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Our ref:
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Your ref:
TRO400011

Dear Mr Bartkowiak

Portishead Branch Line (MetroWest Phase 1) Order – Applicant's Final Submissions
Document ref: 9.68 ExA.CL.D7.V1

I enclose:

1. Final Guide to the Application
2. Final draft DCO
3. Validation reports
4. Schedule of Changes to draft DCO
5. Completed Forestry Commission Agreement
6. Final Statements of Common Ground (referenced below)
7. Final Statement of Commonality
8. Final consents and licences update
9. Crown consent letters from Department for Transport and Forestry England
10. Final S135 Statement
11. Comments on Deadline 7 submissions
12. Response to Mr Millard
13. Updated CA Schedule
14. Final (but unsigned) Statement of Common Ground with Freightliner Limited

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1. Commentary on documents submitted

On behalf of the Applicant I make the following comments regarding enclosures:

Item 1: Final Guide to the Application

The Applicant refers the Examining Authority (**ExA**) to the Guide to the Application for a full list of documents submitted by the Applicant.

Item 2: Final Draft Development Consent Order (dDCO)

The Applicant has made some minor drafting changes to correct references in Schedule 16 of the deadline 7 dDCO. You will find enclosed:

- final dDCO (Word and Pdf);
- comparison between version 1 of the dDCO and the version now submitted; and
- comparison between version 7 of the dDCO submitted at deadline 7 and the version now submitted.

Item 3: Validation of the Final dDCO

As previously explained, it has not proved possible to validate the whole of the dDCO before the close of the examination. This is despite all previous dDCO submissions validating with little difficulty, until Deadline 7.

For submission Deadline 7 and thereafter, the expert team at WBD has not been able to achieve full validation of the whole of the Order, despite many attempts.

The current situation is as follows:

- The full dDCO does not return to us for many hours - and then with a "technical error" message.
- To identify the source of the issues, since last week's attempts at validating for Deadline 7 we have broken down the dDCO in to four parts for validation when we are the full Order has not validated. We refer to the separate parts as Parts 1 (the Articles), 2A (Schedules 1 and 2), 2B (Schedules 3 to 15) and 3 (Schedules 16 and 17).
- We have Parts 1, 2A and 2B validated. The validation reports and emails are enclosed at DCO Document Reference 9.76 ExA.FI.D7.V1.
- We re-sent Part 3 for validation earlier this afternoon, having had previously successfully validated it. We have received a response, which validated the draft, but which changes Schedules 16 and 17 to Schedule 1 and 2 in the validation report. The paragraph numbers were unaltered by the validation process. This latest report is also enclosed.

We again submitted the full DCO early this afternoon, around the same time we submitted the revised Part 3, but have not received the report back for the full document, at 22.45 this evening.

We continue to liaise with the SI Support Team and will continue to pursue validation of the draft Order. We will liaise directly with the Secretary of State following the close of the examination.

The validation reports referred to above are enclosed. We will inform the Secretary of State if the full draft order submitted today achieves successful validation.

Item 4: Schedule of changes made from Deadline 7 dDCO to Final dDCO

This sets out the changes made to the dDCO now submitted, from that provided at Deadline 7.

Item 5: Completed Forestry Commission Agreement

Agreement with Forestry Commission, in the form previously provided to the ExA, was exchanged and dated 15 April 2021. A copy (in redacted form) of the dated agreement is enclosed.

Item 6: Final Statements of Common Ground (SoCGs)

Final statements of common ground with:

- National Trust; and
- Environment Agency

are now enclosed.

Item 7: Final Statement of Commonality

A final Statement of Commonality is provided for the ExA.

Item 8: Final consents and licences update

A final consents and licences document is provided for the ExA.

Item 9: Crown consent letters

Consent letters from Forestry England on behalf of the Secretary of State for the Environment, Food and Rural Affairs, and from the Department for Transport, both dated 19 April 2021, are enclosed.

Item 10: Final S135 Statement

The Applicant has reflected the latest position on S135 of the Planning Act 2008 in an updated S135 Statement, confirming that all required consents are in place.

Item 11: Comments on Deadline 7 submissions.

This is enclosed.

Item 12: Response to Mr Millard

We have seen Mr Millard's representation received on 19 April. The Applicant's response is enclosed.

Item 13: Updated CA Schedule

The CA Schedule has been updated to record the agreement with Forestry Commission and to update the percentage of transactions now completed or secured by way of option.

As set out in the Applicant's response to the ExA's actions from CAH2 (Document Reference: REP6-025), a total of 96% of the freehold land required permanently for the authorised development is already within the ownership of the Applicant, is in the ownership of Network Rail, or is North Somerset Council adopted highway. With the completion of the Forestry Commission agreement following Deadline 7, a total of 52% by area of all Order land required for the authorised development (i.e. land required permanently, temporarily or where rights are to be granted) has been acquired by agreement by the Applicant or is subject to an option agreement.

Item 14: Final (but unsigned) Statement of Common Ground with Freightliner Limited

This is still unsigned but is agreed by the parties. The final signed copy will be provided to the Secretary of State.

2. Progress During the Examination

2.1 The Applicant believes considerable progress has been made during the examination.

2.2 The Applicant has secured SoCGs from a significant number of parties during the examination.

2.3 In particular, in relation to the Avon Gorge Woodland Special Area of Conservation, the Applicant has agreed a SoCG with Natural England and an agreement with Forestry Commission. The Applicant has also agreed all items with relevant Planning Authorities, the Environment Agency and Highways England.

2.4 The Applicant has listened to representations from Interested Parties and Affected Parties and moved towards them where possible to reflect the concerns raised by the relevant Affected Party; and the inclusion of bespoke protective provisions of Bristol Port Company that have for more detail, and impose more control over the Applicant, than originally proposed by the Applicant.

2.5 In the following sections of this letter the Applicant set out its summary of its case at the close of the Examination.

3. Statements of Common Ground

3.1 The Applicant has provided a table below of the SoCGs requested by the ExA in the Rule 8 Letter, as well as any additional SoCGs. Table 1 below outlines the date of the final SoCG as well as the relevant Examination Library Reference.

Table 1: Status of SoCG

Statement of Common Ground	Status (Green indicates completed & signed)
Network Rail	Doc: 9.3.15 ExA.SoCG-NRIL.D7.V1, Examination Library ref: REP7-032 14 April 2021
North Somerset Council as planning authority	Doc: 9.3.1 ExA.SoCG-NSC.D7.V2, Examination Library ref: REP7-025 14 April 2021
Bristol City Council	Doc: 9.3.2 ExA.SoCG-BCC.D7.V3, Examination Library ref: REP7-026 13 April 2021
Natural England	Doc: 9.3.6 ExA.SoCG-NE.D6.V4, Examination Library ref: REP6-146 17 March 2021
Highways England	Doc: 9.3.4 ExA.SoCG-HECL.D1.V1 Examination Library ref: Rep1-019 2 November 2020
Environment Agency	Doc: 9.3.3 ExA.SoCG-EA.D7.V5, Examination Library ref: REP7-027 14 April 2021
Avon and Somerset Police	Doc: 9.3.11 ExA.SoCG-ASP.D1.V1, Examination Library ref: REP1-026 2 November 2020
Historic England	Doc: 9.3.5 ExA.SoCG-HE.D1.V1, Examination Library ref: REP1-020 2 November 2020
Somerset County Council	Doc: 9.3.9 ExA.SoCG-SCC.D1.V1, Examination Library ref: REP1-024 2 November 2020
Wessex Water Services Limited	Doc: 9.3.13 ExA.SoCG-WW.D7.V3, Examination Library ref: REP7-030 16 March 2021
Openreach	Doc: 9.3.10 ExA.SoCG-OL.D7.V3, Examination Library ref: REP7-029 14 April 2021

Statement of Common Ground	Status (Green indicates completed & signed)
North Somerset Internal Drainage Board	Doc: 9.3.7 ExA.SoCG-NSLIDB.D7.V2, Examination Library ref: REP7-028 7 April 2021
National Trust	Doc: 9.3.17 ExA.SoCG-NT.D7.V1 14 April 2021
Freightliner Limited	Doc: 9.3.19 ExA.SoCG-FL.D7.V1 This is still unsigned but is agreed. The final signed copy will be provided to the Secretary of State.

3.2 The Applicant considers that significant progress has been made with stakeholders. To the extent that any matter remains unresolved with the parties that have signed SoCGs identified above (of which there are only a very small number) these are matters of principle for the Secretary of State to consider in the decision making process.

3.3 Some SoCGs remain unresolved or have not been taken forward:

3.3.1 National Grid Electricity Transmission PLC - the combination of the practical interfaces between the projects and the emerging nature of the detailed construction timetables for the two projects have meant that the draft SoCG provided to the ExA is not concluded. The Parties have engaged in constructive discussion, most recently on 16 April 2021, and have a programme of meetings diarised to seek to settle the processes for the two schemes to work together and co-operate during construction and thereafter. The Applicant will update the Secretary of State regarding the progress of those discussions.

3.3.2 Bristol Port Company – BPC wish to have all matters agreed before removing its relevant representations. On that basis the parties have concentrated on protective provisions, negotiations have not been progressed with a SoCG.

3.3.3 Western Power Distribution (South West) plc - the combination of the practical interfaces meant that the draft SoCG provided to the ExA is not concluded. The Parties have engaged in constructive discussion and the Applicant will update the Secretary of State regarding the progress of those discussions.

3.3.4 Freightliner Limited – It had been hoped that a compromise agreement would be concluded prior to the close of the Examination but this has not proved possible. Terms are agreed and the parties have also prepared a SoCG to reflect the position between them. An unsigned, undated version was submitted at Deadline 7. It has not proved possible to sign and submit the document prior to close of the Examination but the form of the SoCG is agreed and enclosed. The Secretary of State will be updated as to progress regarding agreement with Freightliner and the withdrawal of its relevant representation.

4. Summary of Applicant's Position at Close of Examination

4.1 As stated above, considerable progress has also been made throughout the course of the Examination. The Applicant highlights below the key issues for the Examination and the Applicant's position at the close of the Examination.

Need for the Scheme

4.2 The Applicant believes that the need for the DCO Scheme is clear and compelling. The number of representations objecting to the principle of the DCO Scheme as a whole are outweighed by representations supporting the DCO Scheme's objectives. With the exception of Mr Cash (Relevant Representation Ref: 049, Written Representation ref: REP2-047), supported by Mr Virden (Relevant Representation Ref: RR- 122, Written Representation ref: REP2-053) and the representations at RR-066 and RR-108, no party appeared at the Examination or made representations to suggest either that an alternative scheme would be more appropriate.

4.3 Mr Cash's representations were not that a public transport scheme between Portishead and Bristol was not needed, but that the DCO Scheme was not the optimum solution and a bus based solution should be preferred. In this regard, the Applicant in its response to relevant representations, Appendix C (Doc: 9.4 ExA.RR.D1.V2, Examination library ref: REP1-029) dealt in full with Mr Cash's submissions, whilst at ISH3, when considering Mr Cash's revised alternative, the Applicant confirmed the benefits for the revised proposal would be limited and would not achieve a sufficiently shorter journey time to attract enough people to shift transport modes (Line 28 of 9.24 ExA.ISH3.D4.V1 – Applicant's Oral Case and response to Representations at the Issue Specific Hearing 3 (ISH3), Examination Library ref: REP4-017).

4.4 No alternative scheme is receiving support or being taken forward. The DCO Scheme which has been worked up over several years has substantial local and national policy support. If consented, it is anticipated surveys and ecological works will be carried out from January 2022, with preliminary works such as the creation of compounds, haul roads and lifting of old track beginning from July 2022. It is expected the principal works will commence in the Autumn of 2022.

4.5 Whilst other parties have suggested there is limited or no need for the scheme in their relevant representations, this was not evidenced at the Examination. Other than Mr Cash's and Mr Virden's representations, the Applicant's need case stated in its Planning Statement (REP6-134/Application Ref 8.11, paragraph 4.5) has not been contested. The Applicant submits that the need for the DCO Scheme is clear, certain, robust and compelling.

The National Networks National Policy Statement 2014 (NN NPS)

4.6 Section 104(3) of the Planning Act 2008 provides that the decision maker should determine this application in accordance with the NN NPS, except to the extent that one or more of the matters set out in Section 104(4) to 104(8) apply. The Planning Statement (doc ref: 8.11, Examination Library ref: REP6-134) assessed the application in Part 6 and at Part 7.4 concludes that the application accords with the NN NPS. This assessment has not been challenged.

4.7 In Local Plan terms the DCO Scheme is in effect safeguarded by Policy DM22 Existing and Proposed Railway Lines in the NSDC Sites and Policies Plan Part 1: Development Management Policies (Adopted July 2016) document – see Applicant's Planning Statement (doc ref: 8.11, Examination Library ref: REP6-134, Para 5.6.5).

Habitats Regulations Assessment and the Avon Gorge

4.8 The application for development consent was accompanied by a Report to Inform the Habitats Regulations Assessment (Examination Library ref: REP6-120).

4.9 At the time of the DCO submission the Applicant had resolved upon an adaptive approach to the selection of sites on land owned by Network Rail and the Forestry Commission to provide compensation in relation to its proposed works in the Avon Gorge. However, Natural England was concerned about compensation proposed on land owned by Network Rail.

4.10 The Applicant has spent considerable time with Natural England and the Forestry Commission to find a mutually acceptable way forward. Following completion of an agreement between the Applicant and the Forestry Commission, the effect of DCO Requirement 14 and the Avon Gorge Vegetation Management Plan is to commit the Applicant to the delivery of all positive woodland management compensation on land owned by the Forestry Commission and to the delivery of replacement whitebeam planting package 2 unless the Secretary of State determines otherwise. The Applicant's Report to Inform the Habitats Regulations Assessment at Para 11.8.3 concludes:

"For the reasons set out above it is considered that all three derogation tests are met in the case of the DCO Scheme and that the adverse impact on the integrity of the Avon Gorge Woodlands SAC predicted at Stage 2 is fully compensated. It is concluded that the grant of consent for the DCO Scheme will not cause detriment to the maintenance of the overall coherence of the national site network and that the grant of consent to the DCO Scheme offers potential to improve the condition of the Avon Gorge Woodlands SAC".

4.11 Given the possibility of an adverse effect on the integrity of the Avon Gorge Woodlands SAC, the competent authority may agree to the project only on the basis that no feasible alternative solutions exist, that there are imperative reasons of overriding public interest (IROPI) and that compensatory measures exist to ensure overall protection of the coherence of the National Sites Network. This has been discussed with Natural England and in consequence, agreement has been secured with the Forestry Commission (final document submitted with this letter – see Item 5 and Enclosure 5). The relevant processes for compensatory measures have been secured and agreed with Natural England and Natural England is satisfied with the Applicant's approach to the Habitats Regulations Assessment. The Applicant has engaged Mr Tromans QC to assist the examination and his opinion confirming the lawfulness and effectiveness of the approach set out by the Applicant in the Report to Inform the Habitats Regulations Assessment has been provided to the Panel (Document 8.2, Examination Library ref: REP6-133).

4.12 More broadly in relation to the Avon Gorge, the requirement at Schedule 2 in the dDCO has been amended to reflect the Panel's concerns raised in its proposed changes to the dDCO.

4.13 The Applicant is taking a careful, proportionate and measured approach to the Avon Gorge generally and the Avon Gorge Woodlands SAC in particular.

Applicant's Compulsory Acquisition Case

4.14 Section 122 of the Planning Act 2008 provides that an Order that includes compulsory acquisition powers may be granted only if the conditions in sections 122(2) and 122(3) of the Act are met. The conditions are:

- that the land is required for the development to which the Order relates, or is required to facilitate or is incidental to the development (section 122(2)); and
- that there is a compelling case in the public interest for inclusion of powers of compulsory acquisition in the Order (section 122(3)).

4.14 The decision maker must be persuaded that the public benefits derived from the compulsory acquisition will outweigh the private loss suffered by those whose land is to be acquired.

4.15 The Applicant, during its submissions at CAH1 and CAH2 and its subsequent submissions following those hearings has carefully considered the objections to compulsory acquisition. The Applicant remains of the view that there is a compelling case in the public interest for the powers of compulsory acquisition it seeks for the Order land. The Applicant has responded to those parties objecting to compulsory acquisition where possible, and has also sought to deal with the expressed concerns of the ExA. In Paragraph 7 and Annex 3 of the Applicant's responses to the ExA's actions from CAH2, submitted at Deadline 6 (Document 9.46 ExA.FI.D6.V2, Examination Library ref: REP6-149), the Applicant confirmed that 96% of the Order land for which permanent freehold acquisition powers are sought is either held by the Applicant or Network Rail or from part of the adopted highway.

4.16 The Applicant's case for compulsory acquisition powers is made out in particular in Section 7 of its Statement of Reasons (Doc: 4.1, version 5, Examination Library ref: REP7-011) and in the written statement provided in the Applicant's oral case and response to representations at CAH1 (Doc: 9.15 ExA.CAH1.D3.V1, Examination Library ref: REP3-022).

4.17 The Applicant has in particular:

- modified the application to reflect the concerns of raised in RR-067, and by the relevant affected party in subsequent hearings. Whilst agreement is not yet in place, Heads of Terms have now been signed by the interested party and it is expected that agreement may be reached shortly.
- Freightliner Limited – again Heads of Terms have been secured and it is expected that Freightliner Limited's relevant representation will be withdrawn prior to the Secretary of State's decision.

- Forestry Commission – agreement has been secured for a significant area of Order land.
- Bristol Port Company – by letter dated 14 April 2021 the Applicant confirmed its position regarding acquisition of parts of BPC's land.

4.18 As the Applicant has secured District Level Licencing for activities related to amphibians, it has removed from the Order parcels of land no longer required for that purpose. The same applies to flood mitigation works at Easton in Gordano that have been agreed by the relevant landowners and the Environment Agency as not being required.

4.19 As is explained in the Applicant's compulsory acquisition schedule – status of negotiations at 14 April 2021 (Ref. 9.11.EXA.CA.D7.V5) agreement has been concluded or an option signed in exchange with 27 parties with another eight agreements expected shortly.

4.20 As stated above, the Applicant and Network Rail between them hold the vast majority (96%) of the freehold Order land required for the DCO Scheme.

4.21 The Applicant's Funding Statement (Doc: 4.2, version 1, Examination Library ref: App-056) has not been challenged. The Applicant has more than sufficient funds allocated to discharge its obligation to pay compensation to persons interested in land, and its request for compulsory acquisition powers is in conformity with the requirements of paragraphs 9, 17 and 18 of the CA Guidance. (see paragraphs 6.1 and 6.3 of the Applicant's Funding Statement). There is also no reason to believe that the required funding for the DCO Scheme and the wider MetroWest Phase 1 project would not be available in the period during which compulsory powers would be available to the Applicant.

4.22 The Applicant's consents and licences document (Doc: 5.3, version 2, Examination Library ref: REP4-004) indicates that there are no other significant impediments to the scheme proceeding.

4.23 In summary therefore the Applicant submits that there is a compelling case in the public interest and the Applicant has a clear idea of why it requires the relevant Order lands as set out in the Applicant's Statement of Reasons (Doc 4.1, version 5 Examination Library ref: REP7-011). The Applicant believes that its submissions contained in its Statement in its oral case in response to representation at CAH1 (Doc: 9.15.EXA.CAH1.D3.V1, Examination Library ref: REP3-022) remain and that it is satisfied the required tests under Sections 122 and 123 of the Planning Act 2008.

Other Principal Matters

4.24 In relation to the other principal matters considered in the examination:

(a) Environment Agency and Flooding

A Flood Risk Assessment (FRA) Addendum (REP6-065) updates the submission FRA with additional modelling on climate change allowances and together with the further information contained in the Addendum FRA, the additional agreed requirements in the dDCO and the terms of the SoCG, the Applicant considers that there is sufficient flood resilience for the construction and operation of the DCO Scheme. Arrangements have also been agreed between the parties for access to the Environment's Agency's assets and the protective provisions incorporated in the dDCO.

(b) Portishead Station

The Applicant and the relevant planning authority have agreed to the approach for the detailed design for Portishead Station – see Table 13.1 of the SoCG with the relevant planning authority (Doc: 9.3.1 ExA.SoCG-NSC.D7.V2, Examination Library ref: REP7-025). The Applicant has in addition agreed to the provision of renewable energy supplies at Portishead Station, to in part reflect the declaration by North Somerset Council of a climate emergency.

Further the Applicant has agreed to a Station Travel Plan for Portishead Station. See draft DCO, Schedule 2, requirement 27(6).

(c) Trinity Bridge, Portishead

The ExA has given detailed consideration to the provision of Work No. 7 – the bridge to the south of Trinity Primary School. The Applicant believes that the provision of this bridge is consistent with the NN NPS, Paragraphs 3.21, 3.22 and 5.205. Together with the new requirement 34 of the dDCO proposed by the ExA, the concerns of residents regarding overlooking can be dealt with by the relevant planning authority through detailed design.

The relevant planning authority provided at Deadline 6 helpful and detailed consideration of the planning position regarding the proposed footbridge (Examination Library ref: REP6-030) It will be for the Secretary of State to decide whether Work No. 7 should be included in the authorised development, if the Order is made by the Secretary of State.

(d) *Junction 19 M5*

The Applicant has agreed its position with Highways England – see SoCG dated 2 November 2020 (Doc: 9.3.4 ExA.SoCG-HECL.D1.V1, Examination Library ref: REP1-019).

The Applicant has in requirement 30 of Schedule 2 of the dDCO provided specific control over the use by construction workers of Junction 19 of the M5 to mitigate the impacts of the DCO Scheme on Junction 19.

(e) *Pill and Lodway*

The Examination heard from a number of Pill and Lodway residents regarding matters of concern within Pill.

In particular, the Pill and Easton in Gordano Parish Council (represented by Mr Ovel) together with other interested Pill residents raised a number of concerns regarding construction traffic and impacts on the highway and public rights of way network.

The Applicant has given these topics due consideration and will work with the relevant planning authority and relevant highway authority regarding stage specific Construction Traffic Management Plans based on the draft CTMP submitted with the application (Doc: 8.13, version 2, Examination Library ref: REP6-138). The Applicant believes that, with the detailed work on the CTMP required under Requirement 5 of Schedule 2 to the dDCO the issues raised will be sufficiently regulated by the stage specific CTMP and that the existing highway network, with the Applicant's proposals for construction traffic routing is adequate.

The Applicant has also worked with the Pill Toad Patrol and others to provide a draft Reptile and Amphibian Strategy, again under Schedule 2, requirement 5 of the dDCO. The Reptile and Amphibian Strategy was submitted in draft at Deadline 6 and a revised version at Deadline 7 which can be found at (Doc: 6.25, version 4, Examination Library ref: REP7-019). The Applicant will work with Network Rail to achieve the goals of the Amphibian and Reptile Mitigation Strategy.

(f) *Chapel Pill Lane – Work No. 24.*

The Applicant continues to believe that Work No. 24 (and the associated temporary Work No. 24A) are justified and required for inclusion in the works to be authorised. The provision of the Pill Tunnel Eastern Portal Emergency Maintenance Compound is an integral part of the operational requirements of the DCO Scheme to ensure passenger safety for Pill Tunnel. The additional requirement suggested by the ExA in its proposed changes to the DCO has been accepted without change by the Applicant. The Applicant has taken a proportionate approach both to compulsory acquisition and regarding the green belt and sensitive location of the proposed work, with there being very special circumstances for the inclusion of the work despite its green belt location.

Whilst it has been suggested by concerned residents that the work may in some way enable proposed housing development on neighbouring land, this suggestion that does not have any foundation in fact. Future proposals of the landowner and potential developers for the site are a matter for the local planning authority and not for this Examination. The Applicant has, since December 2015 consistently promoted the location and design of Work No. 24 (See Responses to item 50 in Deadline 6 Submission – 9.41 – Applicant's Oral case and responses to representations

at ISH 5 (Doc: 9.41, version 1, Examination Library ref: REP6-021)). The Applicant has not been deflected by the emerging proposals for housing development. There is a compelling case for Work No. 24 and Work No. 24A, which have been designed wholly for the purposes of the DCO Scheme and for no other purpose.

(g) *Ashton Vale Road/Winterstoke Road junction*

Occupiers of the 'Ashton Vale Road Industrial Estate have made representations that the modified Ashton Vale Road/Winterstoke Road junction will not function properly with the DCO Scheme operating, and that the Applicant's transport assessment is flawed, as is its proposed mitigation. The suggestion has also been made requirement 18, of Schedule 2 of the draft DCO should be amended.

The Applicant submits that its Transport Assessment (Examination Library ref: APP-155 to APP-172) is robust and criticism is without legitimate foundation, as summarised in the "Deadline 7 Submission - 9.59 ExA.CWR.D7.V1 - Applicant's response to Written Representations submitted for Deadline 6" REP7-037. The level crossing at Ashton Vale Road has been in existence since 1867 and there is no control on the number of train movements over the level crossing – this topic is not relevant for the DCO Scheme. In any event the Applicant is providing works at Ashton Vale Road/Winterstoke Road junction, and in particular the installation of an intelligent operating system for the traffic lights to coordinate the closure of the level crossing with the traffic control measures at the junction. This is accepted by the local planning authority and local highway authority - see reference 16.1.7, in table 16 of the SoCG between the Applicant and Bristol City Council (document ref: 9.3.2 ExA SoCG-BCC.D7.V3, Examination Library ref: REP7-026).

There is no reason not to grant development consent for reasons based on the arguments raised by those occupiers at Ashton Vale Road, because the transport assessment is robust and accepted by the relevant planning and highway authority. Control over the existing statutorily authorised level crossing should not be imposed by the DCO, if made. Further, there is no need to alter Requirement 18, as the relevant planning authority will be controlling the junction post commencement of the Portishead Branch Line service and has accepted the Applicant's proposals and proposed requirement 18.

5. Statutory Utilities: S127 and S138 Planning Act 2008

(a) *National Grid Electricity Transmission Plc (NGET)*

The Applicant has accepted the need for Protective Provisions to be included in the dDCO. It has proposed its own Protective Provisions, based on those submitted by NGET but adapted to reflect the existence of two nationally significant infrastructure projects and drawing on the existing Protective Provisions for railway undertakers in NGET's own Development Consent Order for the Hinkley Point C Grid Connection Project, is sound. The Applicant submits that a mutual approach for the cooperation of the parties relating to the two Development Consent Orders is the appropriate way forward. If that is not accepted by the Secretary of State then the Applicant believes that the Protective Provisions of general application, contained in Part 2 of Schedule 16 to the dDCO would be sufficient for the protection of NGET's apparatus.

Constructive dialogue with NGET continues and a programme for meetings to discuss detailed coordination of the two projects is now established. The Applicant will update the Secretary of State on progress with negotiations in due course.

(b) *Western Power Distribution (South West) PLC (WPD)*

Progress has been made with WPD but the relevant representation of WPD remains. As with NGET discussions will continue with WPD and the Secretary of State will be kept updated. The Protective Provisions in the draft DCO sufficiently protect the interests of WPD.

(c) *Bristol Port Company (BPC)*

The Applicant has agreed some bespoke Protective Provisions proposed by BPC and these are included in the Applicant's draft Protective Provisions for the benefit of BPC (see Schedule 16 Part 5). Key matters remain outstanding and these are summarised in the Applicant's Section 127 statement and in its responses to the Deadline 7 submissions provided by BPC.

The Applicant has also provided in its letter of 14 April 2021 details of its proposed acquisition of rights and interests in Order land held by BPC (see Appendix 2 to Applicant's responses to the Examining Authority's Rule 17 Request, Doc: 9.61, version 1, Examination Library ref: REP7-039). This, together with Network Rail's letter of 9 April 2021 (see Appendix 2 to the Statement of Common Ground between Network Rail and the Applicant, Doc: 9.3.15 ExA.SoCG-NRIL.D7.V1, Examination Library ref: REP7-032) providing assurances to BPC regarding the continued application of the Works Agreement between Network Rail and BPC obviate the need for some of the specific Protective Provisions as sought by BPC.

Constructive discussions have been taking place with BPC and will continue following the close of the Examination. The Secretary of State will be updated by the parties as regarding progress of those discussions.

(d) Exolum Pipeline System Ltd

The Applicant has provided Protective Provisions in the dDCO at Deadline 7 (and in the final Development Consent Order – see Part 6 of Schedule 16) which it believes meets all of Exolum's concerns. The Applicant notes Exolum's submissions at Deadline 7 but believes there has been constructive dialogue, which is ongoing. The Applicant will update the Secretary of State following the close of the Examination.

(e) National Trust

Considerable progress has been made with National Trust following ISH5. The Applicant has now provided for the ExA a signed SoCG between the parties – see Item 6 above. Whilst the parties have not yet reached a final conclusion to their detailed discussions, it is anticipated that a mutually acceptable position will be found.

The Applicant believes that it still requires the powers of temporary access over National Trust land for the reasons provided, principally in the Applicant's responses to the Panel's Rule 17 questions. The parties are continuing constructive dialogue and the Secretary of State will be updated following the close of the Examination.

The Applicant and National Trust both accept that the position regarding temporary possession and compulsory acquisition powers is notprecedented. By including Protective Provisions and in particular paragraph 124 of Schedule 16, Part 10 of the dDCO submitted at Deadline 7 (and in the final draft DCO provided here) the National Trust's position regarding compulsory acquisition is adequately protected – compulsory acquisition powers may only be exercised with the consent of the National Trust.

S131 and S132 Planning Act 2008

The Applicant requires certificates from the Secretary of State for consents under Section 131 and 132 of the 2008 Act. The Applicant's case is set out in its Statement of Reasons (see Appendix 5 of Document: 4.1, version 5, Examination Library ref: Rep 7-011). The Applicant's position has not been contested by any party. The Applicant submits that the Secretary of State is able to certify under SS131 and 132 as requested by the Applicant.

S135 Consents

The Applicant's Section 135 statement identified five Crown bodies for which consent was required. All five have now provided that consent as of the close of examination on 19 April 2021. The Applicant has enclosed the final two consents from the Department for Transport and Forestry England (on behalf of the Secretary of State for the Environment, Food and Rural Affairs) with this letter as set out above.

Conclusions

For all of the above reasons the Applicant believes the case for making the dDCO are overwhelming and compelling. The Applicant therefore asks that the Secretary of State makes the Order to enable the MetroWest Phase 1 Scheme to proceed.

Yours sincerely

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