have said, whilst we are generally supportive of sustainable transport schemes, we are a charity. Our concern is primarily over the increased liability and duty of care. As we have previously said we feel it is unfair that the suggestion is that we take on all future liability and responsibility for the impact of rock falls onto the upgraded passenger line. We believe this isn't the general position in law and have Counsel opinion that supports this view which we have shared with MetroWest. The temporary compulsory purchase of our land means that our land is not permanently acquired. However, the fact it is included in the DCO means that it is needed for the scheme, which we believe shows that there is some ongoing responsibility for the infrastructure by Network Rail. We do not believe that a shared liability sets a precedent that Network Rail doesn't want, but rather is the legal position.</p> <p>If MetroWest and Network Rail were willing to take this view we would be much more comfortable with the scheme as it affects the National Trust. We are still very willing to talk to MetroWest and Network Rail but have to balance our interests as a charity and it needs to be understood that the proposed rock fences are not protecting our land but the railway.</p> <p>Internally, we are working on a proposal that we can present to MetroWest that we would find acceptable. Our concern is regarding the increased liability which MetroWest and Network Rail believe will be ours as a neighbouring landowner.</p> <p>We will continue to engage with the DCO process in order to protect our position.</p>	<p>The Applicant and the National Trust have been engaging in ongoing discussions in order to seek a resolution to the outstanding issues.</p> <p>The Applicant issued a further (combined) offer to the National Trust on 6th April 2021 and a Statement of Common Ground has been drafted by the Applicant, for consideration by the National Trust.</p> <p>The parties are working towards finalising an agreement to be submitted to the Secretary of State as soon as possible.</p> <p>The Applicant is not proposing "temporary compulsory purchase" of NT's land but a temporary access to the NT land to carry out works to reduce the risk of NT for becoming liable for rocks falling on to Network Rail's land. The works proposed therefore significantly benefit NT at no cost to NT and do not involve a compulsory acquisition of land.</p>

No.	Type / Category	Response topic	Response	Applicant's response
001343 -D6- 001	Simon Twist	Trinity Bridge	<p>Issue Specific Hearing 5 (04/03) - Post Hearing Submission re Trinity Footbridge - 15/03/21</p> <p>Having looked at the Applicants responses to the questions posed previously and listened to the representatives at the Issue Specific Hearing 5 on the 4th March, I believe many issues have not been addressed or even responded to at all. I still do not believe they have offered any further justification to the need of the Footbridge, myself, other local residents and the Inspectorate have all requested additional information but very little has been presented. I find it very frustrating that I have to spend all my time 'unpaid' to contest this aspect of the project and all those 'paid' offer very little in return. It feels as though the impact to local residents has very little weighting in their minds and I hope this is noted by the Inspectorate. Could the Applicant please address all the issues I raised previously? If you require that I add this detail into this communication please advise but to avoid repeating myself I refer to the e mail sent on the 22nd November 2020.</p>	<p>The Applicant believes all the previous issues raised have been addressed at the appropriate deadlines:</p> <p>Deadline 2 submissions, November 2020</p> <ul style="list-style-type: none"> Examining Authority's Written Questions ExQ1 (REP2-013; DCO doc. ref 9.10 ExA.WQ1.D2.V1) – see responses to GC.1.7, DE.1.2, DE.1.3, NV.1.12 <p>Deadline 3 submissions, December 2020</p> <ul style="list-style-type: none"> Applicant's responses to Written Representations submitted at Deadline 2 (REP3-036; DCO doc. ref 9.18 ExA.CWR.D3.V1) – see ST-D2-001 to ST-D2-006; and SA-D2-001 to SA-D2-017 <p>Deadline 4 submissions, January 2021</p> <ul style="list-style-type: none"> Applicant's Oral Case and response to Representations at the Issue Specific Hearing 2 (REP4-009; DCO doc ref. 9.23 ExA.ISH2.D4.V1) - see ref. points 7, 8, 9, 11, 12, and 25 Applicant's response to the ExA's Actions from the Issue Specific Hearing 2 (REP4-021; DCO doc ref. 9.26 ExA.FI.D4.V1) - see ref points 5, 6, 7, 8, 9, 18 <p>Deadline 5 submissions, February 2021</p> <ul style="list-style-type: none"> Applicant's responses to the Examining Authority's Written Questions ExQ2 (REP5-028; DCO doc ref. 9.33 ExA.WQ2R.D5.V1) – see DE.2.4, DE.2.5 Applicant's responses to Written Representations submitted for Deadline 4 (REP5-033; DCO doc ref. 9.34 ExA.CWR.D5.V1) – see 001103-D4-001 to 001103-D4-009; 001116-D4-002

No.	Type / Category	Response topic	Response	Applicant's response
				<p>Deadline 6 submissions, March 2021</p> <ul style="list-style-type: none"> • Applicant's Oral Case and response to Representations at ISH4 (DCO doc ref. 9.40 ExA.ISH4.D6.V1) – see ref. point 24. • Applicant's Oral Case and response to Representations at ISH5 (DCO doc ref 9.41 ExA.ISH5.D6.V1) – see ref. point 18, 19, 20, 21, 22, 23, 24. • Dimensions from Railway (Trinity Footbridge to the Adjacent Houses) (DCO doc ref. 9.52 ExA.FI.D6.V1) • Typical Sections – Trinity Footbridge (DCO doc ref. 9.53 ExA.FI.D6.V1) • Shadow Study – Trinity Footbridge (DCO doc ref. 9.54 ExA.FI.D6.V1) • Additional Photomontages – Trinity Footbridge (Version 1) (DCO doc ref. 9.55 ExA.FI.D6.V1)
001343 -D6- 002			<p>In addition I would like to add the following points to those previously made. Below is a picture from what I estimate will be the height of the footbridge from the location of the footbridge. That is my garden, my conservatory where we as a family eat on a daily basis and the two upstairs windows of the bedrooms of my 5 year old daughter and 10 year son.</p>	<p>The purpose of the proposed screens on the bridge is to prevent people on the bridge from experiencing this view.</p> <p>Action points from ISH 5 were addressed at deadline 6, specifically by submission of the following documents:</p> <ul style="list-style-type: none"> • Dimensions from Railway (Trinity Footbridge to the Adjacent Houses) (DCO document ref. 9.52 ExA.FI.D6.V1) • Typical Sections – Trinity Footbridge (DCO document ref. 9.53 ExA.FI.D6.V1)

No.	Type / Category	Response topic	Response	Applicant's response
			 <p data-bbox="660 703 1435 839">A point was made in the Issue Specific Hearing 5 that the bridge was running parallel to the properties so the impact would be reduced but there is approx 80 meters of the bridge my property will be clearly visible and the bridge clearly visible to us.</p>  <p data-bbox="660 1305 1435 1369">Out of the respect for my neighbours I focused my pictures on my property but the bridge will impact all surrounding properties.</p>	<ul data-bbox="1489 212 2141 352" style="list-style-type: none"> • Shadow Study – Trinity Footbridge (DCO document ref. 9.54 ExA.FI.D6.V1) • Additional Photomontages – Trinity Footbridge (Version 1) (DCO document ref. 9.55 ExA.FI.D6.V1)

No.	Type / Category	Response topic	Response	Applicant's response
				
001343 -D6- 003			<p>Currently all mature trees, that would still only offer minimal protection, are less than 4 meters from the track, I assume these will all have to be removed to make way for the footbridge and footpath leaving no natural protection in place. I would like to know what is proposed to replace this natural barrier, can the applicant be specific on what is proposed to minimise the visual, sound, light and privacy issues of the bridge on our properties? Can they commit to the number, location, size, species etc? Nothing at all has been suggested that addresses the key issues of the impact on our homes.</p>	<p>Please see responses SA-D2-011 to SA-D2-016 in 'Applicant's responses to Written Representations submitted at Deadline 2' (REP3-036; DCO document ref. 9.18 ExA.CWR.D3.V1). In summary:</p> <ul style="list-style-type: none"> • The Trinity Bridge Plans (APP-019; DCO Document Reference 2.15 - 2.17) provides information on the proposed landscaping (drawing 2.16). The drawings also show that the lighting on the bridge is contained within the hand-rails to avoid the need for lighting columns (drawing 2.17). • Landscape mitigation in the form of tree planting to provide visual screening is illustrated in Portishead

No.	Type / Category	Response topic	Response	Applicant's response
				<p>Station Car Park Layout, Landscaping and New Boulevard and Access Plan (drawing 467470.BQ.04.20-102 within document APP-035; DCO document reference 2.38)</p> <ul style="list-style-type: none"> • The Applicant will explore the use of perforated metal screening, subject to the approval of Network Rail to the detail of the screening. Network Rail has indicated that in principle the provision of external screening on the bridge is accepted.
001343 -D6- 004			<p>Whilst I appreciate the work that Mr Wilmot and his team from the North Somerset Council has done at gathering supporting information, I would like to respond with the following</p> <ul style="list-style-type: none"> - The tracks are raised approx 2 meters above the land height of the houses, unless I misunderstood Mr Wilmot to suggested it was the other way round. - Mr Wilmot suggested that without the footbridge it would take 10 mins to walk round, I do not believe he was basing this on utilising the new foot path proposed adjacent to the track, I would suggest this time would be reduced. Please note the vast majority of people using this path are out for a recreational walk a few more minutes would not be an issue. - A number of possible impacts were suggested with regards access to the South of the High Street or Gordano School, the below images clearly highlight that the distance if anything would be reduced by routing along the new proposed foot path, not increased. 	<p>Multiple cross sections showing the bridge, track and houses were submitted at deadline 6; please see 'Typical Sections – Trinity Footbridge' (DCO document ref. 9.53 ExA.FI.D6.V1).</p> <p>The distances for people to walk with and without the bridge have been accurately drawn and calculated – please see the map in response SA-D2-003 in 'Applicant's responses to Written Representations submitted at Deadline 2' (REP3-036; DCO document ref. 9.18 ExA.CWR.D3.V1).</p> <p>Mr Willmot was asked (ISH 5 Action Point 20) to provide further details of destinations of users of the current crossing between Tansy Lane and Galingale Way as set out by him at the hearing – please see 'Annex 1 to Submission by North Somerset Council in respect of Action point 19 ISH 5 -Environmental matters March 2021' [REP6-030].</p>

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No.	Type / Category	Response topic	Response	Applicant's response
				
001343 -D6- 005			<p>Why not relocate the bridge a little further from the station so it actually serves a purpose and wouldn't impact any houses? Extend the footpaths along the North side of the tracks and enable direct access to the Nature Reserve, this could serve the purpose of continuing the cycle routes and walking routes referenced by Mr Wilmot and actually improving the routes, surely this should be the aim of any new development.</p>	<p>Alternative locations for a bridge with ramps were considered, but it was not possible to identify a location where a feasible design could be achieved. It is not feasible to encroach onto the grounds of Trinity Primary School for a bridge with ramps because the school explained the school grounds are very modest for the number of children enrolled and consequently they use every inch of the grounds.</p> <p>Immediately east of Trinity Primary School there is not sufficient space to achieve a feasible design for a bridge with ramps. Further to the east the housing development ends and locating a bridge there is not practical because of the very limited footfall it would generate.</p>

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				<p>Alternative designs were also considered – please see response SA-D2-005 in ‘Applicant’s responses to Written Representations submitted at Deadline 2’ (REP3-036; DCO document ref. 9.18 ExA.CWR.D3.V1)</p>
001343-D6-006			<p>I would like the above points to be noted by the Inspectorate, I would appreciate a response from the Applicant for each and the many points raised in my e mail dated 22nd November. I would also like to understand what the process is to secure legal representation, at the Applicants cost, to begin to prepare to ensure that we are compensated for</p> <ul style="list-style-type: none"> - Impact to the value of our property due to the building of the station. 	<p>See response to 001343-D6-001 above for a list of documents which have previously addressed the points raised.</p> <p>The Principles of the Compensation Code, and in particular Part 1 of the Land Compensation Act 1973, will apply to the DCO Scheme if the Order is made.</p> <p>The Interested party is not having land acquired for the scheme so it appears that a Part 1 claim would be</p>

No.	Type / Category	Response topic	Response	Applicant's response
			<ul style="list-style-type: none"> - Impact to the value of our property due to the reopening of the disused railway line. - Impact to the value of our property due to the building of the footbridge. - Compensation during the construction of the station. - Compensation during the construction of the footbridge. 	<p>the only route to compensation and such claims related only to the injurious affection arising from the use of public works, not their construction. It will be for claimants to act reasonably in pursuing claims, and the Applicant will aim to minimise the physical factors that may give rise to a claim under Part 1 of the 1973 Act. See https://www.compulsorypurchaseassociation.org/understanding-the-cpo-process.html for potential sources of advice.</p>
001343 -D6- 007			<p>Everyone on the Applicants side is paid to attend meetings and gather information and offer responses, local residents however have to find the time between work, homeschooling and family to digest information and respond to deadlines with the constant worry that this project will get the go ahead. I struggle to understand why my family and the families of my neighbours have to deal with all this additional anxiety for an unnecessary footbridge, that even the Applicant can't be bothered to justify. Why can't we all save ourselves time and unnecessary stress and withdraw this aspect of the project?</p>	<p>See response to 001343-D6-001 above for a list of documents which have previously addressed the points raised and includes justification for why the Applicant believes a bridge at this location is necessary.</p>
001344 -D6- 001	Bristol City Council	<p>ISH 6 Action point 9</p> <p>To provide confirmation of arrangements for off-site tree planting payment to</p>	<p>The approach to secure the off-site tree planting contribution via Letter of Intent is agreed.</p> <p>The Applicant has confirmed that an updated SoCG will not be submitted for Deadline 6. A meeting between BCC and the Applicant is scheduled for the week commencing 15th March 2021 to discuss an updated SoCG.</p>	<p>This matter is settled and a Letter of Intent has been issued by the Applicant to Bristol City Council, a copy of which is appended to the updated SoCG submitted at Deadline 7 (DCO Document Reference 9.3.2 ExA.SoCG-BCC.D7.V2).</p>

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		Bristol City Council and update the SoCG accordingly.		
001344 -D6- 002		<p>ISH 6 Action point 10</p> <p>The Environment Agency (EA) and BCC to respond to the proposed wording of Requirement 31 (Clanage Road, Bristol).</p>	<p>The Applicant issued the following updated drafting of Requirement 31: "31. — (1) Works 26, 26A and 26B must not commence until a flood plan which details (i) the emergency and evacuation procedures for use of the temporary and permanent compound (ii) the location, height above ground level and the duration on site (if appropriate) of the welfare facility on the temporary compound and (iii) the means to remove materials stored at the temporary and permanent compound in the event of flooding has been submitted to and approved in writing by the relevant planning authority in consultation with the Environment Agency, and, if relevant the lead local flood authority. The approved flood plan must thereafter be complied with to the satisfaction of the relevant planning authority.</p> <p>(2) The landscaping and planting forming part of Work No. 26 must be carried out in accordance with the relevant design drawing prior to first use of Work No. 26 as a permanent maintenance compound. Any tree or shrub planted as part of the landscaping that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless the relevant planning authority gives written consent to any variation.</p>	<p>The minor amendments to Requirement 31 suggested by BCC were incorporated into the Applicant's revised draft Order submitted at Deadline 6 [REP6-008].</p>

No.	Type / Category	Response topic	Response	Applicant's response
			<p>(4) The regrading of the levels forming part of Work No. 26 must be carried out, in accordance with the Clamage Road, compound, landscaping and access plan prior to first use of Work No. 26 as a permanent maintenance compound. The levels must thereafter be maintained.”</p> <p>BCC is satisfied with the revised wording, subject to the following:</p> <ul style="list-style-type: none"> • ‘if relevant’ is removed from 31(1)(iii) • ‘(4)’ is corrected to be (3), as there are only three clauses within the Requirement. <p>This revised wording has been provided to the Applicant.</p>	
001344 -D6- 003		<p>ISH 6 Action point 30</p> <p>Confirm status and details of recent planning application submitted by ETM on Ashton Vale Road.</p>	<p>Application 21/01169/X was validated on 4 March 2021 and is pending consideration by officers. This application is made under s.73 of the Town and Country Planning Act 1990 and seeks to vary and remove existing conditions placed on the permission 17/06938/F.</p> <p>The Application seeks to vary Condition 13, which places an annual limit on the tonnage of recycling processed at ETM (41 Ashton Vale Road, BS3 2HW) and remove Condition 14, which places a limit on the hours of operation onsite.</p> <p>Condition 13 places a limit of 150,000 tonnes of waste being processed on the site per annum. Application 21/01169/X seeks to double this to 300,000 tonnes of waste.</p> <p>Condition 14 states that: “No operations of waste transfer, sorting and deliveries entering or existing the site as set out within this application submission shall take place outside the hours of 06.00 to 18.00 Monday to Saturday.”</p> <p>The s.73 application seeks to remove this condition to allow unrestricted working.</p>	The Applicant has no further comments.

No.	Type / Category	Response topic	Response	Applicant's response
			The Applicant's cover letter and application form are attached to this response. No supporting technical information has been provided with the application.	
001345 -D6- 001	Environment Agency	ISH 4 Action point 5	The Agency has no issue with the amended wording.	Noted. The Applicant has no further comments.
001345 -D6- 002		ISH 4 Action point 7	Point 7. The Agency is currently in discussion with the applicant's representatives regarding minor amendments to Requirement 17.	The Applicant agrees with the amendments to requirement 17 save for the deletion of sub clause (6) which denotes that the requirement does not apply to currently operational land. Sub paragraph (6) is deleted because NR routinely carry out maintenance and other works to their operational railway land under their permitted development rights as part of their normal operations; and existing processes and safeguards apply which include carrying out pre-work trials to identify any contaminants. For example, if ballast is being renewed, samples of the existing ballast are tested for contaminants before being moved. The results of the tests determine whether the ballast can be stored, processed, re-cycled, disposed of etc. The usual processes and safeguards will apply to any works on operational land carried out in connection with MetroWest. It would not be necessary or appropriate for different requirements to apply merely because works are being carried out in connection with the works authorised under the DCO
001345 -D6- 003		ISH 4 Action point 13.	Requirement 31 The Agency has agreed the applicant's following amendments to Requirement 31:	Noted. The Applicant has no further comments.

No.	Type / Category	Response topic	Response	Applicant's response
			<p>31. —(1)Works 26, 26A and 26B must not commence until a flood plan which details (i) the emergency and evacuation procedures for use of the temporary and permanent compound (ii) the location, height above ground level and the duration on site (if appropriate) of the welfare facility on the temporary compound and (iii) the means to remove materials stored at the temporary and permanent compound in the event of flooding has been submitted to and approved in writing by the relevant planning authority in consultation with the Environment Agency, and, if relevant the lead local flood authority. The approved flood plan must thereafter be complied with to the satisfaction of the relevant planning authority. (2) The landscaping and planting forming part of Work No. 26 must be carried out in accordance with the relevant design drawing prior to first use of Work No. 26 as a permanent maintenance compound. Any tree or shrub planted as part of the landscaping that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless the relevant planning authority gives written consent to any variation. (3) The regrading of the levels forming part of Work No. 26 must be carried out, in accordance with the Clamage Road, compound, landscaping and access plan prior to first use of Work No. 26 as a permanent maintenance compound. The levels must thereafter be maintained.</p>	
001345 -D6- 004			<p>Additionally, the applicant's representatives have agreed to amend the CEMP by the addition of the red text below:</p> <p>Flood Plan 2.7.7 The contractor(s) will be required to produce a construction stage Flood Plan which takes into consideration the findings of the FRA (DCO Document Reference 5.6) and the outline construction</p>	Noted. The Applicant has no further comments.

No.	Type / Category	Response topic	Response	Applicant's response
			stage Flood Plan for Clamage Road construction compound (ES Appendix 17.1 FRA Appendix T, DCO Document Reference 5.6). The contractor's Flood Plan shall take into account the flood risk along the DCO Scheme and the commitments made to the regulatory authorities, including the Environment Agency, Local Flood Risk Authorities and the IDB, to avoid increasing the flood risk, contributing to pollution during floods, and endangering the lives of the workforce and third parties during construction. In particular, the Flood Plan will include measures to reduce so far as practicable the storage of materials at the Clamage Road construction compound by taking in the bulk of materials by rail.	
001345 -D6- 005			Requirement 33 The Agency welcomes the wording of Requirement 33 however, it remains concerned that the arch of the underbridge and the ground levels may change, following completion of the construction works. Accordingly, the Agency would welcome the opportunity to discuss the means by which a permanent arrangement may be secured.	The Applicant has amended sub paragraph (2) of new requirement 33 for the Cattle Creep access track ground level not to be altered, and to be retained thereafter following completion of the works, without prior consent, and is awaiting confirmation of acceptance by the EA.
001345 -D6- 006		ISH 5 Action point 10	See comments above regarding Requirement 31.	Noted. The Applicant has no further comments.
001345 -D6- 007		ISH 5 Action point 11	See comments above regarding Requirement 33.	Noted. The Applicant has no further comments.
001345 -D6- 008		ISH 5 Action point 12	The Agency must advise that a Flood Risk Assessment (FRA) is required for Portishead Station, as it would be for any normal planning application in flood zone 2 and/or flood zone 3. This is required to establish the flood risk and detail how the development and its users will remain safe from the risk of flooding over its lifetime e.g. raised finished floor levels, flood resilience measures, safe refuge, evacuation route etc. A Flood	The Applicant has agreed the proposed amendment by the ExA in REP6- 008 to add the following sub paragraph (4) to requirement 27 and this should be acceptable to the EA: "(4) Work No 5 must not commence until a Flood Risk Assessment (FRA) for this work has been submitted to and approved by the relevant planning authority in

No.	Type / Category	Response topic	Response	Applicant's response
			Emergency and Evacuation Plan may be required, as part of the FRA.	consultation with the Environment Agency. If the FRA concludes that Work No 5 is at risk of flooding then the FRA shall include details of the mitigation, such as a flood emergency and evacuation plan, that would be required to ensure that the station and users would remain safe should a flood event occur."
001345 -D6- 009		ISH 5 Action point 13	With regard to the proposed micro compound under Pill Viaduct, the Agency has received the following confirmation from the applicant's representatives: "We do not propose any works to this site, which will remain as it is now i.e. we are not breaking ground and there will be no change in levels. If it assists we could provide this text in the SoCG." The Agency has advised the text should be included in the SoCG, as suggested. The Agency can confirm it has no further issues regarding this matter.	The Applicant has included the agreed text in the latest version SoCG to which the EA has approved.
001345 -D6- 010		ISH 5 Action point 14	As detailed above, the Agency has agreed the applicant's amendments to Requirement 31 and the associated revisions to the CEMP.	The Applicant has no further comments.
001346 -D6- 001	Sutherland Property & Legal Services Ltd on behalf of ETM Contractors Ltd and Manheim Auctions Limited	Ashton Vale Level Crossing	Please find attached our closing correspondence, which incorporates an update in regard to the draft regulation 18, as discussed at the Site Specific Hearing. I write in order to conclude the joint submissions of cTc and SPLS in regard to the above DCO Hearing. As you are aware, we jointly represent ETM Group and Manheim Auctions, however, the matters raised on their behalf typically apply to businesses within the Ashton Vale industrial estate in regard to the proposal to increase the frequency of closure of the level crossing at the only vehicular access to the estate. You have seen several letters from other local employers expressing similar concerns.	Industrial estate growth See also response to 001298-D6-001 above. Modelling traffic impacts of future development should not be speculative, but based on changes that it is reasonably certain will happen. Changes may occur over time but as the level crossing is over 150 years old and the Applicant is providing works to improve the operation of the Winterstoke Road/Ashton Vale Road Junction there is reason to speculate about further changes on what is an already densely developed industrial estate.

No.	Type / Category	Response topic	Response	Applicant's response
			<p>These matters have been discussed at length throughout the DCO Hearing, hence you will be well aware of both our position on behalf of our clients and that of the Applicant in regard to the above. I therefore do not propose to repeat the arguments at length, however and in order to assist, a brief summary of matters remaining at issue may be appropriate. You will be well aware of the disagreement in regard to the efficacy of the traffic modelling relied upon by the Applicant and I do not propose to repeat the discussions in this regard, save to say that the Applicant wishes to assign our concerns solely to issues of growth of our client firms, however, the key argument here is that any and all of the businesses in the Industrial Estate will be seeking to grow.</p> <p>The lack of any recognition of this in the modelling undertaken results in a model which neither reflects the existing scenario nor allows for business development into the future, potentially compromising this important employment site as a venue to locate and develop a successful business.</p> <p>In reflection of the above, an important matter on which I have not previously responded is the Applicant's reference to my Transport Assessment submitted in support of ETM's Planning Application for replacement of their machinery and re-design of their site layout. I was surprised to see the quote of a single sentence from the conclusion of that report and it then being aligned with our concerns at the junction of Ashton Vale Road with Winterstoke Road. This is a blatant misrepresentation of that report, from which I conclude that the report had not been read. The quotation confirms that an operational improvement would result directly from the upgrading of the ETM equipment, however, as is clear from the report, this is in regard to the operation of Ashton Vale Road, in the vicinity of ETM's access, not as implied by the Applicant, at the junction with Winterstoke Road. Furthermore,</p>	<p>ETM planning application</p> <p>It is not clear why Sutherland/cTc's conclude that the Applicant's response in REP5-034 included a "blatant misrepresentation" of cTc's Transport Statement accompanying ETM's planning application 17/06938/F (for new plant machinery and some rearrangement of the site), and that, in particular, queuing on Ashton Vale Road as a result of ETM site access has been conflated with that at the Winterstoke Road junction. To quote the relevant section of REP5-034 (DCO document ref. 9.34.1 ExA.CWR.D5.V1):</p> <p><i>"This comment appears to relate to Planning Application No. 17/06938/F. The Transport Statement for this application, prepared by cTc, makes much of the benefits of the proposed changes in terms of efficiency and benefit to the local highway, in terms of reduced queuing back onto Ashton Vale Road, but does not indicate that the Application will increase vehicular movements to and from the site. There is, for example, no assessment of net additional traffic generation from the proposals. Furthermore, para 5.3 of the Transport Statement concludes that "The only impacts in traffic terms, of the proposals are clear a categoric improvements and consequently there can be no defensible reasons for highway objection to the proposals".</i></p>

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			<p>that conclusion was wholly justifiable due to the improved efficiency resultant from ETM's equipment. The increase in traffic generation has arisen due to growth, which followed the expenditure previously referred; it was not an impact directly of the Application proposal, but followed from business development thereafter.</p> <p>With regard to the operation of the railway and the applicant's assertion that closures may happen regardless of the status of the application, it is advanced that this 'fall back' position is not reasonably available. Within the hearing day's evidence by the port authority as to the current use, it has been stated that the current numbers of movements are not significant. It is not reasonable to assert that the line may be used at any moment, for many trips, as there is simply no reason for these trips and trains will not be run when there is no demand.</p> <p>At the hearing a response was requested with regard to the Deadline 4 submission (9.34) made by the applicant, with specific reference to the sitting of the National Policy Planning Framework (NPPF) within the National Policy Statement for National Networks (NPSNN). As set out at 1.18 of the NPSNN and 104(2) of the Planning Act 2008 the NPPF can be a material consideration, as can the Local Plan. As per 104(2)(d) the Secretary of State must have regard to any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision.</p> <p>In this instance it is advanced that a Safeguarded Employment Location, and its effective operation, is both relevant and important to the decision.</p> <p>Finally and in order to update you in regard to the suggested alteration to requirement 18; on 11th March I emailed Mr Guyatt</p>	<p>This summarises relevant elements the transport statement for Planning Application No. 17/06938/F, in particular quoting the final conclusion, but also drawing on statements relating to queuing on Ashton Vale Road (section 4.4) and noting that the statement does not include assessment of traffic movement that the application could generate. The only references to traffic movements are to justify that the redesigned site will internalise problems hitherto caused on Ashton Vale Road.</p> <p>Sutherland/cTc are making use of targeted commentary in a way that has evolved through the Examination. It is therefore interesting to note that the recent planning application by ETM to increase throughout and remove some constraints on access (Application no. 21/01169/X – described by Bristol City Council in its response to Action Points of Issue Specific Hearing 5 [REP6-029]) has been updated, adding various documents to the application at the end of March (BCC noted in REP6-029 that no supporting technical information had been provided at that time). A 'supporting document' in the form of a letter from cTc to Sutherland LPS (added to the application on 23rd March 2021) discusses transport issues, and notes:</p> <p><i>"cTc is aware of ongoing consideration of the impact of the proposed MetroWest project on the sole access junction, where Ashton Vale Road meets Winterstoke Road. cTc has represented ETM and</i></p>

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			<p>on behalf of the Applicant with suggested changes in order to provide my client with confidence which is currently lacking. I attach a copy of my email. (see https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR040011/TR040011-001346-Sutherland%20Property%20&%20Legal%20Services%20Ltd%20on%20behalf%20of%20ETM%20Contractors%20Ltd%20and%20Manheim%20Auctions%20Limited%20-%20Closing%20corres.pdf)</p> <p>If the Applicant has the level of confidence claimed in the traffic modelling they have submitted to the Hearing and the adequacy of the proposed mitigation, the proposed rewording of the requirement should provide the Applicant with no concerns. I understand a response is being drafted, but I have not seen one at this stage.</p>	<p><i>Manheim Auctions in order to ensure that all relevant traffic movements are accounted for in the calculations presented to assess the impact of the Metro scheme on Ashton Vale Road. The scheme promoters have assured cTc and the Planning Inspectorate that the MOVA system which they propose to implement will provide superior operation of this junction than currently occurs. Consequently, the addition of 37 vehicles in the morning peak period should not create any material impact."</i></p> <p>And concludes as follows:</p> <p><i>"As described above, the proposed scheme [application no. 21/01169/X] represents improvements in terms efficiency and removes the need for generating trips by transporting excess waste to other sites in the wider area, or moving unprocessed waste to landfill sites. The peak average hourly vehicle movements fall outside of the local network peak hours, and the local network's highway safety record is good, with no existing safety issues being observed.</i></p> <p><i>For these reasons the proposals should not be refused planning permission."</i></p> <p>While cTc do not specifically state they agree with or support the Applicant's proposed measures at the Winterstoke Road / Ashton Vale Road junction, It appears ETM is placing some reliance on the</p>

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				<p>Applicant's proposed measures in its planning application when submitting that ETM's proposals should not cause any traffic issues, and in doing so appear to accord with the Applicant's view that measures will enable the junction to operate satisfactorily, even with potential growth.</p> <p>Operation of the Railway</p> <p>With regard to the operation of the railway, the railway operates under the authority of an Act of Parliament, which has meant that the operation of the railway has been authorised since 1862. The question is not one of a "fall back", as the use of the railway as a railway has been authorised since 1862 and is unrestricted in terms of the number of train movements that may pass over the branch line on any given day. Whilst there are operational constraints that in practice provide a limit to the number of train movements, those are not the subject of any regulation by the Town and Country Planning or any other statutory or regulatory process. As a result if, for instance, the traffic generated by Royal Portbury Dock demanded it, there could be up to 40 freight trains passing over the level crossing at Ashton Vale Road on any day, without any need to obtain additional consents (the constraint of 40 daily movements arising only because planning control DOES apply to BPC's private railway which was authorised by planning permission with conditions attached). No additional consents would be required and there is no</p>

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				<p>constraint on the number of train movements. The introduction of passenger trains on existing operational railway between Parson Street and Pill is unconstrained in numbers of movements in planning terms. It is therefore both reasonable and correct for the Applicant to say that that the line can be used at any moment for many trips and the frequently changing nature of BPC's activities means relatively sudden changes in service patterns are both possible and indeed likely. In any event however the point is not relevant as the Applicant has demonstrated, and the local highway authority has agreed that with the introduction of works to the Winterstoke Road Junction and the installation of a MOVA system, the Ashton Vale Road/Winterstoke Road junction can operate satisfactorily with the level crossing in operation.</p> <p>NPPF/NPSNN</p> <p>The Applicant agrees that the NPPF and Bristol City Council Local Plan are relevant (pursuant to paragraph 1.18 of the NPS NN). The 'Ashton Vale Road' site allocated as a 'Principal Industrial and Warehousing Area' pursuant to Policy DM13 of the Bristol City Council Local Plan. The purpose of Policy DM13 'Development Proposals on Principal Industrial and Warehousing Areas' is to limit inappropriate development within the site. It provides a list of potentially acceptable uses of the land in addition to Use Classes B1b – B8 and <i>sui generis</i> uses of a similar nature. It provides that development involving the</p>

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				<p>loss of industrial and warehousing floorspace within the land allocation for purposes other than those listed within the policy will not be allowed unless there is no demand for the use and the proposal will not prejudice the function or viability of the rest of the site. The DCO Scheme utilises the existing railway line and will not involve the loss of any of the land allocated for industrial and warehousing use.</p> <p>The industrial estate is accessed from a single entry point at the moment and this will not change. Therefore future development of this site will continue to be limited by this factor, including the signalised junction between Winterstoke Road and Ashton Vale Road. Based on the conclusions of the Applicant's transport traffic assessment it is clear that the proposed DCO Scheme would not 'prejudice the function or viability' of the industrial estate beyond limits that may currently exist as a result of its single access point.</p> <p>Following on from the above analysis, there is nothing that would suggest that the running of additional trains along an existing railway line will in any way be contrary to Core Strategy Policy BCS8 'Delivery of a Thriving Economy' in respect of the Ashton Vale Road site.</p>
001452-D6-001	Sutherland Property & Legal Services Ltd on behalf of ETM Contractors Ltd and Manheim	Ashton Vale Level Crossing	Further to discussions in the Site Specific Hearing and as referred in my subsequent submission, please find below [link provided below] the response received from Mr Guyatt in regard to Regulation 18. Unfortunately, this response leaves our concerns wholly unaddressed and hence all of the submissions of cTc and SPLS on behalf of ETM and Manheim Auctions should be considered to remain in their entirety.	<p>See also response to 001298-D6-001 above.</p> <p>This response from Sutherland/cTc is in its Deadline 6 Post-hearing submission [REP6-042]. They have also submitted the response from the Applicant [AS-068]. The Applicant is of the view that requirements of this</p>

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	Auctions Limited		<p>[Link: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR040011/TR040011-001452-AS%20ETM%20Contractors%20Ltd%20and%20Manheim%20Auctions%20Limited.pdf]</p>	<p>form are not acceptable. The text of the Applicant's representative's response [AS-068] is below:</p> <p><i>I have considered your comments on Requirement 18 with my client.</i></p> <p><i>The draft Requirement has been considered by the local planning authority in its current form and, as you will be aware from the Issue Specific Hearing, the draft is agreed between the Applicant and the relevant planning authority.</i></p> <p><i>The MOVA system will be installed for the local highway authority to manage. The local highway authority will then have control over the MOVA system and regulate its operation. My client will not be involved in the day to day operations which will be in the hands of the local highway authority.</i></p> <p><i>On that basis there is no purpose in having any further control or monitoring because the local highway authority will have control and will be able to regulate operations accordingly.</i></p> <p><i>My client does not propose to modify the Requirement therefore.</i></p> <p><i>I note that you may copy this response to the Inspectorate and you are of course very welcome so to do should you feel it necessary.</i></p>

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				<p>For the reasons stated in the response to cTc the Applicant sees no reason to amend the wording of the requirement previously agreed with the relevant planning authority. The Applicant relies on its previous responses to the submissions made on behalf of ETM Contractors Ltd and Manheim Auctions Limited.</p>

Comments by First Corporate Shipping Limited trading as The Bristol Port Company (BPC) on information and submissions made by other parties at Deadline 5

Examination library reference	Document	Information/submission	BPC's comment at Deadline 6	Applicant's response to Deadline 6 comment
REP5-003	Land plans version 3			
		Amendments to boundaries of (among others) parcels 04/90, 04/55, 04/85, 05/10 owned by BPC	<p>BPC is content with the changes made to the boundaries of these parcels. The matters raised by BPC in paragraphs 7.2.5, 7.2.6, 7.3.4(a), 7.3.4(d) and 7.3.5(d) of its written representation [REP2-064] are resolved. BPC is also content that the issue relating to 05/26 raised at paragraph 7.2.7 of its written representation can be treated as resolved.</p> <p>Other matters raised in section 7 of BPC's written representation remain outstanding.</p>	<p>The Applicant notes the submissions of BPC.</p> <p>In relation to the outstanding matters in section 7 of BPC's written representation, the Applicant is working with BPC to agree HoTs for an agreement covering the outstanding issues.</p>
REP5-018	Book of reference version 3			
		New parcel 03/81	<p>The new plans resolve the issue at paragraph 7.2.3 of BPC's written representation [REP2-064]. However, the reference to BPC having an interest under a lease in respect of this land is incorrect. The lease held by BPC registered under title number AV213530 has been surrendered in respect of the land within 03/81. The registered title to the freehold interest in the parcel (ST343747) does not contain any note of the existence of the lease, which is the correct position. We believe the error may arise from an incorrect interpretation of the title plan of AV213530 and incorrect mapping on the Land</p>	<p>The Applicant notes the comments of BPC and the Book of Reference will be updated accordingly.</p>

Examination library reference	Document	Information/submission	BPC's comment at Deadline 6	Applicant's response to Deadline 6 comment
			Registry MapSearch function. The same issue affects 03/67, as noted at paragraph 7.2.2 of BPC's written representation.	
REP5-033	Applicant's responses to written representations submitted for Deadline 4			
	<i>Relating to train movements</i>			
	001112-D4-001/004 and 001121-D4-001		BPC refers generally to its summary of its oral case made at Issue Specific Hearing 5 on 4 March 2021 in respect of the interaction of freight trains to and from Royal Portbury Dock and the proposed passenger services.	<p>The Applicant does not agree that protective provisions should or can be used to preserve the current paths allocated to freight operating companies for trains to access Royal Portbury Dock. (It is also important to note that these paths are not allocated to Bristol Port Company but to Freight Operating Companies under the Railways Act 1993.)</p> <p>BPC is not correct in seeking to suggest as comparable the number of train paths on the national network with the number of train movements permitted on its private railway by the local planning authority. The allocation of train paths on the national network is not controlled by the local planning authority and in effect the BPC is seeking to impose a control over the national rail network that is outside of the regulatory regime applying to the national network under the Railways Act 1993. Given the current number of freight trains accessing Royal Portbury Dock there is clearly more than sufficient capacity for both passenger and freight trains on the Branch line. There is no justification in the controls</p>

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				the Port seeks to impose in the suggested protective provision.
	001112-D4-001	The Applicant has not seen a copy of the works agreement dated 22 November 2000	A redacted copy is provided at Deadline 6.	<p>The Applicant has now seen the Works Agreement.</p> <p>The Applicant has also seen correspondence from Network Rail to BPC confirming that Clause 15 of the Works Agreement remains in effect. See further Appendix 2 of the Statement of Common Ground between the Applicant and Network Rail [9.3.15 ExA.SoCG-NRIL.D7.V1].</p>
	001112-D4-001	The issue is one for the local planning authority to determine if application is made. There are significant planning benefits to the reopening of the railway to passenger services which has national and local policy support. It will be for the local planning authority to determine any application to vary or remove the existing planning condition in that policy context.	Through its proposed protective provision (at REP4-060), BPC seeks only to preserve the opportunity it currently enjoys for the 40 train movements per day (20 trains in each direction) permitted under its existing planning permission. Any change to that limit under the planning permission would be a matter for the local planning authority. It would be beneficial in terms of reducing the amount of freight transported by road for rail freight movements to and from the Port to be capable of increase, so BPC cannot rule out in the future an increase in the permitted level of use of the rail link under the planning permission becoming necessary, but as matters stand BPC believes that the existing permitted level	<p>The Applicant refers to its previous response on the inclusion of protective provisions that seek to enshrine the number of train movements in the dDCO as set out in its Response to Written Representations (see ref: BPC-D3-002 and REP3-036; DCO document ref 9.18 ExA.CWR.D3.V1), which is copied below for ease:</p> <p>"The Applicant believes the provisions of the Railways Act 1993 and Network Rail's licences' to operate the national rail network adequately determines how blockades and possessions will be secured and carried out. This is not a subject that the dDCO should</p>

Examination library reference	Document	Information/submission	BPC's comment at Deadline 6	Applicant's response to Deadline 6 comment
			should be sufficient for its current needs.	<p>cover."</p> <p>The Applicant also re-iterates its view that the protective provisions proposed by BPC are over extensive and disproportionate and should not be included in the dDCO by the Secretary of State.</p> <p>By seeking to control</p> <p>" changes to the infrastructure of the railway development or to the operation of the passenger service"</p>
	001112-D4-001	The Applicant and Network Rail have sought to protect the existing train paths for Royal Portbury Dock in the design for the DCO Scheme.	Network Rail states that the infrastructure which has been designed for the proposed scheme will have the capability to accommodate an hourly passenger service and an hourly freight service. Assuming the infrastructure is built in accordance with that design, in order to ensure that the capacity for an hourly freight service is preserved the infrastructure must not be changed so that it loses that capability and the manner of operation of the passenger service must be limited to accord with the limitations of the design. BPC's required protective provision is specifically framed in terms controlling not the allocation of train paths but changes to the infrastructure of the railway development or to the operation of the passenger service – such as the introduction of a half-hourly service without changes to the physical infrastructure - which would mean that the infrastructure would no longer have the capability to accommodate the freight service for which Network Rail states it has	<p>BPC is seeking to impose control on Network Rail, the licenced statutory undertaker authorised by the Office of Rail and Road to manage the national rail network. This is not a justified or necessary use of protective provisions and would extend the Port's control of the national rail network to a level far in excess of what is reasonable or legitimate.</p>

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			<p>been designed. The draft DCO does not currently restrict these matters. The issue BPC seeks to address is the Port's ability to operate in the long term as it can now.</p>	
	001112-D4-001	<p>The proposed protective provision is not agreed. It is not needed and is not appropriate for the dDCO. The issues it seeks to address are for the local planning authority and the Railways Act 1993 regime to determine. Both regimes have extensive consultation obligations and it would be inappropriate for the dDCO to usurp or impact on those regimes.</p>	<p>BPC's protective provision does not seek an allocation of train paths nor seek to interfere with the operation of the Network Code. The allocation of specific paths will be a matter for the FOCs and, in due course, the operator of the proposed passenger service. When North Somerset Council (NSC) imposed conditions on BPC's planning permission in respect of the rail link in relation to the number of train movements and times of operation, it was seeking to preserve the opportunity for the future use of the Portishead branch line infrastructure for passenger services; now BPC in just the same way seeks to preserve the opportunity that exists today for its customers to move their freight by train over the same branch line.</p>	

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			<p>BPC is no more seeking an allocation of train paths by its protective provision than NSC was seeking to do so by imposing its planning conditions. If the Applicant were correct that BPC's protective provision is unnecessary or inappropriate, because all track access arrangements should be dealt with through the Network Code, then NSC's planning condition would have been equally unnecessary and inappropriate.</p> <p>BPC's interests in relation to preserving the access for rail freight it currently enjoys are of a very different nature to the FOCs' interests in securing track access. BPC's interests are therefore not adequately protected by any rights of challenge that may be available to the FOCs under the Network Code.</p> <p>The interests of the FOCs are only short term. Their interest lies in preserving the quantity of freight which they are able to carry in any particular period; they are less concerned as to the origin and destination of that freight.</p> <p>The interests that BPC seeks to protect are those of its customers. Demand from BPC's customers for rail access comes in various forms. Many customers make significant investments in the Port and accordingly have long-term requirements for secure rail access, such as a major utility for which BPC handled coal for over 25 years. At the other end of the scale, other customers have requirements for rail access for</p>	

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			<p>spot shipments, such as the stone which is currently being transported from RPD by rail over the branch line. The consequences of there being insufficient rail access available to meet these customers' needs is significant. The prospective longterm customer will not make its investment in the Port, with the consequent loss of the jobs and other benefits that would come with that investment; the spot-shipment customer will instead move its cargo by road.</p>	
	001112-D4-003	<p>The Applicant believes that there remains considerable unused train path capacity for freight trains to the Port. The currently permitted train movements can be accommodated within the Applicant's proposals. There is no intention of causing additional movements to be "unreasonably compromised" but equally there is no purpose in providing over capacity for freight services which are currently at a level far below that which is permitted by the town and country planning regime condition applying to the Port's railway.</p>	<p>BPC is unsure what is intended by the statements "<i>there remains considerable unused train path capacity for freight trains to the Port</i>", "<i>there is no purpose in providing over capacity for freight services</i>" and "<i>there are many more paths available for FOCs to access Royal Portbury Dock than are currently being used by the FOCs</i>".</p> <p>They may be intended to suggest that if now, before the operation of the passenger line starts, specific train paths are readily available to FOCs, and hence to BPC's customers, to and from Royal Portbury Dock, it must follow that the same will remain the case once the passenger service starts and the hourly restriction on BPC's operations comes into effect. That suggestion would plainly be wrong. The introduction of the new service and</p>	

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	001112-D4-004	<p>The Applicant believes the need for there to be more than 40 train paths available over the branch line in order to enable 40 train movements per day over the Port's railway his is an issue for the rail industry but understands that there are many more paths available for FOCs to access Royal Portbury Dock than are currently being used by the FOCS. The Applicant believes sufficient capacity for freight movements exists therefore.</p>	<p>the hourly restriction will make finding suitable train paths to match BPC's permitted operations more difficult. This is implicit in Network Rail's comments at Issue Specific Hearing 5 on 4 March 2021 to the effect that the infrastructurespecified for the authorised development does not allow for anything better than an hourly passenger service alongside the existing freight services.</p> <p>Alternatively the statements may be intended to suggest that the levels of actual train movements over the rail link at any time should be taken as evidence that the number of movements currently permitted by the planning permission is unnecessarily high, and the continued ability of BPC's customers to enjoy and be assured of that level of rail access should not be protected. This would be contrary to the Applicant's own case that the scheme has been designed to accommodate the current level of permitted movements.</p> <p>BPC has made it clear that, by the express terms of its proposed protective provision, it does not seek protection in relation to any greater level of train movements than is currently permitted to it. How those permitted movementsare actually used from time to time is not relevant: what matters is that BPC and its customers can have the confidence</p>	<p>BPC asserts that</p> <p><i>it does not seek protection in relation to any greater level of train movements than is currently permitted to it</i></p> <p>but as it is not a FOC, no paths over the national network are currently permitted to it. It is not correct to assume that the planning controls on its private railway in any way mirror of influence that allocation of train paths on the national network. BPC is seeking to extend its control over the national rail network with little purpose given the current number of train paths and potentially to the expense of the ability for adjustments to service patterns if passenger demand more passenger services. The allocation of paths on the national rail network is a dynamic and complex matter and the imposition of the proposed protective provision would impose a constraint on Network Rail's railway that has no justification and is without any real purpose.</p>

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			<p>that such level of rail access they currently enjoy will remain available to meet the continuing demand for it. It is impossible to predict what the nature of that demand will be in the future. The history of the use of the rail link since it was built only goes to prove how unpredictable demand is, with usage having varied between periods of regular, heavy use by major utilities needing to import large quantities of coal for their power stations to periods like today when the rail link is used to carry a much more diverse range of cargoes, from large train sets to bulk consignments of aggregates. Customers' demands as to the cargo they require the Port to handle, and how, are continually evolving and BPC needs always to be in a position to respond to those demands and provide the facilities required.</p>	

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	001121-D4-001	The DCO Scheme takes in to account and accommodates the numbers of freight movements in to and out of Royal Portbury Dock permitted by the planning permissions applying to the Port's railway.	See BPC's comments below in relation to REP5-028, specifically BPC's detailed comments on the Applicant's response to ExQ2 question CA 2.10 and the terms of BPC's proposed protective provision. In summary, BPC understands that the DCO scheme as designed accommodates the currently permitted freight train movements into and out of Royal Portbury Dock assuming only an hourly passenger service. That being the case, in order to ensure the capacity for those permitted train movements continues to exist, the infrastructure must not be changed so that it loses the capability to provide that capacity and the manner of operation of the passenger service must be limited to accord with the limitations of the design. It is these factors which are the matters which BPC's required protective provision seeks to control, since the draft DCO does not currently contain anything to restrict them.	See the Applicant's response to the above comments that deal with BPC's proposed protective provisions.
	001121-D4-001	The Applicant does not believe the DCO can or should be drafted as suggested by BPC and the provisions of the Railways Act 1993 and its associated licencing regime, as well as the powers of the local planning authority, should not be affected by the DCO.	BPC's proposed protective provision in no way interferes with the powers of the local planning authority. Should BPC in the future require an increase in the number of train movements permitted over the rail link under the existing planning permission, it accepts this issue would fall under the jurisdiction of the local planning authority: the terms of BPC's proposed protective provision do nothing to change that position. BPC's proposed protective provision also in no way affects the operation of the Railways Act 1993 regime. Both FOCs going to and from Royal	

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			<p>Portbury Dock and the operator of the passenger service will need to seek an allocation of train paths for their services in the normal way under their individual track access arrangements. Nothing in the terms of BPC's proposed protective provision changes that position.</p>	
	001121-D4-001	<p>The Applicant does not believe the DCO can or should be drafted as suggested by BPC and the provisions of the Railways Act 1993 and its associated licencing regime, as well as the powers of the local planning authority, should not be affected by the DCO.</p>	<p>BPC's proposed protective provision in no way interferes with the powers of the local planning authority. Should BPC in the future require an increase in the number of train movements permitted over the rail link under the existing planning permission, it accepts this issue would fall under the jurisdiction of the local planning authority: the terms of BPC's proposed protective provision do nothing to change that position. BPC's proposed protective provision also in no way affects the operation of the Railways Act 1993 regime. Both FOCs going to and from Royal Portbury Dock and the operator of the passenger service will need to seek an allocation of train paths for their services in the normal way under their individual track access arrangements. Nothing in the terms of BPC's proposed protective provision changes that position.</p>	<p>The protective provisions is not required, serves no legitimate or useful purpose and imposes a constraint on the allocation of paths and the future use of the national rail network. It is unnecessary. An existing regime operates to deal with the issues raised by BPC and BPC should not have any additional control over the national rail network, particularly when the need for such control is entirely absent given current numbers of train movements to and from Royal Portbury Dock.</p>

Examination library reference	Document	Information/submission	BPC's comment at Deadline 6	Applicant's response to Deadline 6 comment
	<i>Relating to dust and use of the Marsh Lane track</i>			
	001121-D4-003	The applicant believes sufficient controls in the CEMP exist to mitigate the Port's concerns.	<p>See BPC's comments in REP5-049. The car companies which use the vehicle storage compounds adjacent to the Marsh Lane perimeter track require the highest standards of cleanliness to be maintained in relation to their imported vehicles. The potential consequences of dust deposits forming on those vehicles are explained in REP5-049.</p> <p>See also BPC's comments as to the proposed use of water for dust suppression made at Issue Specific Hearing 5 on 4 March 2021 as summarised in its note of its oral case submitted at Deadline 6.</p> <p>A generic dust mitigation plan prepared and approved under the CEMP would not be adequate to deal with the adverse impacts of dust generation –including dust generated by use of the perimeter track in its current condition - on BPC's customers and operations at the Port.</p>	The Applicant refers to its submissions made at the ISH5 and as set out in its post hearing submissions (Document Ref: REP6-021, line 32).
	001121-D4-003	The Applicant does not believe resurfacing of the largely already surfaced route is necessary or justified.	<p>See BPC's comments in REP4-058 and REP5-049, together with:</p> <ul style="list-style-type: none"> • BPC's comments made at Issue Specific Hearing 5 on 4 March 2021 as summarised in its note of its oral case submitted at Deadline 6; and • BPC's note for the ExA submitted at Deadline 6 provided in response to action point 26 arising from Issue Specific Hearing 5 on 4 March 2021 	The applicant has accepted inclusion of the ExA's proposed requirement relating to the Marsh Lane Access Track.

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			(on the need for a surveys and repairs of the Marsh Lane track).	
	001121-D4-003	The Applicant is content to agree an area for vegetation to be retained and will work with BPC to settle the relevant areas.	BPC is grateful for this, but the necessary protection for BPC's position must be enshrined in an enforceable provision of the DCO, as suggested at paragraph 6.3.1 of BPC's written representation [REP2-064].	There is no need for a provision in the DCO to restrict vegetation clearance. The applicant will work with BPC to seek to minimise vegetation clearance but there is no planning justification for the level of control sought by BPC.
REP5-028	Applicant's responses to the Examining Authority's Written Questions ExQ2			
	<i>Question CI 2.3: What would the alternative arrangements for transport of freight be on the occasions when the existing freight railwayline would be closed to enable construction works?</i>			
		The high-level process set for the management track access is set out in the Railways Infrastructure (Access, Management and Licensing of Railway Undertaking) Regulations 2016 (SI no 645 of 2016). From that the railway industry has established a document called "The Network Code" and part D of this document outlines how the railway timetable is built including passenger and freight services along with details of when each line is open or closed. This process operates at present and will continue to operate throughout the construction period and then into the day to day operating period for the line between Bristol and Royal Portbury Docks.	As explained in: <ul style="list-style-type: none"> its comments at Issue Specific Hearing 5 on 4 March 2021 as summarised in its note of its oral case submitted at Deadline 6; and its comments below on the Applicant's response to ExQ2 CA 2.10 <p>BPC's interests in relation to ensuring it has reliable access for rail freight are of a different nature to the FOCs' interests in securing track access for a particular train. In assessing possible service interruptions, the FOCs' interests will predominantly lie in preserving the quantity of freight which they are able to carry in any particular period; they will be less concerned as to the origin and destination of that freight or as to identity of the customers for whom they carry it. The decisions they will make in response to Network Rail's proposed timetable changes will</p>	For the reasons previously explained these are matters for determination under the Railways Act 1993 and not in the proposed Development Consent Order.

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		<p>Network Rail has obligations under its regulatory framework to publish the opening hours for every part of the nation network along with details of all proposed line closures throughout the year. This information is published at least 12 months in advance and negotiated with all passenger and freight train operators through documented processes down to circa 22 weeks in advance of any planned line closure. At this point the passenger and freight train operators then bid their amended timetable plans to Network Rail who then publish the amended timetable at 12 weeks in advance.</p> <p>Through the Track Access Contracts between the passenger and freight train operators and Network Rail there is a regulated set of compensation payment rates for cancelled and amended train schedules. This is documented in schedule 4 of all Track Access Contracts. Once the amended timetable has operated the compensation amount is paid by Network Rail to the Operators.</p>	<p>not necessarily therefore reflect the interests of BPC's customers, whether those are interests in having regular and reliable rail access at Royal Portbury Dock in support of long term investments at the Port or interests in having rail access available to serve the arrival of a specific consignment of cargo.</p>	

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		<p>At the same time freight train operators will be in discussion with their customers on how their business needs can be met – this is not something that Network Rail would be involved with, though years of experience is such that all parties will know when are the best times to undertake maintenance, renewals and enhancement works on different sections of the network to minimise disruption to passengers and freight customers.</p>		
REP5-028	<i>Question CA 2.9: questions (i) to (iv) in relation to issues raised by BPC by in respect of the CA of specific plots</i>		<p>BPC refers to the comments it made in relation to each of these questions at Compulsory Acquisition Hearing 2 on 3 March 2021 as summarised in its note of its oral case submitted at Deadline 6, summarised further below.</p>	<p>The Applicant and BPC have agreed that a dedication agreement can be used but until one is in place, together with the ability for the Applicant to enter on to the relevant land to construct the new bridleway, freehold acquisition powers must be sought.</p> <p>The Applicant maintains that BPC would not suffer any serious detriment in accordance with s127 in the event that agreement cannot be reached with BPC on this point, and the land is subject to compulsory acquisition through the DCO.</p>

Examination library reference	Document	Information/submission	BPC's comment at Deadline 6	Applicant's response to Deadline 6 comment
		<p>(i) Plots 05/101, 102,130, 131, 135 & 136 are needed for Work No 18 the extension to the bridleway. No agreement had been reached with BPC at the time of submitting the DCO application and as works are proposed the Applicant had to include the plots for compulsory acquisition as No 18 forms an integral part of the scheme. Discussions with BPC are progressing and need to resort to CA powers will drop away if agreement is reached for BPC to dedicate the route as a public bridleway.</p>	<p>BPC needs control over the route of Work No. 18 but has confirmed its willingness to enter into a dedication agreement in relation to it, on the basis set out in REP5-048. This reflects the approach which applies to other public rights of way created by BPC over parts of the dock estate. BPC does not accept that in any circumstances its statutory undertaking land should be taken permanently to provide public rights of way; powers in the DCO should not be granted to that effect.</p>	

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		<p>(ii) The right of access over plot 05/75 and also over the northern boundary of plot 05/85 and plot 05/86 to ensure the Applicant has a continuous right of access from Marsh Lane to the Cattle Creep bridge in order for Network Rail to undertake routine inspection and maintenance of the bridge, given that it will be an operational railway asset, when the scheme opens.</p>	<p>The form of the rights over plot 05/75 sought by the draft DCO, as set out in Schedule 10 to the draft DCO, are very undefined and would, if exercised to their fullest and without restriction, have a detrimental effect on BPC's adjacent land, which is held for the purposes of its statutory undertaking and is to be developed as a compound for the transit storage of cargo. Detriment will be caused by the impact of the rights on the developable area and by the risks created to BPC's undertaking by use of the track similar to those explained by BPC in relation to the proposed use of the perimeter track leading from Marsh Lane, including security and dust generation (there being no physical access road currently in existence on 05/75).</p> <p>The nature and purpose of the rights sought by the Applicant over 05/75 have changed since the draft DCO was prepared (due to the removal from the scheme of Works Nos. 16B and 16D), as demonstrated by the Applicant's comments, but neither the form of the rights required under Schedule 10 nor the physical extent of the area over which they are sought has been revisited: the area claimed to be required for the exercise of a right of the nature now being described by the Applicant appears disproportionately large, particularly at the entrance from Marsh Lane.</p>	<p>The purposes of the new rights were modified at deadline 6.</p> <p>The area at Marsh Lane reflects that the fence line is set back from Marsh Lane and there are a number of trees in the vicinity of the access gate, which the Applicant was seeking to avoid removing.</p>

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		<p>(iv) Plot 05/50 forms the south western embankment of Marsh Lane bridge. All the other embankments for this bridge are already owned by the Applicant. The in the event of any major incident such as bridge failure or subsidence the Applicant requires unfettered access to undertake emergency remedial works to the bridge. The Applicant is in discussion with BPC about whether the width of the plot can be reduced without compromising the Applicant's ability to maintain and repair the bridge into the long term.</p>	<p>BPC needs to retain ownership of at least part of plot 05/50 to provide access to an existing electronic communications code operator in connection with the maintenance of its mast sited on adjacent land. The unshaded area on the plan in REP5-048 indicates the area it must retain, which is at ground level.</p> <p>The blue colouring on that plan is an embankment. BPC considers that there is an alternative to the acquisition by the Applicant of the embankment area since BPC would agree to dedicate that land as highway, to the extent it is not already highway, and to include in the relevant documentation necessary rights of access for the local highway authority over the rest of 05/50 in connection with the maintenance of the embankment.</p>	<p>The Applicant has proposed two methods of dealing with BPC's concerns, either of which would be acceptable to the Applicant and, it is believed, would meet BPC's concerns. The Applicant would also be content to deal with the process by way of dedication and grant of a right of access.</p>
REP5-028	<i>Question CA 2.10: Requesting the Applicant's comments on BPC's note [REP4-060] regarding train movements to and from Royal Portbury Dock and BPC's proposed form of protective provision.</i>			
		<p>The Applicant referred to its previous comments at Deadline 4 (REP4-021)</p>	<p>BPC's response at Deadline 5 to these previous comments can be found at REP5-049.</p> <p>The Applicant's previous comments included reference to (a) the brief given by the Applicant to Network Rail including the requirement to accommodate one freight train per hour both in and out of the Dock (which was to be alongside an hourly passenger service) and (b) the working timetable provided to BPC.</p>	<p>BPC should not be given the control over the national rail network that it seeks. The issues are for Network Rail as the statutory undertaker responsible for the national rail network, licenced under the Railways Act 1993, to determine, regulated by the Office of Rail and Road.</p>

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			<p>In relation to those matters, BPC refers to its comments at Issue Specific Hearing 5 on 4 March 2021 as summarised in its note of its oral case submitted at Deadline 6: if the new infrastructure is built in accordance with the brief provided to Network Rail, then to ensure that in the long term the capacity for an hourly freight service is preserved the infrastructure must not be changed so that it loses the capability to provide that capacity and the manner of operation of the passenger service must be limited to accord with the limitations of the design. It is these factors which are the matters which BPC's required protective provision seeks to control, since the draft DCO does not currently contain anything to restrict them.</p>	
		<p>BPC confirmed its position in paragraph 20 of its written representation dated 19th January 2021 [REP4-060];</p> <p><i>"20. BPC accepts that the allocation of rail paths to FOCs is a matter for Network Rail under the Network Code and the Railways Act 1993 and does not suggest that the draft DCO should seek to control that allocation. Instead BPC seeks to ensure that the passenger line must be operated in a way which ensures that, taking into account the other restrictions imposed on the</i></p>	<p>BPC refers to:</p> <ul style="list-style-type: none"> • its comments at Issue Specific Hearing 5 on 4 March 2021 as summarised in its note of its oral case submitted at Deadline 6, and • information provided by Network Rail at that same hearing that the infrastructure specified for the authorised development does not allow for anything better than an hourly passenger service alongside the existing freight services. <p>BPC's interests in relation to preserving the overall access for rail freight it currently enjoys are those of its customers, and are not the same as the FOCs' interests in securing track access for specific trains. BPC's interests are therefore not adequately</p>	<p>The Applicant repeats its previous submissions.</p>

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		<p><i>operation of the rail link, sufficient train paths will remain available over the branch line to enable freight traffic to and from RPD at the levels protected by the works agreement and permitted by the planning permission."</i></p> <p>While the first sentence of paragraph 20 of this representation appears to recognise that the DCO is not appropriate for controlling freight paths on existing operational railway, the second sentence suggests that BPC are still maintaining that the DCO could be used to allocate the train paths as between freight and passenger trains. It is not agreed that the DCO would be the appropriate means of securing this and the applicant refers to its response above to CI.2.3.</p>	<p>protected by rights available to the FOCs under the Network Code in respect of the allocation of specific train paths.</p> <p>BPC does not seek to allocate paths between passenger and freight services, but to preserve the opportunity that exists today for its customers to move their freight by train over the branch line. From the information provided by Network Rail it understands that such opportunity has been preserved by the design of the infrastructure of the proposed scheme, but assuming the scheme is now built so as to include the relevant infrastructure and assuming an hourly passenger service.</p> <p>It follows that any changes to the physical infrastructure being provided or to the future manner of operation of the authorised development which are not in line with the parameters within which the scheme was designed would mean that the infrastructure would not have the capacity in the long term to continue to accommodate the number of freight train movements currently enjoyed by BPC's customers.</p> <p>The wording of BPC's protective provision is expressly limited to controlling the manner in which "<i>the railway authorised by this Order...</i>" is "<i>constructed, maintained, altered, used or operated</i>". No part of the protective provision refers to controlling or allocating, or does control</p>	

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			<p>or allocate, specific train paths, whether for freight or passenger services.</p> <p>The protective provision does not prevent the manner of operation of the passenger service changing, for example to add a half hourly service, provided other infrastructure enhancements that are required are carried out to enable the freight capacity which is being built into the initial design to continue to be available; the proposed protective provision therefore provides the necessary flexibility for future changes to the passenger service.</p> <p>Section 120(2)(a) Planning Act 2008 specifically permits the inclusion in a development consent order of any provision that corresponds to a condition that could have been imposed on the grant of a planning permission which would have been required for the relevant development, but for section 33(1) of the Act.</p> <p>In planning permission 11/P/1893/F North Somerset Council imposed planning conditions as to the manner of operation of the development it authorised, that is BPC's rail link, including (in condition 3) a restriction as to the frequency of operation of freight trains. This demonstrates how planning conditions may be used to control the manner of operation of a development authorised by a planning permission, in that case to preserve the opportunity for the development of a future</p>	

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			<p>passenger service. Planning permissions may also include conditions which direct the way in which a development may be constructed. BPC's proposed protective provision is therefore equally capable of inclusion in the DCO.</p> <p>Planning and other transport policy, including the National Policy Statement for Ports, widely supports the shift to the use of rail freight over road transport, and the need for ports to have adequate and reliable rail access. The inclusion of BPC's proposed protective provision in the DCO is in accordance with and gives effects to this policy.</p> <p>BPC's proposed protective provision is necessary, reasonable and relevant (both to planning and to the proposed authorised development). As such, it is capable of forming the content of a planning condition. It is therefore capable of forming, and should form, the content of a provision of the DCO</p>	
REP5-028				

Examination library reference	Document	Information/submission	BPC's comment at Deadline 6	Applicant's response to Deadline 6 comment
		<p>Work No 15 is a temporary path to ensure public safety and specifically that pedestrians and cyclists do not come into close proximity of HGV vehicles entering and exiting the BPC's perimeter access track from Marsh Lane, during construction. Work No16 is a realignment of the existing licensed NCN26 which is located on the top of the dis-used trackformation and therefore must be re-aligned in order to re-instate the railway. Work No 18 is a permanent extension to an existing PROW to provide an alternative route for horse riders, cyclists and pedestrians who cannot or do not want to use the existing licensed NCN26 route alongside the railway under the M5, when the scheme opens. The existing NCN26 is only licensed for use by pedestrians and cyclists. Furthermore if horse riders were to use the NCN26 route there would be a considerable risk of a horse being startled by the sudden noise of a train and becoming out of control within a confined space of 2.6 metres wide by 60 metres in length, causing a major risk to the rider,</p>	<p>In relation to Works Nos. 15 and 16, BPC's position is set out in REP4-058 and at paragraph 7 of REP4-059. Both Works Nos. 15 and 16 should be permissive paths only.</p> <p>In relation to Work No. 18, BPC's position is set out in REP4-058, REP4-059, REP5-048 and in the comments it made at Compulsory Acquisition Hearing 2 on 3 March 2021 as summarised in its note of its oral case submitted at Deadline 6. BPC notes that in its response opposite, the Applicant suggests that it would be the Applicant, that is the undertaker under the DCO, which would assume responsibility for future maintenance of the new bridleway.</p> <p>BPC considers that, at least after an initial period, this responsibility should lie with North Somerset Council as local highway authority.</p> <p>All parts of Works Nos. 15, 16 and 18, including any ancillary works such as landscaping and embankments, must be confined within the applicable extent of work shown on the works plans.</p>	<p>The Applicant intends to build the works in accordance with the relevant limits shown on the Work's Plan.</p> <p>Works 15 and 16 can be permissive only albeit freehold acquisition of Work 16 is justified for the construction of that part of the route forming part of National Cycle Network route no 26 if a licence from BPC is not forthcoming, given the level of public use of the existing route. The Applicant will look to secure the provision of Work no 16 by licence from BPC if possible and a deed of dedication for Work No 18. It is anticipated that use of Article 33 of the Order is the most likely way for Work No 15 to be constructed.</p>

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		<p>pedestrians and cyclists including parents and children. The British Horse Society has also raised safety concerns.</p> <p>The Applicant's proposals with regard to Work No 16 have always been that this would remain a licensed permissive path.</p> <p>With regard to Work No 18, the Applicant accepts responsibility for its maintenance following construction.</p>		

