



The Planning Inspectorate

Report to the Secretary of State for Transport and the Secretary of State for Housing, Communities and Local Government

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**an Inspector appointed by the Secretary of State for Transport and the Secretary of State for Housing,
Communities and Local Government**

Date: 1 October 2019

TRANSPORT AND WORKS ACT 1992

ACQUISITION OF LAND ACT 1981

TOWN AND COUNTRY PLANNING ACT 1990

**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT
1990**

**NETWORK RAIL (EAST WEST RAIL BICESTER TO BEDFORD
IMPROVEMENTS) ORDER 201[]**

APPLICATION FOR DEEMED PLANNING PERMISSION

APPLICATIONS FOR LISTED BUILDING CONSENT

Date of Inquiry: 6 February 2019

Ref: TWA/17/APP/05

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ABBREVIATIONS & GLOSSARY

ALCRAM	All Level Crossings Risk Assessment Model
Applicant	Network Rail Infrastructure Limited
AVDC	Aylesbury Vale District Council
AVP	Aylesbury Vale Parkway
AWE	Arnold White Estates Ltd, Cloud Wing UK Ltd and Hanson Packed Products Ltd (OBJ 153)
BBC	Bedford Borough Council
BBM	Bletchley to Bedford Midland (Engineering Line Reference)
BBOWT	Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (OBJ 181)
BCC	Buckinghamshire County Council
BCR	Benefit/Cost Ratio
BFO	Bletchley Flyover (Engineering Line Reference)
BNS	Biological Notification Site
BOA	Biodiversity Opportunity Area
BTVLEP	Buckinghamshire Thames Valley Local Enterprise Partnership
CBC	Central Bedfordshire Council
CDC	Cherwell District Council
CFSA	Compensatory Flood Storage Area
CoCP	Code of Construction Practice
(the) Crichel Down Rules	Compulsory purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion (published on 29 October 2015, updated on 28 February 2018) (further updated by Guidance on Compulsory purchase process and The Crichel Down Rules, July 2019)
CTMP	Construction Traffic Management Plan

dB	The decibel logarithmic unit of noise measurement
dB _{L_{Aeq}}	The equivalent continuous sound which would contain the same sound energy as the time varying sound
dB _{L_{AmaxF}}	The maximum A-weighted noise level (dB) recorded in a given period with the sound level meter set with a fast time weighting
DCO(s) (the) Deeleys	Development Consent Order(s) Michael Deeley, Audrey Deeley, Peter Deeley, William Deeley, Simon Deeley of the M R Deeley and Son Partnership (OBJ 183)
Defra	Department for Environment, Food & Rural Affairs
DfT	Department for Transport
DHF	Denbigh Hall Flyover (Engineering Line Reference)
EA	Environment Agency
ECS	Ecological Compensation Site
EEHSA	England's Economic Heartlands Strategic Authority
EIA	Environmental Impact Assessment
ES	Environmental Statement submitted with the application for the TWAO
EWR	East West Rail (between Oxford and Cambridge)
EWR2	East West Rail Western Section Phase 2
EWRC	East West Rail Consortium
EWRCo	East West Railway Company
FCS	Favourable Conservation Status
FDL	Fresh Direct (UK) Limited (OBJ 152)
FEI	Further Environmental Information provided in support of the Order

FLP	Fox Land & Property Ltd (OBJ 154)
FOC	Freight Operating Company
GCN	Great Crested Newts
Gladman	M Spooner & D Spooner (OBJ 228), Gladman Developments Limited (OBJ 229), J E Spooner (OBJ 230) and G W Fox (OBJ 231)
GRIP	Governance for Railway Investment Projects
GSM-R mast	Global System for Mobile Communications–Railway mast
ha	hectares
H C Stock Will	(the) Trustees of the H C Stock Will Trust
HE	Highways England
HGV	Heavy Goods Vehicle
HS2	High Speed Rail Phase 2
HS2 Act	High Speed Rail (London West Midlands) Act 2017
km	Kilometres
LBC	Luton Borough Council
LCA	Landscape Character Area
LEP	Local Enterprise Partnerships
LGV	Light Goods Vehicle
LOAEL	Lowest Observed Adverse Effect Level (Noise)
LPA	Local Planning Authority
LPC	Lidlington Parish Council
LVCA	Langford Village Community Association
LVIA	Landscape and Visual Impact Assessment
LWS	Local Wildlife Site
m	metres

MCJ	Marylebone to Claydon L&NE Junction (Engineering Line Reference)
MKC	Milton Keynes Council
MKGP	Milton Keynes Green Party
MHCLG	Ministry of Housing, Communities and Local Government
MML	Midland Main Line
NE	Natural England
NEP	(the) Buckinghamshire and Milton Keynes Natural Environment Partnership
(the) Network	(the) rail infrastructure network of Great Britain
NIC	National Infrastructure Commission
NO ₂	Nitrogen Dioxide
NPPF	National Planning Policy Framework
NR	Network Rail Infrastructure Limited
OCC	Oxfordshire County Council
OCE	Oxford-Cambridge Expressway
(the) Order	(the) Network Rail (East West Rail Bicester to Bedford Improvements) Order 201[]
ORR	Office of Rail and Road
OXD	Oxford Branch (Engineering Line Reference)
O&H	O & H Q6 Limited and O & H Q7 Limited (OBJ 156)
Plan:MK	Milton Keynes Council's Development Plan
PPG	Planning Practice Guidance
PRA	Aylesbury Branch (Princes Risborough to Aylesbury) (Engineering Line Reference)
(the) project	the East West Rail Western Section Phase 2 as proposed by the Order
(the) Promoter	Network Rail Infrastructure Limited

PRoW	Public Right of Way
REB	Relocatable Equipment Buildings
RFFP	Reasonably Foreseeable Future Projects
SBMA	Strategic Bat Mitigation Approach
(the) Scheme	(the) East West Rail Bicester to Bedford Improvements (the Order scheme)
SEMK	South East Milton Keynes Urban Extension
SOAEL	Significant Observed Adverse Effect Level (Noise)
SoC	Statement of Case
SoCG	Statement of Common Ground
SoS	Secretary of State for Transport
SSSI	Site of Special Scientific Interest
TA	Transport Assessment
tph	trains per hour
TSS	Train Service Specifications
TWA	Transport & Works Act 1992
TWAO	Transport & Works Act Order
TWUL	Thames Water Utilities Limited
UK	United Kingdom
VALP	Emerging Vale of Aylesbury Local Plan 2013-2033
VfM	Value for Money
WCC	Walton Community Council (OBJ 246)
WCML	West Coast Main Line
(the) works	(the) proposed works affecting the Listed Buildings and Conservation Areas
WSTC	Woburn Sands Town Council
$\mu\text{g}/\text{m}^3$	The concentration of an air pollutant in micrograms (one-millionth of a gram) per cubic metre air

CASE DETAILS

NETWORK RAIL (EAST WEST RAIL BICESTER TO BEDFORD IMPROVEMENTS) ORDER 201[]

and

APPLICATION FOR DEEMED PLANNING PERMISSION

- The Order would be made under sections 1 & 5 of, and paragraphs 1-5, 7-11, 13 & 15-17 of Schedule 1 to the Transport and Works Act 1992.
- The deemed planning permission would be granted by a Direction under section 90(2A) of the Town & Country Planning Act 1990.
- The applications for the Order and deemed planning permission were submitted to the Secretary of State for Transport on 27 July 2018.
- There were 237 objections outstanding to it at the commencement of the Inquiry.
- The Order and deemed planning permission would authorise the construction, operation and maintenance of a railway between Bicester and Bedford, Milton Keynes and Aylesbury, to facilitate the operation of new passenger services between Oxford, Milton Keynes, Aylesbury and Bedford. The Order would also authorise the reinstatement of the partially disused Bicester-to-Bletchley-to-Bedford and Aylesbury-to-Claydon Junction routes, together with the construction of a new station at Winslow, platforms at Bletchley and Aylesbury Vale Parkway; platform extensions at Woburn Sands and Ridgmont Stations; and other ancillary development. It would include the provision for the acquisition, compulsorily and by agreement, of land and rights in land and to use land, and provision for the construction, operation and maintenance of the railway.

Summary of Recommendations: That the Order be made, subject to modifications, and that deemed planning permission be granted subject to the Conditions in Appendix C of this Report.

APPLICATIONS FOR LISTED BUILDING CONSENT

Application Ref¹: 18/01863/LBC

Woburn Sands Rail Station, Station Road, Woburn Sands MK17 8UD

- The application for listed building consent is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- The application is made by Network Rail Infrastructure Ltd to Milton Keynes Council and is dated 27 July 2018.
- The works proposed are platform extension works to Woburn Sands Railway Station with associated fencing and ancillary works.

Summary of Recommendation: That consent be granted subject to the conditions in Appendix D of this Report.

Application Ref²: 18/02661/ALB

Buckinghamshire Railway Centre Quainton Road Station, Station Road, Quainton HP22 4BY

- The application for listed building consent is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- The application is made by Network Rail Infrastructure Ltd to Aylesbury Vale District Council and is dated 27 July 2018.
- The works proposed are works to Quainton Road Station (Buckinghamshire Railway Centre) involving the erection of new fencing along the platforms to provide protection, creation of two new door openings (one within the former station building and one within the platform shelter) and ancillary works.

Summary of Recommendation: That consent be granted subject to the conditions in Appendix D of this Report.

Application Ref³: CB/18/02917/LB

Ridgmont Station, Station Road, Ridgmont MK43 0XP

- The application for listed building consent is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- The application is made by Network Rail Infrastructure Ltd to Central Bedfordshire Council and is dated 27 July 2018.
- The works proposed are platform extension works to Ridgmont Station, with associated fencing and ancillary works.

Summary of Recommendation: That consent be granted subject to the conditions in Appendix D of this Report.

¹ Application Ref is that given by Milton Keynes Council

² Application Ref is that given by Aylesbury Vale District Council

³ Application Ref is that given by Central Bedfordshire Council

1. PREAMBLE

The applications and objections to them

- 1.1 The Applicant is Network Rail Infrastructure Limited (NR). NR owns and operates the rail infrastructure network of Great Britain (the Network). NR is primarily responsible for the operation, maintenance, repair and renewal of track, stations, signalling and electrical control equipment. Train services on the Network are operated by train and freight operating companies. NR, as owner of the Network, grants rights to use the track, stations, depots and access through contracts approved by the Office of Rail and Road (ORR). The activities of NR as the Network operator are regulated by the ORR through a network licence granted under section 8 of the Railways Act 1993. The network licence requires NR to secure the replacement and renewal of the Network.
- 1.2 The Applicant seeks powers by way of the Network Rail (East West Rail Bicester to Bedford Improvements) Order 201[] (the Order), using the provisions of the Transport and Works Act 1992 (TWA) and an associated application for deemed planning consent under section 90(2A) of the Town and Country Planning Act 1990 necessary for NR to construct and operate the proposed railway and to compulsorily acquire land and rights in land for that purpose. As a consequence of the East West Rail Bicester to Bedford Improvements (the Scheme), the Applicant has submitted 3 applications for Listed Building Consent on 27 July 2018.
- 1.3 Prior to opening the Inquiry, a total of 239 objections to the proposed Order had been received by the Department for Transport (DfT)⁴, of which 2 were withdrawn prior to the Inquiry. A further 3 objections were received after

⁴ Document INQ/03

opening the Inquiry⁵. Of the remaining objections 42 were withdrawn in writing before the close of the Inquiry. Following the withdrawals, there were 198 objections remaining at the close of the Inquiry. There were no objections received to the Listed Building Consent applications. I report below on the positions of all the remaining objections as at the close of the Inquiry.

- 1.4 The DfT received what it considered to be 11 representations⁶ and 409 letters of support⁷, some of which expressed concerns about the Scheme. Two of the representations have subsequently been changed to objections⁸ and 4 of the letters of support were in fact objecting to the Scheme⁹. Three additional representations and 2 letters of support were received following the opening of the Inquiry. I have summarised the relevant points made in the representations and letters of support in the report below.

Statement of Matters

- 1.5 On 21 November 2018 the DfT issued a 'Statement of Matters' pursuant to Rule 7(6) of the Transport and Works (Inquiries Procedure) Rules 2004¹⁰. This sets out the matters about which the Secretary of State for Transport (SoS) particularly wishes to be informed for the purposes of his considerations of the Order and the application for deemed planning permission.
- 1.6 The Statement of Matters were:
1. The aims of, and the need for, the proposed upgrade of the partially disused Bicester to Bletchley to Bedford and Aylesbury to Claydon

⁵ Document NR288: The last Objector number is OBJ 248 as the following 6 numbers were not used: 4, 5, 176, 188, 189 and 218

⁶ Document INQ/03

⁷ Document INQ/03

⁸ REP 1 is now OBJ 226 and REP 10 is now OBJ 242

⁹ The written submissions referred to as SUPP/96, SUPP/290, SUPP/292 and SUPP/363 object to the Order

¹⁰ Document INQ/01

Junction routes, together with the construction of a new station at Winslow, platforms at Bletchley and Aylesbury Vale Parkway; and platform extensions at Woburn Sands and Ridgmont Stations, known as the East West Rail Western Section Phase 2 (the project).

2. The main alternatives considered by NR and the reasons for choosing the proposals comprised in this project.
 3. The justification for the particular proposals in the draft Transport and Works Act Order (TWAO), including the anticipated transportation, environmental and socio-economic benefits of the project.
 4. The extent to which proposals in the TWAO are consistent with the National Planning Policy Framework (NPPF), transport policies, local planning and environmental policies.
 5. The likely impact of the exercise of the powers in the proposed TWAO on land owners, tenants and statutory undertakers, including any adverse impact on their ability to carry on their business and undertakings effectively and safely and to comply with any statutory obligations applying to their operations during construction and operation of the Scheme. Consideration under this heading should include:
 - a) the impact on roads, including the Strategic Road Network, from increased traffic and construction vehicles;
 - b) the impacts on land use, including the effects on commercial property and the effect on other planned development in the area;
 - c) the impact on Public Rights of Way (PRoWs) and access to public amenities; and
 - d) the impact from the cumulative effects of High Speed Rail Phase 2 (HS2).
 6. The likely impact of level crossing closures including the impact of closing Woburn Sands School Crossing.
 7. The likely environmental impacts of constructing and operating the project.
 8. The measures proposed by NR to mitigate any adverse impacts of the
-

- project including:
- a) the proposed Code of Construction Practice (CoCP);
 - b) any measures to avoid, reduce or remedy any major or significant adverse environmental impacts of the project;
 - c) whether, and if so, to what extent, any adverse environmental impact would still remain after the proposed mitigation; and
 - d) any protective provisions proposed for inclusion in the draft TWAO or other measures to safeguard the operation of statutory undertakers.
9. The adequacy of the Environmental Statement submitted with the application for the TWAO (ES), together with the Further Environmental Information provided in support of the Order (FEI), having regard to the requirements of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006, and whether the statutory procedural requirements have been complied with.
- 10 Having regard to the criteria for justifying compulsory purchase powers in paragraphs 12 to 15 of the Ministry of Housing, Communities and Local Government (MHCLG) Guidance on the "Compulsory purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion" (published on 29 October 2015, updated on 28 February 2018) (Crichel Down Rules)¹¹
- a) whether there is a compelling case in the public interest for conferring on NR powers compulsorily to acquire and use land for the purposes of the project; and
 - b) whether the land and rights in land for which compulsory acquisition powers are sought are required by NR in order to secure satisfactory implementation of the project.
11. NR's proposals for funding the project.

¹¹ Since the close of the Inquiry the Guidance has been updated further by 'Guidance on Compulsory purchase process and The Crichel Down Rules', July 2019, which has not materially altered the relevant paragraphs from the February 2018 Guidance

12. The conditions proposed to be attached to the deemed planning permission for the project, if given, and in particular whether those conditions satisfy the six tests referred to in Paragraph 206 of the NPPF¹².
- 13 Whether the statutory procedural requirements have been complied with. The Statement of Matters in relation to the proposed works affecting the Listed Buildings and Conservation Areas ('the works'):
- 14 The extent to which the works are in accordance with the development plan for the area including any 'saved policies'.
- 15 The weight that should be attached to the development plan, and any emerging plans.
- 16 The extent to which the works would accord with the NPPF and in particular the desirability of sustaining or enhancing the character or appearance of the heritage assets and Conservation Areas.
- 17 If consent for the works is granted, the need for any conditions to ensure they are carried out in a satisfactory manner.
- 18 Any other relevant matters which may be raised at the Inquiry.

Pre-Inquiry Meeting

- 1.7 I held a pre-Inquiry meeting at Milton Keynes Community Foundation Conference & Training Facilities, Margaret Powell House, 433C Midsummer Boulevard, Milton Keynes MK9 3BN on 29 November 2018 to discuss procedural matters relating to the Inquiry. There was no discussion of the merits of any cases for or against the proposals. A note following the meeting was circulated to all parties who had submitted objections or other representations¹³.

The Inquiry

- 1.8 The public Inquiry has been called by the SoS under section 11(1) of the TWA. I have been appointed by the SoS under the TWA to hold an Inquiry

¹² The NPPF has been updated and the tests are in paragraph 55 of the NPPF, February 2019

¹³ Document INQ/02

into the application for the TWAO and deemed planning permission for the development. The 3 applications for Listed Building Consent were automatically called in for determination by the SoS under the Transport and Works Applications (Listed Buildings, Conservation Areas and Ancient Monument Procedure) Regulations 1992. On 7 August 2018 the SoS confirmed that a public inquiry into these applications would run concurrently with the TWAO application, under the Inquiry Rules.

- 1.9 I opened the Inquiry at 1000 hours on Wednesday 6 February 2019. The Inquiry sat at Milton Keynes Community Foundation Conference & Training Facilities, Margaret Powell House, 433C Midsummer Boulevard, Milton Keynes MK9 3BN on the following 24 days: 6, 7, 8, 12, 13, 14, 15, 19, 20, 21, 26 and 27 February, 12, 13 and 15 March, 2, 9, 10, 11, 12, 23, 24, 25 and 30 April. I closed the Inquiry on Tuesday 30 April.
- 1.10 Graham Groom and Joanna Vincent were appointed as independent Programme Officers for the Inquiry. Their role was to assist with the procedural and administrative aspects of the Inquiry, including the programme, under my direction. They helped greatly to ensure that the proceedings ran efficiently and effectively but have played no part in this Report.
- 1.11 I inspected the proposed route and surrounding area on Tuesday 5 February before opening the Inquiry. I observed Woburn Sands level crossings on Monday 25 February between about 1700 hours and 1745 hours and on Wednesday 24 April when I also visited Lidlington level crossings, Ridgmont Station, Newton Road and the surrounding area, including 'the Cattle Arch' at Bletchley, The White House and The White Lodge on Little Horwood Road and Littleworth Farm, Verney Junction. I inspected Bow Brickhill level crossing on Thursday 25 April at about 1715 hours, and The Tythe Barn, Jarvis Lane and London Road level crossing, Bicester on Friday 26 April. These inspections were all undertaken unaccompanied. I made an accompanied site visit of the site at Furze Lane, Winslow at about 1000 hours on Friday 26 April and was

accompanied by Patrick King of the Trustees of the H C Stock Will Trust (H C Stock Will) (OBJ 27) and Sophie Moeng and James Hicks representing NR; and an accompanied site visit of Moco Farm on Monday 29 April at about 1430 hours, when I was accompanied by Patrick King and James Hicks and Charles Hurst, representing NR.

Compliance with statutory requirements

1.12 At the Inquiry the Applicant (NR) confirmed that it had complied with its obligations under the Transport and Works (Inquiries Procedure) Rules 2004 and submitted a document to demonstrate compliance¹⁴. No one has disputed this compliance. I am satisfied that all the necessary notices of the Inquiry have been posted.

This Report

1.13 This report sets out a brief description of the land covered by the proposed Order, permission and consents and their surroundings, the gist of the cases for the Promoter, supporters, objectors and those making representations, and my conclusions. A list of abbreviations and a glossary of terms used in this report is given at the start of the report. Lists of those appearing at the Inquiry and of Inquiry documents are appended, as are suggested conditions in the event of the SoS directing that deemed planning permission and the applications for Listed Building Consent be granted, together with an application for costs.

1.14 I make recommendations to the SoS on the applications for the TWAO and deemed planning permission and recommendations to the Secretary of State for Housing, Communities and Local Government on the applications for Listed Building Consent.

¹⁴ Document NR205

2. DESCRIPTION OF THE ORDER LAND/SITE AND ITS SURROUNDINGS

- 2.1 The route of the Scheme is as described in the Applicant's Statement of Case (SoC)¹⁵. It has been split into 6 Route Sections based on geography, operation and construction programme and methods. The Route Sections are 2A, 2B, 2C, 2D, 2E and the HS2 Interface Area¹⁶.
- 2.2 Route Section 2A is within Cherwell District Council (CDC) and Aylesbury Vale District Council (AVDC) local authority areas. The existing railway within Route Section 2A, the Oxford Branch (OXD) Line, runs freight services and occasional chartered passenger services but is no longer used by a regular passenger service. The OXD Line is predominantly single track but was constructed with embankments and cuttings that were wide enough to accommodate double track to Victorian standards. The western end of Route Section 2A is on the existing railway corridor passing through the urban areas south-east of Bicester. Between Bicester and Bletchley, the route continues along the existing railway corridor through a mostly agricultural area, with several villages, including Launton, Marsh Gibbon, Poundon and Twyford, before reaching the eastern end of Route Section 2A north of Charndon.
- 2.3 Route Section 2B is within AVDC and Milton Keynes Council (MKC) local authority areas. Within Route Section 2B, the OXD Line is predominantly single track, but with an embankment or cutting that is generally wide enough to accommodate double track. Route Section 2B's western extent is at Queen Catherine Road, between Steeple Claydon and Middle Claydon/Claydon House. From approximately 300m east of Addison Road (Steeple Claydon), eastwards, the OXD Line is closed to rail traffic. This section of railway is also referred to as the 'mothballed' line. The route passes through an agricultural landscape before crossing Claydon Brook between Verney Junction and Addington. Further east, the route passes

¹⁵ Document NR00 paragraph 4.5.1 and sections 4.7, 4.9, 4.11, 4.13, 4.15 and 4.20

¹⁶ Document NR16 ES Volume 4 Figure 1.2 shows the route sections schematically

through Winslow, which is primarily residential in nature. The existing railway corridor through this section, due to it not being operational and maintained, is naturalised and overgrown. Land near the proposed Winslow Station site is currently being developed, with some offices to the north and a housing estate to the south. Continuing east, the route approaches the south-western edge of Bletchley.

2.4 Route Section 2C is within MKC local authority area and includes the currently operational Bletchley Flyover (BFO) Line and Denbigh Hall Flyover (DHF) Line, which are double track. Within Route Section 2C, the existing railway corridor enters Bletchley on a viaduct structure before crossing the West Coast Main Line (WCML) and then passing east of Bletchley Station. Route Section 2C is an urban environment with a wooded embankment as it follows the B4034, curving east. To the north of Bletchley Station, the BFO Line branches into the DHF Line and onto the WCML towards Milton Keynes, as far as Denbigh Hall South Junction, to the north of the flyover. To the east, the BFO Line joins the Bletchley to Bedford Midland (BBM) Line, which is the start of Route Section 2D. There is currently no facility for passenger services that travel in an east to west direction to stop at the existing Bletchley Station.

2.5 Route Section 2D is within MKC, Central Bedfordshire Council (CBC) and Bedford Borough Council (BBC) local authority areas. Route Section 2D includes the BBM Line only. The existing railway is double track, except for two single track stretches: between Bletchley and the A5 overbridge; and between the Ampthill Road–Elstow Road link and Bedford Station. Between Bletchley and Bedford, there is a local stopping passenger service running one train per hour (tph) in each direction on the BBM Line. The route heads east of Bletchley, along the BBM Line, which is an operational railway that links with Bedford. A number of small stations serve the railway between Bletchley and Bedford, where the route passes through business parks, industrial estates and residential developments, including the residential area of Woburn Sands where there is a station adjacent to a level crossing.

- 2.6 Eastwards the railway corridor passes underneath the M1 south of Junction 13 and passes adjacent to the industrial units north of the M1 and Ridgmont Station. From here the railway corridor curves north, passing through the village of Lidlington where there is a station with platforms staggered either side of a level crossing. The railway then runs alongside Millbrook Proving Ground and through Millbrook Station. To the east it enters the south part of Bedford, crossing both the A421 and A5141 and the Midland Main Line (MML), and passing through a residential area, terminating at the centre of Bedford at Bedford Station, at the end of Route Section 2D.
- 2.7 Route Section 2E is within AVDC local authority area only. The Marylebone to Claydon L&NE Junction (MCJ) Line within Route Section 2E is currently single track, within a formation that previously accommodated double track. Freight trains currently run along the MCJ Line from the south via Aylesbury, to the Calvert Waste Transfer Station, using the railway sidings serving the Calvert landfill site and the Calvert Energy from Waste plant. There are currently no regular passenger services along the MCJ line north of Aylesbury Vale Parkway Station. Route Section 2E begins to the south of the HS2 Interface Area, following the MCJ Line, south. The surrounding agricultural landscape includes blocks of woodland (particularly north of Quainton) and the villages of Edgcott, Grendon Underwood and Waddesdon, to the west, and Quainton to the east.
- 2.8 The Buckinghamshire Railway Centre, a museum and local visitor attraction containing railway yards with locomotives and rolling stock, lies south of Quainton. Further south, the railway corridor crosses the A41 and passes through Aylesbury Vale Parkway Station. The MCJ Line north of Aylesbury Vale Parkway Station is open only to freight. Further southeast, the railway, which is also used by passenger services, enters Aylesbury through a predominantly industrial area, alongside Bear Brook before reaching Aylesbury Station, which is the end of Route Section 2E.
- 2.9 The HS2 Interface Area sits between OXD/29 Charndon Main Street (Route

Section 2A) and OXD/26B Queen Catherine Road (Route Section 2B) on the OXD Line, and on the MCJ Line (Route Section 2E). HS2 will run parallel to the MCJ Line for 7.6km, running north from Quainton to Claydon Junction then crossing under the realigned and raised OXD Line. Continuing north, HS2 will follow the Great Central Main Line track bed. HS2's Infrastructure Maintenance Depot will be constructed to the north of the OXD Line, near Steeple Claydon. The High Speed Rail (London West Midlands) Act 2017 (HS2 Act) authorises the Scheme's works within the HS2 Area including double-tracking and line-speed improvements to the OXD Line, and single-tracking (with passive provision of double-tracking) and line speed improvements of the MCJ Line.

3. THE CASE FOR THE APPLICANT (NETWORK RAIL INFRASTRUCTURE LIMITED)

The material points¹⁷ were:

- 3.1 The purpose of the draft Order before the Inquiry is to provide NR and its Eats West Rail (EWR) Alliance partners with the powers they require in order to deliver the second phase of the EWR programme. The Order covers the second phase of EWR, known as East West Rail Western Section Phase 2 (EWR2), which will complete development of the western section of EWR by 2024. From 2023, fast passenger services will run twice hourly from Oxford to Milton Keynes and hourly from Oxford to Bedford. From 2024, fast passenger services will run hourly from Aylesbury to Milton Keynes. The railway will also provide capacity for freight services.
- 3.2 EWR2 passenger services will serve stations at Oxford, Oxford Parkway, Bicester Village, Milton Keynes, Bedford and Aylesbury; a new station at Winslow; and upgraded stations at Bletchley, Woburn Sands, Ridgmont and Aylesbury Parkway. Passenger services will operate at speeds of up to

¹⁷ Document NR289

100mph between Bicester and Bletchley, up to 90mph between Aylesbury Vale Parkway and Claydon, and up to 60mph between Bletchley and Bedford.

- 3.3 The Scheme is described in detail in the ES¹⁸ and in two detailed map books¹⁹. Construction will begin with the reinstatement and upgrade to modern standards of the existing railway corridor between Bicester and Bletchley, programmed to begin in late 2019 and to be completed by the end of 2023. A programme of more limited improvements and associated highway works to the existing, operational railway between Bletchley and Bedford will take place within that four-year period. The works needed to upgrade the existing railway corridor between Claydon Curve and Aylesbury will be carried out between mid-2021 and the end of 2024. Construction of a section of the EWR2 railway at Calvert in Buckinghamshire has already been authorised by the HS2 Act²⁰. That part of the works is known as the HS2 Interface Area. Works within the HS2 Interface Area will also have been completed in time to enable EWR2 services to begin operation from 2023 and 2024.

Statement of Matters

(1) The aims of, and the need for, the Scheme

- 3.4 The need for the Scheme rests on the following needs:
- (a) to improve public transport connectivity between Oxford, Milton Keynes, Bedford and Aylesbury;

¹⁸ Document NR16 ES Volume 2.i 'Project Wide Assessment', Chapter 2 and Volume 4 Figures 1.1 to 2.3

¹⁹ Document NR16 ES Volume 4 Scheme Drawings (134 map sheets corresponding to the route sections and off route temporary highway works) and Environmental Design Drawings (98 map sheets corresponding to the Environmental Mitigation Schedule in Volume 3 Appendix 2.3)

²⁰ Document NR24

- (b) to support and stimulate economic growth across the Oxford-Cambridge Arc and to enable that region to realise its full economic potential in the national interest;
- (c) to support and complement the Government's wider programme of investment in the Arc; and,
- (d) to reinstate the railway along the existing rail corridor between Oxford, Bletchley, Milton Keynes, Bedford and Aylesbury in order to facilitate and support planned short and medium-term housing and economic growth promoted through current and emerging development plans of Local Planning Authority (LPA) members of the East West Rail Consortium (EWRC).

3.5 The Scheme enjoys unequivocal support in both national and local transport and planning policy as a key element of transport infrastructure to be delivered in order to meet those needs. In 2017, the Government responded to the National Infrastructure Commission's (NIC's) report 'Partnering for Prosperity: A new deal for the Cambridge-Milton Keynes-Oxford Arc' by endorsing the principle of accelerating delivery of the Scheme to see the first passenger services operating in 2023. The EWRC gave evidence to the public inquiry expressing its strong support for the Scheme. The Scheme will play a key role in transforming the Oxford-Milton Keynes-Cambridge Arc. It has widespread support at all levels of government and within the wider community.

3.6 The key objectives of the Scheme²¹ are summarised as:

- (a) To improve east-west public transport connectivity through rail links between Oxford, Bicester, Bletchley and Milton Keynes, and between

²¹ Documents NR53: pages 18 to 19 paragraphs 5.1.1 to 5.1.4 and NR00 paragraph 5.4 and Document NR53 page 29 paragraphs 6.6.5 to 6.6.6 for specific need for, and benefits of, the new station at Winslow, platforms at Bletchley and Aylesbury Vale Parkway and platform extensions at Woburn Sands

Aylesbury, Bletchley and Milton Keynes. EWR2 solves the current problem of difficult, slow and unreliable trips across the east-west corridor of England. Commuting by rail between key hubs in this east-west corridor is currently almost non-existent. This key area of economic activity does not function as a single labour market. The Scheme will alleviate these problems by improving east-west public transport connectivity through rail links between Oxford, Bicester, Bletchley and Bedford, and between Aylesbury, Bletchley and Milton Keynes. Current journey times by train and by car will be very substantially reduced.

- (b) To meet initial forecast passenger demand through new and reliable train services. The Scheme has been planned and assessed to support the current and proposed service pattern stated in the ES²² with passenger services assumed to come into operation from 2023 and to grow to full operation by 2035. The Scheme will help to meet projected increases in travel demands driven by population growth and planned housing development. It will provide fast and frequent passenger services between Oxford, Bicester, Milton Keynes, Bedford and Aylesbury.
- (c) To stimulate growth across the Oxford-Cambridge Arc, which has been earmarked by the NIC as a national priority due to its world-class research, innovation and technology. The Oxford-Cambridge Arc can compete on the global stage as a single, knowledge-intensive cluster. The Scheme will have a significant role in its transformation by stimulating economic growth, housing and employment. The Oxford-Cambridge corridor has undergone comparatively high population growth in the last 30 years. Yet notwithstanding higher than average house-building rates, there is a severe under-supply of housing. This has led to prospective workers being priced out of local markets,

restricting employers' access to labour. The Scheme will play a key role in unlocking the constraints that result in this under-supply of housing by enabling the local infrastructure needed to release land for new housing to be served by fast and efficient new train services. The Government's ambition is for one million homes to be built in the area by 2050. Transformational housing growth has the support of the local authorities. The EWRC supports the Scheme as a key driver to its delivery.

- (d) To contribute to improved inter-regional passenger connectivity and journey times. The Scheme will facilitate interchange between the Great Western network at Oxford, the Chiltern Mainline at Bicester, the London to Aylesbury line at Aylesbury, the WCML at Bletchley and the MML at Bedford. This will avoid the need for time-consuming interchanges via London and remote parts of the Network.
- (e) To maintaining current capacity for rail freight and make possible new freight flows between Oxford (Great Western Mainline), Milton Keynes (WCML) and Bedford (MML). This has the potential to remove a number of lorries that would otherwise take up space on congested local and national roads.
- (f) To make appropriate provision for future demand and economic growth. An appropriate balance is struck between the initial capital costs of the Scheme and planning for future development of the Network, such as ensuring that new overbridges installed as part of the Scheme are built to a sufficient specification to allow for future electrification.
- (g) To provide a sustainable transport solution to support economic growth. The Scheme will positively contribute to tackling climate change by

²² Document NR16 Volume 2i Chapter 2 pages 2-56 to 2-58.

minimising the potential adverse impacts of growth through a more sustainable means of travel than other alternatives.

- 3.7 There is a compelling case for the Scheme to reinstate to modern engineering and environmental design standards an operational railway along the existing railway corridor between Bicester, Bletchley and Milton Keynes and between Aylesbury, Bletchley and Milton Keynes. That compelling case extends also to the engineering and environmental works proposed under the Scheme, in order to enable the increased use of the existing Marston Vale Line between Milton Keynes and Bedford as proposed under the Scheme. It is in the public interest to reinstate the railway as proposed under the Scheme and to bring this unused or under-used railway infrastructure back into effective use, in order to realise the aims and objectives²³.
- 3.8 Authorisation of the Scheme will present opportunities for NR, LPAs and developers along the line of the route to work together, enabling developers to plan and deliver the further infrastructure needed to unlock their development sites in a timely manner. In this way, the opportunities created by public investment in the railway may be realised in the public interest. NR will continue to work together with land owners and developers to reach appropriate agreements to enable developers to realise and build on such opportunities. It is, nevertheless, essential that the Order makes the necessary provision to enable NR to construct and deliver the Scheme in a timely and economic manner. Where NR, land owners and developers have been, or are able to, reach agreement to take forward the above mentioned opportunities, it is necessary that the Order should continue to enable NR to complete construction of the Scheme in accordance with its powers: (i) to enable existing public and private rights affected by the works authorised by the Order to be properly safeguarded and accommodated (e.g. through the

²³ Documents NR53 pages 18 to 20; NR56 and NR109: 'The Case for East West Rail, Western Section Phase 2': The economic case for the Scheme

provision of grade separated or alternative at grade crossings where the Order proposes the closure of an existing level crossing); and (ii) to allow for the risk that matters do not develop as envisaged by the parties to such agreements.

(2) The main alternatives considered by NR and the reasons for choosing the proposals comprised in this project

- 3.9 The Scheme is, fundamentally, a railway reinstatement project; it seeks to reinstate into operation and to modern engineering and environmental design standards an existing railway corridor through Route Sections 2A, 2B and 2E. Through Route Sections 2C and 2D, the Scheme is already a live railway. These factors have determined the main parameters of the Scheme.
- 3.10 The Governance for Railway Investment Projects (GRIP) is NR's management and control process for delivering projects on the operational railway and is mandatory for all significant projects. NR has developed this approach to managing projects in order to minimise and mitigate the risks associated with delivering them. It is based on best practice within industries that undertake major infrastructure projects and practice recommended by the major professional bodies. Under the GRIP approach a project is divided into eight distinct stages. Within each GRIP stage an agreed set of products are delivered, resulting in a product-driven rather than process-driven approach. Formal stage gate reviews are held at various points within the GRIP lifecycle. The stage gate review process examines a project at critical stages in its lifecycle to provide assurance that it can successfully progress to the next GRIP stage. EWR2 is currently at GRIP 4 (Single Option Development). GRIP 1 (Output Definition) and 2 (Pre-feasibility) were completed in June 2015. GRIP 3 (Option selection and initial development) was completed in July 2017 by the EWR Alliance on behalf of NR²⁴.

²⁴ Document NR53 page 21 section 6.1

- 3.11 The GRIP 1 and 2 development work undertaken by NR primarily consisted of an assessment and revalidation of a report which the EWRC had previously commissioned outlining proposals for EWR2. In addition to the proposals put forward in the EWRC's report, NR was also instructed by the DfT to assess the feasibility of some additional train service options. Development work was primarily focussed on whether EWR2 should progress in delivering a 'Core' Train Service Specification (TSS), broadly resembling the TSS in the EWRC's report, or an 'Incremental' TSS, including several more train services.
- 3.12 In December 2015, at an early stage in GRIP 3, a series of option selection exercises were undertaken involving representatives from across the rail industry in order to select a single option train service and to determine key decisions on the project's physical infrastructure scope. As a result of these workshops, DfT instructed that the 'Incremental' TSS should not be progressed further into GRIP 3. This decision was due to the additional cost and viability challenges associated with the incremental TSS option, and the fact that the Core TSS aligned with the overarching aims of the Scheme and provided significant benefits in terms of improved journey opportunities, connectivity, and economic growth. As such the Core TSS was selected as the 'single option', meaning that it became the sole TSS to inform and shape the project's physical infrastructure scope for the purposes of design and construction. GRIP 3 design work was completed in December 2016 in the areas outside of the HS2 interface, and in July 2017 within it.
- 3.13 The main alternatives considered in the ES²⁵ were:
- The 'do nothing' alternative - a consideration of the effects if the project is not delivered.
 - High level strategic alternatives - a consideration of the non-rail options to transport improvements in the region.

²⁵ Document NR16 ES Volume 2i Chapter 3

- Strategic rail alternatives - the options for rail alternatives to location, scale and layout considered during the project feasibility phases.
- Local design alternatives - considerations include the new station at Winslow, high level platforms at Bletchley Station, Aylesbury Vale Parkway Station platform, crossings and bridge structures, the construction access strategy, the transport of materials to and from the project area during construction and the location of compounds.
- Sustainable design process - consideration of design alternatives to avoid or reduce impacts upon the environment and communities.

3.14 Throughout the development there has been a number of reviews and infrastructure changes to ensure the Scheme can demonstrate Value for Money (VfM) whilst still meeting the overarching aims and outputs of the Scheme²⁶. These include:

- (a) Integration of designs and timescales with HS2 so that some elements of the EWR2 scope are being delivered by HS2 Ltd under their previously granted powers.
- (b) Princes Risborough to Aylesbury Line Upgrade - a decision was made, based on a VfM exercise which confirmed that an upgraded 80mph single line would only provide a minimal increase in capacity at a cost of £110 million and development work that had identified significant challenges with linking the West Coast and Chiltern mainlines, where pathing opportunities are limited. As a result of these challenges, the DfT instructed NR to amend the TSS to provide an Aylesbury to Milton Keynes service, rather than a Marylebone to Milton Keynes service.
- (c) Electrification - In 2015, the DfT took the decision to defer implementation of the 'Electric Spine' project. Because of this decision, electrification of EWR2 was reduced to cover the route between Oxford

and the WCML at Bletchley only. Subsequently, in October 2016, the DfT announced that plans to electrify the route between Oxford and the WCML were also to be removed from the scope of EWR2. The decision was made to defer the electrification of EWR indefinitely to allow project resources to be focused on opening the EWR2 section of the railway at the earliest opportunity, but any proposed new structures being built as part of the project (including highway and footbridges) will allow sufficient clearance to accommodate electrification, should it be pursued in the future.

- (d) Removal of 'inter-regional' passenger service and replacement of it with a second hourly Oxford to Milton Keynes service as a result of an instruction issued by the DfT to NR in January 2017, due to timetable analysis work which demonstrated that there was insufficient capacity on the WCML between Bletchley and Hanslope Junction and north of Crewe to provide paths for an hourly service to Manchester Piccadilly.
- (e) December 2016 to Summer 2017 - Value Engineering exercises were carried out which resulted in the removal of the dual tracking between Aylesbury and Claydon, the removal of the hourly freight path between Oxford and the WCML and a reduction in platform lengths at Aylesbury Vale Parkway and Winslow Stations and Bletchley High Level Station. The platforms were reduced from a length capable of facilitating an 8-Car train to a length capable of facilitating a 4-Car maximum train, in order to accommodate the 3-Car units currently proposed within the TSS and the predicted passenger numbers within the business case.

(3) The justification for the particular proposals in the draft TWAO, including the anticipated transportation, environmental and socio-economic benefits of the project

3.15 The Scheme is supported at all levels of government. In terms of transportation and socio-economic benefits, 'The Case for East West Rail, Western Section Phase 2' states²⁷:

'1.5 EWR strategic objectives include improving public transport connectivity. It is also a key part of realising the economic potential of the Oxford Cambridge Arc (the Arc). It complements the government's wider programme of investment in the Arc, including the 'Oxford to Cambridge Expressway', promoted by Highways England under the Roads Investment Strategy.'

3.16 Furthermore²⁸:

'1.8 The benefits quantified in the BCRs²⁹ presented in this report include transport user benefits and some wider economic impacts in line with DfT's transport appraisal guidance (WebTAG).

- The majority of the quantified benefits in this report relate to the direct transport impacts of the scheme, the transport user benefits. These include improved connectivity and journey times for rail users and benefits related to a reduction in travel by car, compared to the future situation without EWR Phase 2. Changes in expected emissions from cars and rail vehicles are also quantified and included in the transport user benefits.*

²⁷ Document NR109 page 4

²⁸ Document NR109 pages 5 and 6

²⁹ Benefit/Cost Ratio

- *Wider economic impacts are additional to the direct transport user benefits. They include improvements in productivity through agglomeration – having the effect of bringing people and businesses closer together through improved connectivity and journey times.*

1.9 It is also likely that EWR (Phase 2 and the complete programme) will bring other benefits to the Arc. These tend to be harder to quantify, some involve estimating changes in land-use as a result of EWR. These sorts of potential impacts, not quantified in this report, include:

- *Enabled development: housing, or commercial development (or redevelopment), which is enabled as a result of the scheme.*
- *Other wider effects on labour markets, investment and supply chains, these are also areas where EWR has the potential to generate benefits that are beyond those in the transport market.*
- *Freight benefits: EWR is being built to be able to accommodate rail freight. Phase 2 is likely to provide additional opportunities and cost savings for moving freight by rail, which has the potential to deliver additional direct benefits, lower costs to freight users, and indirect benefits by removing some freight traffic from the roads.'*

3.17 It is inherent in the arguments made by supporters at the Inquiry³⁰ that the Scheme is justified. The further elements that these supporters urged the SoS to consider were principally electrification, with additional future-proofing of railway structures to enable its later introduction, increased freight usage and the double-tracking of the railway in Route Section 2E. In relation to electrification, the Scheme draws the correct balance between future-proofing and cost³¹. In terms of freight usage, the Scheme is designed to W12 gauge standards and thus enables future freight operations, with the real constraint

³⁰ Supporters Railfuture (SUP 327) Lindsay Milne (SUP 310) John Henderson (SUP 373) and Leonard Lean (SUP 415)

³¹ Evidence of Martyn Angus and Simon Croft

being within capacity demands on the wider rail network which is a matter that lies outside the scope of the Order. As to double-tracking the line from Aylesbury to Milton Keynes, current and projected passenger demand does not support the inclusion of that element within the Scheme (powers exist under the HS2 Act to enable double-tracking of the railway through the HS2 Interface area south of Calvert). These points raised by supporters of the Scheme do not call into question the justification for the Order.

- 3.18 With respect to environmental benefits, the Scheme will bring the benefits that are inherent to railways. In particular, it will contribute to tackling climate change, by minimising the potential adverse impacts of growth through providing a more sustainable means of travel than other alternatives, particularly the private car.
- 3.19 The Scheme uses an existing railway corridor and, to the east of Milton Keynes, an existing operational railway. The existence of this clear, well-defined route means that the extent of the works required, and therefore the amount of disruption, is considerably more limited than would be the case with a completely new alignment³².
- 3.20 The principal potential environmental impacts of the Scheme during construction and operation are landscape and visual impacts, impacts on ecology, noise and vibration and flood risk. In order to limit these impacts to the reasonable minimum, the environmental design of the Scheme is founded upon the established hierarchy of avoidance, mitigation and compensation³³. The Scheme has taken the approach to limiting environmental impacts through embedded design measures and construction management³⁴. Furthermore, NR has committed to delivering a biodiversity net gain of 10%³⁵. Delivery of measures to fulfil this commitment will be controlled under a condition to be

³² Document NR51 page 6 paragraphs 3.1.1 to 3.1.3

³³ Document NR16: ES, Volume 2i Chapter 2, pages 2-28 to 2-32, paragraphs 2.4.78 to 2.4.96

³⁴ Documents NR00 and NR48 pages 7 to 12 sections 1.4 to 1.5

imposed on the deemed planning permission. In light of the scale of the Scheme, this is a significant environmental benefit.

(4) The extent to which proposals in the TWAO are consistent with the NPPF, and with sub-regional and local transport, environmental and planning policies

3.21 The Scheme complies with the following national policies:

- (i) National Infrastructure Delivery Plan 2016-2021³⁶ under the heading 'Key projects and programme' states '*Phase 2 linking Oxford to Bedford and Milton Keynes is being developed and construction will start as soon as possible.*'³⁷ EWR is listed as one of the significant projects that '*will help to unlock major housing development*'³⁸ and as a priority to 2020-21³⁹.
- (ii) NIC- 'Partnering for Prosperity: a new deal for the Cambridge-Milton Keynes-Oxford Arc' (2017)⁴⁰ states '*Cambridge, Milton Keynes and Oxford are amongst the UK's most productive, successful and fast growing cities...To maximise the economic potential of this arc...we must invest in the continued growth and success of these cities and their surrounding areas.*'⁴¹ and '*National investment in the East West Rail project [EWR] and the proposed Oxford-Cambridge Expressway present a once-in-a-generation opportunity. These schemes will enhance connectivity across the arc, expanding the labour markets of key towns*

³⁵ Documents NR207, NR208 and NR209

³⁶ Documents NR63 and NR49-1 Appendices Tab 2

³⁷ Document NR63 page 36

³⁸ Document NR63 page 72 paragraph 11.8

³⁹ Document NR63 page 108 Table 15A: Although it refers expressly to Phase 1, the fact that this is included as a priority to 2020-21 and that it notes 'Phase 1 Complete (2016)' suggests that this is also a reference to EWR

⁴⁰ Documents NR65 and NR49-1 Appendices Tab 4

⁴¹ Document NR65 page 7

*and cities, as well as improving connections with international gateways such as Heathrow.*⁴²

(iii) NPPF⁴³-

- The Scheme accords with all of the local development plans and therefore paragraph 11 applies which for decision taking means *'approving development proposals that accord with an up-to-date development plan without delay'*.
- Paragraph 59 states that *'it is important that a sufficient amount and variety of land can come forward where it is needed'* in order *'[t]o support the Government's objective of significantly boosting the supply of homes'*.
- Paragraph 72 provides that, in identifying suitable locations for housing development, strategic policy making authorities should *'consider the opportunities presented by existing or planned investment in infrastructure, the area's economic potential and the scope for net environmental gains'*.
- Paragraph 80 states that, *'Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development'*. Footnote 40 also refers to the Government's Industrial Strategy setting out *'a vision to drive productivity improvements across the UK'*.

⁴² Document NR65 page 8

⁴³ Documents NR62 and NR49-1 Appendices Tab 1- The February 2019 update does not materially alter the relevant paragraphs

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- Section 9 is headed 'Promoting sustainable transport' which, amongst other things, calls for planning policies: *'[To] provide for any large scale transport facilities that need to be located in the area⁴⁴, and the infrastructure and wider development required to support their operation, expansion and contribution to the wider economy. In doing so they should take into account whether such development is likely to be a nationally significant infrastructure project and any relevant national policy statements.'*
- (iv) National Policy Statement for National Networks (2014)⁴⁵ states under the Government's 'vision and strategic objectives for the national networks' that *'The Government will deliver national networks that meet the country's long-term needs; supporting a prosperous and competitive economy and improving overall quality of life, as part of a wider transport system.'*⁴⁶ and concludes that *'there is a compelling need for development of the national works – both as individual networks and as an integrated system.'*⁴⁷ Under 'The need for development of the national rail network' it states that *'Rail transport has a crucial role to play in delivering significant reductions in pollution and congestion.'*⁴⁸ Paragraph 2.38 provides that: *'Substantial investment in infrastructure capacity – particularly on interurban routes between our key cities, London & South East routes and major city commuter routes – will be needed. The maintenance of a competitive and sustainable economy against a background of continued economic globalisation will mean that there is a need to support measures that deliver step change improvements in capacity and connectivity between key centres, by speeding up journey times and encouraging further modal shift to rail.'*

⁴⁴ Examples include public transport projects

⁴⁵ Documents NR66 and NR49-1 Appendices Tab 5

⁴⁶ Documents NR66 paragraph 2.2

⁴⁷ Documents NR66 paragraph 2.10

⁴⁸ Documents NR66 paragraph 2.35

The Government will therefore consider new or re-opened alignments to improve capacity, speed, connectivity and reliability.'

3.22 The Scheme complies with the following local policies (emerging local plans do not conflict with existing local plans on the subject of EWR2):

- (i) Buckinghamshire Thames Valley Strategic Economic Plan Refresh (2016-2031)⁴⁹ under the heading 'Connectivity' repeats that the Buckinghamshire Thames Valley Local Enterprise Partnership (BTVLEP) 2014 Strategic Economic Plan said that it would prioritise '*Making our major transport infrastructure fit for our economic purpose.*' and states that they also prioritised investments in transport solutions which '*Improved connectivity between major settlements & key economic centre's [sic]*' and also '*...between major settlements & rail connections.*' Paragraph 8.16 states that '*BTVLEP was one of the first organisations to feed into the Strategic Alliance Transport Strategy highlighting the importance of...East West Rail [EWR]*'. Paragraph 8.17 states that, '*As an area of unique economic potential, BTVLEP welcomes the NIC⁵⁰ review of the Oxford to Cambridge Arc. To fully realise this potential we would hope that the NIC recognises the potential of the area as a whole will have to be addressed. In particular, the largely rural area between the cities has both the desire and potential to enhance this subregional growth.*' Paragraph 8.20 provides that, '*BTVLEP believes the NIC must ensure that the East West Rail [EWR] investment is fully electrified and delivered without unnecessary delay.*' Paragraph 8.17 sets out BTVLEP's key connectivity priorities to 2020, which include, '*Supporting the work of the National Infrastructure Commission in relation to east-west connectivity through the Cambridge – Milton Keynes – Oxford corridor.*'

⁴⁹ Documents NR67 and NR49-1 Appendices Tab 6

⁵⁰ National Infrastructure Commission

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- (ii) Buckinghamshire County Council Local Transport Plan 4 (2016-2036)⁵¹ Policy 4 provides for under the heading 'Maximising our rail network': *'We will work in partnership with key stakeholders to develop a reliable rail transport network that: provides effective access within the county; links us to the rest of the country; and is integrated with other modes of transport, including airports.'* To achieve its aims, Buckinghamshire County Council (BCC) will *'Continue to work as an active member of the East West Rail Consortium [EWRC]. Supporting the earliest possible delivery of East West Rail [EWR] services. East West Rail [EWR] will support economic growth, new housing and jobs. It connects Aylesbury to Milton Keynes, provides a new station at Winslow, and improves service capacity between Aylesbury and Princes Risborough.'*⁵² Policy 5 states that, *'We will work to ensure that HS2 is built with minimal disruption to residents and that it brings benefits to Buckinghamshire: including a new East West Rail station⁵³ in the north of the county and high-quality restoration of construction sites.'* The need for EWR is set in a case study⁵⁴.
- (iii) Connecting Oxfordshire: Local Transport Plan 2015-2031⁵⁵ Policy 9 states that, *'Oxfordshire County Council will work with the rail industry to enhance the rail network in Oxfordshire and connections to it, where this supports the county's objectives for economic growth.'* One of the strategic rail priorities includes *'Supporting the EWR consortium [EWRC] and Network Rail in the design and delivery of EWR Phases 1 and 2.'*⁵⁶
- (iv) Cherwell Local Plan 2011-2031 (July 2015)⁵⁷ Policy SLE 4 is headed 'Improved Transport and Connections' and states that, *'We will support*

⁵¹ Documents NR68 and NR49-1 Appendices Tab 7

⁵² Document NR68 pages 29 and 30

⁵³ The reference to a new station relates to Winslow Station as part of the Scheme

⁵⁴ Document NR68 page 31

⁵⁵ Documents NR69 and NR49-1 Appendices Tab 8

⁵⁶ Document NR 69 Paragraph 109

⁵⁷ Documents NR70 and NR49-1 Appendices Tab 9

key transport proposals including...projects associated with East West rail [EWR]including new stations at Bicester Town and Water Eaton.⁵⁸ The plan states that 'New rail investment provides the opportunity to both strengthen the role of the two towns and their locations as places to live and work. The new East - West rail project [EWR2] will strengthen the location of Bicester through a vastly improved connection and service links to Oxford, Milton Keynes and Bedford.'⁵⁹

- (v) Aylesbury Vale District Local Plan 2004⁶⁰ Policy GP25 states that, '*The Council will resist development that might prejudice the use of the rail route running through the District between Bicester and Bletchley, and the northward link from Aylesbury, by passenger and freight services. In considering proposals for any associated rail development the Council will protect the amenities of occupiers close to the route.⁶¹ Policy GP26 states that, 'Provision is made for railway stations on sites defined on the Proposals Map at Winslow, Quainton and Calvert⁶². The Council will resist development that would prejudice station schemes or related rail transport proposals for these sites.'*
- (vi) Vale of Aylesbury Local Plan: Submission draft 2013-2033 (2017) (VALP)⁶³ Policy S2, headed 'Spatial strategy for growth' at (d) states that '*Strategic growth and investment will be concentrated in sustainable locations as follows... Winslow will accommodate growth of 1,166 new homes, linked with the development of East-West Rail [EWR]*

⁵⁸ Document NR70 page 55

⁵⁹ Document NR70 page 54 paragraph B.78

⁶⁰ Documents NR71 and NR49-1 Appendices Tab 11

⁶¹ Document NR71 page 39

⁶² Although there is no proposal for a station at Quainton or Calvert within the Scheme, AVDC does not oppose the Scheme on that basis

⁶³ Documents NR72 and NR49-1 Appendices Tab 10: The Inspector for the hearing on the Plan in July 2018 has provided his interim findings which set out modifications that are still being finalised and there is currently no timetable in place for consultation on the proposed modifications but none alter the strategic policy support for EWR2, nor its importance in relation to sustainable site allocations

*and the new station in Winslow.*⁶⁴ Policy T2, headed 'Protected Transport Schemes' provides that *'Planning permission will not be granted for development that would prejudice the implementation of existing or protected transport schemes including the implementation of the East West Rail project [EWR2] including new stations and twin tracking to the south of Aylesbury.'*⁶⁵

(vii) Milton Keynes Core Strategy (2013)⁶⁶ Policy CS11, headed 'A Well Connected Milton Keynes' states that, *'The Council will work with neighbouring local authorities and transport providers to meet the demand for: increased movement of people and goods, improved accessibility across the Borough, improved safety and quality of life and a reduction in the Borough's carbon footprint.'*⁶⁷ Paragraph 11.15, which expands upon Policy CS11, states that, *'Milton Keynes Council accepts that East-West Rail [EWR] will contribute to the growth and development of Milton Keynes and provide an excellent opportunity for the Borough in both the local and regional context which will provide significant economic, environmental and social benefits. Milton Keynes Council is a member of the Joint Delivery Board set up by the East-West Rail Consortium [EWRC] as a means of engagement for the eight authorities East-West Rail [EWR] will run through.'*

(viii) Plan:MK (2019)⁶⁸

- Objective 12, which is one of the 17 key strategic objectives, is *'To manage increased travel demands through... Promoting improvements to public transport and supporting the development of the East-West rail link between Oxford and Cambridge [EWR],*

⁶⁴ Document NR72 page 34

⁶⁵ Document NR72 page 205

⁶⁶ Documents NR77 and NR49-1 Appendices Tab 16

⁶⁷ Document NR77 page 74

⁶⁸ Documents NR88 and NR49 Appendices Tab 27 are the version submitted for examination which has since been modified to the adopted Plan:MK (March 2019) that is referred to

*including the Aylesbury Spur.*⁶⁹ The 'Target' in this respect is to '*Assist in delivering East West Rail services to Oxford and Aylesbury by 2023/2024 [EWR2].*'

- Paragraph 4.17⁷⁰ refers to EWR as a '*key infrastructure project*' and the importance of future housing development not prejudicing its delivery.
- Policy SD16 'Central Bletchley Prospectus Area', states that: '*The Council is seeking to deliver transformational regeneration of Central Bletchley over the plan period in conjunction with the proposed delivery of East-West Rail (EWR) services. The key point about EWR is that it will place Bletchley at the intersection of strategic east-west and north-south rail routes, linking key centres of economic activity, both within and beyond the South East Midlands Local Enterprise Partnership area. The increased accessibility and connectivity created by EWR will act as a catalyst for new investment in Bletchley.*'⁷¹
- Policy CT1, headed 'Sustainable Transport Network' provides that, '*The Council will promote a sustainable pattern of development in Milton Keynes, minimising the need to travel and reducing dependence on the private car*'. In particular, it requires MKC to '*Continue to engage with relevant stakeholders along the East-West Rail [EWR] line and Expressway to identify operational benefits, which provide additional support for a more sustainable transport strategy and/or economic growth of the city.*'⁷²
- Policy CT5, headed 'Public Transport', commentary states that, '*The Council will develop the quality and capacity in public transport by...*

⁶⁹ Document NR262 Plan:MK page 9 and Appendix F page 255

⁷⁰ Document NR262 Plan:MK page 15

⁷¹ Document NR262 Plan:MK page 68

Working in partnership with transport providers and other stakeholders to bring forward improvements to public transport infrastructure and services in Milton Keynes, and support the development of an East West Rail link [EWR] and Oxford to Cambridge Expressway.⁷³

- Policy CT7, headed 'Freight', provides that, *'Planning permission will not be granted for development that would prejudice the implementation of national infrastructure projects including East West Rail [EWR] and Oxford to Cambridge Expressway. The Council will continue to work with transport providers and stakeholders to minimise impacts and maximise the potential benefits from the proposal.⁷⁴*

(ix) Milton Keynes: Local Transport Plan 3 (2011 to 2031)⁷⁵ Policy Ro10, included under the title 'Rail Interventions' under the sub-heading 'Delivery Date – Long Term' provides that *'East West Rail [EWR] and connections to major urban areas and national networks beyond, including construction of additional platforms at Bletchley and extension of a fifth track between Bletchley and Milton Keynes Central [sic]. The strategic infrastructure project will support economic growth and investment in new jobs and homes; provide for faster journeys between towns and cities to the north and west of London, avoiding the need to travel via the capital; provide an alternative to travel by road, reducing congestion and carbon emissions; and create increased capacity elsewhere on the rail network in the longer term. East West Rail [EWR] would link the knowledge economies of Cambridge and Oxford with Milton Keynes. Whilst the western section from Reading to Bedford via*

⁷² Document NR262 Plan:MK page 127

⁷³ Document NR262 Plan:MK page 133 paragraph 8.42

⁷⁴ Document NR262 Plan:MK page 135

⁷⁵ Documents NR81 and NR49 Appendices Tab 20

Oxford and Milton Keynes (with a spur to Aylesbury) has a stronger business case and is more likely to receive Central Government funding, Milton Keynes Council supports the construction of both sections, and direct services connecting Milton Keynes to beyond both cities. In order for Milton Keynes to receive East West Rail [EWR], high-level track and platforms will need to be constructed west of and at Bletchley; and for direct services to Milton Keynes Central, a fifth track will need to be constructed between Bletchley and Milton Keynes Central.'

- (x) BBC Local Plan 2002⁷⁶ Policy T9 states that, *'The Borough Council will encourage improved rail services to and from Bedford, the improvement of the Marston Vale Line⁷⁷ including improved parking provision, and the electrification of the route north of Bedford.'*⁷⁸ Policy T10 provides that, *'The Borough Council will encourage improved access to rail services and support the construction of new stations where these are consistent with the other policies of this plan and contribute to the review of the Bedford Integrated Transport Strategy.'*⁷⁹
- (xi) Bedford Borough Local Plan 2030 (Draft Plan for Submission)⁸⁰ Policy 94S, headed 'Transport infrastructure and network improvements' states that *'The Council will work with its partners, agencies and developers to deliver reduced congestion around the town centre and key strategic routes while promoting sustainable transport modes, through the consideration and the early provision of:... iv. East West rail scheme (Oxford/Bedford/Cambridge) [EWR].'*⁸¹ In the commentary to Policy 94S, EWR is described as a *'strategic infrastructure project'*.⁸²

⁷⁶ Documents NR86 and NR49 Appendices Tab 25

⁷⁷ The Marston Vale Line forms part of the Scheme

⁷⁸ Document NR86 page 115

⁷⁹ Document NR86 page 115

⁸⁰ Documents NR89 and NR49 Appendices Tab 28: The emerging plan has been submitted to the Secretary of State for examination

⁸¹ Document NR89 pages 152 and 153

⁸² Document NR89 page 151 paragraph 12.27

(xii) Bedford Borough Local Transport Plan (2011-2021)⁸³ Policy PT15 states that the 'Action' is to '*Support the work of the East West Rail Consortium [EWRC] for the reinstatement of rail services between Oxford/Milton Keynes/Bedford/Cambridge*'⁸⁴ which is said to support five of the Local Transport Plan's six objectives as follows⁸⁵-

- (1) To provide a reliable and efficient transport system, in order to support a strong local economy and facilitate sustainable growth;
- (2) To deliver improvements that encourage a reduction in transport emissions and greenhouse gases, in order to tackle climate change and develop a low carbon community capable of adapting to the impacts of climate change;
- (3) To promote greater equality of opportunity by providing opportunities for all residents to access key services and facilities;
- (4) To contribute to better safety, security and health by reducing death, injury or illness from transport and promoting travel modes that are beneficial to health; and,
- (5) To encourage and support a sustainable transport system that contributes to a healthy natural and urban environment.

(xiii) Central Bedfordshire Core Strategy (2009)⁸⁶ objective 7 of 11 strategic objectives calls for, '*Taking account of the rural nature of Mid Bedfordshire, reduce the need to travel, promote more sustainable transport modes, maximise capacity of the existing transport network and add additional capacity and new infrastructure where needed.*' The expressed 'Intended Effect' of this is listed as '*E-W Rail improvements [EWR] will have begun with enhanced accessibility through the Marston*

⁸³ Documents NR90 and NR49 Appendices Tab 29

⁸⁴ Document NR90 page 52

⁸⁵ Document NR90 page 48

⁸⁶ Documents NR82 and NR49 Appendices Tab 21

Vale Line to Milton Keynes and the West Coast Mainline. and *'The Marston Vale Line will have become a key element in delivering sustainable growth in the area.'*⁸⁷

(xiv) Central Bedfordshire Council Transport Strategy (2011)⁸⁸

- Paragraph 5.4, headed 'Spatial Strategy Approach', states that the plan seeks to: *'Deliver around 39,350 new homes through new villages, moderate extensions to existing towns and villages in line with the provision of new infrastructure and to meet identified housing need close to key transport corridors (East-west, A1/East Coast Mainline and M1/Thameslink). This includes 23,528 homes that are already planned for or built. ... Identify and deliver spatial options and strategic opportunities that could provide for longer term economic and housing growth across the corridor including through a Partial Plan Review. This growth will support, and must be supported by, new strategic infrastructure particularly the Oxford – Cambridge Expressway, A1 improvements and new rail stations/transport interchanges along the East West Rail route [EWR].'*⁸⁹
- The section headed 'The Proposed Locations for Growth', states that *'6.4.4 The future opportunities in this area for consideration in the Partial Plan Review are related to the proposed future strategic infrastructure investment committed for East-West Rail [EWR] and the Expressway. This strategy supports the proposed East-West rail route [EWR] and the Oxford-Cambridge Expressway and in turn the National Infrastructure Commission's central finding that the Oxford-Cambridge area which runs through Central Bedfordshire*

⁸⁷ Document NR82 pages 19 and 20

⁸⁸ Documents NR85 and NR49 Appendices Tab 23: the plan was submitted to the Secretary of State in April 2018 and the examination is expected to take place in May 2019

⁸⁹ Document NR85 page 31

provides a 'once in a generation opportunity' to be the UK's Silicon Valley, delivering growth in science, technology and innovation.

- *6.4.5 When delivered, these will strongly support the development potential of further large scale growth in the Marston Vale.⁹⁰*
- *Under the heading 'Employment and Economy': '12.1.15 Our approach to greater economic growth across Central Bedfordshire is further supported by the National Infrastructure Commission final report (November 2017) which re-emphasised that new east-west transport links present a once in a generation opportunity to secure the area's future success, and that to succeed in the global economy, the UK must build on its strengths. The arc connecting Cambridge, Milton Keynes and Oxford, which crosses through the north of Central Bedfordshire, could be Britain's Silicon Valley – a globally recognised centre for science, technology and innovation. Central Bedfordshire Council is therefore actively engaged and working collaboratively with neighbouring authorities and partners to secure future, economic-led growth across Central Bedfordshire and the wider strategic corridor in order to achieve the Governments ambitious growth proposals.'*

- (xv) Emerging Central Bedfordshire Council Local Plan 2015-2035 (2018)⁹¹
Section 9, headed 'Major Schemes', includes a section on EWR2 which states that '*Central Bedfordshire Council will continue to support the East West Rail Consortium [EWRC] in developing and delivering the Western section.*⁹²

⁹⁰ Document NR85 page 37

⁹¹ Documents NR84 and NR49 Appendices Tab 24

⁹² Documents NR84 page 101

(5) The likely impact of the exercise of the powers in the proposed TWAO on land owners, tenants and statutory undertakers, including any adverse impact on their ability to carry on their business and undertakings effectively and safely and to comply with any statutory obligations applying to their operations during construction and operation of the Scheme.

(a) the impact on roads, including the Strategic Road Network, from increased traffic and construction vehicles

- 3.23 The construction impact and operational impact of traffic generated by the Scheme is assessed in the Transport Assessment (TA)⁹³. At the close of the Inquiry substantial agreement has now been reached with both Highways England (HE) and with the local highway authorities whose areas are affected by traffic generated by construction and operation of the Scheme. A comprehensive highways condition which will regulate and control the impact of construction traffic has been agreed between NR and those authorities and will be imposed on the deemed planning permission. The draft CoCP⁹⁴ and Framework Construction Traffic Management Plan (CTMP)⁹⁵ will be finalised with the approval of the local planning and highway authorities under the terms of conditions to be imposed on the deemed planning permission.
- 3.24 The Inquiry has heard no evidence questioning the adequacy or effectiveness of the arrangements to control the impact of construction of the Scheme as set out in the evidence. This evidence includes a detailed description of the arrangements for the construction of the Scheme⁹⁶; plans of construction access routes, construction compounds and touch points⁹⁷; an account of the

⁹³ Document NR16 ES Volume 3 Appendix 14.1 and ES Volume 2i Chapter 14 reports the findings of the Transport Assessment

⁹⁴ Document NR16 ES Volume 3 Appendix 2.1

⁹⁵ Document NR16 ES Volume 3 Appendix 2.2

⁹⁶ Document NR16 ES Volume 2i Chapter 2 section 2.5

⁹⁷ ES Volume 4 Figure 2.1

proposed works in each route section of the Scheme⁹⁸; an explanation of and justification for the proposed construction arrangements⁹⁹; and an assessment and consideration of particular traffic and transport issues arising from the construction and operational impact of the Scheme¹⁰⁰. Operation of the conditions imposed on the deemed planning permission, which will control construction, traffic, noise, flood risk, land contamination and other impacts, provide a proper and effective basis upon which to proceed with the construction of the Scheme.

(b) the impacts on land use, including the effects on commercial property and the effect on other planned development in the area

- 3.25 Of those statutory objectors who raised concerns about the impact of the exercise of the powers under the Order on the existing use of their land or on their existing commercial activities, only the Trustees of the Woburn Estate/Bedford Estate (OBJ 114) have pursued their objection at the Inquiry. Otherwise, NR has provided a written response to those objectors with whom it has not (or not yet) been possible to reach agreement enabling them to withdraw their objection. NR relies both on the written evidence of its witnesses and upon the written responses that have been made to each outstanding objection.
- 3.26 A number of non-statutory objectors have raised concerns about the environmental impact of the Scheme upon their use and enjoyment of their land (OBJ 223 and OBJ 194 appeared at the Inquiry). Otherwise, NR has responded in writing to non-statutory objectors.
- 3.27 Of those objectors who raised objections to the Scheme on the grounds of its alleged impact on the planned or future development of land in their ownership or control, only M Spooner & D Spooner (OBJ 228), Gladman

⁹⁸ Document NR00 Chapter 4

⁹⁹ Document NR50 page 33 paragraphs 3.3.1 to 3.3.7

¹⁰⁰ Document NR55 pages 4-12 paragraphs 2.1.1 to 2.3.11 Technical Notes

Developments Limited (OBJ 229), J E Spooner (OBJ 230) and G W Fox (OBJ 231) (Gladman), H C Stock Will (OBJ 27) and the Trustees of the Woburn Estate/Bedford Estate (OBJ 114) presented their cases to the Inquiry. O&H Q6 Limited and O&H Q7 Limited (O&H) (OBJ 156) made a short position statement to the Inquiry but did not call evidence in support of their remaining objections. NR rely upon the evidence given in response to those objections where the owners or developers of land subject to planning or future development have not appeared at the Inquiry in support of their objections. NR has also provided a written response to those objectors with whom it has not (or not yet) been possible to reach agreement enabling them to withdraw their objection. It therefore relies both on the written evidence of its witnesses and upon the written responses that have been made to each outstanding objection.

3.28 Of those statutory undertakers who lodged objections against the draft Order, only Thames Water Utilities Limited (TWUL) (OBJ 226) appeared at the Inquiry, and in relation only to the terms of Article 19 of the Order, which concerns the proposed regulatory regime for the discharge of water by NR into any watercourse, public sewer or drain. Otherwise, NR has now reached substantive agreement with TWUL in relation to its objection. Western Power Distribution (OBJ 24), Anglian Water Services Ltd (OBJ 175), Arqiva (OBJ 186) and National Grid (OBJ 204) have withdrawn their objections.

(c) the impact on Public Rights of Way (PRoWs) and access to public amenities

3.29 Both the temporary and permanent impacts of the Scheme on PRoWs have been assessed in the TA¹⁰¹. Subject to the imposition of the agreed highways

¹⁰¹ Document NR16 ES Volume 3 Appendix 14.1 sections 4.7 and 4.8 give the baseline for both PRoWs and the cycle network, section 14.6 outlines the impact of the Scheme on PRoWs, tabulating both temporary and permanent changes to the PRoW network and ES Volume 2i Chapter 14 paragraphs 14.5.35 to 14.5.67 give an assessment of the impact of the Scheme on PRoWs, paragraphs 14.6.23 to 14.6.31 describe the mitigation measures and section 14.7 states the predicted residual effects

condition on the deemed planning permission, there are no outstanding objections from local highway authorities in relation to the impact of the Scheme on PRoWs. The Ramblers Association (OBJ 168) has withdrawn its objection. The objection presented to the Inquiry on behalf of Cycling UK (OBJ 243) has been addressed, and NR has provided a written response to the question raised by Fox Land and Property (OBJ 154) regarding the existing level of public use of Bridleway 0014 (Pony Crossing) at Bow Brickhill. As regards access to public amenities, NR has addressed the outstanding issues in relation to the closure of Woburn Sands School Crossing and Lidlington School Crossing and has summarised its written responses to those objections which raise concerns about the impact of the Scheme on the Cattle Arch.

(d) the impact from the cumulative effects of HS2

3.30 There is an area within which construction of the Scheme interfaces with the construction of HS2 under the powers of the HS2 Act¹⁰². NR has stated the approach to assessment of the combined effects of each project¹⁰³ and provided the key dates during which there will be an interface between the construction programme for HS2 and for the Scheme¹⁰⁴. The principal potential source of combined impacts from the construction of HS2 and the Scheme is in relation to the effects of construction traffic. For the purposes of the TA, the HS2 project is treated as an integral part of the baseline¹⁰⁵. Section 9 of the TA provides a detailed analysis of the impact of HS2 construction and operational traffic¹⁰⁶, and an assessment of the HS2 interface with the Scheme in relation to other potential areas of environmental impact has been provided¹⁰⁷. No issue was raised at the Inquiry in relation to these assessments of the combined effects of the Scheme and HS2.

¹⁰² Document NR16 ES Volume 2i Chapter 2 paragraphs 2.4.6 to 2.4.9

¹⁰³ Document NR16 ES Volume 2i Chapter 2 paragraph 2.4.9

¹⁰⁴ Document NR16 ES Volume 2i Chapter 2 paragraphs 2.5.10 to 2.5.13

¹⁰⁵ Document NR16 ES Volume 3 Appendix 14.1 paragraphs 7.2.5 to 7.2.7

¹⁰⁶ Document NR55 page 14 paragraphs 2.5.1 to 2.5.5

¹⁰⁷ Document NR16 ES Volume 2ii (HS2 Interface Area)

(6) The likely impact of level crossing closures including the impact of closing Woburn Sands School Crossing

- 3.31 The impact of the Scheme on vehicle queuing and delay at level crossings that are proposed to remain in operation; and the impact that closures of level crossings proposed under the Scheme will have on vehicles, pedestrians, cyclists and users of public transport have been assessed in the TA¹⁰⁸, which includes the impact on London Road, Bicester¹⁰⁹. The impact of closure of footpath level crossings, including Woburn Sands School Crossing and Lidlington School Crossing, is assessed as part of the assessment of permanent changes to the PRoW network¹¹⁰.
- 3.32 NR's general approach to level crossing closures is, in particular, to look to follow the ORR's guidance on reducing and controlling risk at level crossings¹¹¹. The ORR's policy 'Level Crossings: A guide for managers, designers and operators' states that '*Risk control should, where practicable, be achieved through the elimination of level crossings in favour of bridges, underpasses or diversions. Where elimination is not possible, ORR aims to ensure that duty holders reduce risk so far as is reasonably practicable and in accordance with the principles of protection.*'¹¹²
- 3.33 NR's detailed project strategy to level crossing closures¹¹³ is to target the closure of all existing crossings on route sections where there is a material change in risk as a result of the change in use, increases in train service frequency and change in line speeds.
- 3.34 The routes between Bicester and Bletchley and between Aylesbury and

¹⁰⁸ Document NR16 ES Volume 3 Appendix 14.1 section 14.5 Level Crossing Assessment

¹⁰⁹ Raised by Langford Village Community Association (OBJ 142)

¹¹⁰ Document NR16 ES Volume 3 Appendix 14.1 paragraph 14.6.6 onwards and ES Volume 2i Chapter 14 paragraph 14.5.35 onwards

¹¹¹ Document NR53 page 28 paragraphs 6.5.1 to 6.5.5 and pages 40 to 41 paragraphs 10.15.1-10.15.6

¹¹² Document NR214 page 5 paragraph 2

¹¹³ Document NR51 page 7 paragraph 3.3.1

Claydon (Sections 2A, 2B and 2E) will see substantial change of use, frequency of train services and speed, with regular services being introduced where there were previously little or none. The only credible option in this case is to pursue closure and resort to enhanced protection based on a risk assessment approach as a last resort where closure was not seen as possible, practical or cost effective. As a result of this approach, the project is proposing to close all level crossings on these route sections where it is carrying out major works¹¹⁴.

- 3.35 On the section of route between Bletchley and Bedford (Section 2D), there will be an increase in traffic required by the project from 1 tph (with occasional freight) to 2 tph (plus freight) but no change in the existing line speed. The approach taken has therefore been risk based using NR's All Level Crossings Risk Assessment Model (ALCRAM) assessment process¹¹⁵.
- 3.36 Existing crossings that have been identified as High Risk (classified as D4 or above under this process) as a result of their predicted scores were then targeted for closure and a detailed risk assessment review was carried out on each crossing by a specialist consultant, AEGIS, which led to decisions being taken to close some of the existing highways and accommodation crossings. In addition, other crossings along the route were assessed to see if the project provided a 'reasonable opportunity' in line with the ORR policy, to close them where possible¹¹⁶.
- 3.37 Where a crossing is proposed to be closed, an alternative method for crossing the railway has been identified, and this has been assessed for its diversity impacts as part of the overall assessment of the effects of closure.

(7) The likely environmental impacts of constructing and operating the project

- 3.38 The ES, published on 27 July 2018, assesses the likely significant

¹¹⁴ Document NR51 page 7 paragraph 3.3.2

¹¹⁵ Document NR51 paragraph 3.3.3

¹¹⁶ Document NR51 paragraphs 3.3.4 to 3.3.5

environmental effects of the Scheme on land use and agriculture; cultural heritage; air quality; ecology; noise and vibration; geology, soils and land contamination; landscape and visual impact; water quality and flood risk; and traffic and transport. It considers intra-scheme and inter-scheme cumulative impacts, the latter based on 'Reasonably Foreseeable Future Projects' (RFFP)¹¹⁷. NR published the FEI¹¹⁸ in November 2018 following further ecological survey work carried out throughout 2018. For each of the environmental topics in Volume 2i of the ES¹¹⁹ there is a summary under the sub-headings 'scope of assessment', 'potential effects', 'mitigation' and 'residual effects' at the beginning of the chapter, and a table at the end of each chapter which summarises the principal findings¹²⁰.

(8) The measures proposed by NR to mitigate any adverse impacts of the project including:

(a) the proposed CoCP

3.39 The draft CoCP¹²¹ and Framework CTMP¹²² will be finalised with the approval of the local planning and highway authorities under the terms of conditions to be imposed on the deemed planning permission. They will be used to control the environmental impacts of construction of the Scheme.¹²³ Construction access routes, construction compounds and touch points are shown on the plans¹²⁴.

¹¹⁷ Document NR16 Volume 2i Chapter 15

¹¹⁸ Document NR47

¹¹⁹ Document NR16 Volume 2i Chapters 6 to 14

¹²⁰ Document NR48 describes and explains, for each environmental topic, the main findings of the environmental impact assessment set out in the ES and Document NR54 provides a comprehensive account of the likely ecological effects of constructing and operating the Scheme on habitats and species, based upon ES Volume 2i Chapter 9 and Volume 2ii and the FEI

¹²¹ Document NR16 ES Volume 3 Appendix 2.1

¹²² Document NR16 ES Volume 3 Appendix 2.2

¹²³ Document NR48 page 12 paragraphs 1.5.1 to 1.5.3

¹²⁴ Document NR16 ES Volume 4 Figure 2.1

(b) any measures to avoid, reduce or remedy any major or significant adverse environmental impacts of the project

3.40 The mitigation hierarchy incorporates the hierarchical process of avoiding, mitigating and compensating for adverse impacts¹²⁵. The specific application of this approach can be seen in the route-specific chapters of the ES¹²⁶. In the context of ecology, this approach complies with the NPPF.

(i) The NPPF states: *'When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused'*¹²⁷. It has been built into the design of the Scheme.

(ii) The ES states in a section on 'Environmental Design'¹²⁸:

'2.4.78 The design of the engineering aspects of the project has sought to avoid environmental impacts wherever possible, and this has been facilitated through an iterative design process informed by the EIA¹²⁹ and consultation. This includes repositioning of infrastructure or temporary works to reduce impact on or avoid environmental constraints and use of specific, modern engineering solutions that reduce environmental impacts (for example, using continuously welded rails, which reduce noise and vibration).

2.4.79 Where it has not been possible to avoid impacts, environmental features have been integrated into the project design. The environmental

¹²⁵ Documents NR16 Volume 2i Chapter 4 page 4-15 Table 4.5 and NR48 page 8 Table 1.1

¹²⁶ Documents NR16 Volume 2ii Route Section Assessments Routes 2A-2E and HS2 Interface Area

¹²⁷ Document NR62 paragraph 175 (which has not been amended in the February 2019 update)

¹²⁸ Documents NR16 ES Volume 2ii Chapter 2 page 2-28 and NR48 pages 8 to 12 paragraphs 1.4.10 to 1.4.26 with respect to 'Land use and agriculture', 'Landscaping and ecology', 'Noise and vibration' and 'Water quality and flood risk'

¹²⁹ Environmental Impact Assessment

design is integral to the overall design of the project, and has been created using the design objectives, considerations and principles that are set out in the Environmental Design Statement... The design itself is illustrated on the Environmental Design Drawings...and is accompanied by an Environmental Design Schedule...which sets out the purpose and requirement for each element of mitigation.'

- 3.41 Mitigation measures have been proposed for each of the following categories: land use and agriculture, cultural heritage, air quality, noise and vibration, geology and land contamination, landscape and visual impact, and water quality and flood risk¹³⁰. Landscape and ecological mitigation measures have been treated as an interrelated aspect of the environmental design of the Scheme¹³¹. Mitigation measures are included in the Scheme to avoid, reduce or remedy impacts on interests of ecological importance affected by its construction or operation¹³².
- 3.42 Ecological Compensation Sites (ECSs) have been included within the Scheme in order to mitigate for the loss of or disturbance to breeding or foraging habitat for species, including protected species, resulting from construction of the Scheme¹³³. These ECSs are designed to replace habitats lost and provide alternative habitats for species affected by the Scheme. The ECSs are

¹³⁰ Documents NR48 and NR16 ES Volume 2i Chapter 16: 'Summary of Mitigation' including Table 16.1 giving the full range of mitigation measures to be applied in constructing and operating the Scheme and summary in paragraphs 16.1.1 to 16.1.4.

¹³¹ Document NR48 pages 8 to 12 paragraphs 1.4.10 to 1.4.26

¹³² Documents NR54 Part 3 and NR54-1 Appendix A: comprehensive register of ecological mitigation commitments of which an updated version has been incorporated into the ecological management plan that is required to be submitted to local planning authorities for approval, and implemented following that approval, under the terms of the proposed ecology condition to be imposed on the deemed planning permission.

¹³³ Documents NR54 section 3.14

designed to act as 'stepping stones' along the Order route and to promote east/west connectivity for wildlife and biodiversity¹³⁴.

- 3.43 NR has assessed the likely environmental impacts of the operation of the Scheme, in particular noise and vibration, on the assumption of full-service operation to make sure it has used the reasonable worst-case assessment¹³⁵. In relation to noise, where the impact of operational noise requires mitigation in order to comply with the Noise Policy Statement for England¹³⁶, noise attenuation will be provided in the form of 2.5m high acoustic barriers. In particular, in locations in Route Sections 2B and 2C there are predicted to be significant adverse effects at groups of properties. Noise insulation packages will be provided to individual properties where significant adverse effects are predicted¹³⁷. The location of acoustic barriers is shown on the Environmental Design Drawings¹³⁸.
- 3.44 Mitigation measures have been included within the design of the Scheme to address potential impacts on water quality and flood risk, including the provision of Compensatory Flood Storage Areas (CFSAs)¹³⁹. The location of CFSAs is shown on the Environmental Design Drawings, and a Statement of Common Ground (SoCG) has been agreed with the Environment Agency

¹³⁴ Document NR16 ES Environmental Design Drawings and Document NR47 FEI Part III Figure 9.24 show the locations of ECS; Document NR47 FEI Part II updated Technical Appendix 9.13 (v2) includes details of the rationale for each ECS, its purpose and proposals for its future management and Appendix 9.13 (v2) Section 2 summarises the criteria upon which ECS have been selected for inclusion in the Scheme

¹³⁵ Document NR16 ES Volume 2i Chapter 2 page 2-57 Table 2.15 sets out the operating characteristics used to assess the operational impacts of the Scheme

¹³⁶ The Defra Noise Action Plan: Railways Environmental Noise (England) Regulations 2006, 2 July 2019, has been published since the close of the Inquiry. The Regulations 2006 implement the Environmental Noise Directive (2002/49/EC) in England. The Noise Policy Statement for England provides the policy framework to assist the implementation of the Environmental Noise Directive and the Regulations.

¹³⁷ Document NR16 ES Volume 2i Chapter 10 section 10.6

¹³⁸ Document NR48 paragraphs 1.4.19 to 1.4.25 summarise the mitigation measures included in the Scheme to address operational noise and vibration

¹³⁹ Document NR48 paragraph 1.4.26 and section 8

(EA)¹⁴⁰.

(c) whether, and if so, to what extent, any adverse environmental impact would still remain after the proposed mitigation

3.45 Residual effects that are predicted to remain after the proposed mitigation measures are identified in the final section of each environmental topic chapter in the ES¹⁴¹. A summary of residual effects is set out in the Summary of Findings that is included at the beginning of each environmental topic chapter. Details of the 'Significant residual effects', following mitigation, have been identified with respect to each of the following categories: land use and agriculture, cultural heritage, air quality, noise and vibration, geology and land contamination, landscape and visual impact, and water quality and flood risk¹⁴² and on habitats and species¹⁴³.

(d) any protective provisions proposed for inclusion in the draft TWAO or other measures to safeguard the operations of statutory undertakers

3.46 Schedule 16 to the draft Order contains Protective Provisions for the protection of electricity, gas, water and sewerage undertakers, for the protection of operators of electronic communications code networks and for the protection of drainage authorities and the EA¹⁴⁴.

¹⁴⁰ Document NR271

¹⁴¹ Document NR16 ES Volumes 2i and 2ii

¹⁴² Document NR48 pages 13 to 33

¹⁴³ Document NR54 Part 3

¹⁴⁴ Document NR50 section 3.2

(9) The adequacy of the ES submitted with the application for the TWAO, together with the FEI, having regard to the requirements of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006, and whether the statutory procedural requirements have been complied with

- 3.47 NR has complied with the procedural requirements in the TWA and Rules 6 to 7A and 11 and Schedule 1 of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006¹⁴⁵. The scope of the Environmental Impact Assessment (EIA), the overall methodology of assessment and a summary of public consultation is set out in the ES¹⁴⁶. The ES provides a comprehensive and detailed assessment of the likely environmental effects of the construction and operation of the Scheme both in its own right and cumulatively with other projects. The interface with the works authorised within the HS2 Interface Area under the HS2 Act has been assessed. Further environmental information and assessment has been reported in the FEI¹⁴⁷ published in November. The ES and the FEI provide both the public concerned with the Scheme and the SoS with sufficient environmental information to enable them to understand, comment on and take into account the likely significant environmental effects of construction and operation of the Scheme.

¹⁴⁵ Document NR16 ES Volume 2i paragraph 1.7.10 and page 1-8 Table 1.2

¹⁴⁶ Document NR16 ES Volume 2i Chapter 4

¹⁴⁷ Document NR47

(10) Having regard to the criteria for justifying compulsory purchase powers in paragraphs 12 to 15 of the MHCLG Guidance on the "Compulsory purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion" (published on 29 October 2015, updated on 28 February 2018)¹⁴⁸

a) whether there is a compelling case in the public interest for conferring on NR powers compulsorily to acquire and use land for the purposes of the project; and

b) whether the land and rights in land for which compulsory acquisition powers are sought are required by NR in order to secure satisfactory implementation of the project

3.48 In the light of the evidence on land and rights required for engineering purposes to enable construction and operation of the Scheme; land required for construction purposes for the Scheme; land required for temporary highway works to enable construction of the Scheme; land required for environmental design mitigation and compensation of the Scheme and land required for ecological mitigation and compensation of the Scheme, NR is satisfied¹⁴⁹ that:

- (a) it has had due regard to paragraphs 12 to 15 of the Crichel Down Rules;
- (b) it has sought to minimise the land and rights to be acquired or used to the extent necessary for the construction and operation of the Scheme;
- (c) it has sought to revise and reduce the extent of land take and interference for which powers are sought in the Scheme following consultation with affected land owners and occupiers;

¹⁴⁸ further updated by Guidance on Compulsory purchase process and The Crichel Down Rules, July 2019

¹⁴⁹ Document NR52 pages 6 to 9

- (d) the land interests and rights identified by it are required for the construction and subsequent maintenance and operation of the Scheme; and
- (e) the powers of compulsory acquisition conferred by the Scheme are necessary for it to deliver the Scheme.

3.49 In all the circumstances and given the compelling need for delivery of the Scheme, NR contends that there is a compelling case in the public interest for the conferral of powers to acquire compulsorily and/or temporarily possess the lands and rights included within the Order. Those objectors who have presented a case to the Inquiry that their land is not required for the Scheme and that powers of compulsory purchase or temporary possession have not be justified in respect of their land¹⁵⁰ are responded to in the Rebuttals.

(11) NR's proposals for funding the project

3.50 The Scheme is fully funded, as confirmed by the DfT in a letter, dated 9 February 2018¹⁵¹. The programme spans two railway investment periods: Control Period 5 (2014 to 2019) and Control Period 6 (2019 to 2024). The costs of implementing the works to be authorised through the Order are anticipated to be £150.095 million in Control Period 5 and £934.631 million in Control Period 6. In addition to funds already available in Control Period 5, the SoS has published a Statement of Funds available for Control Period 6. These costs will be met from the funding envelopes for the project. This provision is sufficient to deliver the Scheme, provided it has the required consents and continues to be VfM¹⁵². There are contingencies built into the costs to allow for delays to the programme, which is tight, but should the Order not be made in 2019, delays of 6 to 12 months could have an impact on its integration with HS2 and result in significant increases in costs which have not been allowed

¹⁵⁰ Gladman Developments Limited (OBJ 228-231); H C Stock Will (OBJ 27); and the Trustees of the Woburn Estate/Bedford Estate (OBJ 114)

¹⁵¹ Document NR05 Funding Statement page 2

for in the funding¹⁵³.

(12) The conditions proposed to be attached to the deemed planning permission for the project, and in particular whether those conditions satisfy the six tests in the NPPF

3.51 The draft conditions originally proposed by NR¹⁵⁴ were revised in order to address matters raised by objectors and in representations¹⁵⁵. The draft conditions were further revised to take into account additional representations¹⁵⁶. These satisfy the tests referred to in the NPPF¹⁵⁷. Although the wording of the conditions has been revised, this does not alter their consistency with the NPPF tests.

(13) Whether the statutory procedural requirements have been complied with

3.52 The statutory procedural requirements have been complied with¹⁵⁸. NR consulted widely on the Scheme with key stakeholders and the local community from August 2014 to March 2018¹⁵⁹. The consultation went through early stakeholder engagement followed by three formal consultation rounds. These included 33 events attended by 3,677 people¹⁶⁰. Furthermore, bespoke targeted consultation events have been held in Lidlington, Woburn Sands and Charndon to address specific concerns of local residents. The feedback received from the consultation played a key role in the iterative

¹⁵² Document NR53 page 6 paragraphs 2.3.1 to 2.3.4

¹⁵³ Oral evidence given by Martyn Angus at the Inquiry in reply to a question by the Inspector

¹⁵⁴ Document NR08

¹⁵⁵ Document NR49 pages 26 to 31 paragraph 7.1.3

¹⁵⁶ Document NR263 provides the most recent version

¹⁵⁷ Document NR49 pages 31 and 32 paragraphs 7.1.5 to 7.1.9

¹⁵⁸ Document NR205 includes all the relevant material to show that the statutory procedural requirements have been complied with

¹⁵⁹ Document NR12 Consultation Report explains the consultation process, each stage and response

¹⁶⁰ Document NR53 page 32 paragraph 9.1.5

design process where significant changes were made to the Scheme¹⁶¹. NR continues to engage.

(14) The extent to which proposed works affecting the Listed Building and Conservation Areas are in accordance with the development plan for the area including any 'saved policies'

(15) In relation to the proposed works affecting the Listed Buildings and Conservation Areas, the weight that should be attached to the development plan, and any emerging plans

(16) The extent to which the proposed works affecting the Listed Buildings and Conservation Areas would accord with the National Planning Policy Framework and in particular the desirability of sustaining or enhancing the character or appearance of the heritage assets and Conservation Areas

3.53 No objections have been received in relation to the Listed Building Applications. The works affecting the Listed Buildings and Conservation Areas are in accordance with the relevant development plan, the NPPF and the Planning (Listed Buildings and Conservation Areas) Act 1990. The reasons for this are set out in:

- a) Quinton Road Station Heritage Statement¹⁶². An Officer Report, dated 18 October 2018, recommended that the SoS be informed that had AVDC retained the power to determine the application, it would have granted Listed Building Consent subject to conditions¹⁶³;
- b) Ridgmont Station Heritage Statement¹⁶⁴. An Officer Report has

¹⁶¹ Document NR53 page 32 paragraph 9.1.8

¹⁶² Document NR91- page 27 paragraph 6.1.7: Confirmation that there is compliance with local policy; pages 26 to 28 paragraphs 6.1.1 to 6.2.1: Confirmation that there is compliance with the NPPF

¹⁶³ Document NR265

¹⁶⁴ Document NR92- pages 18 to 19 paragraphs 6.1.1 to 6.2.1: Confirmation that there is compliance with the NPPF

recommended that CBC supports the application subject to conditions¹⁶⁵;
and

- c) Woburn Sands Station Heritage Statement¹⁶⁶;

(17) If consent for the proposed works affecting the Listed Buildings and Conservation Areas is granted, the need for any conditions to ensure they are carried out in a satisfactory manner

- 3.54 Listed Building Consent draft conditions have been provided and set out in the evidence¹⁶⁷.

Statements of Common Ground

(a) Oxfordshire County Council (OCC) and Cherwell District Council (CDC) (OBJ 221)¹⁶⁸

- 3.55 The only matters on which the parties have not reached agreement are:

- i) those relating to the temporary use of land at Mill Mound and the potential effects on the archaeological feature; and
- ii) those relating to the approach of the Scheme to the delivery of a net gain in biodiversity.

- 3.56 The parties intend to continue discussions with a view to resolving all outstanding matters of disagreement.

(b) Milton Keynes Council (MKC) (OBJ 233)¹⁶⁹

- 3.57 The matters on which NR and MKC have not reached agreement are:

¹⁶⁵ Document NR264 does not report any conflict with the development plan

¹⁶⁶ Document NR93- pages 20 and 21 paragraphs 6.1.2 to 6.2.1: Confirmation that there is compliance with the NPPF and there is no suggestion that there is a conflict with the development plan

¹⁶⁷ Documents NR49 paragraph 2.8.7, NR267: Quainton Road Station, NR268: Ridgmont Station and NR269: Woburn Sands Station

¹⁶⁸ Document NR234: SoCG between NR and OCC and CDC, signed on 28 February 2019

¹⁶⁹ Document NR245: SoCG between NR and MKC, signed on 26 March 2019

- (i) those relating to NR's proposals for achieving a net gain in biodiversity;
- (ii) those relating to closure of Woburn Sands School Crossing;
- (iii) those relating to Woodleys Farm Overbridge; and,
- (iv) those relating to Bow Brickhill Bridleway crossing.

3.58 The parties intend to continue discussions with a view to resolving all outstanding matters of disagreement.

(c) Buckinghamshire County Council (BCC) (OBJ 232)¹⁷⁰

3.59 The sole matter on which NR and BCC have not reached agreement relates to ecology.

(d) Bedford Borough Council (BBC) (OBJ 214)

3.60 A SoCG has not been agreed with BBC but this is due to logistical issues. Notwithstanding this, BBC's letter, dated 5 February 2019, has a similar effect¹⁷¹. This states that *'through ongoing positive dialogue with Network Rail over recent months the Council is now in a position to remove the majority of its objections'*. It sets out the remaining issues between the parties, as of 5 February 2019, which relate to:

- (i) Traffic and transport; and
- (ii) Ecology– net gain.

(e) Natural England (NE) (OBJ 242)¹⁷²

3.61 The signed SoCG divides NE's original objections into 'Matters which have been resolved', 'Matters which the parties agree are capable of being resolved' and 'Matters which are not yet resolved'.

¹⁷⁰ Document NR246: SoCG between NR and BCC, signed on 26 March 2019 on the issues originally in dispute between the parties, save for highways and ecology; and Document NR254: SoCG between NR and BCC, signed on 10 April 2019 relating to highways issues

¹⁷¹ Document NR258

(f) Environment Agency (EA) (OBJ 178)¹⁷³

3.62 Following commitments made by NR on 14 April 2019¹⁷⁴, the EA agrees that NR's approach to proposed watercourse mitigation is appropriate and does not maintain its objection on this matter. The remaining issue is the wording of paragraph 17(3)(b) of Schedule 16 to the draft Order, which relates to deemed approval by the drainage authority of specified work. This issue is essentially the same as that raised by TWUL (OBJ 226) in respect of Article 19(8) of the draft Order.

(g) Highways England (HE) (REP 8)¹⁷⁵

3.63 NR has agreed a SoCG with HE which includes a procedure to implement measures to mitigate impacts on the Strategic Road Network at the M40 Junction 10 and Baynards Green roundabout due to construction traffic.

Modifications

3.64 The following modifications to the draft Order¹⁷⁶ have been made:

- Article 19 is changed to omit 'operation';
- Schedule 15, page 93 the cross references between paragraphs have been corrected;
- Schedule 16, page 97 paragraph 9(3)(a) has been amended with regard to the protection of statutory undertakers' betterment provisions, which has been agreed with Anglian Water Services Ltd to enable it to withdraw its objection; and

¹⁷² Document NR287: SoCG between NR and NE, signed on 30 April 2019

¹⁷³ Document NR271: SoCG between NR and EA, signed on 25 April 2019

¹⁷⁴ Document NR271 Appendix 4

¹⁷⁵ Document NR272: SoCG between NR and HE, signed on 26 April 2019

¹⁷⁶ Document NR274

- Schedule 16, page 100 paragraph 16(2)(g) has amended the description of construction to that agreed with the EA.

Conclusion

3.65 In light of the agreed significant benefits to be brought about by the Scheme, as well as the other reasons set out above, the Inspector is requested to recommend that the Order be made and the SoS is requested to make the Order with the modifications.

4. THE CASES FOR THE SUPPORTERS

Supporters appearing at the Inquiry

East West Rail Consortium (EWRC) (SUPP 408)

The material points¹⁷⁷ were:

4.1 The strategic context for EWR is based on the national importance which Government has placed on the Oxford-Milton Keynes-Cambridge growth corridor following the publication of the NIC's report into the economic potential of the region (Partnering for Prosperity: A new deal for the Cambridge-Milton Keynes-Oxford Arc). The NIC identified the need to improve connectivity across the region as being central to realising its economic potential. It identified the delivery of a 'multi-modal spine', including an east-west rail link, as being a 'once-in-a-generation' opportunity to deliver that improved connectivity. It recommended that delivery of EWR should be prioritised by Government in order to support the overarching ambition for the region. In its formal response to the NIC's report (October 2018), the Government endorsed the principle of accelerating delivery of the western section of the EWR.

¹⁷⁷ Document SUPP/408-1

- 4.2 EWR is a strategic priority for England's Economic Heartland, the Sub-national Transport Body for the region and will be central to its overarching Transport Strategy.
- 4.3 The EWRC was formed in 1995 with the objective of promoting and securing a strategic railway connecting East Anglia with Central, Southern and Western England, including a spur to Aylesbury. It brings together local authorities and local enterprise partnerships, as well as NR and the DfT, in a collaborative partnership. It supports the TWAO submission made by NR that is being considered by the Inquiry. Throughout the development (and delivery) of the project the EWRC has been pivotal in ensuring a close and strong working relationship between local partners, the DfT and NR. The effectiveness of the working relationship is reflected in the level of support for EWR across the wider community. The EWRC has commissioned work that over time established the initial basis for the Scheme and on which subsequent work has built¹⁷⁸. It has also commissioned work to support the case for development of the Central and Eastern Sections.
- 4.4 The EWRC offers strong support and commitment to enable the successful delivery of the Scheme. Whilst individual Consortium members may make representations on matters of local detail separately where that is necessary, the EWRC as a whole is strongly supportive of the overall strategic case underpinning the Scheme and the principle of the proposal submitted under the TWA. The EWRC's (and England's Economic Heartland's) support is however conditional upon the Scheme delivering on a number of key issues that it has previously been identified as needing to be integral elements of the Scheme. These issues should be considered as a package, with support conditional on all of them being addressed.
- 4.5 In summary, the conditions are:

¹⁷⁸ Document SUPP/408-1 paragraphs 4.12 to 4.16

- a) A commitment to the inclusion of a new station entrance at Bletchley Station (the Eastern Entrance) within the works for the Scheme.
 - b) Continued inclusion of the improvements proposed for the section of the route between Bletchley and Bedford (Marston Vale Line) as an integral element of the works for the Scheme.
 - c) A continued commitment to deliver improvements to the Claydon Junction to Aylesbury section of the route as an integral element of the Scheme.
 - d) A commitment to ensure that train services operating over the Scheme support the strategic objective of developing, on the opening of HS2, through services on the Northampton – Milton Keynes – Bletchley – Aylesbury – High Wycombe – Old Oak Common axis.
 - e) A commitment to ensure that train services operating over the Scheme support the strategic objective of EWR services continuing through Oxford Station and onto Didcot Parkway.
 - f) A commitment to require that the Scheme makes adequate provision for additional freight services.
- 4.6 Local Plans across the Western Section, are already in place, or being prepared in expectation of the Scheme being delivered. EWR provides an attractive, viable alternative to the car. Such an outcome is consistent with the recommendations of the NIC for whom realising the economic potential of the corridor in ways that enable an overall 'net betterment' to the corridor as a whole was key.
- 4.7 The EWRC is fully supportive of the SoS's commitment to accelerate the development and delivery of the Central Section. Investment in both the Scheme and Central Section is further complemented by realising opportunities to improve services to/from east of Cambridge (the Eastern Section). It is therefore essential that consideration of the Scheme takes into account the value of EWR as a whole being viewed as greater than the sum of

its parts. The EWRC commissioned work to develop an initial Conditional Output Statement for the Central Section in compliance with NR's approach adopted within the long-term planning process for new and enhanced railway schemes. It also commissioned work to deliver an initial Conditional Output Statement for the Eastern Section.

Railfuture Thames Valley (SUPP 327)

The material points¹⁷⁹ were:

- 4.8 Railfuture is fully supportive of the Scheme for the reasons set out in the DfT document 'The Case for East West Rail, Western Section Phase 2', December 2018, but with caveats.
- 4.9 The Scheme will offer a range and frequency of services between the key economic growth centres of Oxford, Milton Keynes and Bedford. The Government has asked local authorities along the corridor to achieve one million new homes by 2050 and has struck a deal with OCC to deliver 100,000 by 2031. The intermediate stations will enable easy access for residents, many living in this new housing, to employment in these growth centres. It is vital that the railway is fully opened by the time these residents make their choice of employment and its location and do not have to restrict themselves to the use of the private car. This also applies to self-employed professionals providing consultancy and design services to businesses along the corridor.
- 4.10 EWR2 will provide significant opportunities for connections with and service extensions onto other rail routes. Examples include through journeys to the south and west via Oxford to Reading, Swindon and Bristol, providing connectivity with even more of the UK's economic growth areas. There is further potential for through services to Heathrow Airport and via the WCML and the MML. The Scheme will lay vital foundations for the further extension

¹⁷⁹ Document SUPP/327-1

of EWR to the growth area around Cambridge and creating further links to the East Coast Main Line, East Anglia and east coast ports.

- 4.11 There are significant and growing freight movements, particularly inter-modal container traffic and motor cars, along the line through Oxford. These services are constrained by capacity on the lines to the north, particularly the single line section between Leamington Spa and Coventry. If there are any perturbations along this route, freight trains from Southampton Docks, for example, have to be diverted via routes across London, leading to significant delays and additional costs. EWR will provide an ideal diversion route onto the WCML and MML and, once capacity on the line north of Oxford is fully utilised at all times of the day, a route for a share of this freight traffic. HS2 will also release capacity on the WCML for use by freight trains, giving further justification for EWR being used as a connection for north-south freight traffic. EWR will also provide a diversion route for passenger trains (e.g. Cross-Country services) during engineering work. The benefits of a diversionary route have been demonstrated during the recent and on-going electrification and upgrading works on the Great Western Main Line where trains between Didcot and Paddington have been able to be diverted via the newly opened Chiltern line via Oxford Parkway. Bus substitution is increasingly seen by rail passengers as unacceptable whilst such important work is carried out.
- 4.12 The Scheme will enable rail to be the mode of choice along the corridor, leading to reduced emissions and noise from, and numbers of accidents on, sub-standard main roads.
- 4.13 The proposed route will connect areas of significant wealth (e.g. central Oxford), areas of mixed fortune (e.g. Kidlington and Bicester) and more rural areas currently with less easy access to high value jobs. Bicester is an area currently undergoing major growth in housing and additional housing growth is set to follow along the line to the east. The 'connectivity' between these diverse locations will be a major contributor to equalising employment

opportunities and improving the chances of local businesses finding the employees they need to continue growth.

- 4.14 Every December Railfuture takes part in a public event in Oxford Town Hall, displaying the opportunities for railway development across our sub-region. Without fail, every year it is asked questions about progress with the development of EWR and strong support is expressed for the Scheme, it being seen as a transport priority because of the improved access it will create.
- 4.15 Currently the only public transport along the corridor is the X5 bus service, connecting Oxford with Cambridge via Bicester, Buckingham and Milton Keynes. Typical journey times are Bedford-Oxford 2½ hours and Milton-Keynes to Oxford 1½ hours. The Scheme will reduce these to 61 minutes and 41 minutes respectively¹⁸⁰.
- 4.16 Recent railway re-openings have demonstrated growth far in excess of predictions. Railfuture is therefore concerned about some of the changes in the Scheme that have been made since the Option Selection¹⁸¹. Growth on the Borders Railway opened in 2015 is being achieved even before some of the associated housing developments have been completed. There was continued growth of 10% between 2016/17 and 2017/18. However, further growth is being inhibited by irreparable infrastructure limitations built in by budget reductions, such as single-track overbridges and reduced lengths of double track. The traffic growth on the new Chiltern Railways link via Oxford Parkway to Marylebone has been phenomenal. This route is delivering a quarter of Chiltern Railways' total revenue¹⁸². Similar growth must apply to this Phase 2 because of the planned population expansion.

¹⁸⁰ Document SUPP/327-3

¹⁸¹ Document NR00 paragraphs 6.2.7 to 6.2.10

¹⁸² Document SUPP/327-2

- 4.17 The Scheme must be designed to meet capacity, including an allowance for this growth, not down to cost. For example, it must be wrong to base the infrastructure between Aylesbury and Claydon around a one per hour service when it connects major residential areas around Aylesbury Vale Parkway with major employment in Milton Keynes. A minimum of two per hour should be the specification.
- 4.18 Freight traffic is likely to exceed predictions, and the deletion of the Newton Longville freight loops will surely be regretted.
- 4.19 Across the south-east platforms are being lengthened because of overcrowding, leading to much disruption. Chiltern Railways has to run loco-hauled trains with more coaches at peak times. It must be a mistake to restrict platform lengths at the Scheme stations.
- 4.20 Forecasting seems almost invariably to include an element of 'pessimism bias'. As a minimum, passive provision (deliverable without the need for 'blockades') should be made in the Order for:
- longer station platforms for increased seating capacity;
 - freight loops;
 - increased frequency of services for freight and passengers;
 - double tracking of MCJ line;
 - higher line-speeds to achieve even more attractive journey-times; and
 - future electrification for wider network benefits, operational efficiencies and associated economic and environmental benefits.
- 4.21 The scale of economic growth unleashed by rail schemes has often led to congestion and crowding and then the need for subsequent expensive disruptive upgrades, if those schemes have been built initially to a limited specification. Growing communities with a growing economy need a growing

railway to support their aspirations for increasing opportunity and raising prosperity. This project must be future-proofed along its full length.

Lindsay Milne (SUPP 310)

The material points¹⁸³ were:

4.22 Lindsay Milne fully supports the Scheme and encourages it to proceed at the very earliest opportunity. It is a vital stage in achieving the objective of reinstating rail services between Oxford and Cambridge that is fundamental to the future economic prosperity of the Region. There are the following caveats to this support:

- The full strategic benefit of EWR will not be realised unless services are extended south and west beyond Oxford to Didcot Parkway, Reading, Swindon and Bristol thus enabling through inter-regional journeys and a section to Phase 3 (the Bedford to Cambridge link) is identified and implemented at the very earliest opportunity.
- The route is developed as a strategic freight link thus ensuring that inter-regional freight services can be routed whenever possible away from the over-loaded London and South East rail network.
- Electrification of the route should be considered at the earliest opportunity.
- The provision of only single line running between Aylesbury and Claydon Junction and no through service south of Aylesbury will limit the attraction to potential customers and potentially cause delays with subsequent knock-on effects.
- Shortened platform lengths to 4-Cars will limit operating flexibility and the ability to be able to respond to an increase in customer demand.

¹⁸³ Documents SUPP/310-1 and SUPP/310-2

- Consideration should be given to changing the Bletchley track configuration to enable trains to be able to operate from Milton Keynes to Bedford and beyond.
- 4.23 The overriding point is that EWR2 is a proposal to re-establish passenger and freight services on an existing piece of railway infrastructure. Every effort should be made to exploit the opportunity that it offers to be an integral part of the UK strategic rail infrastructure in providing a range of travel opportunities currently not available.

Councillor Vanessa McPake (SUPP 70)

The material points¹⁸⁴ were:

- 4.24 Councillor McPake in her private capacity and as a campaigner has offered her support for the reopening of the Oxford to Cambridge railway line. She encourages the provision of facilities to enable future electrification of the line and to take freight transport off the roads. Her main concerns are regarding Bow Brickhill, Woburn Sands level crossing for children and Bletchley Railway Station provision of a ramp and eastern access suitable for use by people with disabilities. Her concerns about Bow Brickhill are regarding parking, new development in the area, and the replacement of the level crossing with a bridge to cater for this new development.

John Henderson (SUPP 373)

The material points¹⁸⁵ were:

- 4.25 John Henderson is a regular traveller between Bedford and Milton Keynes and has found that whatever route he has used it is a difficult trip. Therefore, the Scheme would potentially bring huge benefits. However, these benefits would only be realised if the proposed train service is reliable and has the capacity to cater for all those wishing to travel. He advocates improvements

¹⁸⁴ Oral evidence given by Councillor McPake at the Inquiry

to the design of the Scheme to provide better facilities and access at stations; better access for passengers and others who need to cross the line, particularly at Lidlington and Woburn Sands; and better access for construction traffic that minimises the impact on local residents.

- 4.26 In terms of sustainability, the Scheme needs to make provision for the platforms to be lengthened and the inclusion of environmental compensation measures and recognise its effect on air quality, particularly in comparison with highway schemes, such as the proposed Oxford to Cambridge Expressway.

Leonard Lean (SUPP 415)

The material points¹⁸⁶ were:

- 4.27 Leonard Lean offers his support for the Scheme, which should help to remove some of the heavy traffic from the road network onto the rail system. He considers that the former double track of the high speed route between Oxford and Bedford should be fully restored. He considers that all the level crossings will need to be track circuit controlled and a bridge fitted into the space vacated by the more westward of the eastbound platform at Woburn Sands. He wishes NR to encourage and facilitate greater use of EWR2 for freight.

Twyford Parish Council (TPC) (SUPP 132)

The material points¹⁸⁷ were:

- 4.28 TPC is supportive of the Scheme and the principle of EWR. However, it raised a number of issues that it considered would enhance its delivery.

¹⁸⁵ Document INQ/03: Letter of Support SUPP 373 and Document SUPP/373-1

¹⁸⁶ Documents SUPP/415 and SUPP/415-2 and oral evidence given by Leonard Lean at the Inquiry

¹⁸⁷ Document INQ/03: Letter of Support SUPP 132; and Document SUPP/132-1; and oral evidence given by Roger Landells at the Inquiry

- 4.29 Since the consultation, there has been more clarity about the proposed Oxford-Cambridge Expressway (OCE) and additional housing in the Buckingham/Bicester area, including plans for about 1,500 dwellings in Calvert and Steeple Claydon. The originally proposed station between Bicester and Winslow would have served this new development and the villages of Twyford, Calvert, Steeple Claydon and Charndon without the need for the occupants to drive between 4 and 6 miles (6 and 8 km) to access Winslow station. This distance would be likely to deter them from using the train. Therefore, TPC does not support the decision of the DfT to not include a station between Bicester and Winslow in the Scheme, which would have very little impact on the capacity of the railway.
- 4.30 The villages of Twyford, Calvert, Steeple Claydon and Charndon would not benefit from the Scheme, which would serve the urban and semi-urban areas rather than the rural areas along the route. The level of consultation has not been sufficient to arrive at a joined-up strategy. Furthermore, TPC would prefer electric propulsion rather than the proposed diesel. However, it is more supportive of the railway than the proposed Expressway.

Marston Vale Community Rail Partnership (MVCRP) (SUPP 367)

The material points¹⁸⁸ were:

- 4.31 As defined by the Association of Community Rail Partnerships in 2018 '*Community Rail is made up of community rail partnerships and groups across Britain who engage communities and help people get the most from their railways, promoting social inclusion and sustainable travel, working alongside train operators to bring about improvements and bringing stations back to life*'. The MVCRP was formally established in February 2007 and is led by Bedfordshire Rural Communities Charity and has worked with the Charity to reopen Ridgmont Station House as a community building, which is

¹⁸⁸ Document SUPP/367-1 and oral evidence given by Stephen Sleight at the Inquiry

now a Heritage Centre. It has set up 'Station Friends' or station adoption groups at most of the stations along the Marston Vale Line.

- 4.32 MVCRP firmly supports EWR2 and wishes to see direct services introduced between Bedford and Oxford at the earliest opportunity. It recognises that EWR is a major opportunity to enhance local, regional and national rail connectivity, including the removal of the need to travel across London for services to the West Country. There is a further local and regional benefit due to the scope for the Marston Vale Line to become the primary route for Bedford to Birmingham journeys via Bletchley. It is important to retain the existing hourly stopping service on the Marston Vale Line, which is valuable to the local community, as demonstrated by the steady growth in passenger numbers (currently 9%).
- 4.33 MVCRP wishes to protect the work done by the Friends of Woburn Sands Station by ensuring that any move of the shelter includes water butts and taking the opportunity to standardise the fencing and matching of the platform extensions to the existing as far as possible. The platform extensions also need to match the existing at Ridgmont Station and the proposed removal and reinstatement and replacement of fencing, including the existing picket fencing, and new signal control booth and lighting columns at that Station need to be as sympathetic to the Heritage Centre as possible.
- 4.34 MVCRP's concerns are regarding the closure of the Woburn Sands School Crossing and diversion of the footpath via the main crossing, due to an increased risk of trespass by school pupils and increased demand from residents of the new housing in the Cranfield Road area. It would like to see a footbridge as a replacement at the crossing. It is also concerned over the proposal to close Lidlington School Crossing and divert the footpath to the Station Road crossing. It wishes to see opportunities explored for a small replacement facility for the loss of informal car parking adjacent to the Bletchley-bound platform at Kempston Hardwick Station. It also wishes for detailed photographic records to be taken prior to the commencement of

works to remove the crossing keeper's cottages at Marston Road, Lidlington and Kempston Hardwick, which are believed to be amongst the original structures along the Marston Vale Line.

Supporters not appearing at the Inquiry

The material points¹⁸⁹ were:

- 4.35 The letters of support generally reiterate the points made by NR and the supporters who appeared at the Inquiry. They suggest that EWR2 enjoys strong local support. Amongst the supporters are 'Campaign for Better Transport', the Oxon and Bucks Rail Action Committee, the Bedford to Bletchley Rail Users' Association and London Luton Airport. The following matters have been included in these letters of support.
- 4.36 Having already completed Phase 1, it would be perverse not to allow Phase 2 of EWR2. The proposed OCE is opposed by some supporters of the project, with support offered for walking, cycling, bus and rail.
- 4.37 The Scheme will improve east-west connectivity and will allow commuting by rail from Aylesbury to Milton Keynes to save time and remove vehicles from the roads, as well as improve parking issues in Milton Keynes. It will transfer cars off the road network and reduce journey times by rail to and from London Luton Airport, which is strategically placed within the EWR corridor and is recognised as a key airport for easy access to much of Europe. As such, it will require direct services to the Airport or interchange opportunities at Bedford.
- 4.38 The Scheme will continue to make Buckinghamshire, and in particular Aylesbury, an attractive place to live, supporting the drive to build new homes and communities. The reinstatement of the railway will improve commuting between Ipswich, Cambridge and Oxford without going via London. The Scheme will assist in linking the MML and WCML more

effectively, increasing geographical mobility and flexibility. It will significantly benefit people with disabilities, including those who are registered blind, in terms of ease of access, furthering the DfT's obligations pursuant to section 149 of the Equality Act 2010.

- 4.39 With regard to freight traffic, the connection will avoid the need to go through the London area which will assist in developing/increasing the freight handling capacity of the Network. It will have the potential for moving much of the freight off the roads and onto the rail. It will offer an alternative freight route from the north towards Southampton, the south west and south Wales. It is important to enable the route to cater for rail freight to/from the East Anglian ports of Felixstowe, Harwich and Yarmouth. However, there is a lack of an east/north connection at Bletchley.
- 4.40 The Scheme will make a contribution to growing the economy in the area by supporting the need for more housing across the region. It should encourage considerable house building and enhanced economic activity. It will improve journey times in a broad arc from Reading and Swindon in the south west through Oxford to Milton Keynes/Bletchley and Bedford.
- 4.41 The Scheme is the catalyst for change that will transform Bletchley Station and completely regenerate the surrounding area, including a new pedestrian link to the High Street, supporting residential and commercial development and improving access to tourist attractions, such as the Codebreakers Museum.
- 4.42 There is disappointment that the line will not be electrified but hope that it will be future-proofed with electrification clearances and designed to carry freight. Joining together the Great Western Railway, being electrified, WCML, which is electrified, and MML, not electrified, via a non-electrified route does

¹⁸⁹ Document INQ/03 Letters and e-mails of support

not support future electrification efforts and serves as an obstacle for any future scheme.

- 4.43 There is concern about how people can travel on foot or bike to the train stations, especially from rural locations, including Little Kimble. There is a request that the stations are enhanced to provide good secure cycle parking facilities and access to encourage healthier commuting. This includes at the proposed new Winslow Station, where it is requested that there is a direct footpath and cycleway connection between the north end of the footbridge (OXD/19) and the passenger entrance and a passenger/cycle entrance from the footpath/bridleway on the south side to avoid crossing the bridge. There are concerns about the car parking capacity at the stations, and in particular, at Winslow.
- 4.44 There are requests for a connection to Princes Risborough and for new stations at the Kempston Retail Park and Claydon, and the reopening of the old Great Central Main Line between Calvert and Leicester to serve the new town proposed at Calvert. In terms of the route between Bedford and Cambridge, there is a request that it take in St Neots. Also, there is a request for an interchange station between the western section of EWR and HS2 where their routes cross and a station at Quainton and a service to Old Oak Common. There is a concern that the level crossings at Bow Brickhill, Woburn and Aspley Guise will severely limit the future capacity of the railway and impact the local communities unless they are replaced by bridges.
- 4.45 Suggestions have been made regarding the provision of additional services, including a Northampton to Marylebone service via Princes Risborough, a semi-fast service via Amersham, and a service between Milton Keynes and Reading. There have been requests that the stopping service between Bletchley and Bedford should not be reduced, and for the provision of a direct service from Aylesbury to Oxford/Bicester.

5. THE CASES FOR THE OBJECTORS

Statutory Objectors¹⁹⁰ appearing at the Inquiry

Luton Borough Council (LBC) (OBJ 244)

The material points¹⁹¹ were:

- 5.1 LBC has no objection to the Order and is supportive of the Scheme. Its concerns are regarding the powers that the Order would give NR to close the level crossing on Manor Road, Kempston Hardwick and spend about £6.5 million on a replacement roadbridge. It is in favour of the replacement of the level crossing on safety grounds but requests that NR, the SoS and the East West Rail Company (EWRCo) consider the need to exercise these powers under the Order, should it be made, following the announcement of the route option for the Central Section of EWR between Bedford and Cambridge, due in August 2019. If the route selected is either Option A, B or C out of the 5 options examined in the Consultation Document¹⁹² the volume of trains using the railway from Stewartby to Bedford may not increase and the need to replace the level crossing by a footbridge may no longer be justified.

Central Bedfordshire Council (CBC) (OBJ 241)

The material points¹⁹³ were:

- 5.2 CBC is a supporter of EWR and member of the EWRC. It is concerned that the proposed infrastructure enhancements are unambitious and do not fully exploit the opportunities that could have 'future-proofed' the line's infrastructure without need for future large-scale investment and consents, particularly in the light of substantial potential development in the Marston

¹⁹⁰ As defined in section 11(4) of the TWA

¹⁹¹ Document OBJ/244-1

¹⁹² Document NR215

¹⁹³ Documents OBJ/241-3 and oral evidence given by Connie Frost-Bryant at the Inquiry

Vale. The emerging Local Plan policies are Policy SA2, which allocates for a mixed-use development at Marston Vale comprising of up to 5,000 dwellings and a minimum of 40ha of employment land, and Policy SE2, which provides up to 35ha of new employment land and a lorry park. The Local Plan is due for hearings in May and there is currently an outline application for the 5,000 dwellings at Marston Vale.

- 5.3 With regard to Marston Road overbridge, CBC does not request a change to the Order because of its impact on delivery time scales for the Scheme. However, there is scope for a solution which relocates space on the bridge deck to provide an optimum solution for all non-motorised users. A planning condition should be provided that allows CBC to follow up and conclude on discussions and negotiations with NR on this matter¹⁹⁴.
- 5.4 The main objection raised at the Inquiry relates to the proposed School level crossing closure in Lidlington. The only way across Lidlington village is by using the level crossing on Station Road or by using the two public footpath crossings, one of which is the School Crossing. Any EWR2 proposals should have sought to improve connectivity for communities and not reinforce this divide. CBC recognises that the School Crossing should be closed on the grounds of safety. It also accepts that a replacement stepped footbridge would not be able to be included in the Order due to land take and the need to satisfy Equalities legislation and gain planning approval. However, it supports the provision of a stepped footbridge at that location. The proposed diversion route would increase severance by requiring some occupants to travel about an additional 400m to access the local school. However, it is content with a solution to the closure being for NR to give a written undertaking to consider a replacement stepped footbridge at that location.

¹⁹⁴ Document OBJ/241-4

Thames Water Utilities Limited (TWUL) (OBJ 226)

The material points¹⁹⁵ were:

- 5.5 TWUL's objections to the Order were regarding Part 1 Article 5(d) (Disapplication legislative provisions), Part 2 Article 7 (Power to deviate 3m up or unlimited down), Articles 13 & 14 (Stopping up of streets) and Article 19. Its outstanding objection that it considers not to be capable of being resolved by the modified Order is the inclusion of Article 19(8) in the Order. This effectively gives NR deemed consent when constructing and maintaining the Scheme to discharge into a sewer for which TWUL is responsible.
- 5.6 TWUL objects to the Order unless Article 19(8) is removed. This would ensure that it would retain control over any discharge into the sewer. It appreciates that the authorised works should not suffer undue delay, but of equal importance is the protection of customer homes and the environment from flooding, of apparatus from damage, of TWUL's ability to comply with its statutory duties and environmental permits, and of the health and safety of employees and the public. Should TWUL for whatever reason not deliver within 28 days of an application to discharge, Article 19(8) would allow NR to discharge without consent being given, which could have significant consequences if something went wrong.
- 5.7 TWUL accepts that deemed consent has been included in previous orders, but so too has deemed refusal e.g. The Thames Tideway Tunnel Order 2014 which TWUL applied for, included a provision for deemed refusal (Article 19(8)). TWUL is treating this application in the same way as it has treated its own projects. In addition, other orders have been silent on consent altogether by for example following the Model Provisions template and not containing any provision as to deemed consent or refusal.

¹⁹⁵ Documents INQ/03 Letter of Objection OBJ/226, OBJ/226-1 and OBJ/226-3 and oral evidence given by Jane Battle at the Inquiry

- 5.8 The Water Industry Act 1991 provides for deemed consent only in very limited and prescribed situations where TWUL is unable to condition the discharge, it has very limited ability to refuse applications and the potential risks relating to such discharges are low. Unlike these situations, Article 19 discharges can, and must, be conditioned and may in some cases be refused.
- 5.9 Agreement in principle has been reached regarding all matters except for TWUL's objection to Article 19 of the draft Order, which includes an objection to Article 19(8) that TWUL has requested to be removed from the Order. This has not been able to be resolved and an agreement on the other matters has not yet been signed. TWUL therefore maintains its objection.

M Spooner & D Spooner (OBJ 228), Gladman Developments Limited (OBJ 229), J E Spooner (OBJ 230) and G W Fox (OBJ 231) (Gladman)

The material points¹⁹⁶ were:

- 5.10 Gladman does not object to the principle or route of the Scheme. The objection is in respect of land proposed to be taken in association with the Scheme. It is therefore not concerned with relevant tests for the grant of planning permission under the deemed grant in the draft Order, but rather with compulsory acquisition of land. Its objection falls into the following four key areas:
- (i) access;
 - (ii) flood risk and the consultation;
 - (iii) land take for ecological reasons with respect to ECS B10; and
 - (iv) failings in respect of each of these elements of the Scheme.

Relevant Law and Policy

- 5.11 The SoS has power to make a modification to the draft Order under section

¹⁹⁶ Document OBJ/228-231-10 and oral evidence given by Dr Dan Simpson at the Inquiry

13 of the TWA, and in particular section 13(1)(b).

- 5.12 The law and the Government's policy in respect of the interests of persons in their land set a high threshold to interfere with a person's property. It follows that if land is to be taken away from a person, against their wishes, that the justification to do so must be substantial and in the public interest. In contrast to disputed planning issues where an applicant wishes to develop their own land, the issues here arise from an application to develop somebody else's land, against their wishes.
- 5.13 All four of the policy principles with regard to compulsory acquisition are in play in respect of the objection, which are:
- (a) A compulsory purchase order should only be made where there is a compelling case in the public interest;
 - (b) compulsory purchase is a matter of last resort and so the acquiring authority will be required to show that it has taken reasonable steps to acquire the land by agreement;
 - (c) it is for the acquiring authority to demonstrate for each parcel of land in the draft Order, and in respect of each land owner affected, that the purpose of acquisition of the particular land justifies the interference with the land owner's rights, and;
 - (d) in considering the justification advanced by the acquiring authority, the Minister will consider any alternative land which is available to meet the needs of the Scheme which does not require the use of compulsory acquisition.
- 5.14 An Environmental Statement is to comply with Rule 11 of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006, particularly as to sufficiency of information to assess likely significant effects, and is defined in Rule 4. The Scheme Environmental Statement comprises both the ES and FEI, and the information required to assess
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environmental effects, i.e. the material which is emerging during the Inquiry is environmental information. Gladman has suggested that net gain for biodiversity is not a topic which is relevant to ECSs. It has also suggested that Policy on 'net gain' does not form a valid basis for acquiring land compulsorily, as NR is only obliged pursuant to the Habitats Regulations to mitigate impacts of the project and not to provide enhancement, as set out in NR's SoC¹⁹⁷.

Access

- 5.15 The use of Plot 0670 (temporary acquisition and permanent rights required), is said to be required to provide access to a proposed CFSA and ECS B10, through Mr Spooner's business premises. NR and Gladman have agreed that instead of acquiring Plot 0670, subject to obtaining the necessary local authority and other necessary approvals within project time limitations, alternative access(es) on land owned by Mrs J Spooner and G W Fox Limited can be used to access the CFSA and ECS. An agreement has been reached between the parties to provide an alternative route. This discussion could have occurred prior to the drafting of the proposed Order.

Flood risk

- 5.16 The use of Plot 0681 (permanent acquisition) for the proposed CFSA was announced out of the blue and since then meetings have taken place. NR needed better topographic data to hone its flood risk model. If the consultation had been real consultation on that which actually appeared in the Scheme, then the topographic data for the relevant land would have been freely given to NR's consultants. Gladman has now given it to NR. It is a further example to show the merit, if your organisation is to seek to

¹⁹⁷ Document NR00 e.g. paragraph 10.9.8: '*Whilst Network Rail is under an obligation to mitigate all of the impacts of EWR2, it does not consider that there is any statutory or policy basis which require provision of a net gain, nor that it has the compulsory purchase powers to achieve it.*'

compulsorily acquire somebody's land, of asking first. This issue has been resolved by agreement.

The Public Interest in the Land ECS B10

- 5.17 The land for ECS B10 would be compulsorily acquired under the draft Order as Plot 0677, which is a part of an allocation for 585 dwellings in the VALP. That emerging plan has been the subject of an Examination in Public. NR was not represented at these Examination sessions. The Inspector's interim findings are consistent with that allocation and indicate that the plan may be found to be sound with appropriate modification¹⁹⁸.
- 5.18 The Planning Statement in support of the TWAO refers to the emerging VALP but fails to refer to allocation WIN001. The loss of part of an emerging allocation for residential development is material to the assessment of the public interest. The justification for the Scheme does not address this element of emerging policy, fails to engage with the public interest in that regard and fails to balance that public interest in the justification for the compulsory acquisition.
- 5.19 The only planning evidence in this regard is that provided by Gladman. Based on this, the only reasonable conclusion open to the SoS is that there is a considerable public interest in not taking land which is to be allocated for housing in a local plan to which significant weight may be attached, having been the subject of an Examination in Public.

¹⁹⁸ The Inspector's Interim Findings (29 August 2018) following the Examination Hearings have now been published. Whilst the Inspector concluded that there is additional work for the Council to undertake on the plan, he has stated that he considers it is capable of being made sound and subsequently adopted. He has made no suggestion that any of the proposed allocations should not be included, but has indicated that higher housing need exists than the plan currently provides for. It is therefore understood that land, south of the brook and covered by the Order, will be allocated for residential development upon adoption of the plan. A planning application for residential development was submitted to AVDC in September 2018. The application is for 235 dwellings and includes land on plan sheet number 25, numbered 0670, 0677, 0677a, 0683 and 0683a.

The Scheme and Consultation

- 5.20 The published Order varies significantly from the options which have been consulted upon and no approaches to purchase the land have been made by the Promoter.
- 5.21 There were three separate consultations by NR: September 2015, June 2017 and January 2018. Detailed responses were made on each occasion. In particular, it was pointed out that a joined-up approach to ecological mitigation was required between NR, AVDC and the owners of land adjacent to the proposed Scheme. This was required so that the importance and extent of the mitigation required, based on surveys and reports (seen by all parties), could be understood and accommodated.
- 5.22 The January 2018 consultation differed significantly from that published in June 2017. The accompanying drawings included significant additional land in the ownership of Mrs Spooner. No explanation within the consultation was given to explain the change.
- 5.23 Upon publication of the TWAO it became apparent that the land outlined to be compulsory purchased, and of rights in, and rights to use land acquired differed significantly from that outlined in the January 2018 consultation. Some of the ecological mitigation areas had altered in shape and location and there were also additional parcels included that had not been part of the previous consultations. Additional areas of land were also included within the TWAO in relation to access.
- 5.24 Over four years have elapsed during which accurate information could have been obtained or supplied where it already exists. When properly understood, the ecological issues could have been solved in a manner which optimises the ecological mitigation, without trespassing on other public interests. It is still not known with any precision what information is required to complete the environmental information, still less what that information will actually be.
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5.25 There has been no consultation on the compulsory acquisition of these parcels of land and thus it is appropriate to modify the Order by their deletion. To do otherwise would be to fail to give effect to the clear policy and guidance. It would be to render the guidance of no effect and to undermine the protections which have been put in place to avoid peremptory compulsory acquisitions. This is reinforced by the fact that no approach has been made to acquire the land by private treaty.

The main issues

5.26 Gladman does not agree with the proposed size/siting of ECS B10 on Plot 0677. NR's ecological justification is inadequate, and its environmental information is similarly inadequate.

5.27 The over-arching context in terms of Great Crested Newts (GCN) is mitigation of loss over the whole length of the proposed route. The Scheme provides for 33 more ponds than are lost and 31ha of habitat than is lost, even on NR's estimates of loss which are not to be relied upon because they are over-estimates. This is not a circumstance where compensatory land has been pared down and the question of its adequacy is obviously marginal. Rather, the starting position in numerical terms is very advantageous. The same position is apparent in respect of ECS B10: NR's view is that it would provide 'more than enough' carrying capacity for translocated GCN¹⁹⁹.

5.28 It is very difficult to learn from the environmental information whether ECS B10 is required for any sort of GCN mitigation. So, for example, the FEI refers to ECS B7, B13 and C1 as compensating '*for the long-term effect to great crested newts from habitat loss during construction.*' – but nothing is said about ECS B10²⁰⁰.

5.29 No waterbodies (e.g. ponds or ditches) supporting breeding of GCN are to be lost within 500m of ECS B10. It is therefore apparent that ECS B10 is not

¹⁹⁹ Document NR238 page 3-11, first bullet point (the Moco Farm technical note)

required to compensate for the loss of aquatic habitat for GCN at this location²⁰¹.

- 5.30 Whilst it was originally intimated that ECS B10 was needed to compensate for Old Quarry Biological Notification Site (BNS) and the Local Wildlife Site (LWS) off Magpie Way, that position has not been maintained because half of the area lost (some 0.05ha) will be reinstated and there will also be 0.2ha of woodland planted to the east of the BNS, outside ECS B10. It is self-evident that ECS B10 is not required²⁰². So far as these areas are to be affected by construction, the effects will be mitigated on those sites and nearby. The mitigation and compensation will exceed the loss by a factor of two or more. It is therefore untenable to suggest that ECS B10 is needed as compensation because there is no need to do so, as it has already been done. Moreover, the idea that there is any connection between ECS B10 and the affected areas to the south is self-evidently misconceived: the connectivity is cut by the railway which NR promote.
- 5.31 ECS B10 is very much about terrestrial mitigation. In that context, the habitat lost to construction works has only been estimated by NR from aerial imagery but Gladman has looked carefully at this question, including using Phase 1 Habitat Survey data. NR has over-estimated by a factor of 5 or 6 and so has started from the wrong point²⁰³.
- 5.32 The legal tests to address in respect of the grant of planning permission (see Morge) are not relevant to this objection which is about the powers that the TWAO seeks with regard to compulsory purchase. NR has failed to discharge the heavy burden on it in respect of compulsory acquisition and in respect of each parcel of land.
- 5.33 Natural England (NE) and BCC/AVDC have been unable to reach a conclusion

²⁰⁰ Document OBJ/228-231-7: Proof of Evidence of Dr Dan Simpson paragraph 3.1.5

²⁰¹ Agreed by Dr Stephanie Wray in cross examination

²⁰² Document OBJ/228-231-7: Proof of Evidence of Dr Dan Simpson paragraph 4.1.2

in respect of mitigation/compensation for Route 2B of the Scheme. They point to the inadequacy of the environmental information. In particular NE confirmed²⁰⁴:

- (i) it is unable to say whether the terrestrial habitat compensation within Route 2B was justified or not;
- (ii) it may be that further information, to be supplied after all of the ecologists have given evidence, will resolve this;
- (iii) at present there was no compelling case to support the need to take ECS B10, nor to say that it would not be needed, nor to say whether it was in the appropriate place or of the appropriate type; and
- (iv) it could not be said whether Moco Farm or ECS B10 were preferable for the purpose of GCN terrestrial habitat compensation.

5.34 The evidence on GCN indicates that the environmental information is inadequate. If that were not so, then there would be no need for still further information to be produced so very late. The evidence as to presence of GCN on the track areas was in fact assumption, rather than survey²⁰⁵. You need to know with some clarity what it is that you are compensating for, before you decide how to compensate for it, which is the view of NE. It is wholly unclear how an objector is to participate properly in testing and responding to such information.

5.35 NR's evidence on the alternative site of Moco Farm²⁰⁶ is very clear, having considered the factors weighing on each side of the balance, it is a good site and a suitable alternative to, amongst other sites, ECS B10. NR is plainly of that view more corporately, having purchased the site for this purpose. NE has not stated its concluded view yet, but NE has not presented any evidence

²⁰³ Document OBJ/228-231-7: Proof of Evidence of Dr Dan Simpson paragraph 3.1.4

²⁰⁴ Evidence given by Suzanne Crutchley (NE) in morning of 12 April 2019

²⁰⁵ Dr Dan Simpson explained in cross examination on 13 March 2019

which concludes against it.

5.36 This issue is a further good example of the consequences of failing to consult. The series of events proceeded thus:

- (i) no consultation on the land actually included within the Order (ECS B10);
- (ii) no survey of ECS B10 for its principle purpose (GCN terrestrial habitat), resulting in overestimation of requirements and uncertainty which persists;
- (iii) inadequate environmental information for GCN along Route 2B of the Scheme to be able to satisfy the key statutory consultee on Favourable Conservation Status (FCS), even towards the end of the Inquiry;
- (iv) an alternative which emerges during the Inquiry;
- (v) comparative assessment information obtained during the course of evidence²⁰⁷;
- (vi) position statements emerging from both NE and NR after the objector's appearance at the Inquiry;
- (vii) those position statements not being sent to objectors who were active participants in the Inquiry – they were only obtained during the examination in chief of NE's witness, by attending the Inquiry to obtain them and to hear the evidence; and
- (viii) the position remains fluid and uncertain even when all of the ecology expert evidence has been heard.

²⁰⁶ Document NR238

²⁰⁷ Document NR238

Conclusion

5.37 The overall position is that the Promoter has not been able to show that ECS B10 is justified and comprise a compelling case in the public interest because:

- (i) There is an alternative.
- (ii) The environmental information does not support that conclusion.
- (iii) There was no consultation on the Scheme as promoted.
- (iv) There has been no engagement whatsoever with the public interest to be lost by taking part of an emerging housing allocation – that part of the public interest has not been acknowledged by the Promoter.
- (v) There has been no attempt to deal by private treaty.

5.38 The SoS should make the Order with the appropriate modifications.

Trustees of the H C Stock Will Trust (H C Stock Will) (OBJ 27)

The material points²⁰⁸ were:

5.39 H C Stock Will are the freehold owner of land situated on the west side of Furze Lane, Winslow of which the following plots are referred to in the Order for compulsory acquisition: 0604, 0606, 0610, 0613, 0623, 0626 and 0646. They do not object to the temporary use of land in relation to plots 0605, 0608, 0617, 0617a, 0620 and 0639, nor to the Scheme in principle, nor to the proposed alignment of the railway.

5.40 H C Stock Will understand that no works are now proposed in plots 0617, 0623 and 0626 and so there is no justification for including compulsory purchase powers in the Order for these plots. Further, H C Stock Will no longer have interests in plots 0617, 0620, 0623, 0639 and 0646. The

²⁰⁸ Document OBJ/27-5

objection is limited to the compulsory purchase of the H C Stock Will's land which is proposed for environmental mitigation (ECS B9). The compulsory acquisition is not necessary, in particular as there are alternatives. As such, there is no compelling case in the public interest for conferring on NR powers compulsorily to acquire Plot 0613, and the land and rights for which compulsory acquisition powers are sought are not required by NR in order to secure satisfactory implementation of the project.

- 5.41 Neither of the 2 ponds supporting GCN in Route Section 2B that would be lost are in the vicinity of ECS B9²⁰⁹. The environmental design measures and the mitigation for GCN will result in the net gain of 33 ponds and approximately 31ha of terrestrial habitat, of which 9 ponds and 6ha are in Section 2B²¹⁰. This results in a net gain, even without ECS B9 (3 proposed ponds and 1.1ha). Moreover, NR does not consider itself to be under any obligation to provide ecological net gain²¹¹, no reliance is placed on ECS B9 in relation to construction impacts for the loss of either aquatic habitat²¹² or terrestrial habitat²¹³, and ECS B9 is not suitable compensatory habitat for GCN²¹⁴. It is highly likely that protected species, including GCN, are already using the proposed site and accordingly it is unsuitable as ecological compensation as any enhancement will provide a minimal ecological benefit²¹⁵.
- 5.42 With regard to reptiles, although ECS B9 is included as compensation, there is a net gain in suitable reptile habitat provided within the ECSs as a whole²¹⁶. Therefore, should the 1.1ha proposed for ECS B9 not be provided, it would

²⁰⁹ Document NR-47 page 123 Table 11.1 and pages 132 and 133 (ponds GCN_108 and 105)

²¹⁰ Document NR-47 page 123 paragraph 11.1.11 and page 135 paragraph 11.3.17

²¹¹ Document NR00 paragraph 10.9.8

²¹² Document NR47 Part I Main Report page 134 paragraph 11.3.10

²¹³ Document NR47 Part I Main Report page 135 paragraph 11.3.14

²¹⁴ Document OBJ/27-2: Thomas Haynes concludes that many of the habitat features proposed to be created are already present and of sufficient ecological quality to support protected and noteworthy species.

²¹⁵ Document NR238 Table 1 identifies no increase in carrying capacity of ECS B9

²¹⁶ Document NR16: ES paragraph 9.4.167 states: '*The loss of reptile habitat will be compensated for in ECS B2, B7, B9, B10, B13, B14, B23 and B26 with a net gain of 9.2ha of grassland and shrub.*'

not prevent a net gain in habitat elsewhere. Moreover, the 2018 ES states that reptiles will be relocated to eight ECSs, including B9, *'or areas of suitable retained habitat outside of the Scheme Area, dependent upon the maturity of vegetation in the ECS'*²¹⁷. Reptiles have been recorded along the entire length of Section 2B so there is no essential requirement for ECS B9 as a receptor site for reptiles.

5.43 The Technical Appendix to the FEI indicates that the principle purpose of ECS B9 relates to GCN and reptiles²¹⁸. It is understood to be a general aspiration for ECS B9 that it will contribute to mitigation for losses along the entirety of Section 2B²¹⁹. No justification for the specific location or extent of ECS B9 is provided in this regard. In such circumstances, ECS B9 is not necessary and there cannot be a compelling case in the public interest for the compulsory purchase of the land.

5.44 There is a known breeding population of GCN present on land connected to ECS B9 on the southern border, which includes two balancing pools (referred to as 'The Yellow Land'). This land was designed as a part of an ecological and drainage mitigation strategy for the housing development situated to the east of ECS B9. ECS B9 includes suitable habitat for foraging GCN and as it is within 30m of the two breeding ponds, it is within their territory and is likely to be used by this population²²⁰. Accordingly, it can provide no meaningful additionality in relation to terrestrial habitat.

5.45 NR's statement that The Yellow Land cannot be used to offset the impacts of the Scheme due to it already containing suitable aquatic and terrestrial

²¹⁷ Document NR16 ES paragraph 9.4.170

²¹⁸ Document NR47 Part II Appendix 9.13 page 9 paragraph 2.3.10

²¹⁹ Document NR47 Part II Appendix 9.13 page 9 paragraph 2.3.10: *'ECS B9 will include creation of ponds and marginal planting, open mosaic habitat, lowland meadow, native species-rich hedgerows with trees, scrub, southfacing reptile embankment, hibernacula and log piles. The provision of these habitats, once established, will support great crested newts, reptiles, birds, badgers, bats and terrestrial invertebrates such as black, brown and white-letter hairstreak butterflies.'*

²²⁰ Document OBJ/27-2 paragraph 3.6

habitat and any improvements to it would not provide any meaningful 'additionality in relation to environmental mitigation' does not consider the possibility of creating new ponds within The Yellow Land. The Yellow Land is capable of providing all of the compensation measures proposed on ECS B9, including the size of ponds proposed in the ECS B9 sketch plan²²¹, which can be accommodated within the species poor grassland areas of The Yellow Land.

- 5.46 If the GCN population are considered to be part of the same genetic population, there is no reason why The Yellow Land could not be used for the translocation of GCN from the ponds in the area. If they are not, the proposed ECS B9 would not work given that that land forms the terrestrial habitat of the breeding ponds on The Yellow Land.
- 5.47 Moco Farm is another alternative environmental mitigation²²². NR has suggested that the proposed ecological compensation at ECS B9 may not be required if agreement is achieved on the use of Moco Farm, which is a much larger area and would require the creation of new habitats. It has the potential for significant ecological improvement works and habitat creation opportunities, with much of the existing area of land being of a relative low ecological value. The bordering woodland habitat also allows for ecological connectivity²²³. The proposals to utilise larger areas of Moco Farm as part of the Ecological Mitigation Scheme proposed as ECS B28 provide much improved ecological benefits over the modifications proposed as part of ECS B9²²⁴.
- 5.48 NR has secured a long-term lease of the relevant land at Moco Farm. With regard to NR's need for a NE licence for Moco Farm, there has not been a grant of a NE licence in relation to ECS B9 either. It therefore follows that

²²¹ Document OBJ/27-3 Appendix 4

²²² Document NR238

²²³ Document OBJ/27-2 paragraph 6.6

²²⁴ Document OBJ/27-2 paragraph 7.2

there is no justification for NR making an undertaking to not exercise its powers of permanent acquisition over Plot 0613 conditional on a licence being obtained from NE, as there is no material difference between ECS B9 and ECS B28 in this regard.

- 5.49 For the reasons set out above, NR has failed to demonstrate that ECS B9 is necessary at all, particularly as there are acceptable alternatives. As a result, there cannot be a compelling case in the public interest to acquire the land in Plot 0613.

***Trustees of Woburn Estates and Bedford Estates Nominees Limited
(OBJ 114)***

The material points²²⁵ were:

- 5.50 The Trustees have reached agreement on plots 1191, 1194, 1195, 1209 and 1214. The ongoing objection relates to the inclusion of Plot 1171, which is productive agricultural land, as to the necessity for the amount of land to be taken in the absence of evidence suggesting that other areas have been considered. They consider that the area of land to be acquired is in excess of that which should be reasonably required for the improvements to the railway and in particular its environmental mitigation. There is not a sufficiently compelling case in the public interest for the extent of the land to be acquired compulsorily. If it is required, they wish to enter into an arrangement with NR involving either a lease or, preferably, a management agreement to enable them to occupy and protect the area involved. They have also identified a footpath which dissects the land and would make the suitability of the land questionable due to public access.

²²⁵ Document OBJ/114-3

Buckinghamshire County Council (BCC) (OBJ 232)

The material points²²⁶ were:

- 5.51 BCC is a member of the EWRC and is therefore a strategic supporter of the project in general and the Scheme promoted by the Order. However, it objected to the Scheme on highway and, with AVDC, on ecological grounds. In a SoCG²²⁷ BCC, as the local Highway Authority, has agreed with NR that all its concerns have been resolved and on this basis the objection in relation to highway and traffic matters has been withdrawn.
- 5.52 In terms of ecology, BCC and AVDC do not support the Scheme as proposed because of the extent of unmitigated impacts on important habitats and species that it would give rise to, and the lack of confidence that mitigation would be capable of resolving those impacts within the existing Scheme design. They would be affected by the situation where the Scheme is consented through the Inquiry process, but cannot be delivered due to the impossibility of resolving matters left over to conditions or the inability for NR to obtain species licences. That is why the ecological issues need to be addressed at this stage.
- 5.53 NR has assumed a 'worst case' position²²⁸ which has the following consequences:
- actual impacts on habitats and species are not understood because there is no knowledge, for example of roosts and foraging/commuting habitat;
 - it is therefore impossible to understand how most effectively to design and locate mitigation; and
 - it undermines the mitigation hierarchy of to avoid, mitigate and only

²²⁶ Document OBJ/232-8

²²⁷ Documents OBJ/232-5, OBJ/232-6 and NR254

then compensate (on site/off site)²²⁹.

- 5.54 BCC agrees with NE that the evidence on the baseline position for bats, including the rarest of the species, is inadequate²³⁰ and that the mitigation proposed cannot be said to maintain the FCS of the species²³¹. A licence would therefore be unlikely to be granted under the relevant legal tests.
- 5.55 BCC's concerns about the information on ECSs is as follows:
- (a) lack of information or rationale as to how the ECSs were selected and/or scoped out;
 - (b) lack of detail of habitat areas, including in particular the feasibility of providing a large number of objectives/habitat types in a single small site, for example ECSs B10 and D1²³²;
 - (c) lack of information about the feasibility of the creation of habitats, a particular issue for the creation of lowland meadow which is mentioned as a component for a number of the ECSs, including B7, B9, B10, B14 and B17, and ancient woodland translocation;
 - (d) lack of detail about the existing ecological quality, condition or function of the ECSs; and
 - (e) lack of information as to the functional connectivity of the ECSs.
- 5.56 BCC and AVDC are unable to have confidence that the package of ECSs presented will be able adequately to mitigate for the important ecological features affected by the Scheme²³³. It is consistent with NR's generic calculation of an overall net loss of 432 biodiversity units, which is of concern. However, given the lack of detail as to what compensation can be provided in

²²⁸ Document NR16: ES paragraph 9.3.4

²²⁹ Oral evidence given by Dr Sarah Cox at the Inquiry

²³⁰ Document OBJ/232-4 paragraphs 4.12- 4.14 and 4.23- 4.32

²³¹ Document OBJ/232-4 paragraphs 5.18- 5.27

²³² Dr Sarah Cox in evidence

the ECSs, the loss in real terms may be even greater and, given the large net loss accepted by NR, the decision taken by NR to scope out 14 possible ECSs that were said to be 'no longer required' is highly questionable²³⁴.

5.57 Overall, NR has sought to do too much in too few ECSs and too little detail has been provided to give any confidence that they will be able to achieve that. While it became apparent²³⁵ that further information will now be forthcoming, the further information necessary is too fundamental to leave to conditions. Further, the mechanism for monitoring and maintenance requires some level of management, but a planning condition²³⁶ presents potential issues for enforcement. A more conventional and effective approach would be to ensure that agreements (whether under the Natural Environment and Rural Communities Act or otherwise) were entered into.

5.58 The Scheme will have very significant impacts on habitats and species of principal importance, including the full range of protected bat species. This is shown in the substantial adverse score presented from NR's biodiversity metric²³⁷, which has the following provisos:

- (a) the use of a biodiversity metric is no substitute for the need to avoid, mitigate and only as a last resort compensate for impacts on important ecological features;
- (b) the NR metric is notably 'generous' compared to other metrics that are referred to in the evidence²³⁸;

²³³ Oral evidence given by Dr Sarah Cox at the Inquiry

²³⁴ Document OBJ/232-4 paragraph 5.29

²³⁵ Dr Sarah Cox in cross examination

²³⁶ Document NR256 Condition 11(a)

²³⁷ Document NR47 Part II Appendix 9.16 Table 4.2

²³⁸ Document NR54-1 Appendix B Table 2.2 gives the WCS BIA metric a negative value of 984 units and the Defra 2012 metric 681 units: the difference is largely accounted for by the more optimistic calculation of biodiversity offsetting from the ECSs in the NR metric

- (c) there are serious questions about the ability of ECSs to deliver what it is said they can deliver; and
 - (d) it is not clear that NR still relies upon the NR metric or the calculations done under it. NR's response to the Biodiversity Instruction²³⁹ explains that NR will update the calculations assuming the 'Defra 2.0 metric' and providing net gain. No recalculation has been provided.
- 5.59 It is impossible without this substantial further work having been undertaken to understand the full ecological implications of the Scheme. It is unclear whether the further work might have implications for the design of the Scheme, including the need for additional avoidance, mitigation or compensation measures. In any event, the position before the Inquiry is a very substantial net loss.
- 5.60 Given the Biodiversity Instruction²⁴⁰, net biodiversity gain is a proper policy aim for the Scheme. It would not be reasonable simply to rubber stamp the intention of a 10% net gain without some sense that it can be achieved for the Scheme as designed, given the emphasis in the Defra metric 2.0 on connectivity²⁴¹. BCC and AVDC support the aim, but they consider that further work is needed from NR to show that it can be achieved by the project in a reasonable timescale. A difficulty for the Scheme is that, while the delivery of net gain was part of the original intention (in the 2017 proposals), it was dropped for the application, and then added back in later. The task of retrofitting the Scheme so that it can now deliver 10% net gain is laudable but ambitious.
- 5.61 The Scheme should not be consented as proposed. It may be that the provision of further information, including if necessary further commitments to ecological mitigation, may be able to resolve some or all of BCC and

²³⁹ Document NR 208

²⁴⁰ Document NR207

²⁴¹ Document OBJ/232-4 paragraph 6.12

AVDC's concerns in this regard. A point that looks likely to remain is that the Scheme will give rise to a very substantial impact on biodiversity, and it has not taken appropriate opportunities to avoid or mitigate those impacts. It is therefore contrary to policy. The reason for that comes down in part to the inadequacies of the initial surveying effort. That might be resolvable, but not without potentially revisiting areas of the Scheme proposals and ensuring that adequate mitigation etc is included.

5.62 With regard to the suggested planning conditions, BCC has agreed with the final wording of Condition 14 (Highways) but has suggested further amendments to the ecology condition. These amendments are to give greater clarity to the condition proposed by NR. It has suggested the following:

Condition 11 (a) -

(i) the time frame of a minimum period of 30 years to be included.

(ii) the mitigation measures to be updated annually.

(iii) the monitoring to include annual surveys.

Condition 11 (b) - to achieve a 10% net gain within 5 years and this to be maintained.

Condition 11 (c) - a barn owl mitigation strategy.

Condition 11 (d) - no development to be carried out in the nesting period to protect barn owls²⁴².

²⁴² Oral submissions made by Mrinalini Rajaratnam at the Inquiry on 30 April

O & H Q6 Limited and O & H Q7 Limited (O&H) (OBJ 156)

The material points²⁴³ were:

5.63 O&H are supporters of the Scheme. They have objected to the Order on technical grounds. They are close to a resolution on many of the matters. However, their objection stands as at the close of the Inquiry. The result of this objection is, for the reasons set out in the evidence below, that the Order should either not be confirmed or that O&H's land should be removed from the Order. The relevant plot numbers comprised in the Order are as follows:

- Bletchley Brickworks - 1010, 1013, 1015, 1015a, 1024, 1033, 1034, 1036, 1044, 1055 and 1056.
- Marston Valley - 1243, 1253, 1255, 1261, 1278, 1284, 1287, 1290 and, 1292.
- Kempston Hardwick - 1299, 1300, 1302 and 1305
- Woburn Sands - 1106, 1107, 1114, 1115, 1117, 1117a, 1117b, 1119, 1121, 1122, 1122a, 1122b, 1123 and 1124.

Woodleys Crossing and Woburn Sands

5.64 O&H are the freehold owners of land to the north and south of the railway line at the point known as Woodleys Crossing. A crossing is necessary to facilitate access for agricultural vehicles between the two parcels of land, as the land will continue under agricultural production until such time as planning permission is obtained for an alternative use. It also benefits from an allocation in Plan:MK where it forms part of a wider allocation to deliver about 3,000 homes under Policy SD11. O&H are actively engaged with MKC and the other land owners in preparation for a Comprehensive Development Framework that will guide their future planning application.

²⁴³ Documents OBJ/156-11, OBJ/156-12 and OBJ/156-13

- 5.65 Plan:MK Policy SD11 contains provisions to ensure that connectivity across the railway line is provided or retained as grade separated infrastructure and that this is necessary *'to ensure connectivity of the southern areas of the site with the remainder of the site and the city to the north'*²⁴⁴. The Order seeks to provide a grade separated bridge at Woodleys Crossing that would function as an accommodation bridge for agricultural vehicles and provide an alternative footpath crossing to the 'Fisherman's Path' pedestrian crossing that lies to the east of Woodleys Crossing.
- 5.66 MKC has expressed an aspiration for a north-south highways connection to be created across the railway line. It is clear that this is not necessary to mitigate the effects of traffic generation likely to arise from the planned development, allocated in Policy SD11; but the creation of a bridge future-proofs options for further growth of Milton Keynes by connecting elements of the existing strategic highways network. Connectivity across the allocated site would also be achieved in the shorter term.
- 5.67 O&H operate under a master developer model and take a long-term, strategic approach to development. In order to future-proof infrastructure to allow for future growth, O&H have entered into discussions with all parties on an alternative bridge scenario. It is highly likely that O&H's land would be required to deliver any alternative bridge. Further, O&H consider that the delivery of Woodleys Crossing as currently planned by NR through the Order would result in a significant waste of public money, which it understands could be several million pounds worth of construction costs and compensation payments under the Act. The main effect of the construction of Woodleys Crossing will be to serve an agricultural operation that is likely to cease shortly after completion of the bridge.
- 5.68 NR has prepared Heads of Terms for the construction of an alternative bridge

²⁴⁴ Document NR262 Plan:MK paragraph 5.27 explains that 'connectivity' could mean highway, public transport, pedestrian and/or cyclist routes

to Woodleys Crossing and O&H are one of the objectors who are intended to be a party to such an agreement. O&H's position on the latest version of the Heads of Terms is as follows:

- (i) O&H welcomes the intention of all parties to work together to find an alternative infrastructure scenario that will be a sustainable use of resources.
- (ii) O&H are willing to work with the objectors on the preparation of an application for an alternative bridge but securing planning permission for this development by 1 April 2020, as suggested, would be an incredibly tight programme and MKC needs to confirm: a) whether it would lead such a project and b) whether the programme is achievable.
- (iii) O&H welcome the costs approach that NR is now proposing for the construction of any alternative bridge, but a detailed, open book appraisal needs to be shared and appended to the Heads of Terms.
- (iv) O&H welcomes NR's assurance that it does not believe that a 'shared value' position exists for the construction of an alternative bridge.
- (v) O&H will not sign any agreement where NR reserve its 'shared value' position for determination at a later date.
- (vi) O&H will not pay 'shared value' to NR for the delivery of any alternative bridge, predominantly delivered on O&H land, which has been planned and delivered by MKC, to ensure that future growth options for the city are not prejudiced.
- (vii) O&H are willing to keep discussing these Heads of Terms once the Inquiry has closed.

*Public Engagement*²⁴⁵

5.69 O&H can see no basis on which the SoS can conclude that the making of the Order would be a measure of last resort, as required by the Guidance. NR has failed to take into account the potential impact of its proposals on O&H's land, despite having ample opportunity to negotiate outside of the TWA. Given the very significant amount of O&H's land that NR propose to acquire, it would have been reasonable and proper to assume that O&H would have been closely involved with NR in working up the proposals for the Scheme and discussing the impact of the proposals on O&H's land. Only limited discussions have taken place and NR has failed to take any of O&H's concerns, or alternative suggestions, into account in the design of the proposed works, or the extent of the land and rights included in the draft Order.

*Planning*²⁴⁶

5.70 O&H has concerns in relation to the extent of NR's consideration of reasonable alternatives to the use of their land holdings for a range of purposes and the approach to reporting this consideration as part of the EIA. O&H has consistently raised such issues at various stages of consultation. The extent to which these representations have been considered by NR in its selection of the design of the Scheme is not clear. NR has not given full consideration to available reasonable alternatives to avoid the identified effects on O&H's land and its future development proposals, given that it has made no move to amend the submitted Scheme to respond to these concerns and that such a consideration is not reported in the ES.

5.71 The cumulative assessment undertaken by NR as reported in the EIA is not robust, in that it fails to consider the cumulative impact of a number of

²⁴⁵ Document OBJ/156-1

²⁴⁶ Document OBJ/156-3

proposed development sites, including the allocation of the O&H Woburn Estate for strategic development in Plan:MK and the allocation of O&H's land at Marston Valley for strategic development in the emerging CBC Local Plan. As such, the EIA does not fully consider the potential for significant environmental effects of all of the projects where such effects are likely, as required by Regulation 14(2) (Schedule 4) of the Infrastructure Planning (EIA) Regulations 2017. On this basis, the conclusions of the EIA, both in relation to the environmental effects assessed and mitigation identified, are not considered a robust or sound basis upon which to judge the environmental impact of the Scheme on the surrounding area.

- 5.72 Elements of the Order proposals will prejudice the effective delivery of development allocations and development projects already in the pipeline. NR has failed to respond positively to the representations of O&H and others in respect of negotiating alternative or adjusted mitigation proposals which would not prejudice committed or emerging development proposals, thereby removing objections to many aspects of the proposed Scheme design. In failing to do so, the proposed TWAOs works as they stand run counter to the EWR strategic objectives set by the NIC and Government in respect of delivering '*aligned to the development of major new and expanded settlements*' and '*future proofed to ensure it can support continued transformational levels of growth across the arc into the longer term*'. As a result, it has not been established that there is a compelling case in the public interest to justify the compulsory purchase of O&H's land.

*Flood Risk*²⁴⁷

- 5.73 There is no evidence that a sequential approach, as per NPPF and reinforced in local planning policy, has been undertaken in the design of the permanent works which would minimise the flood risk impacts. The compensatory flood storage calculations are not sufficiently detailed for a basis of the compulsory

²⁴⁷ Document OBJ/156-6

purchase or to satisfy planning requirements. The CFSAs have not been defined by calculations; rather a series of calculations have been undertaken from which NR conclude that the CFSAs are sufficiently large that the required level for level storage volumes can be provided. However, due to the uncertainties associated with the approach, the CFSAs' sizes are intended by the NR team to be conservative.

- 5.74 It has not been proven that level for level compensatory storage can be provided within the area designated, and as such the EA notes that if it is determined that the area designated for CFSA is inadequate and land beyond the TWAO red line boundary is required then a separate planning application would be required.
- 5.75 It has not been shown that the areas designated for CFSAs are not too large or too small. As such, it has not been demonstrated that the proposals will not increase flood risk, as per NPPF and local planning policies. Also, when considering flow conveyance, NR has failed to demonstrate, through the recommended flood risk mitigation, that flood risk will not be increased as a result of the proposals. It has not been proven that the CFSAs are hydraulically similar and will operate in the same way as the floodplain lost. It is therefore not clear that that flood risk will not be increased.
- 5.76 It is not clear why there is a requirement for this land to be acquired on a permanent basis, as the proposed CFSAs are areas of land to be regraded and do not provide formal attenuation, like a reservoir, or flow control. Further, it is not clear how the CFSA will be maintained if it is permanently acquired as no corresponding right of access is sought.
- 5.77 O&H requests that a condition is included to demonstrate that there will be no increase in flood risk to adjacent land as a result of surface water drainage features, confirming how and where swales and ditches will discharge, and therefore that national and local planning policy are accorded with.

*Ecology*²⁴⁸

- 5.78 Based on the evidence, there is insufficient survey information to the required standard to inform the nature of impacts on bats and water vole that are deemed to be among the reasons for the designation of ECSs on O&H land. Only once full surveys have been undertaken will it be possible to understand what the appropriate form of mitigation and/or compensation should be and the best location for this. The approach to selection of ECSs in Route Section 2D is not transparent. Sites appear to have been selected to provide compensation for 'overall' biodiversity losses across the Route Section rather than to offset specific impacts on protected species that need to be located as close to the source of impact as possible. This raises the question as to whether such sites could potentially be located in other areas, or that are potentially not justified at all and there may be suitable alternatives. The ES fails to explain why alternative sites could not be chosen.

*Severance and Access*²⁴⁹

- 5.79 The severance of land and loss of access points will have a substantial negative effect on the functionality of the agricultural units affected by the Scheme causing issues for both land owner and tenants. In relation to all the units it is unclear that proper consideration has been given to the considerable amount of land outside of the Order that will be negatively affected by the losses of access and severance issues caused by the Scheme.

Overall Conclusions

- 5.80 Plan:MK Policy SD11²⁵⁰ does not directly reference the EWR proposals in the way suggested by NR nor the potential for the OCE or the Scheme to reduce

²⁴⁸ Document OBJ/156-7

²⁴⁹ Document OBJ/156-10

²⁵⁰ Plan:MK Policy SD11 has been updated to say, '*If the chosen corridor for the Oxford Cambridge Expressway (OCE) maintains the possibility that the OCE could be routed through the site, then planning permission for housing and associated uses will not be permitted until the detailed alignment of the OCE is known.*'

the amount of land available for residential use. O&H acknowledge that the delivery of the improvements associated with the Scheme will create a positive environment for future growth in the area, but the planned developments are not dependent on these improvements. The area already benefits from local rail services providing sustainable transport choices.

- 5.81 O&H's understanding and expectation is that negotiations will continue after the close of the Inquiry and that these will lead to concluded agreements in respect of all of its lands, which will enable O&H to withdraw its objection.

Non-Statutory Objectors appearing at the Inquiry

Woburn Sands Town Council (WSTC) (OBJ 09)

The material points²⁵¹ were:

- 5.82 WSTC has indicated that it represents the views of a number of the residents of Woburn Sands who have objected to the Order. Its main concern is regarding the proposed closure of the pedestrian level crossing known as School Crossing Footpath 003 and the diversion to use the existing Station level crossing in Woburn Sands.
- 5.83 WSTC supports the closure of the crossing, but also suggests that NR could have investigated making it safer by using additional safety measures such as lockable gates, corralling pedestrians, CCTV coverage and flashing warning lights, and that the retention of the crossing is preferable on safety grounds to the proposed use of the Station crossing by unaccompanied school children. This is due to the build-up of high volumes of traffic during peak hours at the Cranfield Road/Newport Road/Station Road junction when the level crossing gates are down corresponding with the times when there would be the heaviest use of the crossing by school children. When the gates are raised and the traffic is allowed to move again there would be a conflict with

²⁵¹ Document INQ/03 Letter of Objection OBJ/09 and oral submissions made by Councillors Geddes and Hopkins at the Inquiry

those children waiting to use the level crossing, who could stray onto the road due to the limited width of the footway adjacent to the crossing, creating a risk to pedestrian safety. This would be made worse by the proposed increase in use of the railway line from 2 tph to 4 tph.

- 5.84 WSTC accepts that the proposed replacement ramped footbridge that has been granted planning permission by MKC in November 2016 under Ref 16/01639/FUL would not be acceptable due to its visual impact on the residents of Deethe Close. However, it would support the replacement of the School Crossing by a less intrusive stepped footbridge, which would not be suitable for use by pushchairs or those with reduced mobility who could use the proposed diversion to the Station crossing. Whilst it would be an inconvenience for some, it would be a much safer solution.
- 5.85 A further concern of WSTC is the traffic at the junction of Cranfield Road with Station Road. The installation of a middle right turn lane northbound on Station Road immediately prior to the level crossing would permit traffic to queue for Cranfield Road with through traffic passing on the inside lane, allowing freer movement of northbound traffic after the gates are reopened. The current situation would be made worse by the increase in frequency of the trains that would result from the proposed Order.

Cycling UK (OBJ 243)

The material points²⁵² were:

- 5.86 Cycling UK has concerns about climate change and air pollution. It is disappointed that electrification has not been included in the proposals and is in favour of longer platforms to cater for longer trains than is proposed. It is particularly concerned about not providing a ramped footbridge at Jarvis Lane, Bicester to enable wheelchair access and easier access by bicycles than

²⁵² Document OBJ/243-1 and oral submissions made by Philip Ashbourn at the Inquiry

would be provided by the proposed stepped footbridge. Jarvis Lane is a major route into Bicester for cyclists to avoid the busier roads.

- 5.87 Cycling UK also requests that appropriate short-term and long-term cycle parking, to be Sheffield stands rather than double layer as proposed, and suitable sized lifts for bicycles are provided at Winslow Station and a minimum of 6 spaces for bicycles is provided on the trains. However, it is generally supportive of the Scheme.

Milton Keynes Green Party (MKGP) (OBJ 212)

The material points²⁵³ were:

- 5.88 MKGP fully supports the reinstatement of the rail line between Cambridge and Oxford via Milton Keynes. However, it believes that there are some omissions which should be in the TWAO. Operating as an electrified railway would reduce pollution and overall CO₂ emissions more than operating EWR2 as a diesel railway. This has been shown to cost an additional £7.3 million should the replacement of existing structures necessary to facilitate it be carried out at a later date.
- 5.89 Although MKGP wishes to see the delivery of the Scheme as early as possible, it challenges the changes that were made to the Scheme by the DfT. Its particular concerns are regarding:
- (a) the removal of the double track for the Princes Risborough to Aylesbury line;
 - (b) Aylesbury Vale Parkway, which should be double track to Aylesbury Vale station to improve resilience and performance and it already has a goods loop;
 - (c) Bletchley Station, which should have platforms that accommodate 8-Car or at the least 6-Car trains, a lift down to Saxon Street level and high-

- level platforms 7 and 8 to be made reversible to increase flexibility;
- (d) Denbigh Hall South junction, which should be upgraded to 40mph (60kph) and changed from a 'switched diamond' to a ladder type junction to prevent any reduction in the capacity of the WCML slow lines to increase the Scheme's resilience;
 - (e) Fenny Stratford Station, which should have a second track and platform reinstated to increase the reliability and punctuality of services by preventing trains stopping at Fenny Stratford Station from holding up trains travelling in the opposite direction;
 - (f) Bow Brickhill Station level crossing, which should be replaced by a bridge due to additional rail and road traffic as a result of proposed new housing and employment development on the south side of the Marston Vale Line; and
 - (g) Woburn Sands Station level crossing, which should be replaced by a bridge or in the short-term changes should be made to reduce barrier down time by relocating the eastbound platform to the east of the crossing and installing an additional signal for the westbound direction and altering the level crossing to accommodate 3 lanes of traffic and 2m wide footways on both sides.
- 5.90 MKGP's proposed changes, mainly re-instating things cut from the original NR and EWRC plans during the Value Engineering process, would make the Scheme 'fit for purpose'. What is proposed in the Order is the 'barely adequate'. It is not resilient, has very little capacity for any extra services, it cannot accommodate longer trains on busy services, it may delay services on the WCML and it will cause longer hold ups on the road network at level crossings.

²⁵³ Documents OBJ/212-2 and OBJ/212-5 and oral evidence given by Alan Francis

Councillor Sue Clark (OBJ 182)

The material points²⁵⁴ were:

- 5.91 Councillor Clark is supportive of the Scheme but objects to the Order based on the proposed closure of the 'School Level Crossing' at Lidlington without providing a safe replacement crossing at that location. She is concerned about the consequences for the village in terms of loss of connectivity and increased severance by its closure and the diversion to use the existing Station Road level crossing, combined with the proposed closure of the South Pilling Farm level crossing. She understands the need to close these crossings on safety grounds but considers that the combined effect of closing 2 of the 4 crossing points in the village would create a real problem of severance. This problem will be exacerbated by the completion of the proposed strategic housing growth in the Marston Vale close to Lidlington.
- 5.92 She also expressed concerns about the impact on the village of the closure of the Marston Road crossing to allow for the construction of the proposed bridge; the proposed access for construction vehicles along Bury Ware through the village; and the design of the proposed bridge at Marston Road which should incorporate a footpath/bridleway.
- 5.93 The Scheme offers no benefit for the village of Lidlington, only a loss of connectivity, increased severance and considerable disruption during construction. She considers that a solution to the School Crossing closure would be for NR to give a written undertaking to consider a replacement stepped footbridge at that location.

²⁵⁴ Documents OBJ/182

Lidlington Parish Council (LPC) (OBJ 215)

The material points²⁵⁵ were:

- 5.94 LPC objects to the closure of the School level crossing in Lidlington and the proposed diversion to use the Station Road crossing. It resolved at its meeting to object to the closure and diversion on the grounds that this stance was consistent with the findings of a survey that it carried out in February 2019, in which 151 households out of a total of 610 in the village responded. The majority of the residents supported LPC's preferred option of a stepped footbridge with the proposed improvements to the Station Road crossing and access to it to the option included in the Order of closing the School Crossing and providing the improvements.
- 5.95 LPC's concerns about the proposed use of the Station Crossing were regarding the safety of children waiting at the crossing, with insufficient land being available for the additional users to congregate when the barriers are down. There is an increased safety risk due to the misuse of the crossing by vehicles overtaking to turn left into Bye Road and the route being used as an alternative to the M1 from junction 12 to Ampthill and Flitwick. There would also be a problem when the Station Road crossing is temporarily unavailable due to works, a barrier failure or an incident on the line, as there would be no reasonable alternative should the School Crossing be closed. There is also concern regarding the closure of the South Pilling Farm level crossing which forms part of the 'Timberland trail'. LPC accepts that a solution to the School Crossing closure would be for NR to give a written undertaking to consider a replacement stepped footbridge at that location.

²⁵⁵ Documents OBJ/215/1 and OBJ/215/2 and oral evidence given by Peter Sparks

Caroline and Edward West (OBJ 223)

The material points²⁵⁶ were:

- 5.96 The objectors are residents of Littleworth Farm, near Verney Junction. They moved to the property because it offered a calm and peaceful location. They are concerned that the Scheme would not offer any significant benefit to them, there is little demand for it, and it does not value and would cause damage to wildlife. Their personal concerns are regarding the effect that it would have on the quality of their lives with particular regard to the impact of noise, its visual impact, and the disruption on the roads during construction.
- 5.97 Their property is currently very quiet, but during construction it would suffer from the noise and disruption due to construction Compound B2 being accessed from the road that runs past their property and being located close to their property. Noise and vibration would result from the construction of the Compound, its use and the use of the road by HGVs during construction. There would also be the visual impact of the Compound which would be able to be seen from their property that is on higher ground, and the impact on the quality of the road and the journey times due to the increase in traffic, and in particular HGVs, using the nearby roads to access the Compound.
- 5.98 In terms of the operation of the railway, it is visible from their property and at present is not used by trains. As a result of the Scheme, there would be an increase in noise at the property due to the trains using the railway and there would be the visual effect of the railway due to the removal of existing vegetation along it.
- 5.99 The overall effect would be slower journeys to work in London and to schools, shopping etc, a reduction in the condition of the roads which are already poor and not suitable for HGVs, and disruption to the peaceful, rural living that

²⁵⁶ Document INQ/03: Letter of Objection OBJ/223 and oral evidence given by Caroline and Edward West

they currently enjoy. They wish to have assurances and a better understanding of any mitigation that would be provided, including the possibility of an earth bund at the Compound and soundproofing at their property, the level of planting that would be provided and the impact on the roads in the area.

Anne Jordan (OBJ 194)

The material points²⁵⁷ were:

5.100 Anne Jordan is a resident of Newton Road, Bletchley, which is a property that is near to Section 2B of the Scheme. She considers that there has been a lack of clear information about the proposal. Her concerns are regarding the effect of the proposed reopening of the 'mothballed' line on her living conditions with regard to vibration, noise and visual impact. With the proposed mitigation from a 2.5m high barrier, the nighttime noise levels at her property are given in the ES as 52dB average with a 3dB increase and 86dB maximum, which is considered to be a significant effect and would have a severe impact on her sleep. With regard to vibration, she was living at the property in 1992 when the line was operating, and freight trains used to shake the house. In terms of visual impact, she is concerned about the potential loss or pruning of the mature trees that are adjacent to the track, which consist of poplars and other similar species.

Judith Barker (OBJ 139)

The material points²⁵⁸ were:

5.101 As a resident of Woburn Sands, Judith Barker expressed similar concerns about the proposed closure of the School Crossing at Woburn Sands as WSTC. She considers that the proposed improvements to the Station crossing would be insufficient to ensure that school children would be safe

²⁵⁷ Document OBJ/194-1 and oral evidence given by Anne Jordan

²⁵⁸ Document OBJ/132-1

using it, as the proposed footways would not be wide enough and vehicles that use the route, especially car-transporters and buses, would overrun the footway at the corner of Cranfield Road when turning left into Station Road. Her preference would be to replace the School Crossing by a footbridge. A stepped footbridge would be acceptable, but she also suggested retaining the School Crossing and improving the safety by using electric lockable gates.

Langford Village Community Association (LVCA) (OBJ 142)

The material points²⁵⁹ were:

- 5.102 LVCA objects to the proposed Scheme on the grounds of its effect on London Road level crossing in Bicester. It considers that the modelling for Phase 2 used in the report is an inaccurate base to look at the impact upon Bicester and in particular the London Road Crossing. It is based on 3-Car trains when longer trains are used through Bicester and the infrastructure proposed, particularly the Marston Vale section between Bedford and Bletchley, would not cope with the anticipated growth in the use of the railway.
- 5.103 The report does not appear to include modelling of the effects on the town centre side of the level crossing. Traffic southbound over the level crossing must wait not only for trains but also when someone wishes to turn right into Station Approach in the face of a northbound stream of traffic. The traffic regularly tails back around the Market Square and along the Launton Road. The stationary vehicles then cause additional pollution. The journey times from Langford Village presented in the report are not accurate. A journey to the junction of Queens Avenue and St John's Street is shorter in distance but does not represent the centre of town where people want to go.
- 5.104 At the public inquiry into the Oxford to Bicester phase of the railway in 2011 the Inspector concluded: *'London Road is the only route out of Bicester to the south and the resulting diversion would be at least 2km long and on roads*

²⁵⁹ Documents OBJ/142-2, OBJ/142-3 and OBJ/142-4

not suited to accept additional traffic.' A bridge or tunnel was not pursued then, partly because of the impact on local businesses. However, in 2019 those businesses that were there in 2010 have mostly gone, whether closed, relocated or wishing to relocate. To provide the bridge or tunnel that is desperately needed, it ought to be possible now to acquire the necessary land more easily and build something on a new alignment more cheaply.

- 5.105 There is access from the south side to the station at Bicester Village without needing to cross the level crossing. However, the ticket vending machine on the Langford Village side of the tracks only takes card payments and only sells tickets for the current day. Anyone requiring anything other than this needs to use the facilities in the main station building and use the level crossing.
- 5.106 LVCA considers that retaining the crossing is not sustainable, particularly when NR has deemed that all level crossings between Oxford and Bicester and between Bicester and Bletchley should be closed on safety grounds. As well as the safety risk, the crossing causes delays which can rapidly escalate across the Network. The increasing road and rail traffic in Bicester will not improve the level crossing safety and delaying the implementation of a solution at London Road is only going to cause costs to escalate.

Natural England (NE) (OBJ 242)

The material points²⁶⁰ were:

- 5.107 NE does not oppose the Scheme in principle and wants the railway to be realised. However, it maintains an objection to the proposed Scheme on ecological grounds.
- 5.108 NE has no objection to the Scheme on the basis of any effects on protected sites, including Sheephouse Wood Site of Special Scientific Interest (SSSI), ancient woodland, veteran trees, or any terrestrial or freshwater habitat. It

also has no objection to the Scheme on the basis of any effects on aquatic or terrestrial invertebrates, including white-clawed crayfish, fish, reptiles, or birds, including barn owls. Having received further information and assurances from NR, NE no longer has an objection on the grounds of hazel dormice, water voles and otter. Furthermore, following confirmation of acceptance by NR of the instruction from EWRCo, dated 21 December 2018²⁶¹, remitting the Scheme to achieve a biodiversity net gain and agreement on scope to deliver it between NR and EWRCo²⁶², NE no longer retains its objection on the grounds of biodiversity net gain, subject to suitable wording of a planning condition to secure this²⁶³.

5.109 The central issue is an inadequate understanding of the baseline position i.e. the nature and extent of the protected ecology and how species are using the impacted area. Instead of undertaking further surveys to inform the baseline position, NR has assumed, for the most part, a 'reasonably precautionary' approach²⁶⁴ and proposed a suite of mitigation measures which it says is capable of compensating for the potential impacts which may arise under such an assumption. The problem with such an overall approach is that it may mean: (a) the actual impacts on species and habitats are not properly understood; (b) it undermines the mitigation hierarchy which requires NR to first avoid impacts before mitigating or compensating for them; and (c) as a result of such an approach it is not possible, or is much more difficult, to compare results of post-development monitoring to a baseline to identify if mitigation measures are functioning as predicted, FCS is being maintained and whether additional remedial measures need to be taken.

²⁶⁰ Documents NR287

²⁶¹ Document NR207

²⁶² Documents NR208 and NR209

²⁶³ Document NR287 paragraph 2.1

²⁶⁴ Document NR16: ES paragraph 9.3.4

*Badgers*²⁶⁵

5.110 NR has provided a draft badger mitigation strategy and draft licence applications. NE's concerns regarding licensing this work, which it agrees can be resolved subject to further information or assurances provided by NR, are as follows:

- (a) NE's concerns regarding the ability of NR to deliver artificial sett locations by agreement can be resolved by NR having confirmed that, where appropriate sett locations on third party land cannot be agreed, setts will be located on the Order land within a suitable distance from any main sett to be lost (no further than 150m).
- (b) NE's objection regarding the risks of the transmission of bovine tuberculosis from badgers to cattle, following advice from the Animal and Plant Health Agency, should be able to be removed subject to NR complying with the Agency's reasonable advice on disease transmission, including the provision of biosecurity advice to farmers in the area and potentially to carry out a targeted badger vaccination programme.
- (c) NE's concerns about the location of proposed artificial badger setts in relation to badger territory, can be resolved once NR can appropriately demonstrate to NE the suitable position of artificial setts, which should enable NE to provide a letter of no impediment to the issue of a licence.

*Great Crested Newts*²⁶⁶

5.111 NR has provided draft licence applications for all route sections for review by NE and NE has responded with a 'Further Information Request'. NE's main concerns regarding GCN, which it agrees can be resolved subject to further information or assurances provided by NR, are as follows:

²⁶⁵ Document NR287 paragraph 3.2

²⁶⁶ Document NR287 paragraph 3.3

- (a) Due to incomplete survey work and lack of detail provided concerning the construction phases, it is not yet possible to fully characterise the significance of impacts to metapopulations of GCN affected by the Scheme.
- (b) Because of (a) NE cannot yet confirm that suitable mitigation and compensation has been proposed to justify relying upon its 'new licensing policies'. Subject to reviewing the assurances made by NR on the following matters, NE expects to be able to remove its objection on GCN:
- There being a ratio of at least 3 ponds created for each pond occupied by GCN lost or damaged by the Scheme and other ponds that are located close to known GCN ponds and are suitable for foraging that will be lost or damaged by the Scheme being compensated on a 1:1 ratio.
 - There being a ratio of at least 2:1 of suitable terrestrial habitat provided where habitat is permanently lost.
 - All terrestrial habitat temporarily lost or damaged being reinstated following completion of construction activities within the relevant area of the Scheme.
 - For any metapopulation where NE is not satisfied that adequate compensation can be provided to justify use of the new licensing policies, NR applying for a licence to trap and translocate as required using standard licensing approaches.
 - Where a traditional licensing approach is taken, receptor sites being provided within the Order land to be suitably located, along with any compensation habitat, to address areas of impact with sufficient connectivity to known metapopulations.

- 5.112 NE considers that the Moco Farm proposal²⁶⁷, which would substitute ECSs B9, B10 and B17 for B28, is problematic for the following reasons²⁶⁸:
- (a) The use of ECS B28 as an alternative would concentrate GCN from metapopulations at a considerable distance from the site in one place requiring their translocation from several kms away;
 - (b) the cumulative impacts of proposed development at Great Horwood Road in the area of metapopulation 2B6 have not been properly addressed. In addition, it is not clear if permanent losses associated with the proposed Winslow Station will lead to permanent or partial fragmentation of the ponds that make up this population. For metapopulation 2B6, a significant proportion of the existing optimal terrestrial habitats available are within the red line boundary and may therefore be impacted by the Scheme works. Any proposals to translocate a proportion of the population outside of the metapopulation area is likely to reduce the viability of the remaining population, particularly if the population is fragmented and is left without sufficient suitable terrestrial habitat; and
 - (c) there is very little suitable terrestrial habitat in the vicinity of metapopulation 2B11, other than a small area immediately surrounding the ponds and the railway line habitats. The impacted habitats are therefore likely to be critical in maintaining the viability of this population. Without additional compensation provision in this area, the population may be vulnerable to extinction, particularly if GCN are not trapped and translocated from impacted habitats or are trapped and translocated to a site outside of the range of the impacted population.

²⁶⁷ Document NR238

²⁶⁸ Document OBJ/242-5 paragraph 3.2.24

*Bats*²⁶⁹

5.113 The main outstanding issue that NE has reservations over is the level of bat survey which has been undertaken and hence the reliability with which impacts can be predicted and mitigation and compensation provided. The present level and quality of survey appears inadequate in respect of (a) bat roosts; (b) foraging and commuting habitats for bats; and (c) operational impacts on bats.

5.114 The objection about bat roosts relates in particular to:

- (a) the significance of the gaps in the roosts survey particularly in relation to direct harm to roosts and indirect harm from vegetation removal. In a number of cases, the survey fails to characterise the conservation significance of the roost, by not identifying the species using the roost, maximum count and roost type;
- (b) the lack of detail on follow-up surveys, for example, why the roosts identified by radio tracking have not been subject to emergence/re-entry surveys; and
- (c) the lack of explanation for incomplete survey or access restrictions.

5.115 The Scheme-wide Strategic Bat Mitigation Approach (SBMA), which was submitted by NR to NE on 28 February 2019, acknowledges the need for further surveys²⁷⁰. Until NE has been provided with the results of adequate survey coverage for bat populations and bat roosts, it is unlikely that NE would grant a licence for the impacts on the bat roosts.

5.116 With regard to foraging and commuting habitats for bats, NR has not

²⁶⁹ Document OBJ/242-5 section 3.1

²⁷⁰ Document OBJ/242-5 paragraphs 1.4 a and 3.1.15: 'SBMA provides at 3.5.1: '*On-going update surveys are proposed to inform the developing detailed design, including details of mitigation design and licences. These include hibernation surveys, monitoring of major roosts (maternity and/or hibernation) in trees and buildings and ongoing presence/likely absence surveys on trees and structures.*'

provided sufficient survey data to understand the bat populations in the impacted area of de-vegetation, how the bats use the existing habitat and how much of this habitat of greatest value to the existing populations will be lost as a result of the Scheme. It is essential to have adequate baseline information of the population and current use of habitat before it can be known whether the proposed mitigation for the impacts is adequate. If the proposed mitigation measures in the SBMA purported to address a 'worst case' scenario, then further survey/data analysis might not be required. However, that is not what is being proposed under the SBMA. In some areas the suggested mitigation measures could lead to temporary or even permanent disturbance impacts on bats, for example, where planted vegetation will take time to mature, or permanent gaps in vegetated corridors are created. In these areas, NR needs to either justify the sufficiency of its mitigation approach by demonstrating through further survey that it has located maternity colonies and understands the relationship and dependence of the colonies on the existing habitats or, if it cannot do so, it will need to provide additional mitigation to that in the SBMA to ensure the functionality of the habitat at the time of impact.

- 5.117 In terms of surveys of operational impacts, NE's outstanding concerns relate to:
- (a) the level of survey on bat crossings and the insufficient interpretation of the data provided, which results in uncertainty that the proposed mitigation can successfully reduce the collision risks; and
 - (b) the scale of the identified mortality impacts which, absent mitigation, is concluded to be '*at a population level*²⁷¹.

²⁷¹ Document OBJ/242-5 paragraphs 1.4 a and 3.1.29: 'SBMA states at paragraph 4.4.7, repeating earlier conclusions, that: '*...Myotis spp. on some sections, which potentially includes crossings by Bechstein's bats, could be at risk of mortality impacts at a population level due to their smaller populations and preferred crossing height.*'

*Legal test for removal of NE's objection*²⁷²

5.118 The relevant question for the SoS to consider is whether the works to be authorised by the Order would be likely to be licensed by NE. That is based on the test laid down in *Morge*²⁷³. The licensing tests in Regulation 55 of the 2017 Regulations are that NE cannot grant a licence unless it is satisfied that the licence is for: (i) imperative reasons of overriding public interest; (ii) that there is no satisfactory alternative to the proposed works; and (iii) the action authorised will not be detrimental to the maintenance of the population of the species concerned at a FCS in their natural range. As the appropriate nature conservation and licensing body under the Regulations, the SoS should attach significant weight to NE's carefully considered objections and stated position that, on the current information, it is unlikely that it would grant the relevant species licences²⁷⁴. NR, as the Promoter, must provide such information as the Regulator (NE) and LPA may reasonably require for the purposes of the assessment to enable them to determine whether a licence is required²⁷⁵.

Net gain and Planning Condition 11

5.119 It is now common ground that the Scheme is to achieve a biodiversity net gain of 10% using the Defra metric 2.0²⁷⁶. NR will need to demonstrate that the delivery of the net gain target within a reasonable time frame can be secured by planning condition. Draft Condition 11²⁷⁷ will need to be revised

²⁷² Document OBJ/242-6 paragraphs 9 to 17

²⁷³ Supreme Court in *R (Morge) v Hampshire County Council* [2011] 1 WLR 268 at [29]: '*Now, however, I cannot see why a planning permission (and, indeed, a full planning permission save only as to conditions necessary to secure any required mitigating measures) should not ordinarily be granted save only in cases where the Planning Committee conclude that the proposed development would both (a) be likely to offend article 12(1) and (b) be unlikely to be licensed pursuant to the derogation powers.*'

²⁷⁴ *R (Prideaux) v Buckinghamshire CC* [2013] EWHC 1054 (Admin), Lindblom J at [116]

²⁷⁵ *R (Mynydd y Gwynt Ltd) v Secretary of State for Business, Energy and Industrial Strategy* [2018] EWCA Civ 231 at [31]: The Court of Appeal rejected the concept of a 'burden of proof' in the context of assessing ecological impacts of a project which was likely to have significant effects on a protected European site

²⁷⁶ Document NR207

²⁷⁷ Document NR256

to secure the timely delivery of the net gain commitment made by NR.

5.120 Given the magnitude and long-term nature of the impacts on protected species, there will need to be adequate safeguarding measures put in place to monitor, maintain and manage the compensation measures, and in particular the ECSs, for all impacted species. Draft Condition 11 requires amendment in line with NE's written submission²⁷⁸. It does not sufficiently engage NE, as the specialist conservation body, with the requisite expertise, in the monitoring and enforcement of the safeguarding measures. There was a suggestion²⁷⁹ that provision could be made for a form of reporting obligation to NE as part of the ecological condition. However, that has not materialised and, as things stand, it is not clear whether or how NE's involvement in the ongoing monitoring and environmental management of the Scheme, which includes unlicensable ecological impacts, is to be secured and enforced.

5.121 A more conventional and effective approach in a scheme of this nature and complexity would be to require a route wide agreement between NR (and successor land owners) and NE under the Natural Environment and Rural Communities Act 2006 to make detailed provision for safeguarding the habitat compensation.

5.122 NE's comments on the draft Condition 11²⁸⁰ include²⁸¹:

Condition 11 (a)- Introduce a requirement to consult with NE before the ecological management plan is submitted to the LPA for approval to ensure that an unsound plan is not submitted.

Appendix A to Condition 11- In the commitments, NR should ensure that the mitigation, monitoring and remedial activity for bats is delivered should HS2 fail to go ahead with its commitment.

²⁷⁸ Document OBJ/242-6A

²⁷⁹ Cross examination of Suzanne Crutchley

²⁸⁰ Document NR263

²⁸¹ Document OBJ/242-6A and oral submission made by David Graham on 30 April

Condition 11 (b)- It should include how the strategy to achieve an overall 10% net gain in biodiversity is to be introduced, with arrangements in place before the measures are introduced, a fixed methodology and period of retention, together with remedial action if it is not achieved; and the project should commit to annual reporting on the progress towards delivery of functioning habitats that will in time deliver the full 10% commitment in net gain and it should draw upon NE expertise to aid this process of annual reporting, ensuring that this requirement can be enforced by the LPA.

Conclusion

- 5.123 NE's position is that on the information currently before the Inspector the Scheme should not be permitted as proposed. NE's expert view is that it is unlikely, on the basis of the current information before the Inquiry, to grant licences for the proposed Scheme's impacts on bats.

Walton Community Council (WCC) (OBJ 246)

The material points²⁸² were:

- 5.124 WCC represented members of the community at Bow Brickhill with regard to the effect of the proposal to run additional trains on traffic queues at the Brickhill Road level crossing. It wants a road and pedestrian bridge at this site, as stated within the Walton Community Council Neighbourhood Plan (Policy WNP 6 – Caldecotte 'Site C'). Caldecotte 'Site C' is located adjacent to the railway line and there had been initial discussions about the land being used to facilitate a bridge that would replace the level crossing as part of the EWR upgrade.
- 5.125 Development will be taking place either side of the railway line (at Caldecotte 'Site C' and at South Caldecotte) and WCC is concerned that by leaving the level crossing in place the traffic issues currently experienced at the level crossing will be exacerbated by the proposed developments. Vehicle access

to these developments will be via the main road. This, and the general increase in traffic, will inevitably lead to longer queues during the time the barrier is down to allow trains to cross. WCC suggests that the solution would be to build a road and pedestrian bridge at the site.

Statutory Objectors²⁸³ not appearing at the Inquiry

David Taylor (OBJ 06)

The material points²⁸⁴ were:

5.126 David Taylor is the freeholder of land for temporary acquisition and temporary use (Plot 0375a). He is concerned about the proposed felling of 3 mature oak trees on this land to enable the road to be widened.

Denise Richardson (OBJ 07)

The material points²⁸⁵ were:

5.127 Denise Richardson is the freeholder of land required for temporary acquisition and temporary use (plots 0441 and 0444). She is concerned about the protection of her privacy and security and the noise and dirt during the construction works and the effect of the works on her horses.

Pak Kim Wong (OBJ 11)

The material points²⁸⁶ were:

5.128 Pak Kim Wong is the freeholder of land at Bletchley required for the main construction works (Plot 1077). He has four areas of concern. These are regarding the amount of land to be acquired in the back garden of the

²⁸² Document OBJ/246 and oral submissions made by Lesley Sung at the Inquiry

²⁸³ As defined by section 11(4) of the TWA

²⁸⁴ Document INQ/03 E-mail from OBJ 06

²⁸⁵ Document INQ/03 E-mail from OBJ 07

²⁸⁶ Document INQ/03 letter from Geoffrey Leaver Solicitors on behalf of OBJ 11 and attached correspondence

property, which will adversely affect his tenants; the loss of the rear accessway to the property, which will be a health and safety issue and an inconvenience to his tenants; the effect on the commercial activities of the tenant's business due to noise, dust and disruption from the works on the proposed viaduct; and loss of value of the property.

David Aubrey Calcutt (OBJ 12)

The material points²⁸⁷ were:

5.129 David Aubrey Calcutt is the freeholder of land required for a worksite and access for construction (Plots 1489), land for temporary use for access (Plot 1494) and land for permanent use for environmental mitigation (Plot 1491). He is concerned that the land has been identified for residential development with an offer for it having been made by a developer and the area of land required has increased with no consultation. He objects on the grounds that there are no clear reasons for the land to be permanently acquired, nor any clear reason why the land is required for temporary use.

Keir Group plc (Twigden Homes Limited and Kier Property Developments Limited) (OBJ 22)

The material points²⁸⁸ were:

5.130 Kier Group are the freeholder of land required for the worksite and access to construction (plots 0085 and 0980), land required for environmental mitigation (plots 0981, 0986 and 0987) and land required for main construction works (plots 0073, 0076 and 0964). The main area of objection is stated as not having received any prior consultation or evidence that the land is a necessity for environmental mitigation; acquiring Plot 0986 permanently will compromise the future development of the site; and the public benefit is not equal to the loss that its subsidiaries (Twigden Homes

²⁸⁷ Document INQ/03 letter from Simmons & Sons on behalf of OBJ 12

Limited and Kier Property Developments Limited) will experience.

Richard Arnold White (OBJ 28)

The material points²⁸⁹ were:

5.131 Richard Arnold White is the freeholder of land required for the main construction works (plots 0785, 0788, 0790). His concern is that acquisition of the old station yard area will negate the use of the rest of the property and will potentially result in a loss of £36,000 per annum in lost rent. He would like NR to purchase the whole of the property.

Jacqueline Lee Woodley (Leywood Estates Limited) (OBJ 64)

The material points²⁹⁰ were:

5.132 Jacqueline Lee Woodley is the freeholder of land (Plot 0483c) required for an acoustic barrier. She believes that parcel 0487 is not within her ownership and objects to the acquisition of the land without adequate compensation being settled.

Robert A Wilson (OBJ 86)

The material points²⁹¹ were:

5.133 Robert A Wilson is the freeholder of land (plots, 0902, 0914 and 0914a) required for worksite and access for construction; land (Plot 0914c) required for the acquisition of rights for worksite and access for construction; land (Plot 0909) required for worksite and access for construction and maintenance compound; and land (plots 0895, 0914b and 0914d) required for main construction works. He is concerned over the construction of the

²⁸⁸ Document INQ/03 e-mail and letter from OBJ 22

²⁸⁹ Document INQ/03 e-mail from OBJ 28

²⁹⁰ Document INQ/03 e-mail from Simon Funnell of Leywood Estates Limited on behalf of OBJ 64

²⁹¹ Document INQ/03 e-mail and letter from Briggs and Stone on behalf of OBJ 86; and Document OBJ/86-88-89

new overbridge at Salden Lane and the amount of land required to construct it. The proposed land should be reduced and any surplus land that is no longer required should be returned to the original owners. There have been no discussions regarding the temporary use of Plot 0914c, which is the access point for the land and is therefore integral to his operations. The use of this plot will also sever the land from the main holding. He wishes to be assured that he will have full unrestricted access to his property during the works in respect of vehicles, machinery, livestock and pedestrian access to pass and re-pass at all times for all purposes and to be notified who will be responsible for the maintenance of the new access ways and roadways upon completion of the works.

Lower Blackgrove Farm Limited (OBJ 87)

The material points²⁹² were:

- 5.134 Lower Blackgrove Farm Limited is the freeholder of land (plots 1435, 1440 1441 and 1450) required for worksite and access for construction; (plots 1444 and 1445) required for environmental mitigation and worksite and access for construction; land (plots 1436, 1437, 1438, 1439, 1442 and 1448) required for main construction works; land (plots 1447 and 1450a) required for access for maintenance; and land (Plot 1449) required for environmental mitigation.
- 5.135 The objection is on the basis that the land is not essential to the project, particularly plots 1445, 1450 and 1450a. There is adequate access to the track using the existing main access to Lower Blackgrove Farm, rather than using these plots. The effect of the Scheme on Lower Blackgrove Farm's solar panels is a concern, as the site of these panels immediately adjoins the existing railway line. It considers that an alternative design could be agreed that would minimise the impact on them and is concerned about the impacts of the current design and location of the overbridge on the solar panels. It

also considers that the area of Plot 1441 should be reduced.

- 5.136 Another concern is that there is a significant impact on the residential properties to the north of the farmstead. Plots 1441, 1442 and 1448 that are required for the construction of the overbridge affect the adjoining arable farming operations as well as the existing environmental schemes in place. A more sympathetic design should be agreed, particularly as the environmental mitigation to the north of the railway track (plots 1447 and 1449) is not in keeping with the environmental schemes already in place on the property. There has been limited interaction by NR with Lower Blackgrove Farm.

Quentin Adam Craker (OBJ 88) and Christine Craker (OBJ 89)

The material points²⁹³ were:

- 5.137 The Crakers are freeholders of a significant number of plots of land required for drainage works, worksite and access for a construction and maintenance compound, environmental mitigation (plots 0928 and 0930) and main construction works.
- 5.138 As there had been no consultation between them and NR regarding the significant land take for the construction of the new overbridge at Salden Lane, they are unaware of how it will impact their daily lives. They requested that any surplus land left after the construction of the new overbridge be returned to them. Another concern is access to the farmland on the other side of the railway line. Also, the proposed alternative access following the closure of Weasels Lodge level crossing is unacceptable, as it will present too many difficulties when moving livestock and machinery to the land on the opposite side of the railway line. They suggest an alternative route running

²⁹² Document INQ/03 e-mail and letter from Briggs and Stone on behalf of OBJ 87

²⁹³ Document INQ/03 e-mails and letters from Briggs and Stone on behalf of OBJ 88 and OBJ 89; and Document OBJ/86-88-89-1

alongside the line. Plot 0930 severs their land and therefore has an impact on their ability to farm the land.

5.139 They object to the temporary use of Plot 0914c as byway MUR/15/1, of which the freehold ownership is with Christine Craker and Robert A Wilson, is integral to the running of their farming business. They also object to the overall excessive land take of the Scheme, particularly plots 0885, 0895 and 0915, since there has been no consultation with them as to why these plots are required, or how they are to access their home during construction. There is also concern over who will be responsible for the maintenance of the new overbridge and access route and how the property will be fully secured during this time.

Great Moor Sailing Club (OBJ 99)

The material points²⁹⁴ were:

5.140 Great Moor Sailing Club is objecting in respect of the impact the development will have on the north-western area of its property. Plot 0415 has been outlined for use for the re-profiling of the embankments and a vehicle restraint barrier. If this plot is acquired, along with the temporary use of Plot 0419, the main access way to the property will be lost. Great Moor Sailing Club propose a replacement access to the south and an alternative route for the access track and NR should undertake all necessary costs of this. Great Moor Sailing Club request confirmation that there will be no further detriment to its property.

Colin O'Dell (OBJ 118)

The material points²⁹⁵ were:

5.141 Colin O'Dell has the rights of access over land (Plot 0661) required for the

²⁹⁴ Document INQ/03 letter from Bidwells on behalf of OBJ 99

²⁹⁵ Document INQ/03 e-mail from OBJ 118

creation of a new PRow. He is concerned about any conflict with his requirement under the deeds not to interfere with vehicular access across this land to the back of Nos 6, 8, 10 and 37 Buckingham Road.

Bloor Homes (OBJ 120)

The material points²⁹⁶ were:

- 5.142 Bloor Homes are the freeholder of land (plots 0617, 0620, 0636, 0639, 0645) required temporarily for worksite and access for construction; land (plots 0622, 0623 and 0628) required permanently for worksite and access for construction and maintenance, environmental mitigation and vehicle restraint barrier; land (Plot 0632) required for main construction works; land (plots 0635 and 0644) required for environmental mitigation; and land (Plot 0646) required for environmental mitigation and the creation of a new PRow. They have suggested that their objections have been dealt with by a letter from NR²⁹⁷.
- 5.143 Bloor Homes objection was that the land has the benefit of outline planning permission for the development of 250 dwellings, and its acquisition will have an adverse impact on the development site and disrupt the ongoing construction of new dwellings. Plot 0628 impinges onto what is a proposed shared driveway for three dwellings and the curtilage of a shared ownership affordable house also falls within Plot 0628. Plots 0617, 0620, 0622 and 0623 together form an access to Bloor Homes' land that is vital for delivery for their development site. This, along with the temporary stopping of Furze Lane, will result in an inability for Bloor Homes to access its development site. The surface water drainage in place across the land needs to remain operational and unaffected during the construction phase.

²⁹⁶ Document INQ/03 e-mail and letter from OBJ 120 and Document OBJ/120-1

²⁹⁷ Document NR283 letter from NR to Bloor Homes and e-mail response from Bloor Homes

Barretts of Aspley Limited Directors Pension Scheme (Barretts) (OBJ 121)

The material points²⁹⁸ were:

5.144 Barretts are the freeholder of land required temporarily for worksite and access to construction (plots 0884, 0884b and 0892); land required permanently for worksite and access for construction and maintenance (Plot 0884a), main construction works (plots 0882 and 1151) and environmental mitigation (Plot 1152); and the leaseholder of land required temporarily for worksite and access for construction and maintenance (plots 0725 and 0729) and permanently for main construction works (plots 0723 and 0727). They are concerned that there is insufficient evidence to suggest that plots 0882, 0884a and 1151 are required for permanent acquisition.

Andrew Preston (OBJ 127)

The material points²⁹⁹ were:

5.145 Andrew Preston is the freeholder of land (Plot 0911) required for environmental mitigation and access for maintenance; land (Plot 0887) required for main construction works; and land (Plot 0910) required temporarily for access for maintenance and a new right of access for a third party. He considers the land take to be excessive and requests information regarding the reason that plots 0911 and 0917 are required permanently. He has requested that the temporary rights of access for plots 0910 and 0918 should follow the ownership boundary around Salden Wood rather than be stepped out into his land holding. He has raised concerns over the possible light pollution on his property from the traffic crossing Salden Overbridge, and that his property should be suitably protected.

²⁹⁸ Document INQ/03 e-mail and letter from Sherwill Drake Forbes on behalf of OBJ 121

²⁹⁹ Document INQ/03 e-mail from Fisher German on behalf of OBJ 127

Thomas White Properties Limited (OBJ 128)

The material points³⁰⁰ were:

5.146 Thomas White Properties Limited is the freeholder of land (plots 1155, 1156, 1160 and 1161) required for main construction works. It objects on the grounds that there has been no communication or response from NR, there has been insufficient detail and information provided and it has not been given the opportunity to discuss the design requirements in any detail. The main outstanding issue, apart from costs, is the type of material to be used in the new access tracks provided by the Order. The need for concrete tracks is crucial to the functioning of the farm.

Legal and General Assurance (Pensions Management) Limited (OBJ 131)

The material points³⁰¹ were:

5.147 Legal and General is the freeholder of land (plots 1346, 1347 and 1348) for the acquisition of rights required for access for construction and maintenance. It requests that the ongoing access arrangements should be subject to a separate agreement in the form of an Operational Management Plan or similar.

David Tomkins (OBJ 135)

The material points³⁰² were:

5.148 David Tomkins is the leaseholder of land (Plot 1243) required temporarily for the creation of a new PRoW; land (plots 1253 and 1261) required for worksite and access for construction; land (Plot 1255) required for environmental mitigation; and land (Plot 1278) required for main construction works; and has rights across land (Plot 1295) for the extinguishing of rights required for

³⁰⁰ Document OBJ/128-1 and Document NR283 OBJ/128 e-mail from Savills, dated 30 April 2019

³⁰¹ Document OBJ/03 e-mail and letter from Savills on behalf of OBJ 131

main construction works. His objection relates to Plot 1243 and the diversion of Footpath No 1. The re-routing of the footpath is proposed to be through a grass field that forms a major part of his grazing land for his flock of sheep and he is concerned about sheep worrying, litter, security and bio-security.

5.149 He is currently able to access his land from Marston Road, 30m from the level crossing. The construction of the proposed overbridge will result in a loss of access to half of his holding. The alternative access will not only result in a longer journey for access but will also compromise the soil and could lead to increased water logging. The field that Plot 1255 will occupy will reduce an already small field to an uneconomical size. The installation of rough ground and areas put down to trees and shrubs are likely to harbour unwanted pests and weeds that can reduce the productivity of the land.

Jackie O'Dell (OBJ 143) and Terry Fisher (OBJ 169)

The material points³⁰³ were:

5.150 Jackie O'Dell and Terry Fisher have rights over land (Plot 0661) required temporarily for the creation of a new PRow and rights over land (Plot 0660) required permanently for main construction works. They object to the permanent acquisition of Plot 0661 because it will completely remove the vehicular access to the rear of their properties in Highfield Road, Winslow. They consider that there is no reason for the permanent retention of this land.

Swan Hill Homes Limited (OBJ 144)

The material points³⁰⁴ were:

5.151 Swan Hill Homes Limited is the freeholder of land (Plot 1128) required temporarily for worksite and access for construction and the creation of a

³⁰² Document INQ/03 e-mail from OBJ 135

³⁰³ Document INQ/03 e-mail from OBJ/143 and e-mail and letter from OBJ 169

³⁰⁴ Document OBJ/144-1

temporary PRow. It objects on the grounds that the proposed route through Plot 1128 will sterilise the areas of the development site. Although consultation has been made to alter this route, a written agreement is yet to be signed.

Russell William Justin Read and Melanie Patricia Jayne Read (OBJ 148)

The material points³⁰⁵ were:

5.152 The Reads are freeholders of land (Plot 1457) required temporarily for worksite and access for construction; and land (plots 1451 and 1458) required permanently for main construction works. They object to the lack of permanent provisions for reducing the impact of the Scheme during construction and upon its completion, with no provision of stock proof fencing to protect their property.

Fresh Direct (UK) Limited (FDL) (OBJ 152)

The material points³⁰⁶ were:

5.153 FDL is the leaseholder of land (Plot 0017a) required temporarily for worksite and access for construction; and land (plots 0025a and 0045) required permanently for main construction works. It does not object in principle to the Order and, without prejudice to its compensation position, would not object to the temporary possession of the land provided that it was made clear that this land would be returned to it no later than December 2021; and the permanent acquisition of some land within Plot 0045, provided that this is limited to the extent of Plot 0045 that is located to the east of the existing fence as per NR's requirements and that it does not permanently interfere with the current or future operation of its business.

5.154 The temporary acquisition of land within Plot 0045 would cause FDL's

³⁰⁵ Document INQ/03 e-mail from Marcus Blake on behalf of OBJ 148; and Document OBJ/148-1

³⁰⁶ Document OBJ/152-1

business to be temporarily inoperable from Unit D during the period of temporary possession. The permanent acquisition of land within Plot 0045 would cause FDL's business to be permanently inoperable from Unit D. NR has failed to demonstrate a case in the public interest for permanently acquiring the extent of land that it is seeking powers of compulsory acquisition in respect of Plot 0045. Following on from this failure, NR has not adequately identified, and has failed to demonstrate a case in the public interest for, the extent of temporary rights that it should actually be seeking powers of compulsory acquisition in respect of Plot 0045. NR has not made meaningful attempts at negotiation and has not genuinely attempted to negotiate the permanent acquisition of FDL's land. Therefore, the powers of compulsory acquisition sought are not the last resort.

Arnold White Estates Limited, Cloud Wing UK Limited and Hanson Packed Products Limited (AWE) (OBJ 153)

The material points³⁰⁷ were:

- 5.155 Arnold White Estates Limited is the freeholder of land (Plot 1316) required temporarily for worksite and access for maintenance; land (Plot 1323) required for worksite and access for construction; and land (plots 1313, 1319 and 1322) required permanently for environmental mitigation. Cloud Wing UK Limited, through its subsidiary Kempston Hardwick Developments Limited, is the freeholder of land (Plot 1314) required permanently for main construction works and land (Plot 1317) required temporarily for worksite and access for construction. Hanson Packed Products Limited is the freeholder of land (plots 1296 and 1298) required temporarily for worksite and access for construction and has the rights over land (Plot 1297) for the extinguishing of rights required for main construction works.
- 5.156 The objection relates to two major planning applications which have been submitted to BBC. The first comprises land at Broadmead and the former

Kempston Hardwick Brickworks. The line runs through and along the western boundary of this site. The second comprises the land and buildings at the former Stewartby Brickworks through which the railway line runs. The proposals will deliver approximately 1,000 new homes and approximately 780,389 square metres of new business floorspace and envisages the construction of two new bridges across the railway line between Stewartby and Kempston Hardwick Railway Stations, facilitating the closure of four level crossings.

5.157 The Order does not have regard to these applications and so ignores the significant benefits that could be realised through planning comprehensively in close co-operation with AWE in the area. The main concerns are:

- (i) The proposals for the section of the line between Stewartby and Bedford are premature to the determination of the next section of the line from Bedford to Cambridge. The decision on whether the line should be routed through and to the north of Bedford or to the south of Bedford should be taken before plans are finalised for works around Stewartby and Kempston Hardwick as the routing decision could alter the requirements in this area. Unless and until a final decision is made on the next section of the line from Bedford to Cambridge it is not possible to say that there is a compelling case in the public interest for the acquisition of land included in the Order. Consent should not therefore be granted for this part of the line as a compelling case in the public interest for the compulsory purchase of the land required to construct it cannot be demonstrated.
- (ii) The proposed new bridge at Manor Road prejudices the delivery of the proposed development at the former Kempston Hardwick Brickworks site as it does not provide for appropriate new vehicular access from Manor Road. NR's suggestion for the inclusion of an access from the raised

³⁰⁷ Documents OBJ/153, OBJ/153-1 and OBJ/153-6

section of the proposed new Manor Road bridge approach into the development site will sterilise a portion of the development land due to the convoluted nature of delivering such an access down into the site from a raised section of road.

- (iii) The EIA cumulative assessment prepared in support of the draft Order does not have regard to the impact of the proposed development and so is deficient in this respect. It also fails to grasp the opportunities offered by the development proposals which would facilitate the closure of four level crossings between Stewartby and Kempston Hardwick and provide two new road bridges across the railway line. This would in turn draw traffic away from existing residential roads.
- (iv) The Scheme fails to have proper regard to the recommendations of the NIC report, *Partnering for Prosperity*³⁰⁸ which directs that the EWR improvements should be designed to facilitate significant additional housing and employment development in the corridor between Oxford and Cambridge. The failure to take account of, or co-ordinate with, the development proposals which seek to deliver new homes and employment development in a location consistent with the aims of the NIC and emerging local policy is a material and detrimental omission.

5.158 AWE seek changes to the Order to take account of its proposals based on the above key concerns. Discussions are ongoing with NR regarding these matters. Unless or until a formal agreement is reached with NR to address these concerns the objections remain.

Fox Land and Property Limited (FLP) (OBJ 154)

The material points³⁰⁹ were:

5.159 FLP is the freeholder of land (plots 1112 and 1120) required temporarily for

³⁰⁸ Document NR44

³⁰⁹ Document OBJ/154-2

worksite and access for construction and creation of a new PRoW; land (plots 1116 and 1124) required for worksite and access for construction; land (Plot 1111) required permanently for worksite and access for construction and creation of a new PRoW; and land (Plot 1118) required for main construction works.

5.160 FLP supports the general principles of EWR and recognises the benefits to the delivery of economic growth. The land to be acquired for the Woodleys Bridge Crossing whilst currently used for equestrian paddocks is within an area identified for development known as South East Milton Keynes Urban Extension (SEMK).

5.161 FLP's objections have been in relation to three matters:

- (i) FLP objected at each of the consultation stages for the Scheme. It advised NR the likelihood that the land along this section of the route would provide a vital role for the expansion of the City. As such the infrastructure proposed should consider the future possibility of SEMK development coming forward. The Scheme has not considered this future development and no detailed engagement on these matters occurred prior to the Order being issued.
- (ii) In accordance with the Crichel Down Rules there should have been parallel discussions to acquire the land required for the Woodleys Bridge Crossing. There had been no detailed engagement on these matters to acquire by agreement prior to the Order or since the Order was made.
- (iii) Opportunities available to NR with the emergence of SEMK regarding reasonable alternatives to reduce the inherent risk in footpath or equestrian crossings (FP008 and BW0014) with the increase in rail services were not fully considered.

5.162 Preliminary discussions are now taking place with MKC and the promoters of SEMK in the context of Plan:MK. Within any undertaking the agreement

needs to include matters of delivery timing, the specification of the Woodleys Farm Overbridge or any alternative bridge crossing, the treatment of the existing PRoW's over the railway and the compulsory acquisition of the land.

Aviva Insurance Limited (OBJ 155)

The material points³¹⁰ were:

5.163 Aviva Insurance Limited is the freeholder of land (plots 0045, 0053 and 0054) required for main construction works. It is the landlord for FDL (OBJ 152) and objects on similar grounds to FDL.

Frederick and Christopher Morris (OBJ 160)

The material points³¹¹ were:

5.164 Frederick and Christopher Morris are the freeholder of land (plots 0713 and 0718) required permanently for the installation of equipment, compound and the main works; and land (Plot 0716) required temporarily for worksite and access for construction. They object on the grounds that NR has failed to properly consult with them and has provided very little information about the need for the land.

Angela Darbishire and Frances Younghusband (OBJ 161)

The material points³¹² were:

5.165 The Objectors are the freeholder of land (Plot 0194) required temporarily for worksite and access for construction; land (Plot 0190) required permanently for main construction works; and land (Plot 0192) required for worksite and access for construction. They object to the permanent acquisition of Plot 0192 as it will spoil the shape of an agricultural field, and the attached Plot 0194 is only for temporary use which will leave an isolated area of land in NR

³¹⁰ Document OBJ/155-2

³¹¹ Document INQ/03 e-mail and letter from Robinson Hall on behalf of OBJ 160

³¹² Document INQ/03 e-mail from Fisher German on behalf of OBJ 161

ownership. It is inappropriate to permanently acquire for environmental mitigation Plot 0190, which is an area of ridge and furrow grassland, when it could remain in the Objectors' ownership subject to NR's acquisition of rights.

Jean Louise Morgan and Josephine Sandra Horton (OBJ 162)

The material points³¹³ were:

5.166 The Objectors are the freeholder of land required temporarily for worksite and access for construction and maintenance and land required permanently for worksite and access for construction, environmental mitigation and utility diversions (plots 0133 and 0169) and for main construction works. They are concerned that their property is currently accessed by crossing the railway and that an overbridge has been proposed which will not provide suitable access to the highway. They suggest that access should be taken across third party land from the A4421 roundabout, as this would result in an improvement in land take and would be a better use of public money. There has also been no consultation regarding the design of the environmental mitigation.

Simon Orpin (OBJ 163)

The material points³¹⁴ were:

5.167 Simon Orpin is the freeholder of land (Plot 0669) required temporarily for worksite and access for construction; land (Plot 0663) required permanently for environmental mitigation; and land (Plot 0668) required for main construction works. He requests that NR does not object to a future planning application for residential development on his land near to the Scheme. He is supportive of the use of ECS B10 for environmental mitigation but wishes to explore mitigation that will be beneficial to both parties and is concerned

³¹³ Document INQ/03 e-mail from Fisher German on behalf of OBJ 162

³¹⁴ Document INQ/03 e-mail and letter from Create Consulting Engineers on behalf of OBJ 163; and Document NR283 e-mail correspondence for OBJ 163

about the location of a hedgerow alongside the railway. He has requested further information, including the connectivity of the proposed Winslow Rail Station and the interface with his land. He has also referred to the SGN high pressure gas main that crosses his land.

John Busby and sons (OBJ 165)

The material points³¹⁵ were:

5.168 John Busby and sons are freeholders of a significant number of plots of land required temporarily for worksite and access for construction and a new right of access for third party access and permanently for main construction works and environmental mitigation and utility diversions (plots 0223, 0241, 0247 and 0248). They object to the amount of land being permanently acquired for the use of environmental mitigation and request justification for the areas required including the size, design and scale of these areas. The management plan for plots 0217 and 0223 should protect the ridge and furrow feature of the fields. The stone barn included in the proposed compound area should be fenced off from the main compound and its structural integrity secured for the future and, since it will be lost, a replacement gated area to hold and sort livestock should be provided.

FCC Environment Ltd (OBJ 172)

The material points³¹⁶ were:

5.169 FCC Environment Ltd has stated that its group of companies are the registered owners of land which will be affected either directly or indirectly by the Order at Calvert and Greatmoor, Bletchley and Stewartby. It operates from Energy from Waste and landfill sites in these areas, served by rail sidings that are actively used and are intended to be used for the delivery of spoil and waste materials. It is supportive of the Scheme, as long as

³¹⁵ Document INQ/03 e-mail and letter from Bidwells on behalf of OBJ 165

³¹⁶ Document INQ/03 e-mail and letter from Baker Rose on behalf of OBJ 172

sufficient freight capacity along the route and to the rail freight facilities is protected and enhanced wherever possible for the operational benefit of its business. At Calvert and Greatmoor, FCC Environment Ltd has been provided with such an undertaking by HS2 Ltd. At Bletchley, FCC Environment Ltd has raised a concern about monitoring boreholes on land that will be used on a temporary basis under the Scheme.

Launton Parish Council (OBJ 174)

The material points³¹⁷ were:

5.170 Launton Parish Council is the leaseholder of land required for the Scheme. It is concerned about the access required on the narrow lane between the Parish Hall and the School for the construction of the replacement bridge for the Manor Farm crossing on the grounds of safety and the maintenance of it; the haul route for transportation of materials to the northern storage site near the former Launton Station; the closure of the Bicester Road, particularly the diversion route and the safety of the exit onto the A41 at the Blackthorn junction; and the closure of footpaths No 272/7 and 272/20, which would require suitable alternatives to be provided that should include remedial action to footpath No 272/21 to address winter flooding.

Michael, Audrey, Peter, William and Simon Deeley and the M R Deeley and Son farm partnership (the Deeleys) (OBJ 183)

The material points³¹⁸ were:

5.171 The Deeleys are freeholders of a significant number of plots of land required for worksite and access for construction and maintenance and utility diversions, a new right of access for a third party, main construction works and environmental mitigation. They object to the amount of land being acquired for environmental mitigation. They request clarification on why the

³¹⁷ Document INQ/03 letter from Launton Parish Council OBJ 174

³¹⁸ Document INQ/03 e-mail and letter from Bidwells on behalf of OBJ 183

land is required on a permanent basis and details of the management plan and obligations for this mitigation site. They also request that plots 0136 and 0127 are removed from the acquisition as they form the roadside boundary to the remaining land.

- 5.172 With regard to land stated to be acquired in order to provide access to the bridge, there is some underused highway land adjoining the bridge that would better suit this purpose. This land was originally acquired by the Highway Authority for the purposes of ensuring safe sightings over the bridge. The proposed access to Tythe Barn from the A4421 will have a detrimental impact on its business operations in using the Tythe Barn as a wedding venue, and the access to this area should be moved further south. A milestone date after which all weddings will be impacted by the Scheme needs to be provided and the cancellation of bookings needs to be compensated.
- 5.173 An agreement should be put in place to confirm that the bunds will remain in-situ and trees that the Deeleys have planted along the boundary to screen their property and business from the noise produced from the railway line are relocated to the top of the proposed boundary to enhance the screening and sound proofing.

George Browns Limited (OBJ 184)

The material points³¹⁹ were:

- 5.174 George Browns Limited are freeholders of a significant number of plots of land required for worksite and access for construction and maintenance compound, use as a passing place, creation of a new PRoW, main construction works and environmental mitigation. It does not object to the principle of the Scheme but considers that a new bridge to be built over the railway in the area of plots 0512 and 0514, allowing the level crossing to be

³¹⁹ Document INQ/03 e-mail and letter from Robinson and Hall LLP on behalf of OBJ 184

closed, is vital to its continued farming operations. The level crossing is the main access between the farm buildings to the north of the railway and the farmland to the south and the underbridge at OX24 Addington is too low to allow the necessary farm transport to pass under it. Footpath traffic needs to be kept separate from farm traffic for health and safety reasons.

- 5.175 George Browns Limited has entered into a voluntary agreement with NR for environmental mitigation land at Plot 0524 on the understanding that no further environmental mitigation land would be taken. Therefore, Plot 0523 should be removed from the Order, as there appears to be no sensible usage of this land. The taking of land at Plot 0585 will have a detrimental impact on the farm as there will no longer be access to the fields.
- 5.176 George Browns Limited is concerned about noise mitigation measures for its residential properties at Furzen Farm, Furzen Farm Cottage and the Verney Junction Business Park.
- 5.177 George Browns Limited has entered into a voluntary agreement with NR in respect of the Otter Holt which is to be built on land at Plot 0533 but on a much smaller area than in the Order. Therefore, the land included in the Order should be smaller. Also, the use of the access should be strictly for the Otter Holt and not included as temporary access and crossing of Claydon Brook because the land can be easily accessed from the other side without disruption.

The Oxford Diocesan Board of Finance (OBJ 206)

The material points³²⁰ were:

- 5.178 The Oxford Diocesan Board of Finance is the freeholder of a significant number of plots of land required for environmental mitigation, main construction works, worksite and access for construction and maintenance and the creation of a temporary PRoW. It has objected on the grounds that

the land requested is inappropriate, as it is good, productive arable land and some distance from the railway. A simpler solution for flood mitigation would be to enlarge the existing lake involving the loss of a small area of relatively unproductive grassland.

R H Maycock & Sons (OBJ 207)

The material points³²¹ were:

5.179 R H Maycock & Sons are the freeholder of land at Newton Longville, of which some (plots 0983 and 0945) is required permanently for works, and some (Plot 0941) is required temporarily for a construction compound. They object on the grounds that there has been little consultation and that NR already owns a considerable area of land at the sidings adjoining Plot 0938 which would be very suitable for a compound. To take additional land as under Plot 0941 to build a compound will have a fundamental effect on their business. Also, the land east of Whaddon Road is subject to a planning application for a large extension of Milton Keynes. The Scheme will have a fundamental effect on the ability to deliver part of this proposed development. Therefore, they object to the amount of land being compulsory purchased for environmental mitigation.

Graham Freshwater (OBJ 210)

The material points³²² were:

5.180 Graham Freshwater is the freeholder of land (plots 0594 and 0599) and the leaseholder of land (Plot 0601) required permanently for the main works and the freeholder of land (Plot 0600) required temporarily for worksite and access for construction. He objects to the impact that the works will have on his property, due to disruption, noise, dust, fumes and vibration and the lack

³²⁰ Document INQ/03 e-mail from Sidleys on behalf of OBJ 206

³²¹ Document INQ/03 e-mail from Robinson Hall LLP on behalf of OBJ 207

³²² Document INQ/03 e-mail from Berrys on behalf of OBJ 210

of provision of temporary and permanent access to it, and its security during both the works and afterwards as a result of the adjacent PRoW diversion.

Bedford Borough Council (BBC) (OBJ 214)

The material points³²³ were:

5.181 BCC is the freeholder of land (Plot 1337) required temporarily for worksite and access for construction and creation of a new PRoW. Its two remaining objections relate to ecology and transport issues. Its transport concerns are regarding the construction routes, the formation and use of temporary works compounds, the levels of HGVs expected and the use of roads that may be unsuitable for construction traffic. Therefore, a 'fit for purpose' Construction Management Plan needs to be agreed. Its ecology concerns are regarding the insufficiency of the number of ecological field surveys carried out and the need to achieve a net gain for biodiversity.

Peter Arthur Cox (OBJ 220)

The material points³²⁴ were:

5.182 Peter Arthur Cox is the freeholder of a significant area of land, some of which is required temporarily and some permanently for worksite and access for construction, creation of a new PRoW and a new right of access for a third party, the main construction works and environmental mitigation and rights across land required for main construction works. His objection is that a flood plain scrape and land (Plot 0217) are included in the Order when NR has agreed in an e-mail, dated 5 February 2018, that they would be removed. He has requested that, on Plot 0205 in particular, the land is reseeded using commercially available stock from existing suppliers, that he is indemnified against any remedial action required and that the gateway entrances from Station Road be retained.

³²³ Document INQ/03 e-mail and letter from BCC OBJ 214; and Document OBJ/214-1

³²⁴ Document INQ/03 e-mail from Carter Jonas on behalf of OBJ 220

***Oxfordshire County Council and Cherwell District Council (OCC and CDC)
(OBJ 221)***

The material points³²⁵ were:

5.183 OCC and CDC have not reached an agreement with NR regarding the temporary use of land at Mill Mound and the potential effects on the archaeological feature, as well as the approach of the Scheme to the delivery of a net gain in biodiversity. In terms of Mill Mound, it is a well-preserved earthwork which may be medieval. Therefore, the area of the earthworks related to Mill Mound should be removed from the temporary land take and fenced off.

Milton Keynes Council (MKC) (OBJ 233)

The material points³²⁶ were:

5.184 MKC has not reached agreement with NR on NR's proposals for achieving a net gain in biodiversity, the closure of Woburn Sands footpath crossing, Woodleys Farm Overbridge and Bow Brickhill bridleway crossing.

5.185 NR has not yet demonstrated that the DfT aspiration for positive net gains for biodiversity will be realised, partially due to the lack of proposed compensatory habitats and compensatory sites in perpetuity. Sites lost to this type of development are likely to be lost forever and should therefore be replaced forever, or at the very least for the time that the railway constructed on the lost habitat continues to operate. However, NR consider perpetuity to be a period of 25-30 years, after which there is a risk that the compensatory site may stop being managed or may be used for an alternative purpose such as development or intensive agriculture.

5.186 MKC has received an undertaking from NR that, subject to planning permission, the at-grade crossing over the railway line at Woburn Sands will

³²⁵ Document INQ/03 e-mail and letter from OCC and CDC; and Document NR234

be replaced with a footbridge. Whilst this will not provide ramped access, MKC is satisfied that proposed improvements for pedestrians at the nearby vehicular crossing will provide a safe alternative for those unable to use a stepped footbridge and reduce the visual impact of the proposed bridge. The objection is maintained subject to a formal written agreement from NR that the footbridge will be provided should planning permission be granted.

5.187 With regard to Woodleys Farm Overbridge, MKC requests NR to take steps to explore a range of options associated with the bridge and adjacent rights of way across the railway, particularly Fisherman's Crossing and crossings for school children within Woburn Sands. These solutions may include an alternative position of the bridge designed to the adoptable highway standard that is delivered as part of the Scheme, and/or reserving the funds currently allocated for the overbridge to help fund a bridge designed to adoptable highway standard that would be delivered as part of the housing development. It is critical that the TWAO process provides enough scope to avoid the provision of a bridge that would quickly become redundant and of little use by future residents of the new community. MKC encourages NR to ensure the TWAO submission and process does not curtail future options before discussions between the parties have run their course. Therefore, MKC maintains its objection in relation to this matter.

5.188 In terms of Bow Brickhill bridleway 014 crossing, the proposed improvements do not take account of the allocated housing site south of the crossing for around 3,000 homes and associated social infrastructure, including a secondary school and primary schools. By the time the western section of EWR is open and running, new communities will already be forming south of the railway adjacent to the crossing, which will lead to significantly more pedestrians and cyclists attempting to use the crossing in order to travel north into Milton Keynes, worsening the safety risk at this crossing. Further,

³²⁶ Documents OBJ/233-1 and NR245

significantly more pedestrians and cyclists will almost certainly attempt to cross from north of the railway in order to access new services and amenities within the new community, particularly a new secondary school which is highly likely to be close to the crossing. The proposal does not take these housing proposals into account, contrary to one of the key aims of the project 'To stimulate economic growth, housing and employment through new and reliable train services' by supporting the creation of new homes and communities along the line of route.

Victoria Kemp (OBJ 238)

The material points³²⁷ were:

5.189 Victoria Kemp is the freeholder of land (Plot 0828) required temporarily for worksite and access for construction; and land (Plot 0827) required permanently for main construction works. She has expressed concern about the time allowed for the objection period, which fell during the school holidays. Her objection is that the Scheme is not justified, as the time saved between journeys would not be enough to warrant the costs involved, freight would not use the line, there is no evidence of public support, the stations would not be located near to shops and offices, and the Scheme would be unnecessary due to the proposed OCE.

Bletchley Developments Limited (OBJ 239)

The material points³²⁸ were:

5.190 Bletchley Developments Limited is the freeholder of land (Plot 1067) required for main construction works. Its concerns are that the acquisition of Plot 1067 will detrimentally affect the development potential of Mercury House, as it would limit the development of a multi storey car park, which is a key element of the residential scheme for the development of the property. It

³²⁷ Document INQ/03 e-mail from OBJ 238

³²⁸ Document INQ/03 e-mail from OBJ 239

would therefore frustrate one of the key aims of the Scheme to '*stimulate economic growth, housing and employment*'. NR has failed to state what Plot 1067 will be used for and it should therefore be removed from the Order.

Kevin and Shaun McBride and Direct Pallets Ltd (OBJ 247)

The material points³²⁹ were:

5.191 The Objectors are the owners of land at Ridgmont Station. They object to the Order on safety grounds, as the proposed PRoW is not compatible with the consented use of the land for commercial storage that includes heavy plant/forklifts and HGVs needing to use the existing underbridge to access the western part of the site.

Cemex UK (OBJ 248)

The material points³³⁰ were:

5.192 Cemex UK are lessees and tenants of plots 1068, 1069 and 1073, near to Bletchley Station. These plots form part of an area of industrial land on which various substantial items of plant and machinery and an ancillary office building have been constructed. They include a rail discharge facility to enable the offloading of aggregates, an asphalt plant, a concrete batching plant, a dry silo mortar plant, aggregate storage facilities, ancillary workshops, a weighbridge and offices. Notice of the Inquiry was incorrectly served on its former office. It has belatedly obtained a copy of the notice which was not received in time for it to make representations at an earlier date.

5.193 The Scheme will require the narrowing of the sole access roadway and prevent the free flow of traffic to and from Cemex's site, as well as to and from the large NR training facility which is accessed through Cemex's site and shares the same common access. The proposal is for traffic lights to be

³²⁹ Document OBJ/247

installed which will limit vehicular access to alternate single flow. This is inappropriate and inadequate, as it will cause severe congestion on the site, with vehicles forced to queue to exit the yard, including both Cemex's own HGVs and vehicles travelling to the NR training facility. Further, there will be a significant risk that vehicles queuing to enter the property will extend onto the adjacent public highway (the B4034) and result in obstruction to it and consequent congestion at the roundabout which provides access to the property and to Princess Way.

5.194 It is understood that the adverse traffic impact cannot be properly assessed at this point, as no modelling has been undertaken to predict the impact of the installation of traffic controls and associated access issues. Also, the proposed works will render the office and weighbridge incapable of use, the latter being used by all goods vehicles entering and leaving the site. It is expected that both will need to be relocated to allow the Scheme to be constructed.

5.195 The Order should not be made until an appropriate and proper impact assessment has been undertaken and analysed, and appropriate measures incorporated into the Scheme in order to enable the adverse impact of the Scheme to be mitigated. An appropriate undertaking has to be provided to ensure that Cemex will be able to continue its business operations and that all costs incurred as a result of the Scheme will be paid.

Non-Statutory Objectors not appearing at the Inquiry

Mike Hamlyn (OBJ 02)

The material points³³¹ were:

5.196 The Scheme is not necessary and the overall cost will be too expensive and not affordable.

³³⁰ Document OBJ/248-1

³³¹ Document INQ/03 e-mail from OBJ 02

Dr Peter Bristow (OBJ 03)

The material points³³² were:

5.197 The proposal should be rejected because there is no cost/benefit analysis that clearly shows profitability; the reopening of the line will pollute the surrounding environment; it will benefit relatively few people who could have other ways of travelling between Oxford and Cambridge; associated new housing is better placed in and beside existing towns rather than on open countryside; the money planned for it could be spent on improving the existing road infrastructure or to fund the likely HS2 expenditure overrun or on other areas that will benefit many more people; and it will not suddenly generate increased growth of Oxbridge joint activity.

Alan Marlow (OBJ 10)

The material points³³³ were:

5.198 Alan Marlow does not consider that the Scheme will help to alleviate the traffic problems encountered during peak commuting periods in the rural area, as most of the traffic does not involve travelling between Oxford and Cambridge but involves travel between towns like Buckingham and villages like Steeple Claydon, Thornborough and Padbury and Milton Keynes and Northampton. The Scheme would be less attractive than travelling by car in these areas. A regular, efficient, economical bus service between peoples' homes and work would be a better use of the money to be used to fund the Scheme. The reopening of the line does not form part of a comprehensive integrated transportation system.

³³² Document INQ/03 e-mail from OBJ 03

³³³ Document INQ/03 e-mail from OBJ 10

***Irina Forster, Delia Darlow, Vlary Kalupa, Tony Kalupa and Richard Wait
(OBJ 13)***

The material points³³⁴ were:

5.199 The Objectors are residents who are concerned about the proposed bridge in Manor Road at Kempston Hardwick Station. They consider that the plans do not address the following: blocking the access to the post box and Parish notice board, and for the postman, deliveries, ambulance and fire services; a small culvert; the Hardwick bridge being too narrow and not strong enough to take the extra traffic, including that from the 700 new homes being built in Stewartby; traffic jams in Green Lane due to Stewartby level crossings being only open to traffic for about 12 minutes per hour; and the appearance of Manor Road bridge.

Christabel Smith (OBJ 17)

The material points³³⁵ were:

5.200 Christabel Smith objects to the proposed temporary stopping up of Mill Road and Poundon Road, Bicester as there is no safe alternative. The powers sought are not necessary and reasonable and the effect upon her would be disproportionate. There are other better and more reasonable alternatives to the proposal. She has had no previous notice or consultation in relation to the proposal and it is unreasonable that the powers sought are not subject to a time limit.

Neil Franklin (OBJ 19)

The material points³³⁶ were:

5.201 Neil Franklin objects on the grounds that the Scheme does not involve the

³³⁴ Document INQ/03 e-mail from OBJ 13

³³⁵ Document INQ/03 e-mail from OBJ 17

³³⁶ Document INQ/03 e-mail from OBJ 19

use of electric trains, as other means of propulsion than diesel are not readily available. Electric trains are cheaper to run and maintain, quieter and have better acceleration and braking than diesel trains; and the costs can be controlled by good management and should not be excessive.

Launton Parochial Church Council (OBJ 25) and Launton Playgroup (OBJ 222)

The material points³³⁷ were:

5.202 Launton Parochial Church Council objects because of the acquisition of rights and access over the roadway by the Parish Hall in Launton. It is the only access for parents and 147 school children with about 120 cars using it each day and a right for school staff to park on it. The extra traffic, including HGVs, that the Scheme will generate on it will make the area much more dangerous and increase the wear on the road. Without access to the road, it will not be possible to access the school for deliveries or waste collections and it will be more difficult to park for users of the hall. It will have a severe impact on other frequent users of the road, including a Playing Field Association, the Harrison Public House and Launton Playgroup, who also object on these grounds. It will also affect the plans to lease the Parish Hall, including delaying grants to improve it, the car park and access road.

Garry Dockree (OBJ 29), Claire Parish (OBJ 31), David Wellbelove (OBJ 32), Mr & Mrs Hull (OBJ 33), George and Susan Foster (OBJ 146), Councillor Nigel Long (OBJ 224) and Nicola Whitmore (OBJ 235)

The material points³³⁸ were:

5.203 The objectors are concerned about the proposed closure of the bridge over Shelbourne Avenue (OXD/4 Cattle Arch), Bletchley whilst work is undertaken

³³⁷ Document INQ/03 letter from OBJ/25 and e-mail from OBJ 222

³³⁸ Document INQ/03 e-mail from OBJ 29, e-mail from OBJ 31, e-mail from OBJ 32, e-mail and letter from OBJ 33, e-mail from OBJ 146, letter from OBJ 224 and e-mail from OBJ 235

on the bridge, with the road under it providing the only access to the Selbourne Avenue Cemetery and Scot football club pitches, Scot social club and Scot bowling club and green. They are seeking assurances that alternative routes will be established or that the bridge will be closed for a short period.

Charndon Parish Council (OBJ 34) and Calvert Green Parish Council (OBJ 217)

The material points³³⁹ were:

- 5.204 The Parish Councils object to the use of School Hill as a route to access the proposed compound and consider that all construction traffic should access the compound from the north. This will remove all traffic passing the children's playground and reduce the number of houses directly affected by the traffic as well as avoiding harm from noise and vibration due to construction. Otherwise, a safe walking route should be provided to the playground; road closures and traffic management should be co-ordinated with HS2; limits should be set on the number of HGVs using School Hill; an independent safety officer should be appointed to police the traffic; the junction of Main Street and School Hill should be prioritised to prevent traffic heading into the village with the installation of a Zebra crossing from the village to the playground; and bollards should be placed to prevent parking on or cutting across open land at the front of the village hall.
- 5.205 In terms of ecology, the Parish Councils request that the environmental mitigation land between Green Lane and the railway is gifted to a conservation organisation or Parish Council with a maintenance grant to ensure that it does not revert to farmland.

³³⁹ Document INQ/03 e-mail and letter from Charndon Parish Council OBJ/34 and e-mail and letter from Calvert Green Parish Council OBJ 217

OBJ 35, OBJ 36, OBJ 39, OBJ 40, OBJ 41, OBJ 42, OBJ 43, OBJ 44, OBJ 45, OBJ 46, OBJ 47, OBJ 49, OBJ 50, OBJ 51, OBJ 52, OBJ 53, OBJ 54, OBJ 55, OBJ 56, OBJ 57, OBJ 58, OBJ 59, OBJ 60, OBJ 62, OBJ 65, OBJ 66, OBJ 67, OBJ 68, OBJ 69, OBJ 70, OBJ 71, OBJ 72, OBJ 73, OBJ 74, OBJ 75, OBJ 76, OBJ 77, OBJ 78, OBJ 79, OBJ 80, OBJ 81, OBJ 83, OBJ 84, OBJ 85, OBJ 90, OBJ 91, OBJ 92, OBJ 93, OBJ 94, OBJ 96, OBJ 97, OBJ 100, OBJ 102, OBJ 103, OBJ 110, OBJ 111, OBJ 112, OBJ 116, OBJ 117, OBJ 119, OBJ 122, OBJ 123, OBJ 124, OBJ 126, OBJ 130, OBJ 132, OBJ 133, OBJ 134, OBJ 136, OBJ 137, OBJ 138, OBJ 140, OBJ 141, OBJ 149, OBJ 150, OBJ 151, OBJ 159, OBJ 177, OBJ 179, OBJ 180, OBJ 187, OBJ 190, OBJ 191, OBJ 192, OBJ 193, OBJ 195, OBJ 197, OBJ 200, OBJ 201, OBJ 202, OBJ 203, OBJ 205, OBJ 208, OBJ 209, OBJ 211, OBJ 216, OBJ 227, OBJ 237, SUPP/290, SUPP/292 and SUPP/363

5.206 These objectors and registered supporters are all concerned about the closure of the School Crossing at Woburn Sands and the diversion to the nearby Station Road. Their concerns are similar to those expressed by WSTC (OBJ 09) and MKC (OBJ 233).

Dr Chetz Colwell and Jeff Diggines (OBJ 38)

The material points³⁴⁰ were:

5.207 Dr Chetz Colwell and Jeff Diggines are local residents whose house is within 100m of the existing line in Bletchley. They are concerned that the mitigation of the noise, vibration and pollution resulting from the Scheme will be insufficient to enable them to enjoy the peace and quiet of their house and garden. The proposal to use diesel trains instead of electric is contrary to government policies and will unnecessarily increase the pollution and noise levels. They are also concerned about the proposed construction hours.

³⁴⁰ Document INQ/03 e-mail from OBJ 38

Alastair Partington (OBJ 63)

The material points³⁴¹ were:

- 5.208 Alastair Partington is in favour of re-opening the railway but wishes its reconstruction to have regard to those who live and work locally. He is concerned about the Claydon Line junction to Launton Old Station section and in particular the additional traffic from the Scheme combined with the effects of the construction of HS2, with no account having been taken of the additional traffic generated by HS2. These concerns include the Green Lane, Poundon Compound which could be replaced by the HS2 Claydon Compound; and the use of the unclassified country lane from the A4421 through Poundon to Green Lane, which is unfit to take the additional traffic as it is used by cyclists, horse riders, walkers to and from a bus stop and involves a dangerous right turn off the A4421 at Stratton Grounds. Use of the existing railway line for materials would reduce the number of vehicle movements required during construction and therefore the proposed demolition of existing trackwork should be delayed until a full assessment has been carried out to examine how it could be used to mitigate congestion and safety due to the increase in traffic.
- 5.209 He is also concerned about the temporary closure of PRoWs and not using a new concrete road along the existing byway between Poundon Turn and the Green Lane Compound for public use. He considers that there was inadequate consultation carried out to inform residents of Poundon about the haul route through the village, Green Lane Compound, or temporary footpath closures.

³⁴¹ Document INQ/03 e-mail and letters from OBJ 63

Margaret and Reginald Bridle (OBJ 101)

The material points³⁴² were:

5.210 Margaret and Reginald Bridle are residents of Winslow whose property is near to the 'mothballed' section of the line which will be reinstated. They consider their property to be 'blighted' as they are unable to sell it, even at a substantially reduced figure. The communication and consultation on the Scheme have been inconsistent and unhelpful with lack of clarity about it.

Bedford and Milton Keynes Waterway Trust (OBJ 105)

The material points³⁴³ were:

5.211 Bedford and Milton Keynes Waterway Trust was established in 1995 to promote a new 16 mile (25 km) Waterway Park connecting the Grand Union Canal in Milton Keynes to the Great Ouse in Bedford and claims to have 600 members. It is concerned that the route for Section 2D of the Scheme does not take account of the Waterway route which is protected by CBC Local Plan policies SA2 and EE10. This leaves the protected route open to being impacted on by the proposed works.

The Wildlife Trust for Bedfordshire, Cambridgeshire and Northamptonshire (OBJ 108)

The material points³⁴⁴ were:

5.212 The Wildlife Trust is a voluntary organisation who care for the wildlife and countryside in the three counties of Bedfordshire, Cambridgeshire and Northamptonshire, and is one of 46 Wildlife Trusts covering the UK which are affiliated to the Royal Society of Wildlife Trusts. It manages over 100 nature reserves, 9 Living Landscapes and it claims that it is supported by over

³⁴² Document INQ/03 e-mail and letter from OBJ 101

³⁴³ Document INQ/03 e-mail and letter from OBJ 105

³⁴⁴ Document INQ/03 e-mail and letter from OBJ 108 and Document OBJ/108-1

36,000 members. It is particularly interested in the sections of the Scheme within Central Bedfordshire and Bedford Borough. In this respect, it considers that the Scheme has missed opportunities to enhance the landscape for wildlife.

- 5.213 The main concern is that there is very little information about the design of the ECSs (D1, D2, D3 and D4) with no further information being made available about proposed habitats or features which would be included in them within Bedfordshire. This makes it not possible to fully assess the impact of the proposals. Therefore, the Order should not be decided until this information forms a clear part of the Scheme.
- 5.214 In terms of 'Open Mosaic Habitats', as the Marston Vale appears to be an important area for Grizzled Skipper and Dingy Skipper butterflies, these species should be carefully considered within the design of the ECSs and wider landscaping plans alongside other species which have been highlighted during the survey work. It is important that other areas where the presence of 'Open Mosaic Habitats' should be particularly considered, including at ECS D3 east of Marston Road, Lidlington, ECS D4 west of Manor Road and Bedford and St John's Station County/Local Wildlife Site, are protected from harm and enhanced by the Scheme.
- 5.215 The Wildlife Trust does not consider the proposed 30-year management plans for the ECSs to be appropriate, as the impact on wildlife will continue for as long as the railway is operational. Therefore, the ECSs should be managed for wildlife over the same period. Also, it considers that the Scheme should include plans for 'net gain' in biodiversity, which is a requirement of the NPPF, and it should be making a significant contribution to the biodiversity of the areas that it passes through.

Roger Truelove (OBJ 145)

The material points³⁴⁵ were:

- 5.216 Roger Truelove is particularly concerned about access during the construction works to and from the village of Godington, where he lives and carries out his business. The proposed temporary closure of roads in that area for any length of time would be prejudicial and, if the unnamed road between Mill Road and Main Street were closed, Godington would be completely cut off. This road is frequently used by horses from at least 5 equestrian stables in Godington and they will be severely affected by the road closures and the planned level of HGV construction traffic, which will be a risk to the safety of the horse and rider. The businesses in the village need unimpeded access for their workers at the beginning and end of each day.
- 5.217 A different route should be used for construction traffic but, if that is not possible, the closures and diversions should be strictly limited and residents and visitors to the village should be fully updated on their exact details and durations. There should be effective and accessible mechanisms made available, with sanctions if necessary, should NR fail to honour the terms of the conditions and agreements and financial compensation where individuals or businesses suffer actual financial loss due to lengthened journey times and/or lack of access.

Grendon Underwood Parish Council (OBJ 167) and Edgcott Parish Council (OBJ 198)

The material points³⁴⁶ were:

- 5.218 The Parish Councils are concerned about the traffic, and in particular HGVs that would use unsuitable rural roads through the villages. The latest traffic

³⁴⁵ Document INQ/03 e-mail and letter from OBJ 145

³⁴⁶ Document INQ/03 e-mails and letters from Grendon Underwood Parish Council (OBJ 167) and Edgcott Parish Council (OBJ 198)

forecasts anticipate 75% of traffic using an alternative route from the main Bicester to Buckingham Road (A4421/Godington/Poundon route) and 25% using the route through Edgcott but the Parish Councils wish to have this split managed effectively in the CoCP. They consider that the only entrance to the proposed Green Lane Compound should be through the Deeleys farm entrance at Poundon, and the only through route for all works vehicles to and from the Compound should be via the A4421/Godington/Poundon route. The route through Edgcott and School Hill, Charndon is unsuitable for even the 25% of vehicles forecast to use it.

5.219 The advantages of solely using the alternative route to the Compound are that it would largely comply with policy in the ES³⁴⁷; it would reduce the cumulative traffic impact of HS2 and the Scheme operations on an unsuitable rural road; it would largely remove the need for traffic monitoring to ensure compliance with the traffic forecasts; and it would avoid the need to construct passing places in Grendon Road, Edgcott and School Hill, Charndon, alterations to the School Hill/Main Street junction at Charndon and the temporary removal and reinstatement of traffic calming measures in Edgcott. A short haul road should be used between the Green Lane Compound and the Marsh Gibbon Compound with a single access at the Deeleys farm to avoid traffic using village roads to access the site.

Christopher Coward (OBJ 170)

The material points³⁴⁸ were:

5.220 Christopher Coward objects on the grounds that the plans do not include a direct service between High Wycombe and Milton Keynes, as public transport and the road journey between these places is poor.

³⁴⁷ Document NR16 ES Chapter 2 paragraph 2.5.29

³⁴⁸ Document INQ/03 e-mail from OBJ 170

Lorna Hill (OBJ 171)

The material points³⁴⁹ were:

- 5.221 Lorna Hill is a resident of Winslow and is in general supportive of the concept of passenger services returning to Winslow. She is concerned with the impact of noise on her home, particularly during the day, and the implementation of the proposed mitigation measures. She also considers that the use of the railway could increase in the future from that modelled and that the types of rolling stock used by the operators could be different. To prevent this impacting upon the noise levels, she would like to have a planning condition to ensure adherence to strict post-mitigation noise levels and the monitoring of operational noise levels. The mitigation to be provided for the Scheme should be at least as good as that provided under Phase 1.
- 5.222 The impact of the OCE should have been included in the 'RFFP Shortlist', as it would be likely to affect the overall noise landscape of the area. No account has been taken of the noise generated by additional road traffic accessing the new station at Winslow. Also, with the proposed station car park charges in place, those using the station will be tempted to park in the nearby side streets, which will compound existing parking difficulties for local residents.
- 5.223 In terms of ecology, potential bat roosting locations appear not to have been considered as part of the ES.

Environment Agency (EA) (OBJ 178)

The material points³⁵⁰ were:

- 5.224 The EA has no in-principle objection to the Scheme. It supports the objection from NE for a requirement for further survey information and biodiversity net

³⁴⁹ Document INQ/03 letter from OBJ 171

³⁵⁰ Document INQ/03 e-mail and letter from OBJ 178; and Documents OBJ/178-0, OBJ/178-1 and NR271

gain. The sole remaining issue between the EA and NR relates to the wording of paragraph 17(3)(b) of Schedule 16 of the draft Order. In particular, the EA believes that deemed approval should be replaced with deemed refusal, in line with recent changes and additions to Flood Risk Activity Permits under the Environmental Permitting Regulations.

- 5.225 With regard to the draft conditions, overall the EA has no major issues with the amended wording but is concerned that the LPAs may not consult with it on some of the conditions, especially the CoCP condition³⁵¹. This could mean that the EA would miss the opportunity to comment prior to the discharge of conditions that involve details to be decided within its remit³⁵².

***The Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT)
(OBJ 181)***

The material points³⁵³ were:

- 5.226 BBOWT is one of 47 county-based Wildlife Trusts working across the UK. It claims to have over 50,000 members and 1,800 volunteers and owns or manages 87 nature reserves, totalling over 2,600 ha. It aims to promote and protect wildlife throughout its region. The Scheme will run on, or directly adjacent to, land owned and managed by BBOWT on two of its nature reserves and have the potential to cause major impacts on habitats and species of conservation interest as it passes through Buckinghamshire and Oxfordshire. BBOWT objects to the Order on the following grounds.
- 5.227 Net gain in biodiversity should formally be sought in the Order, as it is the steer in planning policy, as identified in the NPPF, for example in paragraph 170, and the NE review of the HS2 'No Net Loss' metric. The ES is incomplete on this matter³⁵⁴. It is not appropriate for the application to be

³⁵¹ Condition 9

³⁵² Document INQ/178-2

³⁵³ Document INQ/03 e-mail and letter from OBJ 181 and Document OBJ/181-1

³⁵⁴ Document NR16 ES Volume 2i Chapter 9

determined whilst this matter is still outstanding and with no indication of how much compensatory habitat will be created for what are some highly significant losses of key wildlife habitat, including priority habitats. ES Appendix 9.16: Biodiversity accounting shows a net loss. Most of the loss is occurring in Route Section 2B, which is the disused section of the railway where valuable habitats of woodland, scrub and open grassland are present that support exceptional populations of reptiles, invertebrates and breeding birds, amongst other species.

- 5.228 If a 'net gain' in biodiversity is to be achieved, any habitats created to compensate for habitat loss so as to achieve that net gain should be present, and managed for wildlife, as long as the railway is there and in operation. There is no indication as to what happens after the proposed 30-year maintenance and management plans for the ECSs have elapsed, as it is to be assumed that the railway will still be there and operating and the habitats will still be impacted. Once the 30-year agreements have ceased there is no guarantee that the habitats created to compensate for those lost will not be lost to development, intensive agriculture or many other land uses that will not be providing compensatory habitat for wildlife.
- 5.229 The ES should consider the impact of the proposals on the visitor experience and consider appropriate mitigation at the Finemere Woods and Meadows nature reserve, which lies alongside the proposed route between Waddesdon and Quainton. The Calvert Jubilee nature reserve, which lies on the north-west side of the line from Calvert to Aylesbury and to the South of the line from Bicester to Winslow, will be significantly affected as a result of the operation of the railway, which will have a cumulative impact on the enjoyment of the site by visitors as a result of noise, vibration and visual intrusion. Therefore, the ES should consider species for which the reserve is notable, and which may be affected by the operation of the proposals, including wintering birds, breeding birds, butterflies and invertebrates.
- 5.230 Neither the ES nor the FEI has set out in sufficient detail the compensation

that will be provided for any impacts on the designated sites on sections of the route from Bicester to Milton Keynes and from Calvert to Princes Risborough via Aylesbury. The application should not be determined until all the ECSs to compensate for impact on these designated sites have been identified and full details of the habitat creation in those sites set out. In particular, an updated version of Table 9.15³⁵⁵ should be provided showing that the losses of habitats such as unimproved and semi-improved grassland, wetland and pond, woodland, and scrub are fully compensated for.

- 5.231 Impacts on priority habitat should be avoided, if at all possible, with mitigation/compensation only considered as a last resort. Impacts on other habitats should be minimised, and where unavoidable all habitat loss should be fully compensated for to achieve a net gain for biodiversity. There are particular concerns regarding the habitats present on the 'mothballed' line and its embankment, including woodland, scrub and grassland. The ES and the FEI have not set out in sufficient detail the compensation that will be provided for impacts on these habitats. Proposals must be brought forward prior to the application being determined setting out the creation of sufficient woodland, scrub and grassland to achieve a net gain in each of these habitats.
- 5.232 With regard to the impact on species, BBOWT shares the concern of other consultees that many surveys are yet to be completed. The project area, and particularly the section between Bicester and Milton Keynes, is of exceptional value for reptiles. Whilst the ES acknowledges this, the mitigation has not been set out in sufficient detail at this stage for it to be evident that populations of reptiles will be maintained and there will be no adverse effect. There is the possibility of the adder becoming extinct or close to extinct in North Buckinghamshire/Milton Keynes unless compensatory habitat is successful.

³⁵⁵ Document NR16 ES Volume 2i Chapter 9

- 5.233 The invertebrate populations that have developed on the line depend on the unique habitat characteristics. The ECSs will lack in particular the open substrate and north-south aspects that the line provides. The particular conditions of the mothballed line should be replicated as closely as possible. The mothballed line, and to a lesser extent other sections of the line, are possibly some of the best sites in Buckinghamshire for invertebrates. The ES acknowledges this high value but the lack of detail of the mitigation provided means there is insufficient evidence to show that there will be no adverse impact on populations.
- 5.234 There is insufficient evidence of mitigation to be sure that no adverse impact on the identified diverse bird populations will occur. The provision for birds is not sufficient to comply with the requirements of the NPPF or The Conservation of Habitats and Species (Amendment) Regulations 2012, so that for all species NR can genuinely claim that the Scheme has contributed to *'the preservation, maintenance and reestablishment of a sufficient diversity and area of habitat for wild birds in the United Kingdom'*. The Net Positive aim of the project should lead to an aspiration for there to be more numerous and diverse bird populations after the development than before. Therefore, the ES should show a commitment to a genuine net gain for all birds.
- 5.235 The habitats created for mitigation/compensation/enhancement should be located so as to maximise the creation of ecological networks, and with substantial proportions located in Biodiversity Opportunity Areas, which are local ecological networks referred to in the NPPF as *'areas identified by local partnerships for habitat restoration or creation'*.
- 5.236 Impact on the wildlife corridors should be avoided wherever possible, and compensation provided where impacts are unavoidable. In particular, the lineside habitat creation and management should ensure that the railway corridors continue to provide viable wildlife corridors. It is not clear from the information supplied whether the proposals will include any fencing over and

above that already present. Any linear fencing that is necessary is likely to impact on the permeability of the landscape, potentially separating populations of land animals. Purpose-built green bridges should be implemented at strategic locations determined in consultation with local biodiversity stakeholders. These should be wide enough to act as genuine wildlife corridors and should take account of the document: 'Natural England Commissioned Report NECR181; Green Bridges; A literature review. July 2015'.

5.237 BBOWT objects to the Order application for the reasons set out above.

Nora Bennett (OBJ 196)

The material points³⁵⁶ were:

5.238 Nora Bennett objects to the proposed closure of Griffin Lane level crossing on the grounds that the proposed substitute footpath is not acceptable. The replacement route is longer and the first part of it feels isolated, taking the walker out of view of homes and businesses. The second part along the flyover has a narrow footway that forces walkers close to the traffic and their fumes. The level crossing is frequently used safely, and the potential danger of its continued use is outweighed by the inconvenience of closing it and using the replacement route.

Bicester Town Council (OBJ 219)

The material points³⁵⁷ were:

5.239 Bicester Town Council has objected to the effect of the resulting increased barrier down time at the London Road level crossing in Bicester on severance on the town and considers that there should be a strategic solution to the problem. It seeks a commitment to the Defra undertaking to ensure the removal of diesel trains by 2040. It also would like at least one footbridge to

³⁵⁶ Document INQ/03 e-mail from OBJ 196

be provided in the area between Bicester and Launton to allow walkers to cross the railway, as there are footpath closures proposed that will prevent walkers crossing the line in three separate places. In addition, it would like the replacement of trees at Field Farm that were planted in 2017 and have subsequently died.

Chris Miller (SUPP 96)

The material points³⁵⁸ were:

5.240 Chris Miller has not supplied his address but indicates that he lives close to the railway and that his property has experienced structural damage as a result of the existing goods trains. He is concerned that those residents near to the railway will not be able to sell their properties due to noise and pollution and their gardens will be unusable.

6. OTHER REPRESENTATIONS

ESP Utilities Group Ltd (REP 2)

The material points³⁵⁹ were:

6.1 ESP Utilities Group Ltd has low pressure mains serving the area and wishes to ensure the security of supply. It has included a list of precautionary measures which needs to be passed onto the appointed contractors carrying out the works and any other associated parties.

C A Telecom UK Limited (REP 3)

The material points³⁶⁰ were:

6.2 C A Telecom UK Limited has indicated that Colt Technology Services has apparatus near to the Scheme and seeks to ensure that the necessary plant

³⁵⁷ Document INQ/03 e-mail from OBJ 219

³⁵⁸ Document INQ/03 e-mail from SUP 96

³⁵⁹ Document INQ/03 letter from REP 2

³⁶⁰ Document INQ/03 letter from REP 3

protection/diversionary measures are carried out in accordance with the Code of Practice.

CLH Pipeline System Ltd (REP 4)

The material points³⁶¹ were:

- 6.3 CLH Pipeline System Ltd has apparatus that will be affected by the proposals and seeks to ensure that its apparatus are suitably protected.

Susan Ellis (REP 5)

The material points³⁶² were:

- 6.4 Susan Ellis lives at Highfield Road, Winslow, and is concerned about the effect of the proposals on vehicle access to the rear of her property. She also has indicated that there is a pond in the garden of her property that is a perfect habitat for GCN, which needs to be monitored every year by a specialist team that requires the use of the rear vehicle access. Therefore, full access to the rear of the property needs to be maintained.

Aylesbury Vale District Council (AVDC) (REP 6)

The material points³⁶³ were:

- 6.5 AVDC are part of the EWRC and are therefore supportive of the aims of the Scheme and are keen to see the proposal progress, but have made some comments on the technical matters set out in the ES. The ecological concerns of AVDC have been dealt with under the submissions made by BCC. AVDC has also been involved in the discussions regarding planning conditions for Listed Building Consent and deemed planning permission.

³⁶¹ Document INQ/03 letter from Fisher German on behalf of REP 4

³⁶² Document INQ/03 e-mail from REP 5

³⁶³ Document INQ/03 e-mail and letter from REP 6; and Document REP/6-1

Forestry Commission (REP 7)

The material points³⁶⁴ were:

- 6.6 The Forestry Commission is a non-Ministerial Government Department, responsible for protecting, expanding and promoting the sustainable management of woodlands. It has commented upon the ES³⁶⁵ and these comments include the following.
- 6.7 The Forestry Commission encourages and anticipates the commitment to an approach for a net gain in biodiversity, in line with the Government's 25-year Environment Plan and in particular the inclusion of woodland creation as part of the suite of newly created habitats. It considers that there needs to be a clearer statement in the ES on the areas of woodland lost and to be created. Also, should there be further impact to ancient woodland, there needs to be strong reasoning to justify the loss of this irreplaceable habitat. 'Ancient woodland soil translocation'³⁶⁶ should be viewed only as a measure of last resort in partial compensation and, if it is to be taken forward, the Forestry Commission needs to be contacted about the methodology used and potential regulatory requirements.
- 6.8 References to biosecurity³⁶⁷ need to reflect more strongly the current threats from tree diseases, with reference to the Forestry Commission's Tree Health and Biodiversity guidance. The impact on woodland has mainly been assessed in relation to its ecological benefits but other benefits include their productive use, for example as a farm business or a place of recreation. Careful consideration of the role trees and woodlands play in the Scheme will ensure delivery of a more resilient landscape and contribute towards reducing

³⁶⁴ Document INQ/03 e-mail and letter from REP 7

³⁶⁵ Document NR16

³⁶⁶ Document NR16 ES Volume 3 Appendix 9.13 paragraphs 4.2.1 to 4.2.5

³⁶⁷ Document NR16 ES Volume 2i Chapter 6 paragraph 6.6.15 and CoCP paragraph 4.2.5

greenhouse gas emissions, increasing carbon sequestration to the wider climate change agenda.

Highways England (HE) (REP 8)

The material points³⁶⁸ were:

- 6.9 HE's main concern is the impact of construction traffic on the Strategic Road Network at the M40 J10 and Baynards Green roundabout, in particular there needs to be clarification of the measures necessary to mitigate traffic impacts at this location. The 'Technical Note 024-M40 Junction 10 Construction Traffic Impacts', dated January 2019³⁶⁹, provided by NR in response to this concern has been reviewed and a response has been provided³⁷⁰. Based on this review, it is noted that, while the scale of construction traffic impact is expected to last only 1 month, the impact may result in a safety risk regarding the operation of the southbound slip road, considering the current performance of the junction.
- 6.10 HE has proposed a further, optional, temporary traffic signal scheme at Baynards Green roundabout. This would be required only in the event that the agreed temporary traffic signals to reduce the likelihood of vehicles queuing back onto the M40 mainline during the period of peak construction and temporary traffic management at Padbury roundabout (A43/M40 southbound off-slip) are insufficient to adequately mitigate the temporary construction traffic impact relating to the Scheme³⁷¹.

³⁶⁸ Document INQ/03 e-mail and letter from REP 8, Document REP/8-2 and Document NR272

³⁶⁹ Document NR272 Appendix A

³⁷⁰ Document NR272 Appendix B

³⁷¹ Document NR272 paragraph 2.1

HS2 Ltd (REP 9)

The material points³⁷² were:

- 6.11 HS2 Ltd fully supports the principle of EWR and is engaged with NR in respect of the interfaces between HS2 and EWR. The HS2 Act limits on the accompanying deposited plans and the plans for the proposed TWAO overlap in several places, most significantly in the vicinity of the Charndon Overbridge, the Queen Catherine Overbridge and the Station Road Overbridge. These overlapping footprints and the planned works for the two schemes need to be carefully managed.

Jonny Roberts (REP 11)

The material points³⁷³ were:

- 6.12 Jonny Roberts' representation is regarding the need to provide direct services from Aylesbury to Oxford/Bicester, as it would be a missed opportunity for emissions reduction, creating new commuter opportunities and supporting further housing growth in Aylesbury Vale.

Buckinghamshire and Milton Keynes Natural Environment Partnership (NEP) (REP 12)

The material points³⁷⁴ were:

- 6.13 The NEP brings together local authorities and organisations from across the public, private, health and education sectors, as well as conservation and community organisations to champion the value of the Buckinghamshire environment in decision-making, and to encourage environmental protection and improvement. It has commented on the importance of achieving a long-term net gain in biodiversity and has expressed concern that the project

³⁷² Document INQ/03 e-mail and letter from REP 9

³⁷³ Document INQ/03 e-mail from REP 11

³⁷⁴ Document REP/12-1

overall results in a net loss of biodiversity according to the biodiversity metric applied and set out in the FEI, with all route sections resulting in a loss of biodiversity units. The NEP notes that much of the compensation is being taken forward in the form of 25 to 30 year management agreements with no guarantee what happens afterwards. Therefore, it is unclear how the project will ensure biodiversity net gains into the long-term.

Butterfly Conservation Upper Thames branch (REP 13)

The material points³⁷⁵ were:

- 6.14 Butterfly Conservation Upper Thames branch has made comments on the FEI and has emphasised the immense regional importance of hedgerows to Lepidoptera. It considers that this matter has been largely side-lined. Black Hairstreak and Brown Hairstreak butterflies are found exclusively in this region of England, and in no other region of the UK. Also, the grassland associated with the line is particularly important to the scarce Lepidoptera, as they are very different in nature from those in the surrounding land and, despite the near total loss of these low nutrient grasslands as the line is doubled, there are no obvious plans to try and recreate similar habitat.
- 6.15 Should all the mitigation planned go ahead the ES still anticipates a net loss of biodiversity and various land purchases required to allow the mitigation and offsetting have proved impracticable. By all measures, the project will damage the rich biodiversity of the area and most especially in Section 2B.

Anthony A Bush (REP14)

The material points³⁷⁶ were:

- 6.16 Anthony A Bush considers that EWR should be opened as soon as possible and has suggested a route between Bedford and Cambridge with Northampton and Olney included. He has also put forward an alternative

³⁷⁵ Document REP/13-1

route between Bedford and Cambridge that includes a new junction on the Marston Vale Line at Ridgmont.

7. REBUTTALS BY THE APPLICANT

The material points³⁷⁷ were:

(a) Natural England (NE) (OBJ 242)

- 7.1 A precautionary approach to ecological impact assessment has guided the provision of mitigation and compensation measures to avoid, limit or offset the impact of the Scheme on habitats and species, in accordance with the established environmental design hierarchy and the precautionary principle. No party appearing before the Inquiry on ecological issues now contends that the Ecological Impact Assessment that provides the basis for the Scheme design and the schedule of mitigation and compensation measures is contrary to good practice or approach. The proposed mitigation works³⁷⁸ include general mitigation works as well as mitigation works on specific topics, covering both the construction and operational phases of the Scheme. The broad suite of mitigation measures set out has remained constant, but these have been refined as further survey work and more detailed design has been completed, for example, the FEI has shown that white-clawed crayfish are not present in the Scheme area meaning that related mitigation is no longer needed.
- 7.2 A 30-year maintenance and management plan will be put in place for each ECS³⁷⁹. This is expected to be sufficient in practice to enable these sites to

³⁷⁶ Document REP/14-1

³⁷⁷ Document NR289

³⁷⁸ Documents NR54-1 Appendix A: Summary of a comprehensive list of the proposed mitigation works; and NR47: FEI Part II Technical Appendix 9.13(v2): Post Construction Management and Maintenance plan for ECSs giving a high-level description as to how each type of habitat will be managed; and specific management plans will be drawn up for each ECS which will apply the high-level approach to the specific site in question

³⁷⁹ Document NR54-1 Appendix A page 30

maintain their nature conservation function in perpetuity. After 30 years, these created habitats will have reached a significant level of maturity.

- 7.3 NR's preference is to return the land for the ECSs to the previous land owners with the maintenance and management plan in place. This would be secured by legal agreement obliging the land owner to carry out the maintenance work. Such legal agreement would provide for a remedy in the event of the land owner failing to comply with its obligations by, for example, empowering NR to step in to manage the land or transfer responsibility to a local wildlife trust. The means by which NR would monitor the carrying out of these plans will be secured under the terms of the ecological management plan required by the ecology condition. Where, however, the relevant land owner is unsuitable or unwilling to manage the land, NR will either find an alternative agent to manage the land or NR will manage the land itself.

Net gain

- 7.4 Following the hierarchical process of avoiding, limiting, mitigating and compensating for adverse impacts, biodiversity accounting is, and will continue to be, used to assess the overall performance of the Scheme against its stated objective of achieving an overall 10% net gain in biodiversity. It is measured by the use of a biodiversity unit, which helps to compare losses and gains. This biodiversity unit takes into account the quality of a replacement, as well as the quantity, thereby allowing for the fact that introduced habitats will take time to mature and to function as effectively as those lost to the Scheme. Biodiversity net gain relates to habitats only³⁸⁰. Nonetheless, it is generally accepted that a habitat gain results in benefits for species that live in those habitats.
- 7.5 NR has used three alternative metrics to calculate whether there is a net loss/gain in biodiversity units: (i) NR's Biodiversity Calculator (Version 5.10) designed specifically for rail networks; (ii) Defra's Biodiversity Offsetting

Metric 2012, which is the preferred metric of NE; and, (iii) Warwickshire, Coventry and Solihull Biodiversity Impact Assessment Tool (Version 19.0), which is the preferred metric of BCC³⁸¹.

7.6 The net loss/gain calculation based on the ES and FEI was based on a very conservative, worst-case scenario. It assumed that nothing would be retained within the red line boundary and that there would be no on-site enhancement³⁸². On the basis of those assumptions, there was a net loss of 432 units (NR's metric), 681 (Defra metric) or 984 (Warwickshire metric)³⁸³. The losses were largely concentrated on Route Section 2B.

7.7 Following an Instruction from the EWRCo, dated 21 December 2018³⁸⁴, and approved by the DfT, NR has committed to delivering a biodiversity net gain³⁸⁵. NR has produced a five-stage approach to achieve this³⁸⁶:

- (a) Avoidance of habitat loss – the EWR Alliance has completed a process to reduce the scale of habitat loss, as far as possible, to preserve foraging and commuting habitat for bats. This has preserved a significant percentage of the habitat in Route Sections 2A and 2B. The net loss of habitats will be recalculated as a result.
- (b) Consultation with NE – the EWR Alliance will agree with NE the metric to be used and the appropriate level of gain.
- (c) Delivery of biodiversity gains on site – the EWR Alliance will calculate the habitat gains created through the landscape planting and ECS.

³⁸⁰ Document NR54 page 59 paragraph 3.15.5

³⁸¹ Document NR54-1 Appendix B paragraph 2.1.1

³⁸² Document NR54-1 Appendix B paragraphs 2.2.9 and 2.2.10

³⁸³ Document NR54 paragraphs 3.15.30 and 3.15.31

³⁸⁴ Document NR207

³⁸⁵ Document NR208

³⁸⁶ Document NR209: The EWRCo has, subsequently, approved this approach

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- (d) Delivery of net gain in partnership in the local area – the EWR Alliance will enter into partnership discussions to deliver habitat creation of appropriate habitats in the local area.
 - (e) Purchase of an offset – recognising that local people may not want to partner with NR, NR will, alternatively, make an investment into habitat banking for the required number of biodiversity units through, for example, the Environment Bank. This would allow NR effectively to specify that the funds should be used for relevant species/habitats such as bats, woodland etc. A net gain can be guaranteed in this way because it is known that the Environment Bank has sites in the local area to deliver extra units.

This five-stage approach complies with the government policy, as set out in paragraph 175 of the NPPF and its '25 Year Plan to Improve the Environment'³⁸⁷, *'that the planning system should provide biodiversity net gains where possible'*.

- 7.8 On the basis of this approach, both NE's and other objections (including local authorities) on the issue of net gain have been satisfactorily addressed in line with the current requirements of national planning and environmental policy.

Precautionary approach

- 7.9 No linear infrastructure scheme of the scale of the Scheme will ever obtain 100% survey coverage or be able to state with certainty its impacts on flora and fauna, at this stage in the development of the project³⁸⁸. Consequently, for the purposes of the Ecological Impact Assessment and the FEI, NR has adopted a precautionary approach. This involves taking a reasonable worst-case approach to assessment as to the presence of species, the impacts of

³⁸⁷ Document NR54-2: A Green Future: Our 25 Year Plan to Improve the Environment pages 32 to 33

³⁸⁸ Dr Stephanie Wray in oral evidence on 12 April

the Scheme and mitigation and compensation arrangements. By way of example:

- it has been assumed on a precautionary basis that all vegetation within the Scheme area will be lost during construction³⁸⁹;
- where information is missing as to the existence of fauna or flora or the impacts upon them, a reasonable precautionary approach has been taken. As a result, further surveys are anticipated to decrease the importance of receptors or the level of predicted impact or the significance of the residual effect³⁹⁰;
- in the case of bats, a reasonable precautionary approach has been used to measure the presence of bat roosts in the Bat Roost Study Area (100m from the Scheme boundary). As such, NR has assessed that there is potential for moderate numbers of roosts of common species and smaller numbers of roosts of rarer species and the rarest species. It has further assessed that most of these roosts are likely to be of low conservation significance, but a smaller number are likely to be of higher conservation importance, including maternity and hibernation roosts³⁹¹; and
- in the case of GCN, incomplete survey results have led to a precautionary approach being used to assume that there are a further 460 water bodies with populations of GCN³⁹².

Licensing

7.10 The test at the licensing stage is contained within Regulation 55 of the Conservation of Habitats and Species Regulations 2017. This provides:
'55.- Licences for certain activities relating to animals or plants

³⁸⁹ Document NR16 ES Volume 2i Chapter 9 page 9-7 paragraph 9.3.4

³⁹⁰ Document NR16 ES Volume 2i Chapter 9 page 9-22 paragraphs 9.3.71 to 9.3.73

³⁹¹ Document NR16 ES Volume 2i Chapter 9 page 9-43 paragraph 9.3.80

³⁹² Document NR16 ES Volume 2i Chapter 9 page 9-45 paragraph 9.3.86

(1) Subject to the provisions of this regulation, the relevant licensing body may grant a licence for the purposes specified in paragraph (2).

(2) The purposes are - ...

(e) preserving public health or public safety or other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment; ...

(9) The relevant licensing body must not grant a licence under this regulation unless it is satisfied -

(a) that there is no satisfactory alternative; and

(b) that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.'

7.11 The test at the development consent stage (the decision whether to make the Order and to grant deemed planning permission) is the correct approach for the development consent decision maker to follow, which is given in the following Supreme Court judgment³⁹³: '*29...I cannot see why a planning permission (and, indeed, a full planning permission save only as to conditions necessary to secure any required mitigating measures) should not ordinarily be granted save only in cases where the planning committee conclude that the proposed development would both (a) be likely to offend article 12(1) and (b) be unlikely to be licensed pursuant to the derogation powers.*' (emphasis added). As such, the question is whether a relevant activity is 'unlikely to be licensed'. Which, in the present case, means asking whether there is an obvious impediment which is likely to be insuperable to the future grant of any species licence that will be required to enable lawful construction (or operation) of the Scheme.

7.12 The fact that there remain uncertainties or issues that will need to be addressed in the detailed documentation submitted in support of the actual

³⁹³ Lord Brown in paragraph 29 of the Supreme Court's judgment in *R (Morge) v Hampshire County Council* [2011] 1 WLR 268

licence applications, but which have not yet been addressed given the earlier stage that the Scheme has so far reached, is completely consistent with the grant of deemed planning permission. The SoS, as development consent decision maker, is entitled to proceed on the basis that those uncertainties are able to be resolved and details supplied at the licensing stage itself, and to grant planning permission on that basis³⁹⁴.

7.13 In the present case, NE will be the competent authority responsible for deciding whether any requisite species licences should be granted on the application of NR. At the request of NE, NR has provided draft licence applications to NE at this stage in the development of the Scheme. This is to assist NE in its understanding of the likely licensing requirements for the construction of the Scheme following the making of the Order and the grant of deemed planning permission.

7.14 In total, NR is seeking the following licences:

- (i) Bats: (1) a licence for the replacement of a significant bat roost at Swanbourne Station with a nearby bat house³⁹⁵; (2) a route-wide licence covering the loss or disturbance of low or medium significant roosts across the Scheme. In addition, NR is delivering a bat strategy which sets out the activities which are not presently considered to require licensing. In the event that NR encounters a high value roost close to the Scheme before or during construction, a further licence application

³⁹⁴ Lord Brown in the Supreme Court's judgment in *R (Morge) v Hampshire County Council* [2011] 1 WLR 268 expressly sets out what does not have to be shown at this stage: '*28 Ward LJ dealt with this question in para 61 of his judgment: "...If the planning committee conclude that Natural England will not grant a licence it must refuse planning permission. If on the other hand it is likely that it will grant the licence then the planning committee may grant conditional planning permission. If it is uncertain whether or not a licence will be granted, then it must refuse planning permission.*' *29 In my judgment this goes too far and puts too great a responsibility on the planning committee whose only obligation under regulation 3(4) is, I repeat, to "have regard to the requirements of the Habitats Directive so far as [those requirements] may be affected by" their decision whether or not to grant a planning permission...*' (emphasis added).

will be made with its own mitigation plan. With regard to incidental loss through collision with trains during the operational phase, NR does not presently intend to make a licence application. In the light of mitigation designed at each crossing point, the risk of collision is expected to reduce to an incidental level. This risk is not expected to be such as to impact on the FCS of any affected species of bat. The bat mitigation structure to the south-west of Sheephouse Wood, authorised under the HS2 Act³⁹⁶, will be extended over the Scheme. The extension will be constructed by HS2 as part of constructing the main structure, in order to avoid the creation of a sheltered corridor between the HS2 structure and the Scheme which might otherwise encourage bats to fly into oncoming trains;

- (ii) GCN: (1) one licence is sought for Route Section 2A; (2) one combined licence is sought for Route Sections 2B and 2C; (3) one licence is sought for Route Section 2D; and, (4) one licence is sought for Route Section 2E;
- (iii) Otters: one licence is to be sought to cover the two resting sites identified in the ES;
- (iv) Badgers: one licence is to be sought under national law for the whole Scheme.

7.15 In the present case, it is reasonable to assume that: (1) construction of the Scheme will, following the making of the Order, satisfy the requirements of Regulation 55(2)(e) of the Habitats Regulations i.e. the need to undertake the authorised works to construct the Scheme and thus bring EWR2 into operation will constitute an imperative reason of overriding public interest of a social or economic nature; and (2) there will be no satisfactory alternative

³⁹⁵ Document NR16 ES Volume 4 Environmental Design Drawings Sheets 33 and 34 of 98

³⁹⁶ Document NR16 ES Volume 4 Environmental Design Drawings Sheets 78 of 98

to those works, since the Scheme must necessarily be constructed along its defined and authorised route within the Order limits. The second condition (Regulation 55(9)(a) of the Habitats Regulations) is thus likely to be fulfilled³⁹⁷.

- 7.16 The relevant question, therefore, is whether the evidence before the Inquiry justifies the conclusion that the construction of the Scheme in accordance with the requirements of the draft Order, and in accordance with the conditions imposed on the deemed planning permission (including an approved Scheme-wide ecological management plan securing the full range of mitigation and compensation measures identified in Appendix A to the draft ecology condition), will nevertheless be so detrimental to bats, GCN and other protected species present in the area affected by the works as to present an unmanageable and unacceptable level of risk to the maintenance of the population of the species concerned at a FCS in their natural range. NR considers that this is not the position³⁹⁸.

Response to NE's Case

- 7.17 NE's position is that it has *'reservations over the level of bat survey which has been undertaken, and hence the reliability with which impacts can be predicted and mitigation or compensation provided. This view is presented in its Position Statement dated 9 April 2019.'*³⁹⁹ It cannot reasonably be said that the Scheme's impacts on bats are unlikely to be licensed. The two bat licences that have been applied for are at Swanbourne Station, of which NE states that *'in the main the proposals are satisfactory. However, there are some changes required before the draft can be approved... Subject to relatively minor changes it is considered that it is likely that this licence could*

³⁹⁷ Points accepted by Suzanne Crutchley in cross-examination

³⁹⁸ Evidence given by Dr Stephanie Wray at the Inquiry and in Documents NR16 ES Volume 2i Chapter 9 and NR47 FEI

³⁹⁹ Document NR287 SoCG paragraph 4.1

*be issued.*⁴⁰⁰; and a route-wide bat roost licence which is more contentious⁴⁰¹.

7.18 With regard to the route-wide bat roost licence:

- (i) There is no good reason to do other than both to accept and to give very considerable weight to the evidence of Dr Stephanie Wray⁴⁰² on bats.
- (ii) The development of the Scheme will necessarily be iterative to a significant degree. The level of information known following publication of the FEI, in November 2018, was greater than the level of information known at the ES stage, in July 2018. Similarly, the level of information known at the licensing stage, in the months and years to come, will be greater than the level of information known now. Any decision at this consenting stage, including coming to a conclusion on whether the grant of a licence is 'unlikely', must take this background into account.
- (iii) NE does not take any objection, in principle, to⁴⁰³:
 - a. the matters to be covered by the Ecological Impact Assessment⁴⁰⁴;
 - b. the staged approach in undertaking the Ecological Impact Assessment⁴⁰⁵;
 - c. the background legislative and policy context pursuant to which NR operated⁴⁰⁶;

⁴⁰⁰ Document OBJ/242-5 pages 10 and 11 paragraph 3.1.36

⁴⁰¹ Impacts on foraging habitat and commuting habitat are not the subject of a draft licence and NR does not believe that they are a licensable issue. Rather, they are dealt with in the SBMA

⁴⁰² Document NR54 page 8 paragraph 1.1.2: Dr Stephanie Wray holds a PhD in mammal ecology and is a member of NE's Expert Panel on Bats; in 2011 she was awarded the Mammal Society Medal for her work on the effectiveness of mitigation for mammals affected by development projects

⁴⁰³ Accepted by Suzanne Crutchley in cross-examination

⁴⁰⁴ Document NR16 ES Volume 2i Chapter 9 page 9-3 paragraph 9.1.1

⁴⁰⁵ Document NR16 ES Volume 2i Chapter 9 page 9-4 paragraph 9.1.2

⁴⁰⁶ Document NR16 ES Volume 2i Chapter 9 pages 9-4 to 9-6 paragraphs 9.2.1 to 9.2.8

- d. the assessment methodology used as part of the Ecological Impact Assessment⁴⁰⁷; and
 - e. the precautionary approach in the sense of assuming that all vegetation within the Scheme area will be lost during construction⁴⁰⁸.
- (iv) The following points relate to the baseline information set out in the ES and FEI:
- a) It is sufficient for a major infrastructure project of this nature⁴⁰⁹. These projects will always have incomplete data because they rely on land owners to allow the promoter on. The current level of information was quite typical for where a developer would be at for that stage of a major infrastructure scheme. This is particularly the case for linear schemes, such as railways. NE's witness demonstrated that her experience of linear schemes is limited and that her experience is principally with licensing and the level of information for licence applications is likely to be different and significantly more detailed than the level of reasonably available information at the development consent stage⁴¹⁰.
 - b) There are two approaches as to how a project could deal with a lack of information. One approach was that taken by HS2 Phase 1 where there are large white areas on the map with no information and the project accepts that it has no information for those areas. NR has taken the second approach, which involved using a combination of survey information, desk study information, any existing records and reports from consultees,

⁴⁰⁷ Document NR16 ES Volume 2i Chapter 9 page 9-6 onwards section 9.3

⁴⁰⁸ Document NR16 ES Volume 2i Chapter 9 page 9-7 paragraph 9.3.4

⁴⁰⁹ Oral evidence of Dr Stephanie Wray at the Inquiry

and the professional judgment of competent ecologists. Rather than assuming the absence of species, species were assumed to be present.

- c) The robustness of the precautionary approach taken is demonstrated by the FEI not causing NR to report any significant worsening in the level of impact on any species or the need for a significantly greater level of mitigation when assumptions made in the ES relying on a precautionary approach did not change significantly in the FEI due to greater information having been collected e.g. the Swanbourne Station bat roost was assessed as having moderate to high conservation status, which was confirmed in the FEI, and the licence identifies it as of moderate conservation value.
- d) There was an intensive and time-consuming exercise of bat survey work undertaken during summer 2018 involving roost surveys, transects along and parallel to the Scheme and monitoring of crossing points with night-vision equipment and bat detectors⁴¹¹. Even methods that are not normal on most schemes, such as trapping and radio tracking, had been carried out⁴¹². These gave a good idea as to where roosts were likely to be present because roosts were more likely to be present where there were high levels of bat activity. Although more could always be done, NR had a good understanding of how bats use the area⁴¹³. One example of where NR disagrees with the approach required by NE relates to radio tracking information to

⁴¹⁰ Suzanne Crutchley in cross-examination

⁴¹¹ Documents NR47 FEI Part I, pages 80 to 82 gives detail on the methods used; FEI Part III, Figures 9.21A to 9.21D provides heat maps derived from bat transects; and NR16 ES Volume 2i pages 9-39 to 9-43 paragraphs 9.4.56 to 9.4.80 provide more information and results

⁴¹² Suzanne Crutchley accepted in cross examination that '*a substantial body of survey work has taken place*'

assess foraging and commuting habitats⁴¹⁴, when the activity data that has been most useful has been transect data and static data⁴¹⁵. In particular, through static data, one can collect a huge amount of data in a non-labour-intensive way to find out which species are using the site. Where there is poor land access, such as in a linear scheme of this type, you will get poor returns, e.g. you will not see a huge amount of detail about habitat use or flyways if you cannot get onto the land to triangulate where bats are properly. Notwithstanding this, this information was obtained by NR and relayed to NE.

- (v) NE's complaints as to the reasons for gaps in surveys is illogical in that it follows that NE can work with the data (or lack of) if arising from a lack of access but cannot work with it if arising from some other reason. Considerable efforts had been made to access all relevant land⁴¹⁶.
- (vi) With regard to NR's use of a reasonable precautionary approach in assuming the existence of roosts, the ES states: : *'In the absence of complete field survey data, based on a reasonable precautionary approach, there is potential for moderate numbers of roosts of common species (common pipistrelle, soprano pipistrelle and brown longeared bat), and smaller numbers of roosts of rarer species (e.g. whiskered bat, Natterer's bat, Daubenton's bat and Brandt's bat) and rarest species (e.g. barbastelle) to be present in the Bat Roost Study Area...Most of these roosts are likely to be roosts of low conservation significance, but a small number are likely to be of higher conservation importance*

⁴¹³ Oral evidence of Dr Stephanie Wray at the Inquiry

⁴¹⁴ Oral evidence of Suzanne Crutchley was that there were gaps in the data relating to radio tracking

⁴¹⁵ Dr Stephanie Wray in cross-examination suggested that radio tracking is not always justified; it is an intrusive research technique which is helpful in certain cases where there is good land access but that it has become overused in consultancy for development projects

⁴¹⁶ Oral evidence of Dr Stephanie Wray at the Inquiry

*including maternity and hibernation roosts.*⁴¹⁷. The following points are relevant regarding the approach taken by NR.

- a) NE's concerns about the possibility of discovering an important maternity colony of a rare species of bat during further survey work within the Bat Roost Study Area⁴¹⁸ are addressed by the huge amount of survey work that has already been carried out. In Route Sections 2A and 2B on land in NR's ownership extensive survey work had been carried out and surveyors were regularly present throughout the season. It is unlikely that there would be a very significant colony of bats directly affected on NR's land without its knowledge. On third party land, it is possible that such a colony might exist. NR has tried to address this, however, by making sure that there are continuous corridors of vegetation. Moreover, it is in the nature of rare and rarer species (and their roosts) that, if they do exist, it is unlikely that there will be that many of them; otherwise they would not be rare species.
- b) The robustness of NR's approach is demonstrated by it having provided more mitigation than might otherwise be necessary to reduce the risk of unacceptable impacts on bats to an acceptable level⁴¹⁹.
- c) Ultimately, it comes down to the level of risk. Although NE says that it is *'not seeking a complete survey effort or a counsel of perfection'*⁴²⁰, this is what it is calling for in substance. By way of examples:

⁴¹⁷ Document NR16 ES Volume 2i Chapter 9 page 9-43 paragraph 9.4.80

⁴¹⁸ Evidence of Suzanne Crutchley accepted by Dr Stephanie Wray at the Inquiry

⁴¹⁹ Dr Stephanie Wray in cross-examination stated that if comprehensive roost surveys could be carried out, a lot less mitigation would be required

⁴²⁰ Document OBJ/242-6 paragraph 22

- NE criticises NR in that it has adopted a reasonable precautionary approach rather than assuming that the rarest species of bat is present in every suitable roosting feature⁴²¹, which would be unsound, disproportionate and illogical as, if they existed in every roosting feature, they would not be rare/the rarest species. NE agreed in the context of providing suitable habitats for otters that if the risk could be entirely removed, then it would be in a position to say there was no impediment to licensing⁴²².
- In relation to bats, where NE maintained its objection even though not all vegetation was to be lost within the red line boundary *'because the proposals do not in every case ensure that no matter what roosts are present, no matter what the significance of the roosts, the significance of the colonies, they would cater for every eventuality...'*⁴²³. This method is wrong in principle and fails to follow the correct approach at the development consent stage by setting up certainty as the requisite yardstick, admitting no risk whatsoever and seeking a counsel of perfection. It has the effect of setting up the licensing regime as an insuperable impediment to the Scheme. NR considers that it has undertaken a sufficiently robust approach so as to reduce the risk to a sufficient degree of control and management to justify concluding that the requisite licences are at least likely to be forthcoming.

(vii) NR has demonstrated how it will manage roosts once their presence has been confirmed e.g. Swanbourne Station. NR will look to deal with any

⁴²¹ Document OBJ/242-6 paragraph 26

⁴²² Oral evidence of Suzanne Crutchley at the Inquiry

⁴²³ Oral evidence of Suzanne Crutchley at the Inquiry

unknown roosts discovered in future surveys by providing a bat house in an appropriate location if a significant roost is discovered; and the provision of bat boxes if a minor roost is discovered.

- (viii) In terms of foraging and commuting habitat, NR has made sure that there are continuous corridors for bats throughout the Scheme during construction and operation⁴²⁴. It has been assumed for design and construction purposes that Route Sections 2A and 2B provide a key commuting and foraging corridor for bats⁴²⁵. There will be alternative corridors of vegetation alongside the Scheme outside of the railway corridor that will be retained or planted⁴²⁶. They will be planted in advance of construction. The aim is to make sure that there is always a suitable corridor of vegetation for bats. NR has undertaken comprehensive work to understand how populations of bat use the foraging and commuting habitat, including heat maps, in order to ensure this solution is effective. For this reason, NR does not need to know at this stage the actual location of all roosts because it does know where bat activity is concentrated. The issue of foraging and commuting habitat has not been made the subject of a draft licence because it is not licensable⁴²⁷, as dealt with in the SBMA.
- (ix) NR has identified 31 places where bats cross the railway, the number of bats crossing and the probability of bats and trains being present at the same time, through extensive survey work including a Collision Risk Analysis⁴²⁸. This was how it calculated predicted levels of collision

⁴²⁴ Document NR16 ES Volume 2i Chapter 9 page 9-80 paragraph 9.5.117 provides how this will be achieved

⁴²⁵ Document NR16 ES Volume 2i Chapter 9 page 9-80 paragraph 9.5.116

⁴²⁶ Document NR16 ES Volume 2i Chapter 9 page 9-80 paragraph 9.5.117

⁴²⁷ Evidence of Dr Stephanie Wray

⁴²⁸ At the time of giving her evidence, Suzanne Crutchley stated that NE had not had a chance to consider the Collision Risk Analysis

mortality⁴²⁹. This was a more straightforward way of assessing the impacts than working it out on an individual roost by roost basis and not a deficiency in assessment⁴³⁰. Overall, NR found during the Collision Risk Analysis that there would be an incidental level of mortality, even in the absence of mitigation, with respect to Myotis bats⁴³¹. In any event, any mortality would be at incidental levels due to mitigation in the form of vegetation of such a height so as to encourage bats to cross safely. No licence application has therefore been made in relation to the operational phase because there is no suggestion of a requirement for licensing for these impacts.

- (x) The suite of measures that NR can draw on for mitigation purposes⁴³² will allow the FCS of bats, and all other European Protected Species, to be maintained⁴³³. Although NR accepts NE's position that it does not currently have enough detail to issue a licence, there is no conceivable situation where a mitigation solution could not be put forward to ensure FCS. NR has the set of mitigation and compensation techniques available to resolve any issues that arise⁴³⁴.
- (xi) NE has demonstrated that it has misunderstood the legal test in stating that it *'will retain its objection (summarised at 6.2.66-6.2.67 OBJ/242) until such time that either, evidence has been provided that impacts are incidental and will not harm FCS or that suitable additional mitigation measures have been proposed to ensure that the impacts are reduced to*

⁴²⁹ Document OBJ/242-6 paragraph 33 and in cross-examination NE takes a point as to a few surveys that were missed in April/May, which is unlikely to have affected the overall result as, NR took forward the peak count from all other surveys during the rest of the year

⁴³⁰ Oral evidence of Dr Stephanie Wray at the Inquiry

⁴³¹ Document NR47 FEI Part I page 86, paragraphs 9.1.32 and 9.1.33 assessment has been updated by NR and so is now out of date

⁴³² Document NR16 ES Volume 2i Chapter 9, pages 9-79 to 9-81 paragraphs 9.5.106 to 9.5.120

⁴³³ Oral evidence of Dr Stephanie Wray at the Inquiry

⁴³⁴ Oral evidence of Dr Stephanie Wray at the Inquiry: in 25 years of working on this type of scheme, she had never found a scheme where there was not a way to avoid affecting FCS

*this level or removed altogether.*⁴³⁵. It has also stated that *'At the present time, until the above objections have been addressed and all of the draft bat licence applications and mitigation proposals have been screened and fully considered together, it is not possible for NE to conclude that there would be no adverse effect on the FCS of the species concerned. It is, therefore, unlikely that, as things stand, the bat licences could be granted (see paragraph 6.2.72 OBJ/242).'*⁴³⁶

Rather than asking whether it is unlikely that a licence would be issued when the applications are in fact sought, NE has asked whether the FCS would be harmed, or a licence could be issued, as things stand⁴³⁷. In doing so, NE has effectively raised the bar that NR needs to pass to an impossible level at this stage of such a large project. The application of a 'likely' test⁴³⁸ is not the relevant question. NE also states that *'The test for the Secretary of State is whether or not it is unlikely (i.e. probable) that the licensing tests would be satisfied.'*⁴³⁹ The essence of NE's objection is that because it is uncertain about the baseline position, it cannot be said that it will be likely to grant a licence. As confirmed in Morge, uncertainty cannot be the basis upon which the Order is not made. NE has not put forward an identifiable problem which would be relatively insuperable for NR. It has, therefore, failed to bear the evidential burden in this regard, as opposed to the legal burden⁴⁴⁰. If NE did not carry this evidential burden, NR would be in the position of

⁴³⁵ Document OBJ/242-5 page 13 paragraph 3.1.52

⁴³⁶ Document OBJ/242-5 page 15 paragraph 3.1.60

⁴³⁷ Document OBJ/242-6 paragraph 19: *'Due to the current insufficiency of baseline information, NE cannot be confident about the adequacy of the proposed mitigation strategy for bats and is not able to conclude, when the impacts on bats are considered as a whole, that it is likely that bat licences could be issued (paragraph 3.1.60). Indeed, Dr Wray herself stated in cross examination that she accepted that NE 'could not issue a bat licence today', although in her view she considered NE would be able to do so in future.'*

⁴³⁸ Document OBJ/242-6 paragraphs 10, 19, 47 and 54

⁴³⁹ Document OBJ/242-6 paragraph 11 and then applied in paragraphs 13, 17 and 64

⁴⁴⁰ Document OBJ/242-6 paragraph 16: *R (Mynydd y Gwynt Ltd) v SSBEIS [2018] PTSR 1274 (CA) paragraph 31 (Peter Jackson LJ)*

having to prove a negative.

7.19 With respect to other points raised by NE, NR's position is as follows:

- (i) NR's quote in the SBMA is because locations change over time. Further surveys will be undertaken in the future for the purposes of detailed design and to refine the mitigation, which is standard practice⁴⁴¹; and
- (ii) regarding the permanent loss of three areas of vegetated railway corridor⁴⁴², NR's approach has been to identify alternative flight ways and to seek to plant new hedges to make sure that there is an alternative flight route for bats⁴⁴³. The first visible gap is on the south side of the railway line where a new hedge is to be planted⁴⁴⁴ and there is little bat activity, as shown on the bat transect heat maps⁴⁴⁵. There are very strong hedges and tree lines to the north of the Scheme that will be retained. These will provide alternative flight routes for bats. Consequently, it is not believed that there is a significant gap that could potentially have any impact on the FCS. At the second visible gap⁴⁴⁶ there exist strong linear features of hedgerow and tree lines. There is also a river network running up and down either side of a large ploughed field. Consequently, there are other strong linear features that bats could follow if going east to west on this route. At the third gap⁴⁴⁷, relating to Winslow Station, there are hedges with trees along the minor roads to the back of the station. As such, there is again a route for bats around Winslow.

⁴⁴¹ Document OBJ/242-5 page 7 paragraph 3.1.16 suggests that even NR believes that the baseline has not been properly understood

⁴⁴² Document OBJ/242-5 page 11 paragraph 3.1.44

⁴⁴³ Oral evidence of Dr Stephanie Wray at the Inquiry

⁴⁴⁴ Document NR47 FEI Part III Figure 9.24A Sheet 1 of 26

⁴⁴⁵ Oral evidence of Dr Stephanie Wray at the Inquiry

⁴⁴⁶ Document NR47 FEI Part III Figure 9.24E close to ECS B26

⁴⁴⁷ Document NR47 FEI, Part III, Figure 9.24G

(b) Buckinghamshire County Council (BCC) (OBJ 232)

7.20 NR understands that BCC has removed/will remove its objections on ecology with the exception of those matters relating to bats and GCN. With regard to bats and GCN, BCC will defer to NE's position.

(c) Woburn Sands School Crossing⁴⁴⁸

7.21 NR proposes to close the School level crossing⁴⁴⁹ on safety grounds⁴⁵⁰, following an assessment that was also based on the ORR policy on level crossings⁴⁵¹. Since February 2018, there have been 7 incidents of misuse⁴⁵². This is probably the highest number of recorded serious incidents during that period on the route⁴⁵³. WSTC (OBJ 9) does not dispute the need to close the School level crossing⁴⁵⁴.

7.22 In the process of considering alternative provision, NR carried out a census⁴⁵⁵. This demonstrated that, on weekdays, the destination of approximately 30% of households using the School level crossing was Swallowfield Lower School and/or Fullbrook Middle School. This amounted to 16 households during the morning peak hour. No empirical evidence

⁴⁴⁸ Objection made by a large number of objectors with evidence given at Inquiry by Councillors Michael Geddes and David Hopkins on behalf of Woburn Sands Town Council (OBJ 09) and, later, by Judith Barker (OBJ 139). MKC maintains its objection on this point but did not appear at the Inquiry

⁴⁴⁹ Documents NR14: Deposited Plans and Public Rights of Way Plan Sheet 46 of 136; and, NR51-1 Appendix A

⁴⁵⁰ Document NR51 pages 7, 24 and 25 paragraphs 3.3.1 to 3.3.5 and 6.1.1 to 6.1.7

⁴⁵¹ Document NR214 page 5 paragraph 2

⁴⁵² Document NR213 pages 2 and 9

⁴⁵³ Oral evidence of Simon Croft at the Inquiry

⁴⁵⁴ This was its express position in oral evidence at the Inquiry: Judith Barker (OBJ 139) gave oral evidence to the effect that it was preferable for the school level crossing to remain open but with added safety improvements. In terms of potential safety improvements to the school level crossing also raised by WSTC for the first time at the Inquiry, even with such improvements NR would struggle to justify keeping the crossing open to the ORR in light of the number of serious incidents. In any event, it is unclear that lights or gates at the school level crossing would have prevented the recorded misuse; the on-site logs suggest that many of the misusers were intent on trespassing. Moreover, incorporating locks would require expensive alterations to the signalling system (oral evidence of Simon Croft)

contradicting NR's evidence was provided by any of the objectors.

Subsequently, NR's assessment process led to the conclusion that the School level crossing should be closed and a diversion route provided across the controlled crossing on Station Road⁴⁵⁶. An information event was held on 5 December 2018 explaining the rationale behind this⁴⁵⁷.

7.23 The diversion route across the controlled crossing on Station Road, following proposed improvements⁴⁵⁸ (subject to approval from the Highway Authority), will accommodate the extra traffic and be safe for all users, including school children⁴⁵⁹. The traffic will be spread over the morning peak hour i.e. it would not all be approaching the Station Road crossing at the same moment, and the barrier down time is only 10 minutes per hour. There is no evidence of traffic accidents at this location with the current arrangements. There is limited risk of danger to school children whilst waiting at the Station Road level crossing due to the presence of the 'Keep Clear' box on the Newport Road side of the crossing⁴⁶⁰, which would diminish the possibility of cars waiting in very close proximity to/having limited visibility of those pedestrians waiting for the barriers to open or spilling out onto the road. The proposed bollards and raised kerb will disincentivise large vehicles from mounting the kerb, and no specific objection has been raised by the Highway Authority that an unsafe turning movement for HGVs would be created.

7.24 Consequently, there is no need for a footbridge at the current location of the School level crossing. Nonetheless, in light of local concern, NR continues to

⁴⁵⁵ Document NR213 page 3

⁴⁵⁶ Document NR51 pages 25 and 26 paragraphs 6.1.9 to 6.1.15

⁴⁵⁷ Document NR213

⁴⁵⁸ Documents NR51 pages 26 and 27 paragraphs 6.1.16 to 6.1.19 and NR51-1 Appendix A

⁴⁵⁹ Oral evidence of Simon Croft at the Inquiry: With respect to future developments in the area, NR has no real detail of the potential number of users that would use the crossing when such developments are brought ahead. As such, it is very difficult to carry out any assessment on these extra numbers. This evidence would be for the developer to provide at the appropriate time once they had been granted permission. At that point NR would be able to reassess the crossing

⁴⁶⁰ Document NR51 page 27 diagram

keep under review whether to provide a stepped footbridge. It will reconsider the position when: (1) it is able to secure planning permission; (2) it is able to purchase the land necessary to build such a footbridge on acceptable terms; and, (3) it is able to satisfy itself that a stepped footbridge (as opposed to a ramped footbridge) would not breach section 149 of the Equality Act 2010⁴⁶¹.

(d) Lidlington School Crossing

- 7.25 NR proposes to close the School level crossing on safety grounds⁴⁶². The assessment was based on the ORR policy on level crossings⁴⁶³. The alternative will be a diversion via the controlled crossing at Station Road and enhancements to the highway along this route⁴⁶⁴. NR chose this approach due to: (i) the short distance of the diversion; (ii) the safe nature of the controlled crossing at Station Road; (iii) the desire to save costs; (iv) the lack of need to acquire extra land; and, (v) the lack of community consensus on a preferred option.
- 7.26 The objectors who gave evidence on this at the Inquiry do not dispute the closure of the School level crossing and support the Scheme, in principle, but now seek a stepped footbridge⁴⁶⁵. They are not calling for the Scheme to be modified, with the delay for EWR2 that this would entail, but they are asking for a recommendation that NR follows a similar course to its approach in Woburn Sands⁴⁶⁶.

⁴⁶¹ Documents NR212: Letter from NR to MKC, dated 12 February 2019; and NR53 page 35 paragraph 10.5.6: equality concerns

⁴⁶² Documents NR14: Deposited Plans and Public Rights of Way Plan Sheet 53 of 136; and, NR51-1 Appendix B

⁴⁶³ Document NR214 page 5 paragraph 2

⁴⁶⁴ Document NR228

⁴⁶⁵ CBC (OBJ 241), Lidlington Parish Council (LPC) (OBJ 215) and Councillor Sue Clark (OBJ 182): first evidence of support for stepped footbridge on 27 February 2019 as they only found out in January that a stepped footbridge was being considered by NR in Woburn Sands

⁴⁶⁶ Document NR212: NR letter to MKC, dated 12 February 2019

- 7.27 NR considers that the closure and diversion option is the most appropriate with regards to the School level crossing for the following reasons⁴⁶⁷:
- (i) the diversion is relatively short, with the property most affected having approximately a 400m diversion⁴⁶⁸, which is an extra few minutes of walking;
 - (ii) the crossing at Station Road is safe, with CCTV control, no reported traffic accidents at its location, and the diversionary route will be made safer by the provision of improvements proposed by NR and accepted by CBC;
 - (iii) a stepped footbridge will cost approximately £1.05 million⁴⁶⁹, which is not a justified extra cost at public expense;
 - (iv) building a stepped footbridge will require NR to acquire further land at an extra cost at public expense⁴⁷⁰.
 - (v) NR's initial proposal to build a stepped footbridge at the location of the School level crossing⁴⁷¹ was opposed by the community on the basis of visual intrusion, amenity and accessibility⁴⁷². As a result, NR changed its approach and consulted on a number of options in June 2016 which resulted in 70 individuals supporting an underpass, 62 supporting closure and diversion, 23 supporting a stepped footbridge, 3 supporting a ramped footbridge and 3 supporting steps with a lift⁴⁷³. Consequently, there was no clear preferred option.

7.28 Little weight should be given to the survey carried out from 22 to 25 February 2019, as the introduction to the questionnaire was tendentious and left no

⁴⁶⁷ Document NR231: NR letter, dated 1 February 2019

⁴⁶⁸ Document OBJ/241-4 Appendices

⁴⁶⁹ Oral evidence of Simon Croft at the Inquiry

⁴⁷⁰ Oral evidence of Simon Croft at the Inquiry

⁴⁷¹ Document NR51 page 28 paragraph 6.2.5

⁴⁷² Document NR12 pages 20 and 21 Table 5.4

⁴⁷³ Document NR231

doubt as to the views of those asking for the questionnaire to be filled out i.e. they were in favour of the stepped footbridge. In these circumstances, the answers cannot be taken as a reliable indicator of the community's preference. Even if the survey can be relied upon, the close and divert option is still the most appropriate.

- 7.29 The proposal would not harm the connectivity of Lidlington, as the controlled crossing at Station Road would remain open and the maximum length of diversion would be 400m. The only example given of the controlled crossing being temporarily and suddenly closed preventing north-south movement was on a Sunday when, in light of there being no Sunday service, the crossing was closed for maintenance works⁴⁷⁴. This is unlikely to occur when EWR2 is operational as Sunday services are proposed to run. Closure resulting from barriers breaking, trains failing, or serious incidents have never occurred at the location. In any event, if one of these exceptional events did occur, there is a level crossing (part of the public highway) on the playing fields approximately 375m to the west of the School level crossing which could be used⁴⁷⁵.
- 7.30 The diversion to Station Road controlled crossing is safe for school children to use and will become even safer following the proposed enhancements. The objectors have provided no evidence from the Highway Authority that the proposed diversion would be unsafe⁴⁷⁶. NR's 9-day traffic survey, showing the daily movements in the area, demonstrated that this is a low-traffic area⁴⁷⁷. Furthermore, there is no evidence of any traffic accidents occurring on Station Road.
- 7.31 A footbridge should not be built as part of the Scheme to cater for future growth in the area in circumstances where: (i) CBC did not seek to include

⁴⁷⁴ Document OBJ/182-4 Appendix 2 e-mail 3.7

⁴⁷⁵ Document NR16 1 ES Volume 4 Scheme Drawings Sheet 62 of 134

⁴⁷⁶ CBC (Highway Authority) did not mention safety concerns in its SoC or Proof of Evidence

⁴⁷⁷ Document OBJ/241-4 Appendices

these future developments in the list of RFFP that were to be assessed as part of the cumulative impact assessment⁴⁷⁸; and, (ii) CBC cannot say at the moment where the appropriate crossing points would be for the future developments⁴⁷⁹. It is the developers of these future developments who, having carried out their own cumulative impact assessments, should take responsibility for providing such infrastructure in appropriate locations.

7.32 The circumstances in Lidlington are different to the circumstances in Woburn Sands, such that they cannot be regarded as comparable; assuming closure of both school crossings, there are no justifiable highway safety concerns for pedestrians using the existing Lidlington Station Road level crossing, whereas the busyness and relative complexity of the roads approaching the Woburn Sands level crossing calls for more consideration (as expressed by WSTC in relation to the Woburn Sands Station Crossing)⁴⁸⁰.

7.33 Notwithstanding the above, NR has confirmed that it is considering the feasibility of providing a stepped footbridge at Lidlington School Crossing⁴⁸¹. It is, however, unable to reconsider at this stage the construction of a footbridge as this will depend on: (1) confirmation from NR's Equalities Act Advisory Board that a stepped footbridge complies with NR's public sector equality duty under the Equality Act 2010; (2) confirmation that the land required for construction of a stepped footbridge can be acquired through negotiation subject to agreement being reached on acceptable terms; and, (3) confirmation of a successful application for planning permission for the stepped footbridge.

⁴⁷⁸ Document NR230 paragraphs 2.1.1 to 2.1.5

⁴⁷⁹ Connie Frost-Bryant in cross examination was unable to provide this information

⁴⁸⁰ Document NR243

⁴⁸¹ Document NR243

(e) Electrification

- 7.34 Several objectors have objected to the Scheme on the basis that it does not provide for an electrified service⁴⁸². The trains will be diesel powered. EWR2 was originally meant to be part of the nationwide Electric Spine programme. The Electric Spine programme was deferred by the Government in 2015. In 2016, the DfT announced that plans to electrify the section between Oxford and the WCML at Bletchley were also to be removed and that EWR2 would be a wholly non-electrified railway. The reason why electrification on EWR2 was descoped was: (a) to save money⁴⁸³; (b) to allow project resources to be focused on opening EWR2 at the earliest opportunity; and (c) having a section of EWR2 electrified between Oxford and Bletchley and an unelectrified section between Bletchley and Bedford would have raised challenges around the rolling stock, timetabling and depots⁴⁸⁴. However, any proposed new structure being built as part of the Scheme (including highways and footbridges) will allow sufficient clearance to accommodate electrification, should it be pursued in the future.
- 7.35 Based on the Scheme using diesel powered trains, an assessment for air quality effects both during construction and operation⁴⁸⁵ shows that the operation of the railway will not give rise to any significant adverse effects. The operation of the railway and its contribution to overall levels of pollution will not affect compliance limits in the Directive 2008/50/EC on ambient air quality and cleaner air for Europe. The success of the Scheme and the

⁴⁸² Objectors include Langford Village Community Association (OBJ 219) Milton Keynes Green Party (OBJ 212) and Cycling UK (OBJ 243); it has been mentioned by Railfuture (SUP 327)

⁴⁸³ Document NR211: Replacing existing bridges between Bicester and Bletchley to enable electrification would cost approximately £34.5 million

⁴⁸⁴ Document NR53 pages 37 and 38 paragraphs 10.8.1 to 10.8.4

⁴⁸⁵ Document NR16 ES Volume 1 Non-Technical Summary page 18 and ES Volume 2i Chapter 8 provide the findings

benefits that will flow from it are not predicated on electrification and will still be achieved with a diesel-only railway⁴⁸⁶.

(f) Luton Borough Council (LBC) (OBJ 244)

7.36 LBC's concerns relate to the closure of an existing road level crossing at Manor Road, Kempston Hardwick and replacement with an overbridge⁴⁸⁷. NR is proposing to close this level crossing due to safety concerns⁴⁸⁸. LBC does not object to the Order as it stands and its provision for the closure of the Manor Road level crossing together with an overbridge, but wants NR to review whether it is necessary to exercise its powers under the Order with respect to these works if Route A, B or C are chosen as the preferred Central Section route⁴⁸⁹. The EWRCo expects to announce its preferred route for the Central Section in August 2019.

(g) Thames Water Utilities Ltd (TWUL) (OBJ 226)

7.37 NR has amended the draft Order such that the reference to 'operation' in Article 19(1) has been removed⁴⁹⁰, which means that the power under Article 19 applies only to the construction and maintenance of the authorised works and resolves that aspect of TWUL's case. TWUL maintains its objection with respect to Article 19(8) of the draft Order⁴⁹¹.

7.38 NR maintains its position that Article 19(8) should be retained in its current form because⁴⁹²:

⁴⁸⁶ Document NR53 page 38 paragraph 10.8.4

⁴⁸⁷ Documents NR02: Order, Schedule 1 page p34 and Schedule 5 page 62 Work Number 38; and NR14: Deposited Plans and Public Rights of Way Plan Sheet 57 of 136

⁴⁸⁸ Document NR51 pages 7 and 8 paragraphs 3.3.3, 3.3.4 and 3.3.6

⁴⁸⁹ Oral evidence of Keith Dove (LBC) at the Inquiry

⁴⁹⁰ Document NR202: Revised draft Order

⁴⁹¹ Document NR202 Article 19(8): *'If a person who receives an application for consent or approval fails to notify Network Rail of a decision within 28 days of receiving an application for consent under paragraph (3) or approval under paragraph (4)(a) that person is deemed to have granted consent or given approval, as the case may be.'*

⁴⁹² Document NR237

- (i) The exercise of the power under Article 19(1) is for the approval of detail and that it is subject to prior consent by the responsible sewerage undertaker under Article 19(3). Pursuant to Article 19(3), the relevant undertaker may impose terms and conditions but must not withhold consent unreasonably. Therefore, if TWUL is not satisfied in a given case that the material to be discharged is appropriate or suitable for discharge, it is able to refuse consent.
- (ii) There is no model clause providing either for deemed consent or deemed refusal. Nonetheless, Article 19 follows a model that has become established in practice in orders for railway schemes.
- (iii) At the stage where an application for prior consent will be made by NR, the environmental effects of the Scheme will have been considered in detail by the Inspector and SoS; the timely delivery and construction of the Scheme will have been judged to be in the public interest. It is thereby important to avoid unnecessary delay to delivery of the Order.
- (iv) The deemed consent clause in Article 19(8) of the Order has been included in all recent orders made under the TWA authorising railways⁴⁹³. With regard to deemed consent not being included in some Development Consent Orders (DCOs), there are many examples of them including deemed consent provisions, the Planning Act 2008 has a different regime and the examples cited by TWUL do not relate to railway projects.
- (v) The reason for including the deemed consent provisions is to provide a streamlined process for approval of details, which ensures that the

⁴⁹³ Examples are: i. The Network Rail (Ordsall Chord) Order 2015 Article 17(8); ii. The London Underground (Bank Station Capacity Upgrade) Order 2015 Article 17(8); iii. The London Overground (Barking Riverside Extension) Order 2017 Article 14(8); iv. The Network Rail (Hope Valley Capacity) Order 2018 Article 14(8); and v. The Network Rail (Werrington Grade Separation) Order 2018 Article 16(8)

relevant regulatory authority or statutory undertaker considers the application in a timely way preventing lengthy delays.

- (vi) It is not reasonably conceivable that prior consent for any application will be deemed in circumstances where TWUL is in a position of ignorance⁴⁹⁴ as any application will be accompanied by plans provided by NR and an opportunity for TWUL to supervise any opening into a public sewer or drain must be given (Article 19(4)), which is designed to ensure that the sewerage undertaker has the requisite level of information on what is proposed as to engineering works and the quality and quantity of material to be discharged. If TWUL considers that it has been given inadequate information, it can refuse an application within 28 days of it having been made⁴⁹⁵.

7.39 Article 19 as a whole, including Article 19(8) specifically, is designed to draw a balance between enabling TWUL to make an informed decision, on the one hand, and to avoid unnecessary delay to the delivery of a railway scheme, on the other hand⁴⁹⁶.

(h) Gladman (OBJ 228-231)⁴⁹⁷

7.40 ECS B10 is located⁴⁹⁸ on land which has been granted a draft allocation for

⁴⁹⁴ No evidence has been produced at the Inquiry to show that provisions materially the same as Article 19 in relation to other similar schemes have had the negative consequences now posited by TWUL

⁴⁹⁵ Jane Battle in cross examination accepted that TWUL is 'happy to agree' as part of a side-agreement that decisions will be delivered within 28 days and in order to do this, it will set up a point of contact which allows NR to deliver applications to a particular destination that can then be fast-tracked to the right department

⁴⁹⁶ The Secretary of State, at paragraph 33 of his decision letter, dated 24 July 2018, agreed with the Inspector in relation to the Network Rail (Werrington Grade Separation) Order 2018, when he gave similar reasoning in relation to one of the protective provisions in favour of the EA rather than to Article 16 of that Order, but the points made are points of principle that are equally applicable to Article 19(8) of the current draft Order

⁴⁹⁷ Documents NR289 paragraphs 275 to 311; and NR290

⁴⁹⁸ Document NR16 ES Volume 4 Environmental Design Drawings Sheet 30 of 98 (Plot 0677)

housing⁴⁹⁹ in the VALP⁵⁰⁰. The effect of ECS B10 is to reduce the housing development now applied for by Gladman from 235 dwellings to 215 dwellings⁵⁰¹. As such, to the extent that Gladman emphasises the public interest for residential development, ECS B10 can reasonably relate only to this shortfall of 20 dwellings.

- 7.41 NR considers that ECS B10 is necessary⁵⁰². Insofar as one must choose between the Scheme and Gladman's housing scheme, assuming that ECS B10 amounts to necessary mitigation, the VALP requires the housing allocation to yield to EWR2. This is because (i) Policy T2 in the VALP states that '*Planning permission will not be granted for development that would prejudice the implementation of...the East West Rail project [EWR] including new stations...*'⁵⁰³; (ii) Policy S2 in the VALP states that '*Winslow will accommodate growth of 1,166 new homes, linked with the development of East-West Rail [EWR] and the new railway station in Winslow*'⁵⁰⁴; and (iii) the reference in the VALP to WIN001 sets out a phasing timetable: 50 homes will be delivered from 2017-22 and 535 homes from 2023-2033⁵⁰⁵. If the delivery of the Scheme is delayed or cancelled, draft site WIN001 would no longer be considered to be appropriate at the strategic scale envisaged.

⁴⁹⁹ Document OBJ/228-231-2 Appendix 1: location of the affected housing allocation site, WIN001

⁵⁰⁰ Document NR72: Vale of Aylesbury Local Plan is awaiting final recommendations from the Inspector

⁵⁰¹ Oral evidence of Laura Tilston at the Inquiry: two planning applications had been made - one with the land required by the Scheme and one without the land required by the Scheme with the difference between them being 20 dwellings

⁵⁰² Document NR16 ES Volume 3 Appendix 9.13 page 9 paragraphs 2.3.13 and 2.3.14

⁵⁰³ Document NR72 page 205

⁵⁰⁴ Document NR72 page 35 and oral evidence of Laura Tilston at the Inquiry is that this figure included the homes planned to be provided within WIN001

⁵⁰⁵ Document NR72 page 127: The latter stage of phasing looks to be linked to the coming into operation of EWR2, at which point Winslow's credentials as a sustainable development will have become enhanced

Consultation

- 7.42 The Round One consultation from 4 September to 16 October 2015 sought views from all stakeholders, including Gladman, on scheme design and methodology. NR had a specific meeting with Gladman on 3 February 2016. The Round Two consultation from 30 June to 11 August 2017 addressed changes from Round One. The Round Three consultation in early 2018 sought views on changes to EWR2 following Round Two, including updated methodology and potential environmental effects. There has been further public consultation and engagement with Gladman during the period since the publication of the draft Order in July 2018.
- 7.43 NR held meetings with Gladman during the period prior to publication of the draft Order and, as the land requirements for environmental mitigation were being finalised, on 18 December 2017 and 31 January 2018. The latter of these meetings was held at EWR offices and provided Gladman with the opportunity to meet the project design team, discuss EWR2 proposals and raise any concerns.
- 7.44 NR has had significant subsequent e-mail correspondence with Gladman. By way of example, NR sent two e-mails to Gladman on 27 February 2018 and on 20 March 2018⁵⁰⁶, concerning the development of NR's proposals for a CFSA and an ECS on the land in which Gladman has an interest. These exchanges and discussions did not resolve Gladman's concerns over the location of the CFSA and ECS but demonstrate that there has been consultation on the compulsory acquisition of the land included in the draft Order. Although there were alterations to the size and shape of the land required, they were designed to reduce the impact on Gladman's proposed development. There have, subsequently, been frequent e-mail correspondence and discussion between the parties following publication of the draft Order.

- 7.45 Further to the meetings and correspondence with Gladman, NR developed the CFSA design/locations presented at previous rounds of public consultation into those that were eventually proposed in the Order application, taking into account Gladman's comments and project requirements. NR seriously considered Gladman's representations, and changed its approach following consultation with Gladman⁵⁰⁷.
- 7.46 NR has set out its position as to why the relevant land was necessary⁵⁰⁸. Further meetings have been held between NR and Gladman on 29 November 2018 (briefly at the Pre-Inquiry Meeting), 3 January 2019, 11 January 2019, 25 January 2019, 30 January 2019 (conference call), 31 January 2019 (conference call) and 15 February 2019 (conference call). An offer was made to acquire the relevant land on 20 February 2019⁵⁰⁹.

Great Crested Newts

- 7.47 There is a route-wide mitigation and compensation strategy which ensures that there is no effect on the FCS of GCN⁵¹⁰. As GCN live in metapopulations based around clusters of ponds, this requires looking at GCN terrestrial and aquatic habitats in combination⁵¹¹. As a result, mitigation at a metapopulation level has been sought with stepping stones across the Scheme. This may mean that certain specific locations are enhanced whilst other locations lose GCN habitat, to avoid overall an effect on the FCS of GCN as required by the licensing regime and the Habitats Regulations. This is a mitigation of impact, which is an entirely separate calculation to the one required for determining biodiversity net gain.

⁵⁰⁶ Document NR290 Appendix A

⁵⁰⁷ Documents NR48-3 pages 3 and 4 paragraphs 1.3.1 to 1.3.8; and NR50-3

⁵⁰⁸ Document NR290 Appendix B

⁵⁰⁹ Document NR290 Appendix C

⁵¹⁰ Document NR54 pages 22 to 25: A summary of the strategy for compensation with respect to GCN contained in the Scheme

⁵¹¹ ECS B10 falls within the territory of metapopulation 2B6

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- 7.48 The process of determining which ECS were necessary as part of the Scheme involved initially identifying 26 ECSs as being potentially required in Route Section 2B⁵¹². Subsequently, in advance of publication of the ES, an exercise was undertaken in order to distil down the ECSs for which order powers would be needed to provide appropriate compensatory habitats. Subsequently, 14 of the 26 potential ECSs identified in Route Section 2B were determined no longer to be required⁵¹³. It was judged that ECS B10 was necessary and the reason is set out in the ES⁵¹⁴. ECS B10 is close to an area where pond habitat supporting GCN would be lost that includes an area of currently disused railway line in which construction works will take place⁵¹⁵. NR has not specifically surveyed this area of disused railway corridor to assess the presence of GCN because a survey of GCN in their terrestrial habitats is not an accepted survey methodology; it is too difficult to find them in these locations⁵¹⁶. The accepted survey methodology involves surveying GCN in their breeding ponds, as has been carried out, followed by a professional judgment as to suitable surrounding terrestrial habitats in which GCN are likely to reside.
- 7.49 NR's expert professional judgment is that GCN will reside in the section of disused railway line as it is a habitat '*ideal for great crested newts*'⁵¹⁷ and that approximately 57% of the total suitable terrestrial habitat within 500m of the

⁵¹² Document NR16 ES Volume 3 Appendix 9.13 page 2 paragraph 2.1.6 sets out the process of determining which ECS were necessary as part of the Scheme

⁵¹³ Document NR16 ES Volume 3 Appendix 9.13 page 2 paragraph 2.1.7

⁵¹⁴ Document NR16 ES Volume 3 Appendix 9.13 page 9 paragraph 2.3.13

⁵¹⁵ Documents OBJ/228-231-8 Appendix 7 page 46 shows the area in dark orange; NR54-3: there will be no loss of aquatic habitats in this area; OBJ/228-231-8 Appendix 11 pages 65 and 66: the area is addressed in a letter from NR to Gladman, dated 4 November 2018

⁵¹⁶ Oral evidence of Dr Stephanie Wray at the Inquiry

⁵¹⁷ Documents OBJ/228-231-8 Appendix 11 page 66 and Oral evidence of Dr Stephanie Wray at the Inquiry that reptile surveys recorded GCN as being present on the section of the disused railway line

ponds habituated by metapopulation⁵¹⁸ 2B6 will be lost due to construction works. As such a loss is likely to affect negatively the FCS of this GCN metapopulation, some sort of mitigation or compensation works are necessary.

- 7.50 The exact location of ECS B10 is based on a number of factors⁵¹⁹. ECS B10 is an integral part of the overall ecological compensation package that leads NR to conclude that there would be no residual significant adverse effect on GCN as a result of the Scheme. In developing its approach, NR has worked closely with NE. As well as the three rounds of consultation, NR: (i) in May 2016, paid to make use of NE's Discretionary Advice Service to obtain advice on scope and methodology; (ii) in July 2017, paid to make use of NE's Discretionary Advice Service to obtain advice on licensing strategy; (iii) since then, has had monthly phone/e-mail contact with NE discussing various aspects of the project; and, (iv) towards the end of 2018 and early 2019 has had a number of meetings with NE.
- 7.51 The issue of terrestrial and aquatic habitats cannot be looked at in isolation. NR has developed a comprehensive strategy for the mitigation and compensation of impacts on GCN, which involves the replacement of lost habitat, both terrestrial and aquatic along the length of the Scheme in order to address impacts on each metapopulation affected. New ponds are

⁵¹⁸ The 57% figure was arrived at by adopting a functional approach to the core area of GCN terrestrial habitat i.e. where GCN are actually likely to reside; and, from that functional core area, accounting for: (1) the loss of the full length of the railway to the end of the 500m radius from the ponds and (2) loss of land adjacent to the existing railway line that is required for construction

⁵¹⁹ Documents OBJ/228-231-8 Appendix 11 page 66: the factors include '*being adjacent to the railway in order to maintain long-term connectivity for great crested newts post construction, via trackside habitat; being close to existing great crested newt populations to form part of a functioning metapopulation; and being of a size to provide local great crested newt populations sufficient opportunity to maintain and enhance their populations. ECS B10 also provides a suitable location to translocate grass snake and common lizard, which are present in significant numbers on the existing railway and receive protection under the Wildlife and Countryside Act 1981.*'

proposed in areas suitable for pond creation in terms of their proximity to GCN metapopulations, their physical characteristics, such as underlying geology, slope or aspect, and their location close to the railway corridor. Not every location for the creation of proposed ponds will be within 500m of a lost pond; instead the new ponds will form part of a route-wide solution based on GCN metapopulation ecology⁵²⁰.

- 7.52 The NE guidance ratio of 2:1 compensation for ponds is the minimum acceptable ratio⁵²¹. It is expected that NR would deliver a net gain in ponds because a newly dug pond will not have the conservation value of a pond established for years with a mature population. It is, therefore, normal practice to create greater capacity in order to mitigate the short-term loss thereby avoiding a negative effect on the FCS of GCN, albeit incidentally producing a longer-term gain⁵²². This results in a quantitative gain in ponds to offset the qualitative loss.
- 7.53 Gladman's argument that the amount of suitable terrestrial habitat lost within 500m of the relevant ponds will be approximately 10% rather than the 57% calculated by NR is flawed because (i) in determining suitable GCN terrestrial habitat Gladman has adopted a rigid radial approach⁵²³ which ignores the land to the north of ponds being unsuitable for GCN as it comprises a landscaped garden and arable land; and (ii) only accounts for the loss of the existing railway line without regard to the extra land adjacent to this required for construction purposes.
- 7.54 Gladman's suggested alternative site to translocate the GCN of the Old Quarry Winslow Biological Notification Site (BNS)⁵²⁴, was considered by NR

⁵²⁰ Document NR54-3 page 1 paragraph 1.1.4

⁵²¹ Document NR54 page 24 paragraph 3.6.20

⁵²² Oral evidence of Dr Stephanie Wray at the Inquiry

⁵²³ Document OBJ/228-231-8 Appendix 5 page 5

⁵²⁴ Document OBJ/228-231-7 page 7 paragraph 3.1.12; and Document OBJ/228-231-8 Appendix 12 shows the location of the BNS

but was not progressed because it was not possible to achieve additional capacity at this location. This is because it is already an ideal GCN habitat and would therefore be unlikely to be able to be enhanced by any measures, such as refugia.

7.55 In terms of Moco Farm as an alternative site, it is considered to be suitable in principle for the creation of GCN habitat and is larger than ECS B10. It is a less desirable solution than ECS B10 in ecological terms; it is approximately 2km away from the point of origin and would necessitate disease screening⁵²⁵. ECS B10, however, would allow for natural recolonisation back onto the railway in the Winslow area and it is desirable to keep GCN closer to their point of origin rather than locating them further afield⁵²⁶. Until NE accepts that Moco Farm is a suitable alternative, ECS B10 is the only viable solution which NR can be confident will deliver a licensable scheme. The result is that NR will agree to omit ECS B10 from the Order, and use Moco Farm instead, if NE agrees that Moco Farm is a satisfactory alternative, notwithstanding that Moco Farm is not the optimal solution in ecological terms. NE does not consider that Moco Farm is a suitable alternative at the close of the Inquiry⁵²⁷.

7.56 The need for ECS B10 is stated in the ES⁵²⁸. ECS B7, B13 and C1 are specifically mentioned but ECS B10 and others are not⁵²⁹ because those three

⁵²⁵ Documents NR54-3 page 3 paragraph 1.1.11 and NR238 pages 3-11 and 3-12

⁵²⁶ Agreed in principle by Dr Dan Simpson with his preferred solution being to relocate GCN immediately adjacent to the BNS

⁵²⁷ Document OBJ/242-6 pages 15 and 16 paragraphs 48 to 50

⁵²⁸ Document NR16 ES Volume 2i paragraphs 9.5.136, 9.5.137, 9.5.139 and 9.5.141; Volume 2ii section 2B page 9-95 Table 9.25 lists GCN_072 and GCN_501 under the heading 'Water bodies where great crested newt populations will lose core, intermediate and distant terrestrial habitat' and GCN_456 under the heading 'Water bodies where great crested newt populations will lose intermediate and distant terrestrial habitat'; and Volume 3 Appendix 9.13 page 9

⁵²⁹ Document NR16 ES Volume 2ii section 2B paragraphs 9.4.143 and 9.4.147 and Document NR47 FEI Part I pages 134 and 135 paragraphs 11.3.10 and 11.3.14

sites had already been acquired at the time of writing the ES⁵³⁰. Further, at the time of the FEI, those sites had been constructed as advanced mitigation sites. It was known that, by the time of translocation, these areas would have matured and be ready to accept GCN. It was always NR's intention to acquire all of the other ECSs to create a network of stepping stones across the Scheme. These 3 sites cannot be read as providing an exhaustive list of the relevant ECSs for GCN because they are located too far from the 2B6 GCN metapopulation to fulfil this function⁵³¹. Translocating the GCN to ECS C1 would require disease screening and ECS B13, whilst preferable to B7 and C1, may not have the requisite carrying capacity⁵³².

Ecological designations

7.57 NR has assessed that 0.1ha of woodland within Old Quarry Winslow BNS will be lost due to construction works. It is proposing to reinstate half of this area to woodland and to plant an additional 0.2ha area of woodland to the east of the designated site. This is because new woodland planting will take several decades to mature and at 900mm tall, when planted, will not serve the same ecological function as an established woodland of the same size⁵³³. Biodiversity accounting metrics attempt to calculate how much new semi-natural woodland, for example, is required to compensate for the loss of established woodland. NR applied the Defra metric in which semi-natural woodland is treated as having a high distinctiveness (score of 6) and a condition score of 3 and this calculates that NR ought to plant 0.45ha of newly planted woodland to achieve no net loss⁵³⁴. This demonstrates that the 0.25ha of newly planted woodland proposed by NR is not excessive. Using

⁵³⁰ Oral evidence of Dr Stephanie Wray at the Inquiry

⁵³¹ Documents NR54-3 page 2 paragraph 1.1.8: ECS B7, B13 and C1 would be less favourable than ECS B10, which is the 'standout preferred favourite', because of ECS B10's proximity to the GCN 2B6 metapopulation

⁵³² Dr Dan Simpson in cross-examination accepted that the sites were not as 'preferable' as ECS B10

⁵³³ Document NR54-3 page 4 paragraph 1.1.5

⁵³⁴ Document NR54-3 page 4 paragraph 1.1.5

the Defra metric, there is no discretion to alter the scores for semi-natural woodland⁵³⁵, and NR used its judgment to reduce the amount of new planting to 0.25ha rather than 0.45ha.

- 7.58 It is NR's aspiration to better connect existing valuable habitats in the Old Quarry Winslow BNS and the nearby Wood Copse off Magpie Way LWS. By extending the area of the habitats present in these protected sites, it will enable the ranges of the protected/notable species these sites support to expand⁵³⁶. This is part of a route-wide strategy to improve connectivity and avoid habitat fragmentation. The presence of the double track railway between the two sites will not be a complete barrier to the movement of species across it. Invertebrates, amphibians and reptiles will not find it to be a barrier and plants may spread through wind-dispersal of seeds. In this way, ECS B10 acts as a stepping stone between the BNS and LWS for movements across the railway⁵³⁷.

Conclusions

- 7.59 Gladman attaches no weight at all to the public interest in ensuring that the Scheme has properly mitigated its impacts on European Protected Species, and fails to acknowledge that the proper response to the uncertainty referred to by NE is to plan mitigation for the Scheme on a precautionary basis. ECS B10 is essential to that plan. The alternative of Moco Farm may prove to be both available and suitable for the purpose for which ECS B10 was required when the draft Order was published, but it cannot yet be said with confidence that it is suitable for that purpose. Therefore, the inclusion of ECS B10 within the Order for the purposes of mitigating the impacts of constructing the Scheme, through loss of terrestrial GCN habitat and interference with that protected species, remains both justified and reasonable.

⁵³⁵ Oral evidence of Dr Dan Simpson: a distinctiveness score of 6 and a condition score of 3 would be '*top-end*' scores for semi-natural woodland and the woodland actually being lost is '*somewhere below that standard*'

⁵³⁶ Document NR54-3 page 4 paragraph 1.1.6

7.60 The need for the inclusion of ECS B10 in the Scheme has been demonstrated. There is no satisfactory and available alternative site and the compulsory acquisition of the land required for ECS B10 is compellingly in the public interest.

(i) Trustees of the HC Stock Will Trust (OBJ 27)

7.61 ECS B9 (Plot 0613)⁵³⁸ is necessary because⁵³⁹ it is close to an area where pond habitat supporting GCN would be lost. It will be used for the translocation of GCN (under a NE licence) and the translocation of reptiles. It will include the creation of ponds and marginal planting, open mosaic habitat, lowland meadow, native species-rich hedgerows with trees, scrub, south-facing reptile embankment, hibernacula and log piles. The provision of these habitats, once established, will support GCN, reptiles, birds, badgers, bats and terrestrial invertebrates such as black, brown and white-letter hairstreak butterflies. It is located north of the unnamed tributary of the Claydon Brook and immediately north of an ecological compensation site for a housing development project to the east of Furze Lane. It will extend this existing site and benefit the protected and/or notable species that the site supports.

7.62 Surveys conducted by NR have demonstrated that GCN are present in ponds GCN_503 and GCN_551, albeit the population size of both ponds has been assessed as small⁵⁴⁰. Works required by the Scheme will result in a loss of terrestrial habitat along the existing mothballed railway line, which is within both the core area (50m) and the intermediate area (250m) of these ponds⁵⁴¹. This is good GCN habitat and is highly likely to be used by GCN

⁵³⁷ Document NR54-3 page 4 paragraph 1.1.6

⁵³⁸ Document NR16 ES Volume 4 Environmental Design Drawings Sheets 28 and 29 of 98: location of ECS B9 (Plot 0613) and Figure 9.14G Sheet 7 of 26: relevant ponds GCN_503 and GCN_551

⁵³⁹ Documents NR251 and NR16 ES Volume 3 Appendix 9.13 pages 8 and 9 paragraphs 2.3.10 and 2.3.11

⁵⁴⁰ Document NR47 FEI Part I Main Report page 130 Table 11.5

⁵⁴¹ Document NR47 FEI Part I Main Report page 133 Table 11.6

from these ponds. Consequently, there will be habitat loss of approximately 250m in either direction from the ponds along the railway line.

- 7.63 ECS B9 is very well located to contribute to compensation both as a receptor site for individual animals within 500m of ECS B9 to be moved to a place of safety outside the working area (there is likely to be no risk of disease contamination due to the close proximity) and for habitat enhancement to improve carrying capacity and resilience of populations from the two ponds and the wider metapopulation that they form part of⁵⁴². Proposals to improve the GCN carrying capacity of ECS B9 include the introduction of ponds and marginal planting, south-facing reptile embankments, hibernacula and log piles.
- 7.64 Evidence of increase in carrying capacity from the Moco Farm Ecological Compensation Site B28 technical note⁵⁴³, which states ECS B9 as '0', was to assist NE in coming to a decision on whether Moco Farm was a suitable alternative and there are clear statements throughout the document that there will be an increase in carrying capacity at this location. The document looked at carrying capacity using a particular methodology where the type of habitat was used to give an estimate for how many GCN per ha the relevant type of habitat could take. The enhancements planned for ECS B9, such as ponds and hibernacula (in respect of which there is currently no evidence of their existence on ECS B9), are well-established ways of improving carrying capacity but they were not factored into the particular methodology used, which is habitat-based. Consequently, in order to take a precautionary approach in this specific case there was no attempt to come up with a number. There are methods for estimating carrying capacity based on water bodies, but the risk was that if NR attempted to make estimates based on terrestrial habitat and water bodies, there would be double-counting⁵⁴⁴.

⁵⁴² Oral evidence of Claire Wansbury at the Inquiry

⁵⁴³ Document NR238

⁵⁴⁴ Oral evidence of Claire Wansbury at the Inquiry

- 7.65 Although the current carrying capacity of ECS B9 is already 420 GCN, licensing decisions are based on areas of each of zone of habitat being lost. In the present case, there will be loss of terrestrial habitat in the core and intermediate area of the ponds which require compensation. Moreover, it is not the case that enhancements to ECS B9 will only provide minimal ecological benefit to GCN because it is already suitable GCN habitat, the enhancements proposed to be made to ECS B9 will provide significant ecological benefit to GCN⁵⁴⁵.
- 7.66 It is normal practice to create greater capacity in order to mitigate the short-term loss, thereby avoiding a negative effect on the FCS of GCN, albeit incidentally producing a longer-term gain. The ECSs are located '*along the length of the project*'⁵⁴⁶ and are designed to act as 'stepping stones' along the route and to promote east to west connectivity for biodiversity⁵⁴⁷.
- 7.67 With regard to an area of land known as the 'Yellow Land', also in the ownership of the Trustees:
- (i) The Yellow Land already contains suitable aquatic and terrestrial habitat for GCN (which are using the two balancing ponds for breeding) and other species. Any improvements to the land would not provide any meaningful additionality in relation to environmental mitigation.
 - (ii) The overall scale of what is proposed for ECS B9 would not be able to be provided within the Yellow Land, for example, the additional ponds and the scale of embankment⁵⁴⁸.
 - (iii) Balancing ponds, like all surface water drainage systems, require maintenance to enable them to function as they have been designed. This maintenance is not compatible with mitigation requirements for

⁵⁴⁵ Oral evidence of Claire Wansbury at the Inquiry

⁵⁴⁶ Document NR16 ES Volume 2i page 2-29 paragraph 2.4.84

⁵⁴⁷ Document NR54 page 52 paragraph 3.14.1

⁵⁴⁸ Oral evidence of Claire Wansbury at the Inquiry

GCN. For example, in order for the Yellow Land to be appropriate, at the very least the grass would have to change to rough grassland. This is not possible for the foreseeable future, however, as the flat land surrounding the two large balancing ponds on the Yellow Land has to be kept that way in order for the ponds to be accessible for maintenance work.

- (iv) ECS B9 and the Yellow Land should be seen as a collective whole in ecological terms⁵⁴⁹. Given their integrated nature, ECS B9 will complement the Yellow Land in ecological terms and the two cannot be seen as alternatives; the two areas are directly adjacent and, with the enhancement planned, there will be more types of terrestrial habitat and ponds to provide connectivity between the Yellow Land and the railway corridor. NR considers that it is preferable to ensure that both ECS B9 (with enhancements) and the Yellow Land (in its current state) are used as ecological habitat to enhancing the Yellow Land but losing ECS B9 to development.

7.68 The addition of ponds in ECS B9 would be of substantial benefit to GCN. Pond numbers and their density are two of the most critical factors affecting the local population of GCN. This is both in terms of carrying capacity and resilience, i.e. if something was to happen to make one pond unsuitable, the more alternative ponds there are the greater the likelihood that the local population and wider metapopulation would survive and thrive. This argument as to resilience is especially important in this location because the ponds on the Yellow Land are balancing ponds. For these ponds to have their balancing function, there would have to be occasional maintenance requiring intrusive works.

⁵⁴⁹ Document OBJ/27-2 page 17 paragraph 5.18

7.69 Moco Farm is suitable for the creation of GCN habitat and is larger than ECS B9⁵⁵⁰. Nonetheless, in ecological terms it is a less desirable solution than ECS B9; it is a large distance away from the point of origin and would necessitate disease screening. These are similar arguments to Gladman's suggestion that Moco Farm would be a suitable alternative.

Conclusion

7.70 The need for the inclusion of ECS B9 in the Scheme has been demonstrated. There is no satisfactory and available alternative site and the compulsory acquisition of the land required for ECS B9 is compellingly in the public interest.

**(j) Trustees of Woburn Estates and Bedford Estates Nominees Limited
(OBJ 114)**

7.71 There is agreement that Plot 1191, which will be subject to temporary use and possession for construction purposes, will be returned in its state of altered use subject to any necessary planning consents being obtained⁵⁵¹. NR will not exercise powers of compulsory acquisition over plots 1194 and 1195. With regard to the provision of access over Plot 1164, NR is willing to restrict its exercise of the powers granted in the Order to acquisition of a permanent right in the form of an easement.

7.72 Plot 1171⁵⁵² is necessary for the purposes of ECS D2 because it is close to an area where the loss of pond habitat supporting GCN would be lost. It will be used for the translocation of GCN (under a NE licence), as it will enhance the

⁵⁵⁰ Document NR238

⁵⁵¹ Document NR02: Article 28(4) and Schedule 4 page 57

⁵⁵² Document NR14: Deposited Plans and Sections and Rights of Way Plans Sheet 50 of 136

survival chances of individual GCN⁵⁵³, and for the translocation of reptiles⁵⁵⁴. Two ponds (GCN_176 and GCN_177) will be lost as a result of construction work⁵⁵⁵. Survey work shows that pond GCN_176 has a medium population and GCN_177, although not surveyed because access to that land was not available, is also assumed to have a medium population⁵⁵⁶. They are part of a wider metapopulation of GCN present in ponds close by. The creation of a minimum of four ponds is necessary to compensate for the long-term effects on GCN of the loss of this aquatic habitat during construction⁵⁵⁷.

- 7.73 The creation of terrestrial habitat is also necessary as GCN do not live solely in ponds but also in surrounding terrestrial habitat. This will take the form of, for example, grassland, scrub, edge vegetation and refuges⁵⁵⁸. Furthermore, the loss of terrestrial habitat along the railway corridor must be compensated. Substantial areas are required to ensure a variety of types of habitat and to have confidence that what is being produced is going to support GCN.
- 7.74 With regard to suggested alternative plots to Plot 1171, land to the north or east of the railway line is not as proximate as Plot 1171 to the lost ponds and the active railway will be a deterrent, and partial barrier to GCN movement⁵⁵⁹; the plot adjacent to Plot 1164 on its eastern boundary would

⁵⁵³ Oral evidence of Claire Wansbury at the Inquiry: the translocation process will never take every single animal e.g. in the case of a pond, not every GCN will be back in that pond in a particular spring; some of them might not necessarily go to a breeding pond in the first year. Therefore, there will be GCN present in the wider terrestrial habitat that would not be picked up in a translocation exercise (focused on the pond). Consequently, replacement ponds in the immediate proximity of Plot 1171 give a very strong chance of the whole population being able to benefit from the new ponds.

⁵⁵⁴ Document NR16 ES Volume 3 Appendix 9.13, pages 13 and 14

⁵⁵⁵ Document NR47 FEI Part III Figure 9.14N Sheet 14 of 26 and FEI Part I Main Report page 140 Table 11.12

⁵⁵⁶ Document NR47 FEI Part I Main Report page 139 Table 11.11

⁵⁵⁷ Document NR47 FEI Part I Main Report page 141 paragraph 11.5.10

⁵⁵⁸ Document NR47 FEI Part I Main Report pages 141 and 142 paragraphs 11.5.11 and 11.5.14: Proposals for the site; and FEI Part II Appendix 9.13 (v2) page 2 paragraph 2.1.1: Design considerations for ECS

⁵⁵⁹ Oral evidence of Claire Wansbury at the Inquiry

not be as good, as it is existing grassland with wet areas i.e. it will already be contributing to GCN habitat in a way that the arable field (Plot 1171) would not.

- 7.75 The public footpath on Plot 1171 does not affect the suitability of the land. It is a factor that NR will need to take into account at the detailed design stage when any risk to animals or reptiles from people who might stray from the public footpath will be mitigated. Moreover, detailed design will mitigate any risk to people, including children, going into the pond and putting themselves in danger, e.g. by fencing, as is often done for GCN translocation schemes for housing sites where ponds are deliberately located very close to human populations.
- 7.76 Inclusion of the whole area is justified as an ECS, given the loss of ponds and the amount of loss of GCN terrestrial habitat along the railway corridor. Based on discussions with NE, a smaller area is not expected to be sought. Notwithstanding this, if it was possible to save one or both of the ponds during detailed design, it may be appropriate for NR to raise this with NE and explore the possibility of decreasing the size of ECS D2.
- 7.77 It is intended that ECS D2 will be subject to a 30-year maintenance and management plan between NR and the land owner. The assumption is that the land would be restored to the land owner following construction of ECS D2 but subject to legally binding provisions which require the site to be maintained and managed to fulfil its purpose. One way of achieving this would be for the matter to be dealt with without any transmission of title but for the Trustees to grant rights to NR to create ECS D2 and then to accept responsibilities for future management⁵⁶⁰. The Order powers would still be necessary as a backstop as it may be the case that a relevant point cannot be dealt with contractually.

⁵⁶⁰ This will be subject to NE and NR being satisfied as to the land owners' willingness and ability to fulfil the monitoring and management requirement

Conclusion

7.78 The need for the inclusion of ECS D2 in the Scheme has been demonstrated. There is no satisfactory and available alternative site and the compulsory acquisition of the land required for ECS D2 is compellingly in the public interest.

(k) O & H Q6 Limited and O & H Q7 Limited (O&H) (OBJ 156)

7.79 The areas of land affected relate to land in: (i) the former Bletchley Brickworks; (ii) the Woburn Estate; (iii) Marston Valley; and (iv) Kempston Hardwick⁵⁶¹. The parties are close to agreement in relation to the land at the former Bletchley Brickworks, Marston Valley and Kempston Hardwick. The proposal for a CFSA at the former Bletchley Brickworks is now broadly accepted by O&H⁵⁶². The design of each CFSA is closely related to the shape of the existing terrain and its relationship to the loss of existing floodplain and the watercourse that will receive the floodwater. Therefore, there is often little or no scope to provide a reasonable CFSA in a different location. The locations of the CSFAs have been accepted by O&H⁵⁶³. Evidence has been provided to support the need for land at Woburn Estate⁵⁶⁴, with the principal disagreement being the issue of 'shared value'.

7.80 In relation to NR's plan to replace Woodleys Farm level crossing in Woburn Sands, following a safety risk assessment, NR is proposing to replace it with a new overbridge (Woodleys Farm Overbridge) to facilitate its closure. Since the purpose of Woodleys Farm Overbridge is to provide an alternative means of access across the railway to the Woodleys Farm level crossing and the

⁵⁶¹ Document OBJ/156-12 page 3 sets out the relevant plot numbers

⁵⁶² Document NR48 page 46 paragraph 9.4.29; Document NR50 pages 48 and 49 paragraphs 4.3.74 to 4.3.84: need for construction purposes; Document NR51 pages 48 and 49 paragraphs 7.14.6 to 7.14.13: need for engineering purposes, including CSFAs

⁵⁶³ Document NR48 page 40 paragraphs 9.2.56 and 9.2.57, including Table 9.3

⁵⁶⁴ Document NR48 page 46 paragraph 9.4.29: need for a CFSA; Document NR50 page 50 paragraphs 4.3.96 to 4.3.98: need for construction purposes; Document NR51 pages 51 to 53 paragraphs 7.14.36 to 7.14.54: need for engineering purposes, including CSFAs

Fisherman's Path footpath crossing, the scope of the bridge is commensurate with the rights of access which these existing crossings provide, this being a farm access route and public footpath, rather than public highway⁵⁶⁵.

- 7.81 Appropriate provision to accommodate the existing right at the farm crossing needs to be made and NR cannot close it without making alternative arrangements. The Scheme also has to accommodate Fisherman's Path, which is a PRow. It makes sense to combine the two so that the PRow previously enjoyed over Fisherman's Path is diverted over a new accommodation overbridge. Consequently, the Order does what it should do, which is to address the interference with existing rights. The Order does not have to anticipate and make provision for a new grade-separated public crossing to serve future development coming forward under the aegis of the SEMK⁵⁶⁶.
- 7.82 The recently adopted policy in Plan:MK includes Policy SD11(B)(2), which now provides the planning policy framework for the provision of a new grade-separated crossing over the railway line at Woburn Sands to ensure appropriate connectivity between the northern and southern parts of SEMK. It makes clear that the number, location and provision of such crossings must be determined through the development framework, whose preparation is a prerequisite to development by virtue of Policy SD10. Section 4 of Plan:MK, on 'Development Strategy' makes clear that housing delivery must not *'[prejudice] the delivery of either of these key infrastructure projects'*, referring to both EWR and the new Cambridge-Milton Keynes-Oxford growth corridor⁵⁶⁷. Consequently, Plan:MK recognises by its in-built sequencing that

⁵⁶⁵ Document NR53 page 36 paragraphs 10.6.2 to 10.6.6 and Document NR51 page 50 paragraphs 7.14.24 to 7.14.28

⁵⁶⁶ At the time when the shortlist of RFFPs was being drawn up, there was insufficient certainty about the detail of SEMK and the location of a future overbridge to accommodate that development

⁵⁶⁷ Document NR262 Plan:Mk page 15 paragraph 4.17

development should avoid prejudicing EWR rather than the other way around⁵⁶⁸. The Scheme is at a much more advanced stage.

- 7.83 Notwithstanding the above, provided that plans for a new crossing or crossings are brought forward through the planning process under Plan:MK and can be delivered without prejudicing the timely and economic delivery of the Scheme under the Order, NR will be in a position to agree not to exercise the powers in the Order that authorise the provision of the Woodleys Farm Overbridge⁵⁶⁹. This is consistent with Policy SD10B. In the meantime it is prudent and necessary for NR to accommodate the existing rights by retaining within the Order its powers to construct the overbridge and to acquire or possess the land needed for its provision.
- 7.84 As regards the 'shared value' for any alternative bridge constructed for the benefit of SEMK, NR's position is set out in its note⁵⁷⁰. This is no more than a conventional approach of its 'shared value' policy⁵⁷¹. In summary, whilst NR does not currently believe that it has a 'shared value' position in respect of SEMK, NR cannot presently confirm this. This is because of the uncertainties over the planning process and, in particular, the lack of a specific planning application and the absence of any detailed scheme in existence for SEMK. In those circumstances, NR cannot in the public interest prudently give up the possibility of a 'shared value' situation arising with the result that it must reserve its position. NR is, however, happy to commit to the joint appointment of an independent valuer to assess the 'shared value' position.
- 7.85 The main difficulty faced by O&H has been the fact that the planning position as regards SEMK was too uncertain and inchoate at the time when the

⁵⁶⁸ Document OBJ/156-4 Appendix 13: Plan that is a speculative attempt to identify how a future scheme might be brought forward and prejudices the forward planning process now laid down in the newly adopted policies of Plan:MK, which supersede it

⁵⁶⁹ Document NR53 page 36 paragraphs 10.6.5 to 10.6.6 and Document NR51 page 50 paragraphs 7.14.27 to 7.14.28

⁵⁷⁰ Document NR260

⁵⁷¹ Set out in Document NR206

Scheme was assessed in the ES and published to make any provision at that stage other than to accommodate existing rights. That remains the position as confirmed by the policy framework set out in the recently adopted Plan:MK.

Conclusion

- 7.86 The position taken by O&H resolves down to an argument that the pace of delivery of EWR2 should be dictated by the pace of delivery of O&H's scheme at Woburn Sands. This is an unjustifiable approach to delivering on the public interest in circumstances where there is very clear evidence of powerful support at all levels of policy and government to deliver EWR2 at the earliest opportunity. O&H failed to present its evidential case to the Inquiry. Therefore, the evidence put forward in writing should attract only limited weight because it has not been possible to explore and examine the degree to which O&H's evidence has faced up to these critical considerations.

(I) Milton Keynes Green Party (MKGP) (OBJ 212)

- 7.87 In order to double track the section of line between Aylesbury and Aylesbury Vale Parkway, extra width would be required either by acquiring extra land and/or installing an additional retaining wall⁵⁷². The earthworks would also potentially require widening, necessitating slackening of the earthworks and/or additional land and/or retaining measures. This issue was looked at in an earlier stage of the project but the latest TSS descoped this route; the double track was deemed no longer necessary following the removal of the London Marylebone to Milton Keynes service. The single-track renewal will, however, be designed in such a way as not to preclude the installation of a second track in the future.

⁵⁷² Document NR222 and Document NR51 pages 73 and 74 paragraph 8.50

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- 7.88 The extension of the Bletchley high level platforms⁵⁷³ is not necessary to deliver the TSS which forms the basis of the Scheme⁵⁷⁴ since the hourly inter-regional train service was descoped⁵⁷⁵. It would be disproportionate to spend extra money on extending the platforms, when extending the platform north would cost approximately £1.2 million for 6-Car capacity and £2.7 million for 8-Car capacity and extending the platform south would cost approximately £1.4 million for 6-Car capacity and £3.2 million for 8-Car capacity⁵⁷⁶. Extending the platforms to the north would not be easy, as there is a refuge area currently in that location⁵⁷⁷ which would have to be enlarged and moved closer to Summit junction. NR would also have to look at the ability of the embankment, in terms of space constraints and capacity, to take an additional length of platform. These added complications would be more expensive and require a design and optioneering analysis. Moreover, as the current exits to the platforms are at the very southern end of a 212m platform, an extension of the platforms to the north would require many passengers to walk to the opposite end of the platform to exit⁵⁷⁸. The current design does not preclude the future extension of these platforms at a later date if future EWR train services justify the need.
- 7.89 NR does not plan to introduce reversibility at Bletchley⁵⁷⁹. It is not necessary for the Scheme and would require alteration of the signalling system which would increase cost. The objective of the Scheme is to get the Western Section of EWR up and running as soon as possible. It will be for those promoting the Central Section to deal with matters that directly affect its proposal. Future-proofing works do not have to happen now to avoid

⁵⁷³ Document NR16 ES Volume 4 Scheme Drawings Sheet 45 of 134: location of the platforms

⁵⁷⁴ Oral evidence of Simon Croft and Document NR51 page 73 paragraphs 8.50.2 and 8.50.3

⁵⁷⁵ The original plans for 8-Car platforms were descoped once the DfT decided that the inter-regional service was not going to be provided as part of EWR2

⁵⁷⁶ Oral evidence of Simon Croft

⁵⁷⁷ Under the original plans, the assumption was that the platforms would be extended to the south and there was never consideration of extending the platforms to the north

⁵⁷⁸ Oral evidence of Simon Croft

⁵⁷⁹ Document NR223 question 2

unnecessary disruption in the future, as such work, if necessary for the Central Section, could happen at the same time as other work necessary for that Section which would also require possessions and blockades on the line⁵⁸⁰.

- 7.90 To increase the speed limit at Denbigh Hall junction from 25mph to 40mph would require the junction to be lengthened and moved further north necessitating a bridge to be provided. An option selection study on this was conducted in November 2016 to July 2017 which considered seven options. The option of replacing a switch diamond junction with a ladder junction would lead to a maximum speed of 35mph and would have a significant impact on the West Midlands Trains depot. It would also require a significant disruptive possession to the WCML. Altogether, including extra spans on Watling Bridge, this option would cost approximately £40 million to £50 million⁵⁸¹. This does not provide VfM and cannot be justified.
- 7.91 Replacing the five existing structures with ones that can support an electrified railway is not justified as it would cost £34.5 million extra at current prices⁵⁸². This immediate saving, along with others, gave the DfT confidence that the case to build EWR2 was made out. As with deferring electrification, this supported the economics of opening EWR2 at the earliest opportunity⁵⁸³. There is no economic analysis challenging the view that de-electrification is a key component of the objective to deliver EWR2 in an economic way at the earliest opportunity. A £7.3 million saving by carrying out the works under the Scheme rather than later represents the saving in current prices, which is unhelpful and meaningless in order to draw a comparison with what might need to be done in the future e.g. there might be changes in technology for

⁵⁸⁰ Oral evidence of Simon Croft at the Inquiry: For example, joining EWR2 with the Central Section, extending the platforms at Woburn Sands station etc.

⁵⁸¹ Oral evidence of Simon Croft at the Inquiry

⁵⁸² Document NR223 question 4

⁵⁸³ Document NR223 question 3

electrification of trains which means that, in the future, these structures do not need to be raised.

(m) Langford Village Community Association (LVCA) (OBJ 142)

- 7.92 LVCA did not call for the Scheme to be rejected or modified to incorporate additional work for electrification, but its representations on electrification were intended to feed into the broader 'strategic' discussion on this issue. On barrier down time at the London Road level crossing, bringing into the Scheme a solution to resolve the existing issue would result in attendant delays and costs to EWR2.
- 7.93 NR accepts that the introduction of EWR2 train services will result in increased barrier down time. A permanent solution is being investigated i.e. to replace the level crossing with a bridge or underpass; and, in any event, the slight inconvenience is justified by the benefits of the Scheme⁵⁸⁴. In order to respond to concerns, NR has sought to reduce barrier down times; it has identified signalling alterations⁵⁸⁵ which will reduce the time between the start of each crossing operation and the first train arriving at the crossing. Barrier down time will be reduced by between 25 and 40 minutes for each 24-hour period.
- 7.94 The barrier time is currently 10.6 minutes per hour⁵⁸⁶. Without the proposed signalling alterations, the barrier down time would increase to 24.9 minutes per hour in the Core Scenario (opening year) and 30.9 minutes per hour in the Growth Scenario (2031)⁵⁸⁷. With the proposed signalling alterations, the barrier down time will be 21.7 minutes per hour in the Core Scenario

⁵⁸⁴ Document NR16 ES Volume 3 Appendix 14.6: NR's analysis of the Scheme's impact on London Road level crossing; and Document NR234 Appendix 1 Item Number 196: OCC no longer raises an objection on this issue

⁵⁸⁵ Document NR242: NR has committed to undertaking these signalling improvements prior to commencement of EWR2 train services, to be accelerated to take place in 2021/22

⁵⁸⁶ Document NR16 ES Volume 3 Appendix 14.6 page 13 paragraph 4.2.2

⁵⁸⁷ Document NR16 ES Volume 3 Appendix 14.6 page 14 Table 4.1

(opening year) and 26.4 minutes per hour in the Growth Scenario (2031)⁵⁸⁸. These barrier down times are comparable to other busy level crossings around the UK which are considered to operate safely. LVCA has provided no evidence to the contrary.

- 7.95 NR accepts that the increased barrier down time will have an impact on road traffic at the level crossing⁵⁸⁹. The crossing will, nonetheless, remain well within capacity in both the Core Scenario (opening year) and Growth Scenario (2031)⁵⁹⁰. It has enough capacity for all cars within each hour such that queues would build up during each closure but would clear each time both with and without the signalling alterations. Also, NR's analysis does not take account of drivers adapting to local conditions by using alternative routes, or driving at alternative times, if there is significant traffic build-up at the level crossing⁵⁹¹. Moreover, Bicester Village station has a north and south entrance, with the south entrance having car parking and cycle parking lifts giving able-bodied and less able-bodied residents of Langford access without needing to cross the level crossing and, therefore, without being affected by any traffic impacts.
- 7.96 NR is committed to working with OCC to find a permanent road solution⁵⁹². An initial feasibility study has been undertaken to examine the possible solutions and costs and presented to OCC. NR and OCC will jointly fund a report that will recommend one option to be taken forward for delivery.

⁵⁸⁸ Document NR16 ES Volume 3 Appendix 14.6 page 14 Table 4.2

⁵⁸⁹ Document NR16 ES Volume 3 Appendix 14.6 pages 14 to 18 paragraphs 4.4.1 to 4.4.24

⁵⁹⁰ Oral evidence of Tim Colles at the Inquiry and Document NR16 ES Volume 3 Appendix 14.6 Table 4.4 page 16), Table 4.5 page 16 and Table 4.6 page 17: 100% shows that a crossing is at capacity, 90% shows the crossing is close to capacity and anything below 80% shows the crossing working well ('MMQ' refers to Mean Max Queue, 'PCU' refers to Passenger Car Unit and 'DoS' refers to Degree of Saturation)

⁵⁹¹ Document NR16 ES Volume 3 Appendix 14.6 page 18 paragraphs 4.4.19 to 4.4.24

⁵⁹² Documents NR239 and NR53 page 39 paragraph 10.12.5

(n) Twyford Parish Council (TPC) (SUPP 132)

- 7.97 There is no new station to serve communities in and around the Calvert area because it would cut across the strategic objectives of, and economic case for, EWR2⁵⁹³. The first strategic objective is to improve east-west public transport connectivity through rail links between key towns and cities in the corridor. The idea is to provide fast rail links for commuters, not a local stopping service. Another strategic objective is to stimulate economic growth, housing and employment and neither national government nor local government (including as part of the EWRC) considers the provision of a local station as necessary to achieve this objective.
- 7.98 An increase in journey times between terminus stations due to an increased number of station stops will affect the business case for the Scheme and lead to a reduction in capacity on the OXD Line because trains would be utilising more capacity in stopping at additional stations. The inclusion of any additional stations does not form part of the DfT remit for EWR2 and, as a result, such stations are not included within the cost estimate or business case analysis. The current draft Order does not include powers to construct an additional station between Bicester and Winslow and consequently this has not been assessed in the ES.

(o) Walton Community Council (WCC) (OBJ 246)

- 7.99 The potential highway impact of the Scheme on the level crossing at Bow Brickhill in light of future developments in the area should not prevent the Order being made as it currently stands, and it should not be delayed to enable a bridge replacement as requested. The planning policies governing the future developments which WCC are concerned about do not identify the

⁵⁹³ Document NR109 page 14 onwards

need for, or require the provision of, a bridge within the period of those plans to enable these sites to come forward⁵⁹⁴.

7.100 The introduction of enhanced train services under the Scheme will not materially worsen the existing situation at Bow Brickhill level crossing⁵⁹⁵. To the extent that future developments, such as the development which is the subject of Policy SD14 of Plan:MK, are promoted in the future, the primary responsibility for addressing and accommodating the impact of their development on the highway network will be on those developers⁵⁹⁶. It will be for those developers to make a transport assessment and, if the development creates a need for new or improved infrastructure, it will be the developer's responsibility to fund or contribute to those improvements. It is not the role of the Order to solve a problem that it has not created.

7.101 The correct approach is not for the Order to be delayed, but to report that there will be a need to review the performance of Bow Brickhill level crossing in the context of new development planned within Policy WNP6 of the Walton Neighbourhood Plan (2016-2026) and Policy SD14 of Plan:MK, as part of the promotion of those development schemes.

(p) Cycling UK (OBJ 243)

7.102 The stepped footbridge to be built at the Jarvis Lane level crossing in Bicester proposed to be closed is not ramped because there is no justifiable reason. The section of footpath on the north side of the crossing is not a PRow; the approaches to the footpath on both sides are muddy and unsurfaced,

⁵⁹⁴ Document NR261: Policy WNP6 of the Walton Neighbourhood Plan (2016-2026) and Document NR262: Policy SD14 of Plan:MK

⁵⁹⁵ Document NR16 ES Volume 3 Appendix 14.1 page 190 Table 14.16 TA, shows that the resultant impact of the Scheme will be negligible; and ES Volume 3 Appendix 15.1 page 7, 4th entry: calculations took into account the future development that is the subject of Policy WNP6 of the Walton Neighbourhood Plan (2016-2026)

⁵⁹⁶ The developments included in the recently adopted Plan:MK and the SEMK were not included in NR's TA because they had not reached a sufficient stage of certainty when the ES was carried out nearly a year ago and when the Scheme was finalised for publication

meaning that they are not in suitable condition to be used by a number of protected groups; there is a steep gradient at the crossing making it a significant engineering challenge; a ramped footbridge would take up a lot more space; this route is not an obvious desire line for a route into Bicester; and a ramped footbridge would ordinarily cost around £3.5 million compared to £1 million for a stepped footbridge and may cost more at that location due to the significant engineering challenges⁵⁹⁷. A ramped footbridge could not be installed in exercise of the powers in the Scheme.

7.103 In relation to cycle parking at stations⁵⁹⁸, the 66 spaces to be provided at the new Winslow station will be covered and supported by good surveillance. There will also be lifts at the stations measuring 1600mm x 1600mm. At other stations, local authorities are able to provide additional cycling parking provision through the works-in-kind arrangements; local authorities have contributed towards a fund which can be spent on such projects associated with EWR2. Funding for these projects can be provided following an application to the DfT.

(q) Caroline and Edward West (OBJ 223)

i. Construction noise and vibration

7.104 The property at Littleworth Farm⁵⁹⁹ will not suffer from an adverse effect during construction i.e. the noise levels would not be above the Lowest Observed Adverse Effect Level (LOAEL) because it is further than 63m away from the compound and from the main works⁶⁰⁰. NR has calculated that this

⁵⁹⁷ Oral evidence of Simon Croft at the Inquiry: the approach was accepted by OCC following NR agreeing to put in cycle channels at the location

⁵⁹⁸ Document NR225: note setting out the cycle parking available at each station

⁵⁹⁹ Document NR16 ES Volume 4 Scheme Drawings Sheets 24 and 121 of 134: Location of Littleworth Farm

⁶⁰⁰ Document NR219 page 4: The nearest point of the compound will be approximately 120m from the house building and the entrance of Compound B2 will be 70m from the property

is the distance outside of which there will not be an adverse effect⁶⁰¹. The CoCP provides for reducing types of noise which are of specific concern, including reversing alarms⁶⁰².

ii. Operational noise and vibration

- 7.105 The property will be subject to a major adverse impact because noise levels will increase by at least 10dB_{L_{Aeq}} from the current baseline (from 41dB_{L_{Aeq}} at night and 45dB_{L_{Aeq}} during the day to 54dB_{L_{Aeq}} and 56dB_{L_{Aeq}}, respectively)⁶⁰³. Nevertheless, there will not be a significant observed adverse effect as the figures do not meet the Significant Observed Adverse Effect Level (SOAEL) criteria set out in the ES⁶⁰⁴.
- 7.106 The property would not be eligible for noise insulation under the Noise Insulation (Railways and Other Guided Transport Systems) Regulations 1996⁶⁰⁵. However, since the ES was published NR has decided to consider providing noise insulation for a small number of properties where a moderate or major adverse impact is predicted and the resultant levels would be within 3dB of the SOAEL. This property satisfies these criteria and a package of noise mitigation measures to minimise adverse effects using all reasonable steps has been offered. This package includes glazing and/or ventilation improvements so that windows can be kept closed at night. NR has

⁶⁰¹ Document NR16 ES Volume 3 Appendix 10.3 pages 3 to 8 paragraphs 1.2.1 to 1.2.6: methodology; ES Volume 3 Appendix 10.3 pages 8 and 9 Table 1.2: Calculations as to construction noise and vibration; and Document NR247: demonstrates the limited impact of a topsoil bund for noise mitigation purposes

⁶⁰² Document NR16 ES Volume 3 Appendix 2.1 page 12 paragraphs 8.1.1 and 8.1.3

⁶⁰³ Documents NR219 page 4; NR16 ES Volume 4 Figure 10.6C and NR247 paragraphs 4.1.1 to 4.1.4: Information as to how the baseline noise level has been calculated with respect to the property

⁶⁰⁴ Document NR16 ES Volume 2i page 10-26 Table 10.13

⁶⁰⁵ These Regulations require that the predicted noise level at façade be above 64dB (night-time). Consideration will have to be given to the provisions of the Noise Action Plan: Railways Environmental Noise (England) Regulations 2006, 2 July 2019

subsequently considered provision of a noise barrier but has discounted this on the basis that it would result in a Benefit/Cost Ratio (BCR) of 0.02⁶⁰⁶.

7.107 The property will not suffer from an adverse effect in terms of vibration because it is further than 20m away from the Scheme⁶⁰⁷. NR has calculated that this is the distance outside of which there will not be an adverse effect⁶⁰⁸.

iii. Visual impacts

7.108 NR will plant a line of trees and hedgerow parallel to the railway line adjacent to the property⁶⁰⁹. This will be an unmanaged, dense hedgerow, which will be allowed to grow to natural height. Visually, this would reinstate the vegetated corridor that is currently seen. It will grow to around 4-5m high in 7-10 years and potentially more quickly. Also, during the detailed design stage NR will look for opportunities to retain existing line-side vegetation.

iv. Traffic impacts

7.109 Construction traffic is not expected to result in any significant delay to other traffic on the road; total traffic flows will remain very low⁶¹⁰.

⁶⁰⁶ Document NR247 paragraphs 3.1.4 and 3.1.5 calculates this on the basis of the noise barrier costing £490,000 and reducing noise levels at the nearby properties by 4-5dB from one major and one moderate adverse impact to one moderate and one minor adverse impact, leading to a benefit of £10,400 to these properties

⁶⁰⁷ Document NR219: The house will be approximately 110m from the railway line

⁶⁰⁸ Document NR16 ES Volume 3 Appendix 10.5 page 2 Table 1.1: NR's calculations as to ground-borne vibration

⁶⁰⁹ Document NR16 ES Volume 4 Environmental Design Drawings Sheet 23 of 98

⁶¹⁰ Oral evidence of Tim Colles at the Inquiry and Document NR16 ES Volume 3 Appendix 14.1D page 12 and Appendix 14.1I (link 100): Traffic movements across the property will go from 75 vehicles in the morning peak and 82 in the evening peak (before construction) to an additional 83 HGVs, 80 LGVs and 14 vehicles of staff and operatives over the course of a day during the peak months. The peak months are programmed to run from June 2020 to September 2020. Overall, the construction traffic is programmed to run from December 2019 to April 2021

(r) Ann Jordan (OBJ 194)

7.110 With regard to the consultation process, NR complied with the form of consultation laid down by law⁶¹¹ and with the requirements in the Transport and Works Act 1992 and Rules 6 to 7A and 11 and Schedule 1 of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 for the ES. This included a detailed statement of the likely significant environmental effects of the works, including sound and vibration effects, and a non-technical summary of the assessment of the environmental impacts of the Scheme⁶¹². NR thereby followed a statutory procedure which gave people the opportunity to have information in both non-technical and technical form and allowing them to raise questions, if necessary, directly to the Promoter⁶¹³.

7.111 In relation to noise⁶¹⁴:

- (i) The night-time façade baseline level for the property⁶¹⁵ is 51dBL_{Aeq} and the daytime façade baseline level is 59dBL_{Aeq}⁶¹⁶.

⁶¹¹ Document NR53 page 32

⁶¹² Document NR16 ES Volume 2i Chapter 10: Noise

⁶¹³ Document NR221: Ann Jordan asked questions directly to NR on specific issues on two occasions and obtained responses both times (on 5 and 20 February 2019) and has appeared at the Inquiry with her objections on noise and vibration

⁶¹⁴ Document NR16 ES Volume 2i pages 10-15 to 10-16 paragraphs 10.3.20 to 10.3.25: methodology (Operational noise is assessed on the basis of two noise indices- L_{Aeq} and L_{Amax}. L_{Aeq} refers to equivalent continuous noise levels in accordance with the technical memorandum entitled Calculation of Railway Noise (1995) published by the DfT and is a weighted equivalent index, developed over a number of years, which averages noise occurring over a period of several hours that has been found to correlate well with people's perception of how noisy an environment is and, therefore, the extent to which they are disturbed); and ES Volume 3 Appendix 10.6: proportionate assessment of maximum noise levels in dBL_{Amax} related to individual measurable noise events to supplement the predictions at night

⁶¹⁵ The property is located on Newton Road, Bletchley

⁶¹⁶ Document NR16 ES Volume 3 Appendix 10.2 page 6 Table 3.2 Receptor Number ML5 (176 Newton Road MK3 6PP): Based on representative freefield baseline measurements undertaken in the area

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- (ii) As it is a sensitive noise receptor, the property will be protected by a 2.5m high noise barrier. At the detailed design stage, when NR has a better understanding of the rolling stock to be used, it will continue to review the noise barrier design to see if it is adequate for this location.
- (iii) Following this mitigation, the noise levels during operation will be $52\text{dB}_{\text{L}_{\text{Aeq}}}$ at night and $59\text{dB}_{\text{L}_{\text{Aeq}}}$ during the day (the increase in noise will be +1dB during the night and 0dB during the day), which is above the LOAEL but below the SOAEL⁶¹⁷. Furthermore, as the increase will be less than $3\text{dB}_{\text{L}_{\text{Aeq}}}$, the operational noise impacts are considered to be negligible⁶¹⁸.
- (iv) The separate calculation of whether there will be a significant adverse effect based on maximum noise levels at night takes into account: whether the applicable upper limit for maximum noise ($85\text{dB}_{\text{L}_{\text{AmaxF}}}$) will be exceeded, the number of times it will be exceeded, and the underlying L_{Aeq} level⁶¹⁹. Although it is predicted that the applicable upper limit for maximum noise will be exceeded, given that this is only predicted to occur a maximum of four times per night⁶²⁰ and, when seen in the context of the much lower equivalent continuous noise levels at night, a significant adverse effect is not predicted. It is to be borne in mind that individual traffic events, such as large HGVs or motorbikes would be expected to generate noise levels in that region⁶²¹.
Notwithstanding this, NR will continue to review the position at the

⁶¹⁷ Document NR16 ES Volume 2i Chapter 10 Table 10.13 page 10-26: 'Rail traffic noise'

⁶¹⁸ Document NR16 ES Volume 4 Figures 10.6D Sheet 4 of 12 and 10.6E_2 Sheet 6 of 8

⁶¹⁹ Document NR16 ES Volume 3 Appendix 10.6 page 5 paragraph 1.2.21

⁶²⁰ This is based on a worst-case assessment. Westbound freight trains are predicted to result in $86\text{dB L}_{\text{Amax}}$ as they will be accelerating away from a 40mph speed limit at Bletchley. The predicted maximum number of westbound freight trains passing within 50m of the property during night-time operation is four. This prediction is also based on the noisier of the rail classes being used

⁶²¹ Document NR16 ES Volume 3 Appendix 10.2 page 19: results of ambient noise surveys carried out on Newton Road for the purpose of assessing the baseline noise level, which show individual noise events, presumably passing traffic, regularly exceeding 80dB and often 85dB

detailed design stage to see if the mitigation can be refined to further reduce the impacts⁶²².

- 7.112 In relation to vibration⁶²³, the property will not suffer from an adverse effect because it is further than 20m away from the Scheme⁶²⁴. NR has calculated that this is the distance outside of which there will not be an adverse effect⁶²⁵.
- 7.113 In terms of visual impacts following the removal of line-side trees, the trees located behind the existing NR fence will be removed to allow construction of the railway to modern standards, specifically earthworks improvements, earthworks retaining wall construction and filter drain installation. In relation to the mature trees outside of NR's land but within the boundary of the Scheme, whilst it is currently assumed to be necessary to remove a number of these trees as part of those works, NR will comply with the CoCP, which includes a requirement to retain mature trees and hedges where reasonably practicable and to apply a range of tree protection measures during construction to those trees able to be retained. Where it has been necessary to remove trees for construction of the railway, appropriate arrangements for replanting will be included in the proposed landscape works to be delivered under the Order⁶²⁶.
- 7.114 The visual baseline on Newton Road is an: *'Urban view from Newton Road, Bletchley, near to residential properties, looking towards the disused railway corridor on vegetated embankment, which dominates and restricts the view south. Tall street trees within the road verge provide a strong presence and*

⁶²² Consideration will have to be given to the provisions of the Noise Action Plan: Railways Environmental Noise (England) Regulations 2006, 2 July 2019

⁶²³ Document NR16 ES Volume 2i page 10-16, paragraphs 10.3.26 and 10.3.27: methodology

⁶²⁴ Document NR220 pages 4 and 5: The house will be approximately 35m from the nearest track

⁶²⁵ Document NR16 ES Volume 3 Appendix 10.5 page 2 Table 1.1: calculations as to ground-borne vibration

⁶²⁶ Document NR221

*linear avenue along the road corridor...*⁶²⁷. The ES assesses, on a worst-case scenario, that all line-side vegetation will be lost during construction. Based on this, during construction, this will result in a predicted high adverse visual impact⁶²⁸. During the first year of operation of the railway, it is predicted that there will still be a high adverse impact⁶²⁹. After 15 years of growth, the predicted impact reduces to medium adverse as replanted trees and scrub vegetation will have matured by then⁶³⁰. As NR undertakes detailed design, it will seek to retain as many trees as possible, reducing the predicted impacts. Furthermore, compliance with the CoCP will be a condition of the deemed planning permission. It is anticipated that Council officers will be working with NR to limit the tree loss to the greatest extent possible.

(s) Oxfordshire County Council and Cherwell District Council (OBJ 221)

- 7.115 There are only two matters on which the parties have not reached agreement⁶³¹. These are the issues of net gain in biodiversity and the temporary use of land at Mill Mound, together with the potential effects on the archaeological feature. The former has been addressed under the objection by NE.
- 7.116 With regard to Mill Mound, NR has concluded through a detailed Desk Based Assessment of the site that, in its surviving form, the site is an asset of medium significance, which is as set out in the ES. The site will be subject to further detailed investigative fieldwork before it is affected by construction⁶³².

(t) Milton Keynes Council (MKC) (OBJ 233)

- 7.117 The four matters on which NR has not agreed with MKC are as follows. On biodiversity net gain, NR's position is set out in its response to NE. On the

⁶²⁷ Document NR16 ES Volume 2ii Route 2B page 12-11 Table 12.1 2B31 Viewpoint; and ES Volume 4 Figure 12.8 Sheet 27 of 55

⁶²⁸ Document NR16 ES Volume 2ii Route 2B page 12-41 Table 12.3 2B31 Viewpoint

⁶²⁹ Document NR16 ES Volume 2ii Route 2B page 12-46 Table 12.4 2B31 Viewpoint

⁶³⁰ Document NR16 ES Volume 2ii Route 2B page 12-48 Table 12.5 2B31 Viewpoint

⁶³¹ Document NR234

closure of Woburn Sands School Crossing, NR's response has been set out specifically under that objection. On matters relating to Woodleys Farm Overbridge, NR's position is set out in the response to O&H (OBJ 156). On matters relating to Bow Brickhill Bridleway crossing, the Order proposes to retain the existing level crossing subject to safety improvements. In the event that future development of SEMK under the aegis of Plan:MK policies SD10 or 11 requires the provision of a new grade-separated railway crossing to serve new development in that location, the location and delivery of that crossing is able to be planned and come forward through those policies⁶³³.

(u) Bedford Borough Council (BBC) (OBJ 214)

7.118 The two remaining reasons for objection relate to ecology and transport issues⁶³⁴. With respect to ecology, and the issue of net gain, NR's position is set out in its response to NE. To the extent that BBC maintains its other ecological objections, these have been addressed in the evidence that NR has provided⁶³⁵.

7.119 It was acknowledged in the ES that not all ecological surveys had been completed prior to submission. Where field surveys were not completed, or previous data were not included, the assessment in the ES has been based on a reasonable precautionary approach (considering existing knowledge of the ecological feature, citing supplementary information where deemed relevant and necessary, and applying professional judgment). This precautionary approach was used to identify and assess the main significant effects which the Scheme is likely to have on biodiversity. The updated information provided in the FEI has provided the further information that was required to confirm the assessment made in the ES.

⁶³² Documents NR273 and NR48 pages 17 and 35 paragraphs 3.1.3 and 9.2.12 to 9.2.15

⁶³³ Document NR51 pages 73 and 74 paragraph 8.50.6

⁶³⁴ Document NR258

⁶³⁵ Document NR54 pages 73 and 74 paragraphs 4.1.62 to 4.1.71

7.120 The design of the ECSs will be undertaken at the detailed design stage. The FEI⁶³⁶ sets out which habitat features will be included in each ECS. The open mosaic habitats of value to invertebrates will be replicated in several of the ECSs. Some ECSs have been constructed in advance by land owner agreement to allow time for habitats to be established. Wherever possible the areas around CFSAs and sustainable drainage features will be of value for biodiversity, but this will be in addition to the ecological mitigation delivered by the Scheme. The ECSs are located to provide stepping stones through the landscape for terrestrial species affected by the Scheme. The size of the ECS and the habitats created within them are considered viable to support populations of species such as GCN and reptiles during construction when there will be a temporary loss of connectivity. Once construction is complete, the habitats created on the railway embankments will provide long-term connectivity in addition to that provided by the ECSs.

7.121 With respect to transport issues, these have now been resolved by amending the wording of the highways condition to reflect the wording desired by BBC.

(v) Environment Agency (EA) (OBJ 178)

7.122 NR rejects EA's concern relating to the wording of paragraph 17(3)(b) of Schedule 16 of the draft Order. It repeats the points made regarding deemed approval in relation to TWUL. In addition, there is an example where deemed approval has been applied by the EA⁶³⁷. The effect of the EA's proposed changes would mean that either the powers of the local authorities (as lead local flood authorities in respect of the Order) would be increased, by extending a deemed refusal to them or, in order to preserve the position regarding flood authorities, the protective provisions would have to have different arrangements for each category of body.

⁶³⁶ Document NR47 Part II Appendix 9.13v2

⁶³⁷ Boston Barrier Order (2017/1329)

- 7.123 There have been recent DCOs made under the Planning Act 2008 which have included a request for deemed refusal. However, the position regarding disapplication of legislation under DCOs is different to that for TWAOs. The Planning Act 2008, section 150, provides that an order granting development consent may include provision the effect of which is to remove a requirement for a prescribed consent or authorisation to be granted, only if the relevant body has consented to the inclusion of the provision. The Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 sets out in Regulation 5 and Schedule 2 the list of prescribed consents. It includes a consent under section 109 of the Water Resources Act 1991 for works affecting main rivers (which has since been included within the Environmental Permitting regime) and environmental permit or exemption under the Environmental Permitting (England and Wales) Regulations 2010 (which would now extend to cover the Environmental Permitting Regulations 2016). If NR was promoting a DCO, not a TWAO, it would require the consent of the EA to disapply these consents and would, therefore, be in a different position in negotiating protective provisions.
- 7.124 The TWA allows for the disapplication of such consents without any requirement for this to be agreed by the consenting body concerned, and so with a TWA application the parties are coming at this from a different position, backed by legislation with a different policy. The form of protective provisions which include deemed planning approval are the standard that are to be found since the inception of TWAOs in 1993 and which continues to date i.e. after the Environmental Permitting regime. This continued the private and hybrid Bill standard for the EA and its predecessors, which itself continues to date in hybrid Bills in Parliament promoting railway schemes, as in the Crossrail Act 2008 and the recent HS2 Act.

(w) Cattle Arch⁶³⁸

7.125 NR intends to carry out general repair works to the 'Cattle Arch' bridge under the railway⁶³⁹ that provides access via Selbourne Avenue to public amenity facilities, including allotments and a cemetery. It will restrict all works undertaken at this location to be carried out at night in order to maintain access during the day when there is a higher footfall along the access road to the facilities on the south side of the railway. The repair works that need to be undertaken on the underbridge will be programmed to take place under overnight road closures with the road being reopened for use the following morning each time. This way, individuals will still be able to visit the Cemetery during daylight hours. Until such a point that the Order is made and NR is closer to construction phase, it is not possible to confirm which dates these night works will be undertaken, but this information will be made available to the local community in advance of the works. Consequently, the works will not affect the operation of and/or access to the Allotments, Selbourne Avenue Cemetery and Mausoleum, Bowling Club and Scot Sports and Social Club⁶⁴⁰.

(x) Other Objections⁶⁴¹

Mike Hamlyn (OBJ 02)

7.126 The DfT has developed the business case to date, including a cost/benefit analysis for the Scheme. The resulting BCR for the Scheme is assessed to be between 1.3 (likely low VfM) and 2.4 (likely high VfM), in line with the DfT VfM categories set out in the DfT VfM Framework⁶⁴², depending on assumptions made about economic and housing growth in the Oxford-

⁶³⁸ OBJ 29, OBJ 31, OBJ 32, OBJ 33, OBJ 146, OBJ 224 and OBJ 235

⁶³⁹ Document NR50 page 24 Table 2

⁶⁴⁰ Document NR53 page 40 paragraphs 10.14.1 to 10.14.4

⁶⁴¹ Document NR283

⁶⁴² Document NR112

Cambridge Arc⁶⁴³. The investment in the project is supported by a combination of transport user benefits assessed in line with the DfT's standard WebTAG methodology and the strategic and wider economic benefits of the Scheme in terms of the housing and economic growth as outlined in the NIC's report. EWR2 (Western Section) provides many benefits in terms of rail, housing and economic growth. These benefits are not dependent on the completion of the Central or Eastern Section. As a result, the decision has been made to deliver the Western Section prior to the completion of future sections allowing the predicted benefits to be realised as soon as possible⁶⁴⁴.

Dr Peter Bristow (OBJ 03)⁶⁴⁵

- 7.127 The BCR for the Scheme is found in the DfT document: 'The Case for East West Rail, Western Section Phase 2'⁶⁴⁶. The benefits quantified in this report include transport user benefits and wider economic benefits, such as improved productivity through improved connectivity of both businesses and people. There is also a need to consider and plan for future demand, given the potential for housing growth along the line. The signalling is being designed to accommodate future service levels post 2027 and existing stations are being assessed to ensure capacity is sufficient for future growth.
- 7.128 With regard to pollution concerns, the modelling of transport related environmental impact such as noise, air quality and greenhouse gas emissions have been monetised and included in the BCRs in the report. The ES details land use and environmental impacts for construction and operation of the Scheme and how, where possible, these will be mitigated.
- 7.129 The Oxford-Cambridge Arc is home to a high concentration of world leading research facilities and business clusters but is not served by high quality east

⁶⁴³ Document NR56 paragraphs 3.8 to 3.11

⁶⁴⁴ Document NR53 section 10.7

⁶⁴⁵ Document NR283 OBJ 03 letter from NR to Dr Peter Bristow, dated 3 January 2019

to west transport links, with journeys between key economic centres often long and impractical. Many of the rail journeys the Scheme will enable are not currently feasible without interchanging and travelling significantly further from Oxford to Milton Keynes via Coventry or London. The Scheme will enable significantly more movement across the entire growth area of the Arc, directly impacting its ability to function as a single, integrated economic area. Freight usage along the line will lead to faster and more efficient movement of goods which will impact the wider economic growth in the region and help to remove freight traffic from the roads. Investment in rail infrastructure is required to boost productivity across the Arc and support the homes and jobs the area needs.

David Taylor (OBJ 06)⁶⁴⁷

7.130 The potential loss of three oak trees on the land as a consequence of the road improvements along the A4421 may no longer happen, as further design work has been undertaken that will position any widening on the opposite side of the road which will allow the trees to remain. This new layout will require the Highway Authority's sign off but is expected to be accepted.

Denise Richardson (OBJ 07)⁶⁴⁸

7.131 The site boundary will be securely fenced, including stock fencing suitable for equestrian paddocks as needed. During operation the new overbridge, to be constructed due to the closure of the Queen Catherine Road level crossing, will be secured by stock-proof fencing. To mitigate for potential adverse effects of construction the CoCP will be implemented. Landscape planting, including hedgerows with trees planted between Pear Tree House and the new overbridge will mitigate the visual impacts to the property during the

⁶⁴⁶ Document NR109

⁶⁴⁷ Document NR283 OBJ 06 e-mail from NR to David Taylor, dated 22 March 2019

⁶⁴⁸ Document NR283 OBJ 07 e-mails from NR to Denise Richardson, dated 6 September 2018 and 19 March 2019

operation. The property is eligible for noise insulation to reduce the operational impacts, and to further reduce the construction noise impacts NR is willing to implement the insulation before the start of construction of the new road and overbridge.

Alan Marlow (OBJ 10)⁶⁴⁹

7.132 The DfT document: 'The Case for East West Rail, Western Section Phase 2'⁶⁵⁰ provides evidence to support the viability of the Scheme. The proposed new station at Winslow will serve the outlying villages and is planned to include parking spaces for 365 cars. NR will ensure that there is a bus stop and turning circle to allow for integration of any new and existing bus services. With traffic growth in the region forecast to grow significantly, the Scheme will help to alleviate some traffic congestion between towns where people do not currently have convenient rail options. With regard to the bus services, their funding and delivery is the responsibility of the local authority.

Pak Kim Wong (OBJ 11)

7.133 As a result of the development of the design proposals it has been possible to reduce the quantum and scale of works in the immediate vicinity of the property. Therefore, NR has been able to reduce the amount of land that is required to construct the Scheme and may avoid the requirement to permanently acquire any land (Plot 1077) in this area. It will require temporary possession to enable construction to the Bletchley Viaduct refurbishment works. To mitigate for potential adverse effects of construction, construction activities will be managed in line with the CoCP⁶⁵¹. NR has stated that it has circulated a draft Agreement⁶⁵².

⁶⁴⁹ Document NR283 OBJ 10 letter from NR to Alan Marlow, dated 17 January 2019

⁶⁵⁰ Document NR109

⁶⁵¹ Documents NR50 paragraphs 4.4.12 to 4.4.17 and NR51 paragraphs 8.4.1 to 8.4.5

⁶⁵² Document NR283 OBJ 11

David Aubrey Calcutt (OBJ 12)

7.134 NR will undertake to design and implement the CFSA in this location so that the extent of land required from the Objector is kept to a practical minimum. The land will be returned to its former use whilst ensuring the implemented flood storage capacity is maintained. Therefore, whilst the land required for each CFSA is to be acquired permanently, following completion of construction of the CFSA, NR would be willing to return this land to the original owner, subject to agreement of an appropriate maintenance regime for the CFSA⁶⁵³. Temporary possession is required to provide access to construct the CFSA in Plot 1491, and a temporary river crossing will be required to facilitate construction access to the CFSA from the existing rail corridor⁶⁵⁴.

Irina Forster, Delia Darlow, Vlary Kalupa, Tony Kalupa and Richard Wait (OBJ 13)⁶⁵⁵

7.135 The proposed works in the area of the Objectors' properties are related to the construction of the new highway overbridge on Manor Road. Between the proposed bridge and the residential properties, the new highway alignment will come off the bridge before ramping down to reach the surrounding ground level as soon as is possible, taking due cognisance of highway design standards. The re-aligned highway is anticipated to tie back into the surrounding ground level approximately 20m to the north of the first property on the row of cottages. The area of land, including existing highway, to the south of this point is required in order to tie the new works into the existing highway. This will include road surfacing, kerbing and similar such activities. These works will be minor and of short duration. Pedestrian and vehicle

⁶⁵³ Document NR48 paragraphs 9.5.10 to 9.5.13

⁶⁵⁴ Document NR50 paragraphs 4.4.18 to 4.4.20

⁶⁵⁵ Document NR51 paragraphs 8.5.1 to 8.5.6

access to all of the residential properties and the post box, will be available throughout the works.

- 7.136 With respect to Hardwick Bridge (to the north of the works) and the minor culvert (to the south of the works), NR does not propose to amend, affect or impinge upon these structures as part of the permanent works design. The Green Lane level crossing at Stewartby is not within the scope of the project, but the anticipated time for which the barrier will be down upon introduction of the EWR2 train service is under 15 minutes per hour. The proposed bridge at Kempston Hardwick will be mostly obscured from the south, due to the rising road embankment being between the bridge and the residential properties.

Christabel Smith (OBJ 17)

- 7.137 The temporary road closures on the A4421, Poundon Road and Mill Road are required for the construction of passing places along with highway improvements at the junction with Mill Road. These will be for a short duration and it is anticipated that it will be possible to undertake the works with a single lane remaining open with traffic signals. Therefore, access will be maintained along Mill Road and Poundon Road and there will be no stopping up of these roads.

Keir Group plc (OBJ 22)

- 7.138 The confirmed plots form an integral part of the main construction works to facilitate the Scheme. To purchase the land prior to authorisation from the SoS could potentially leave NR with surplus land in the event the Order is refused. In certain circumstances land has been purchased prior to the Order, but this has only been where required to facilitate early enabling works. The plots in the ownership of Kier Group plc do not support these works⁶⁵⁶.

⁶⁵⁶ Document NR52 paragraph 9.11.4

- 7.139 Plots 0986 and 0987 are needed to compensate for railway earthworks and some of Compound B6. Whilst the land required for each CFSA is to be acquired permanently, following completion of construction of the CFSA, NR would be willing to return this land to the original owner, subject to agreement of an appropriate maintenance regime for the CFSA⁶⁵⁷.
- 7.140 Plot 0981 is required to provide linear connectivity for locally and nationally rare bats, including barbastelle, between the blocks of woodland to the west of Whaddon Road. This includes Salden Wood LWS and the habitats to the east of Whaddon Road, including Blue Lagoon Local Nature Reserve. The site was selected as it is close to the existing vegetated rail corridor and appears to be already partly vegetated with numerous trees shown along its length on aerial imagery. The Scheme would enhance this corridor with mature and semi-mature planting to provide a hedgerow to compensate for the loss of woodland and scrub habitat on the existing railway, which is used by bats to commute west to east and vice versa. It is not the intention of the Scheme to sever farming land. With the agreement of the land owner, the Scheme will provide permanent access gates at suitable locations within the new hedgerow to allow continued use of the fields to the north and south of the hedgerow⁶⁵⁸.

Launton Parochial Church Council (OBJ 25) and Launton Playgroup (OBJ 222)

- 7.141 NR is reviewing whether the work required to construct a new accommodation bridge, reference OXD/35B at Manor Farm, Launton could be removed from the Order. In this event, there will be no requirement to enact the powers of the Order over Plot 0162A⁶⁵⁹. However, the land is required for the Scheme at the moment.

⁶⁵⁷ Document NR48 paragraphs 9.2.57, 9.5.14 to 9.5.16

⁶⁵⁸ Document NR54 paragraphs 4.1.160 and 4.1.161

⁶⁵⁹ Document NR283 OBJ 25 letter from NR to Parochial Church Council of Launton, dated 2 January 2019

Richard Arnold White (OBJ 28)

7.142 Purchase of the whole property would not be necessary or proportionate. The acquisition of land can be dealt with by agreement following further discussion or through compensation under the Compensation Code⁶⁶⁰.

Charndon Parish Council (OBJ 34) and Calvert Green Parish Council (OBJ 217)

7.143 The increase in vehicles resulting from the project is low in comparison to the existing flows. Furthermore, most of the construction traffic is proposed to access the works from the north. Therefore, it is not necessary to provide a footway or otherwise upgrade School Hill. The maximum daily construction traffic flow along School Hill is 44 vehicles, which is less than 10% of the existing traffic flow. Swept path analysis has demonstrated that School Hill is suitable to accommodate the construction traffic and, given the low impact, it is not considered that a footway or restrictions on operational times are required. The Construction Access Routes will be defined and therefore reprioritising the junction arrangements will not be beneficial⁶⁶¹.

Dr Chetz Colwell and Jeff Diggines (OBJ 38)⁶⁶²

7.144 In the ES noise levels with and without the Scheme are shown to be similar and consequent significant changes in the peace and quiet currently enjoyed at the property are not anticipated. In line with the formal calculation methodology, there are no other operational conditions, e.g. braking or accelerating, which could generate higher levels of noise than those described in the ES. With regard to vibration, the assessments described in the ES⁶⁶³ show that significant effects at night are not expected beyond distances of 15m from the track. There are no proposed changes to the underlying soil

⁶⁶⁰ Document NR52 paragraph 9.15.4

⁶⁶¹ Document NR55 paragraphs 3.1.54 and 3.1.55

⁶⁶² Document NR283 OBJ 38 Letter from NR dated 29 April 2019

⁶⁶³ Document NR16 ES Volume 3 Appendix 10.5

type between the property and the track which might affect ground-borne vibration propagation.

- 7.145 There are no proposals for noise insulation at the property, since the properties in the area would benefit from one of the proposed noise barriers which will not be installed until late in the construction programme.
- 7.146 While construction hours will be limited to the core hours, where practicable, works outside these hours will be required where there are construction works that interface with the existing operational railway or to minimise adverse effects on the local road network. Where this is required, local residents will be provided with at least two weeks' notice prior to such works and will be given contact details for the project community relations/liaison manager.

Alastair Partington (OBJ 63)⁶⁶⁴

- 7.147 The incorporation of the compound north east of Charndon within the HS2 Compound by its Infrastructure Maintenance Depot was discounted because it would be the incorrect place to service the works along EWR2 and a compound at Charndon to carry out the works to the overbridge (OXD/29) would still be required. Although a twin haul road was originally proposed using the construction compounds as the only access points for the Scheme's traffic onto the site and the haul roads allowing all vehicular traffic unhindered along the route, the Scheme was optimised in 2017 including reducing its reliance on haul roads to reduce the overall cost. The potential construction access routes that have been identified using set principles have been assessed for constraints and developed in consultation with the local highway authorities.

⁶⁶⁴ Document NR283 OBJ 63 Letter from NR to Alastair Partington

- 7.148 NR will seek to minimise disruption for local residents as much as possible during the construction phase. However, whichever route is chosen there would, inevitably, be a measure of disturbance to local people.
- 7.149 The pre-existing track between Bicester and Claydon was life expired, whilst the pre-existing track between Claydon and Bletchley is discontinuous and unusable. As such, the removal of the existing track in this area is a necessary activity in order to facilitate reconstruction of the rail corridor. This will be coupled with a use of the renovated track bed as an online access route for construction activities, thereby reducing use of the local public highway network so far as is practical.
- 7.150 NR is proposing to use minibuses to shuttle operatives from the main compounds to minimise staff and operative worker trips on the local road network at the start and end of shifts. The Scheme and HS2 Phase 1 run parallel to each other between Calvert and just north of Quainton on two separate double tracks, which will be separate systems with no direct connection. Nonetheless, HS2 construction traffic is considered within the assessment of effects of the Scheme and the subsequent proposed mitigation measures.
- 7.151 The Scheme traffic flows on Main Street to and from the A4421 are a maximum of 282 per day, of which 158 will be HGVs, 68 LGVs and 87 staff and operatives. The total duration of the works will be 20 months, but the flows will vary over that time. For safety reasons, it is necessary to restrict the interface between footpath users and construction activities but, so far as possible, NR will seek to minimise the duration of any footpath closures.

Jacqueline Lee Woodley (Leywood Estates Limited) (OBJ 64)

7.152 The initial plot number and plot description issued were incorrect and a replacement notice was issued with the correct plot number and plot description. NR has indicated that there is a draft agreement in circulation⁶⁶⁵.

Robert A Wilson (OBJ 86)⁶⁶⁶

7.153 The land is required for the Scheme unless third party land in substitution is successfully concluded. The temporary and permanent land take in the location of Salden Lane and Salden Overbridge (OXD/10) is determined by a professional engineering decision in respect of the land required to construct and operate the new railway, highway and overbridge. At detailed design stage, in order to reduce the impact, NR will seek to reduce both the permanent and temporary land take in this location so far as possible. The proposals under the Scheme are to use byway MUR/15/1 on a temporary basis and acquire rights to do so.

7.154 Temporary use of land and acquisition of rights in respect of Plot 0914c are required for use of the land as a haul route for construction traffic to access the rail corridor from the north east. A temporary closure of the byway will be applied during this period. Following completion of construction this land will be reinstated and returned to its former condition. Access will be maintained for the land owner along the byway during the construction period, except for limited points in construction where the movement of large materials (for example bridge decks) may restrict access along the byway. NR will provide prior notification of these works and will engage with the land owner to reduce potential disruption.

7.155 Most of the land at Plot 0885 is required permanently for engineering purposes to construct the Scheme. This includes land required for a new

⁶⁶⁵ Document NR283 OBJ 64 and e-mails from NR to OBJ 64

⁶⁶⁶ Documents NR283 OBJ 86 and NR52 paragraph 9.18.3

Global System for Mobile Communications–Railway (GSM-R) mast and access road. The remaining area, in the north of the plot, is required to plant a hedgerow. This will screen views of the railway from residential receptors to the north, blend the proposals into the existing landscape pattern and provide green, linear habitat and connectivity. While the land required for environmental mitigation in plots 0885 and 0915 is to be acquired permanently under the Order, following completion of construction and planting, NR would be willing to return this environmental mitigation land to the original owner, subject to agreement of a maintenance regime for the area.

- 7.156 The construction methodology to replace the existing Salden Overbridge, OXD/10, has been developed to maintain access to the properties to the north of the rail corridor over the existing structure. The new structure (OXD/10A) will be constructed off-line to the west while fully maintaining the existing highway alignment and bridge. Following completion of the new structure the highway approach embankments will be formed. To the north of the structure this will not affect the existing highway except for where new tie-ins are required. These will be undertaken under traffic management to allow the new highway alignment to be merged into the existing whilst maintaining access. To the south side, the new approach embankment will interface with the existing embankment and require excavation of the highway verge. This will be undertaken under traffic management and freestanding barriers will be used to demarcate the works site.
- 7.157 Continued access will be maintained at all times for vehicles, both private and commercial/agricultural and for pedestrians. Access for livestock will not be restricted, but advance notice may be required for stock movement, depending on the stage of construction, to ensure that a more robust fence/barrier can be established to that provided via the traffic management provision. Post construction, the highway will be adopted by the local Highway Authority (BCC), up to the junction with the private access track and

the restricted byway to the north of the rail corridor. Maintenance and any repairs to the highway will be the responsibility of BCC.

Lower Blackgrove Farm Limited (OBJ 87)

7.158 NR will undertake to design and implement the CFSA in the location of the Objector's farm so that the extent of land required from it is kept to a practical minimum. If agreement can be reached with the land owner that the proposed accommodation overbridge is not provided, then the CFSA extent can be reduced by about 25%. There also appears to be potential to relocate the CFSA further west within the landholding, which would be closer to the loss for railway earthworks, if this is preferable to the land owner. Furthermore, whilst the land required for each CFSA is to be acquired permanently, following completion of construction of the CFSA, NR would be willing to return this land to the original owner, subject to agreement of an appropriate maintenance regime for the CFSA⁶⁶⁷.

7.159 In terms of the construction of Lower Blackgrove Overbridge, NR has reviewed its current proposals for the bridge approach embankments on the south side and believes that it can avoid impacting on the existing solar panels⁶⁶⁸. Peak traffic forecast to facilitate construction of this structure is estimated as 26 HGV and LGV movements per day over a period of 11 months.

7.160 With regard to the temporary access to the bridge during construction, the proposed alternative shared route is unsuitable for the following reasons:

- Health & Safety, as it serves as access to the farm and residential properties and the Scheme would require it to take HGVs and LGVs; whereas the proposed track would remove this interface risk to the public by re-routing the construction traffic away from the area.

⁶⁶⁷ Document NR48 paragraphs 9.4.13 to 9.4.15

⁶⁶⁸ Document NR51 paragraph 7.3.4

- It is only wide enough to accommodate vehicles in one direction and so is not wide enough in its current condition to take two way construction traffic, and the mature trees that line the route would constrain vehicle height below that required for some construction vehicles, which would constrain the quantity and size of vehicles that could be used to access the bridge site, elongate the construction period and potentially enforce a significant change to the construction methodology assumed.
- It runs through Lower Blackgrove Farm and the quantity of vehicles expected during the embankment construction works will impact on the running of the farm.
- It has two bends which would be impassable to the delivery vehicles needed to carry the main beams for the bridge without modification, including the removal of a number of mature trees.

7.161 The proposed access route will have a security gate at the road side entrance and will be fenced along its length to obviate the security concerns. It also serves as access to an environmental mitigation site in the adjacent field. The above issues constrain the efficiency in delivering the bridge construction with associated cost, time and health and safety risk impact. The proposed alternate route would also constitute a lengthier disruption and longer period of environmental impacts of construction. The track proposed, routed around the adjacent fields to minimise crop impact, is the best construction solution.⁶⁶⁹

Quentin Adam Craker (OBJ 88) and Christine Craker (OBJ 89)

7.162 The construction methodology to replace the existing Salden Overbridge, OXD/10, which is unsuitable for use by large vehicles, has been developed to maintain access to the properties to the north of the rail corridor over the existing structure. Following completion of the new structure the highway

⁶⁶⁹ Document NR 50 paragraphs 4.3.9 to 4.3.14

approach embankments will be formed, with the north side not affecting the existing highway except at the tie-ins and the south side requiring excavation of the highway verge. This will be undertaken under traffic management and freestanding barriers will be used to demarcate the works site. Continued access will be maintained at all times for vehicles and for pedestrians along the highway with no footpath provided. Access for livestock will not be restricted, but advance notice may be required for stock movement, depending on the stage of construction, to ensure that a more robust fence/barrier can be established to that provided via the traffic management provision. For all temporary land possession, following completion of construction, the land will be reinstated to its previous condition and returned to the land owner⁶⁷⁰.

- 7.163 The Scheme proposes to enhance Plot 0930 with mature and semi-mature planting to provide a hedgerow to compensate for the loss of woodland and scrub habitat along the existing railway, as this is used by bats to commute between Salden Wood and other woodlands and hedgerows to the east. It was selected as it is close to the existing vegetated rail corridor and appears to be already partly vegetated with numerous trees shown along its length on aerial imagery⁶⁷¹. It is not the intention to sever these plots of farmland. With the agreement of the land owner, NR will provide permanent access gates at suitable locations within the new hedgerow to allow continued use of the fields to the north and south of the hedgerow.
- 7.164 Plots 0885 and 0915 include space to plant hedgerows to screen views of the railway from residential receptors to the north, blend the proposals into the existing landscape pattern and provide visual and habitat connectivity. Part of Plot 0885 is required to widen the railway cutting and provide a cut-off drainage ditch along the top of the cutting to intercept surface water flows.

⁶⁷⁰ Document NR50 paragraphs 4.3.15 to 4.3.20

⁶⁷¹ Document NR54 paragraph 4.1.170

Part of Plot 0915 is required for the provision of a GSM-R mast and access track. The land required for environmental mitigation in these plots is to be acquired permanently under the Order but, following completion of construction and planting, NR would be willing to return this environmental mitigation land to the original owner, subject to agreement of an appropriate maintenance regime for the area⁶⁷².

- 7.165 The proposal to use plots 0910, 0911, 0916, and 0917 on the south side of Salden Wood to provide an alternative means of access to the land south of the railway that is being severed by the closure of the existing Weasels Lodge crossing avoids any land take from within the existing Salden Wood LWS, which is a protected ancient woodland that supports the nationally rare barbastelle bat and brown and black hairstreak butterflies⁶⁷³. The alternative route proposed by the Crakers along the south side of the railway is not viable because, with the proposed width of the new railway corridor in this area, there would be insufficient room to construct the new railway corridor, permanent drainage and a new access track and it would result in the destruction of a significant amount of the existing ancient woodland, which is avoided by the route proposed under the Scheme. After construction, the highway will be adopted by the local Highway Authority, BCC, up to the junction with the private access track and the restricted byway to the north of the rail corridor. Maintenance and any repairs to the highway will be the responsibility of BCC⁶⁷⁴.

Great Moor Sailing Club (OBJ 99)

- 7.166 The works in the area of the Sailing Club are to construct a new vehicle restraint barrier within the north and south verges approaching the existing OXD/29 highway overbridge to prevent vehicle incursion onto the new railway line. Associated with this is the potential need to reinforce the existing

⁶⁷² Document NR48 paragraphs 9.4.16 to 9.4.18

⁶⁷³ Document NR54 paragraph 4.1.166

⁶⁷⁴ Document NR51 paragraphs 9.4.1 to 9.4.11

highway embankments, which accounts for the need to permanently acquire land immediately adjacent to the highway. These works have been co-ordinated with the adjacent proposals under HS2. The access referred to in the objection is facilitated via the existing PRoW TWY/4/1, which will be extinguished by HS2 and diverted permanently to the north side of the railway corridor. This will include the permanent removal of the existing access. As such, a request for re-provision of the informal access route to Grebe Lake should be directed to HS2 Ltd⁶⁷⁵. NR has indicated that a draft agreement is in circulation⁶⁷⁶.

Margaret and Reginald Bridle (OBJ 101)⁶⁷⁷

7.167 The property is not required for the Scheme. Consequently, compensation would not be payable for either acquisition of the property at Buckingham Road, Winslow or infringement of any property right. The assessment of noise in the ES shows that the proposed reuse of the mothballed line will have a minor night time impact (change in noise between 3dB and 4.9dB) and a daytime impact smaller than 3dB, which is negligible. The property will benefit from one of the noise barriers proposed, which will run for about 690m along the north side of the railway and has been included in the noise calculations.

Bedford and Milton Keynes Waterway Trust (OBJ 105)⁶⁷⁸

7.168 NR is confident that there is no infrastructure proposed under the Order that would inhibit or preclude the development of the waterway in the future. The Order provides for a CFSA to be sited within the area of the Bedford and Milton Keynes Waterway Trust on land that is currently in the ownership of Woburn Estate who is not willing to transfer the land by agreement on a

⁶⁷⁵ Document NR51 paragraphs 8.18.1 to 8.18.3

⁶⁷⁶ Document NR283 OBJ 99

⁶⁷⁷ Document NR283 OBJ 101 Letter from NR to OBJ 101 dated 20 November 2018

⁶⁷⁸ Document NR283 OBJ 105 Letters from NR to OBJ 105 dated 8 November 2018, 2 April 2019 and 26 April 2019

permanent basis. Consequently, NR will not be in a position to pass on the land to the Trust.

The Wildlife Trust for Bedfordshire, Cambridgeshire and Northamptonshire (OBJ 108)⁶⁷⁹

- 7.169 The Trust has given a positive response regarding NR's strategy on net gain in biodiversity and will be invited to be involved in the options for its delivery. In terms of survey work, NR is confident that sufficient access has been granted to allow an adequate assessment of the Scheme's impacts to be made. The detailed design of, and management for, each ECS not already constructed will be developed during the detailed design stage of the Scheme when the Trust will be consulted. The design features to be included at ECS D1, D2, D3 and D4 are given in summary in the FEI⁶⁸⁰. Opportunities will be taken to enhance biodiversity in CFSA's and sustainable drainage features, but these will be in addition to the mitigation required by the Scheme and have not been included as biodiversity gains in the assessment.
- 7.170 Further surveys for terrestrial invertebrates were undertaken between May and September 2018, including for black and brown hairstreak and wood white butterflies and glow worms. The importance of open mosaic habitats is recognised in the ES and FEI and these habitats will be created in several of the ECSs proposed.
- 7.171 The management of the ECSs is typically for periods of 25-30 years. The 30-year requirement, suggested by NE as a typical time frame to manage habitats in the long-term for the benefit of the species affected by the Scheme, has been included within ecological management plans for the ECSs implemented ahead of the Order under the grant of planning permissions. It is intended that the sites will continue to support the habitats created in

⁶⁷⁹ Document NR283 OBJ 108 Letter from NR to OBJ 108 dated 29 January 2019 and e-mails

⁶⁸⁰ Document NR47 Part II Appendix 9.13v2

perpetuity and will be handed over to third parties where there is an appropriate agreement in place to ensure their protection.

Colin O'Dell (OBJ 118), Jackie O'Dell (OBJ 143), Terry Fisher (OBJ 169) and Susan Ellis (REP 5)

7.172 The temporary acquisition of Plot 0660 and permanent acquisition of Plot 0661 to the rear of properties 6, 8 and 10 Highfield Road, Winslow includes parts of the vehicle access and footpath that has not been adopted by the local authority. NR requires this land for temporary access for the refurbishment of the existing earthworks at the top of the cutting and will look to minimise the use of these plots. The remaining width of land to the rear of the properties will be sufficient for delivery of a combined footpath/cycleway as well as for access to the rear of the relevant properties⁶⁸¹.

Bloor Homes (OBJ 120)⁶⁸²

7.173 NR has confirmed that the environmental mitigation sites will be handed back to the land owner once the mitigation has been created subject to agreement on an appropriate management plan. Plots 0617 and 0620 are listed within the Order for temporary acquisition, whilst 0622 and 0623 are listed for permanent acquisition. However, NR can commit to not taking acquisition of any of these four plots.

7.174 Surface water drainage infrastructure installed by Bloor Homes, between its development and Buckingham Road, will be unaffected by works in the Scheme. Should any protective measures for the drainage infrastructure be required, these will be consulted upon and enacted in line with statutory utility asset protection procedures. NR and its contractors have a duty to

⁶⁸¹ Document NR51 paragraphs 7.5.32 to 7.5.35 and Document NR52 paragraphs 9.36.3 and 9.53.3

⁶⁸² Document NR52 paragraph 9.28.3

identify and protect all existing utilities infrastructure as part of any works it carries out.

- 7.175 The initial reason for replacing Furze Lane Bridge was to achieve a satisfactory clearance under the bridge for electrification of the railway as the existing structure is too low. However, given the decision by the DfT in 2016 to remove electrification from the EWR2 project, the need to replace this bridge no longer exists. Consequently, NR confirms that it is now proposing to retain the existing bridge and undertake general repair and upgrade works. These works will include increasing the parapet height, waterproofing the arch barrel and general brickwork repairs but does not include altering and/or widening the existing bridge structure. In order to undertake these works, Furze Lane will need to be closed at the bridge location for a period of a few months. NR will endeavour to co-ordinate the works over the bridge with Bloor Homes' installation of the traffic control system under a highways agreement with the local Highway Authority and/or make provision within its works to the bridge for the installation of this system.
- 7.176 In order to facilitate construction of the foundations for a new footbridge over the railway corridor, it is preferred to gain construction access via the new Bloor Homes estate road. This access would be for a limited period, of typically one week, and would be co-ordinated and in agreement with Bloor Homes site management.

Barretts of Aspley Limited Directors Pension Scheme (Barretts) (OBJ 121)⁶⁸³

- 7.177 Plot 0882 is required for widening the existing Salden Cutting, the installation of a new drainage ditch along the southern side of the cutting and the planting of a hedgerow with trees. The eastern end of the Plot is required for the construction of a new drainage attenuation pond adjacent to the proposed new Salden Overbridge. There is a legal requirement to avoid any construction or planting within a 3m wide wayleave on either side of the high-

pressure gas main. It is not viable or cost effective to relocate the existing main to facilitate hedge planting closer to the railway corridor and reduce the width of the Plot.

- 7.178 ECS B20 is required to provide mitigation in respect of woodland/habitat loss across the Scheme, loss of habitat within the 'Railway Bank by Salden Wood' LWS and associated translocation of grassland turves, GCN habitat compensation and translocation, maintenance of habitat connectivity for bats, provision of habitat for invertebrates and reptiles. All of these species and habitats will be directly affected by the Scheme and are currently present close to the proposed ECS B20 site. The size of ECS B20 will ensure that meaningful compensation can be provided at the location to provide space to habitats and species directly affected by the Scheme. It is located immediately south of the LWS which is situated wholly within the Scheme footprint and will be lost to construction.

Andrew Preston (OBJ 127)

- 7.179 The land is required for the Scheme unless negotiations to acquire third party land in substitution are successful⁶⁸⁴. Plots 0911 and 0917 are being acquired for the construction of a new access track to replace the existing Weasels Lodge level crossing to the northeast of Salden Wood. An alternative access route is being provided to the west over the new Salden Overbridge and then via a newly installed, permanent access track around the southern side of Salden Wood. The land owner who would require the use of this track to maintain access to its land following closure of Weasels Lodge crossing would require the provision of rights of access over this new track⁶⁸⁵.

⁶⁸³ Document NR283 OBJ 121 Letter from NR to OBJ 121, dated 14 March 2019

⁶⁸⁴ Document NR283 OBJ 127

⁶⁸⁵ Document NR51 paragraphs 8.27.1 to 8.27.6

- 7.180 In addition to the above, plots 0911 and 0917 are required permanently for planting, which is intended to provide a permanent buffer zone between the ancient woodland habitat in Salden Wood LWS and the permanent access road. Following completion of construction and planting, NR would be willing to return this environmental mitigation land to the original land owner, subject to agreement of an appropriate maintenance regime for the area.
- 7.181 The Landscape and Visual Impact Assessment (LVIA)⁶⁸⁶, which considered likely visual impacts of the Scheme at Springfield Farm (the Objector's property), reported during construction a slight adverse visual effect and during operation (including traffic using Salden Overbridge) neutral visual effects for both year 1 and year 15. Significant adverse visual effects from traffic crossing Salden Overbridge are not anticipated at Springfield Farm because it will only provide access to Lower Salden Farm and vehicle movements will be infrequent, it will be at a lower elevation than Springfield Farm, it will be set away from the property and the intervening vegetation will be retained to continue to provide visual screening⁶⁸⁷.

Thomas White Properties Limited (OBJ 128)⁶⁸⁸

- 7.182 The overriding issue between NR and the Objector remains the type of material to be used in the new access tracks. It has been agreed that a concrete track to Salford Road would be suitable but the upgrade of all access tracks to concrete, as requested, would involve an increased cost to the Scheme of about £800,000, which is disproportionate and not reasonable. However, NR has committed to funding the maintenance of the tracks to ensure they remain adequate for the ongoing use and will explore the potential of upgrading sections of the access track, such as the entrance to Bedford Road, and the provision of a physical track south of the railway.

⁶⁸⁶ Document NR16 ES Volume 2i Chapter 12

⁶⁸⁷ Document NR48 paragraphs 9.5.42 to 9.5.45

⁶⁸⁸ Document NR283 OBJ 128 E-mail from NR to OBJ 128, dated 30 April 2019

Legal and General Assurance (Pensions Management) Limited (OBJ 131)

7.183 The selected route is the most efficient means of access over the land during the construction of Woburn Road footbridge for plant and material deliveries along with the transportation of construction operatives to construct the structure. Efforts will be made to ensure that access does not impede the operation of the adjacent retail park deliveries⁶⁸⁹. NR has indicated that a draft agreement is in circulation⁶⁹⁰.

David Tomkins (OBJ 135)

7.184 The works in the area are to construct a highway overbridge carrying Marston Road over the railway and to permanently close Pilling Farm South level crossing with an associated permanent re-routing of footpath FP1. Plot 1243 is required on a temporary basis to create a PRow. NR is willing to meet the reasonable costs of procuring/installing a stock-proof fence along this section of new footpath. Plot 1278 is required permanently to create a new highway embankment on the approach to the proposed Marston Road highway overbridge and NR will install a new vehicle field entrance with associated right of access which would be located immediately south of No 1 Marston Road.

7.185 Plot 1255 is required permanently for a CFSA. During the detailed design, there may be an opportunity to reduce the area of land required for this purpose. NR would endeavour to undertake the proposed works between growing seasons. Upon completion of these works, it would seek to agree to return the Plot to the existing land owner for continued use, on condition that the reduced level of the Plot is maintained, subject to agreement on an appropriate management plan.⁶⁹¹

⁶⁸⁹ Document NR50 paragraphs 4.4.38 to 4.4.40

⁶⁹⁰ Document NR283 OBJ 131

⁶⁹¹ Document NR52 paragraphs 9.35.5 and 9.35.6

Swan Hill Homes Limited (OBJ 144)

7.186 Plot 1128 is required for temporary construction access to the northern side of Woodleys Farm Overbridge to facilitate its construction along with the adjacent CFSA, and to the North Platform at Woburn Sands to facilitate the extension works. This access track is needed for the combined duration of Woodleys Farm Overbridge construction, CFSA and that of the Woburn Sands Platform Extension, with an indicative duration of 18 months. Following discussions with the Objector, a proposal to relocate the access track to a more acceptable location to the land owner has been put forward. NR will seek planning permission to utilise the alternate proposed route, but should planning permission not be granted, reserves the right to exercise the power under the Order⁶⁹². NR has indicated that a draft agreement is in circulation⁶⁹³.

Roger Truelove (OBJ 145)⁶⁹⁴

7.187 The temporary road closures on the A4421 and between the A4421 and Poundon are required to construct passing places and highway improvements at the junction of Mill Road and an unnamed road, which should be able to be undertaken using traffic signals to maintain access to Godington Village at all times. It will be necessary to completely close Station Road, but these closures will only be at weekends and at night with appropriately signed diversions in place. All periods of closure must be subject to agreement with the local Highway Authority (OCC). All construction phase mitigation measures will be undertaken under traffic management plans and the CoCP. Construction access and traffic will be managed through a CTMP. NR is aware of the large proportion of equestrian users on the rural roads in Oxfordshire

⁶⁹² Document NR50 paragraphs 4.3.49 to 4.3.55

⁶⁹³ Document NR283 OBJ 144

⁶⁹⁴ Document NR283 OBJ 145 Letter from NR to OBJ 145, dated 26 November 2018

and Buckinghamshire and will manage potential road safety risks of all users on the public highway.

Russell William Justin Read and Melanie Patricia Jayne Read (OBJ 148)⁶⁹⁵

- 7.188 Construction activities will be managed in line with the CoCP⁶⁹⁶. Once the Scheme is operational and new train services are running, there will be some noise and vibration impacts on residential properties close to or adjacent to the railway. Mitigation measures include noise barriers and noise insulation and significant adverse effects will be avoided at most of the sensitive receptors. The operational noise assessment in the ES shows that the Objectors' property has noise levels below the threshold for any adverse effects, indicating that they are unlikely to be affected by noise from the re-opened line⁶⁹⁷.
- 7.189 The ES also includes an assessment of the emissions to air from the trains once the Scheme is operational, along with the road traffic making journeys to and from the railway stations⁶⁹⁸. This has identified no significant adverse effects in relation to impacts on air quality from traffic or operational trains and therefore no permanent mitigation measures are required. There is limited operational lighting proposed as part of the Scheme, nevertheless, the potential impacts are assessed within the LVIA⁶⁹⁹. This has identified no significant adverse effects in relation to operational lighting and therefore no permanent mitigation measures are required.
- 7.190 At the start of construction, land take will be marked out and a temporary site fence will be installed. For safety and security reasons, fencing is proposed along the operational boundary of the railway. This fencing will prevent unauthorised access, vandalism and theft, and will control access by

⁶⁹⁵ Document NR52 paragraph 9.39.4

⁶⁹⁶ Document NR16 ES Volume 3 Appendix 2.1

⁶⁹⁷ Document NR16 ES Volume 4 Figure 10.6

⁶⁹⁸ Document NR16 ES Volume 2i Chapter 8

⁶⁹⁹ Document NR16 ES Volume 2i Chapter 12

animals, thereby managing the safety risk to both potential trespassers and rail users. The Scheme will aim to retain existing fences where they are appropriate to the level of risk. In addition to the fencing adjacent to plots 1451, 1457 and 1458, a hedgerow is proposed to be planted within Plot 1458. This hedgerow will screen views of the railway from receptors to the east, blend the proposals into the existing landscape pattern, provide security and provide green, linear habitat and connectivity. Fencing will also be provided to protect the new planting proposed as part of the Scheme's environmental design.

Fresh Direct (UK) Limited (FDL) (OBJ 152) and Aviva Insurance Limited (OBJ 155)

7.191 Land at Plot 0045 is required for the earthworks and drainage ditches associated with the new A4421 Charbridge Lane Highway Overbridge structure, and the north western corner is required to accommodate a temporary highway diversion required to facilitate the bridge construction works. Due to the strategic nature of the road (A4421 Bicester Perimeter Road) and its reasonably heavy traffic flow, closure of Charbridge Lane for the duration of the works has been deemed unfeasible, as alternative routes for the current traffic flow are insufficient in capacity and would present a significant road traffic risk to the public along any potential diversion route. To facilitate Charbridge Lane remaining open, a temporary off-line highway is required to be constructed to the west of the main structure to maintain traffic flow⁷⁰⁰.

7.192 The alignment of the chosen route for the temporary diversion has been optimised within the required temporary design standards to reduce the impact on the property by as much as possible. In addition, an extension to the existing service yard in the north east corner and a detailed vehicle

⁷⁰⁰ Document NR50 paragraphs 4.3.67 to 4.3.72

tracking exercise has been carried out to demonstrate that it is possible to maintain the operation of the loading bays at the rear of the units both in the temporary and permanent case. A meeting was held between NR and FDL on Wednesday 12 December 2018 to discuss the results of the vehicle tracking exercise and the proposals for maintaining access to the loading bays at the existing facilities, as well as a possible alternative to temporarily relocate these unloading facilities to an adjacent empty warehouse for the duration of the works. Discussions are ongoing to try and reach an agreement⁷⁰¹.

Arnold White Estates Limited, Cloud Wing UK Limited and Hanson Packed Products Limited (AWE) (OBJ 153)⁷⁰²

7.193 NR is working with the Objectors regarding an agreement which would enable the construction of an alternative bridge (the Alternative Bridge) in support of the development proposals, rather than the proposed Manor Road overbridge. In the event that the conditions set out in the proposed agreement are met sufficiently in advance of the planned commencement of construction of the Manor Road overbridge, NR would not enact the powers to construct the bridge, but instead adopt the Alternative Bridge as a replacement for the Manor Road level crossing. This would give the Objectors the opportunity to develop their proposals to an appropriate stage to enable the Alternative Bridge to be constructed, while ensuring that it does not place at risk the timely or economic delivery of the Scheme.

7.194 Since current access between platforms at Kempston Hardwick Station is over the public highway at Manor Road which is adjacent to the station, and the Alternative Bridge being proposed by the developers is further from the location of Kempston Hardwick Station than either the existing public highway, or the Manor Road overbridge location, the developers will need to address the question of connectivity between the platforms at Kempston

⁷⁰¹ Document NR51 paragraphs 7.13.1 to 7.13.12

⁷⁰² Document NR51 paragraphs 7.11.1 to 7.11.11

Hardwick Station in advancing of their plans for the Alternative Bridge. This may consist of provision of a new overbridge at the station.

- 7.195 Following a review of each crossing and the change in risk as a consequence of introducing a second hourly passenger service in each direction over the line between Bletchley and Bedford, closure of the level crossings at Wootton Broadmead and Green Lane, Stewartby were not determined as being required in order to facilitate the introduction of the new train service.
- 7.196 The existing Stewartby Brickworks crossing is a reasonably well protected CCTV crossing, and in its current form the ALCRAM assessments have shown that with the additional EWR2 train service per hour, the increase in risk level at the crossing does not require it to be closed. The closure of Footpath FP5 and the Stewartby Brickworks level crossing are not required for the delivery of the Scheme and NR will not exercise its powers under the Order to close this crossing or Footpath FP5. When planning permission is sought by the Objectors, NR would expect to see an assessment of the likely levels of traffic over the existing crossing in order to form a view over the change in the level of risk to determine its response to the application. The long-term closure of the crossing and its replacement with a new bridge is in principle supported by NR, subject to the design of the bridge and provided that consent is obtained for the new bridge, and the associated closure and or diversion orders in parallel with the development application itself.

Fox Land and Property Limited (FLP) (OBJ 154)

- 7.197 Plan:MK paragraph 4.17 confirms that any future development at the site must take into account EWR2 and be brought forward via a development framework led approach that does not prejudice the delivery of the railway scheme. The allocation and delivery of Policy SD11 is dependent on the benefits of EWR2 and therefore require the delivery of the project first. Proposed development allocations associated with Policy SD11 would be supported by EWR2, which would make access to these locations via public

transport more easily achievable during operation. Plan:MK paragraph 5.24 acknowledges that in some areas land may be required from within the Policy SD11 area in order to construct EWR2⁷⁰³.

7.198 NR's position on 'shared value' in regard to the Woodleys Farm level crossing and the Alternative Bridge proposal is that given in paragraph 7.84. NR is working with the relevant property developers and MKC towards an agreement which would set out the conditions under which NR would adopt the alternative highways bridge proposed in support of the development proposals, rather than the Woodleys Farm Overbridge. In the event that the conditions set out in the agreement are met prior to the commencement of construction of the Woodleys Farm Overbridge, NR would not exercise the powers to construct that bridge, but instead adopt the alternative proposed by the developers as a replacement for the Woodleys Farm level crossing and Fisherman's Path crossings which are proposed to be closed under the Order⁷⁰⁴.

Frederick and Christopher Morris (OBJ 160)

7.199 Plot 0713 is being acquired permanently for the installation of Relocatable Equipment Buildings (REB) equipment, associated compound and a GSM-R mast. Plot 0716 is being acquired temporarily as a working area to construct drainage, improvements and repairs to Horwood Brook Underbridge. The land will be reinstated and returned to the Objector following completion of the works⁷⁰⁵.

Angela Darbishire and Frances Younghusband (OBJ 161)

7.200 NR has committed to handing back the land in Plot 0192 following the completion of construction. Plot 0194 is required temporarily for the

⁷⁰³ Document NR283 OBJ 154 Letter from NR to OBJ 154, dated 29 April 2019, 'Shared Value' note and Technical Note- Public Right of Way Assessment

⁷⁰⁴ Document NR53 paragraphs 10.61 to 10.6.6

⁷⁰⁵ Document NR51 paragraphs 8.38.1 to 8.38.4

construction of the new footbridge (OXD/36A). Following completion of construction, these areas of land will be reinstated to their previous condition and returned to the land owner. The northern section of Plot 0190 is required permanently for the construction and operation of the railway. The southern section of Plot 0190 is required for the provision of environmental mitigation. This will consist of trees and shrubs to screen views of the railway from the south, blend the Scheme into the existing landscape pattern and provide green, linear habitat and connectivity. Once construction and planting have been completed, NR would be open to hand back this land to the original land owner subject to agreement of a maintenance regime for the areas⁷⁰⁶.

Jean Louise Morgan and Josephine Sandra Horton (OBJ 162)

7.201 NR is in discussions with all of the relevant land owners who have existing rights of access over the existing Manor Farm level crossing with a view to buying out these rights, providing alternative means of access and avoiding the need to construct the new accommodation overbridge. Should these discussions be positive, and an agreement reached on buying out these existing rights, NR would not need to construct the new overbridge. This would then result in the removal of the proposed CFSA adjacent to the new bridge and elements of the proposed environmental mitigation⁷⁰⁷.

Simon Orpin (OBJ 163)

7.202 Plot 0663 is required for the installation of a new vehicle restraint system to prevent vehicle incursion onto the railway below from vehicles approaching from the north on the A413 and the east on Great Horwood Road. It is likely to take the form of an upgraded section of palisade fence that can resist vehicle impact and reduce the risk of vehicle incursion. Plot 0668 is required for works to the top of the cutting slope and the installation of new

⁷⁰⁶ Document NR51 paragraphs 8.39.1 to 8.39.5

⁷⁰⁷ Document NR51 paragraphs 8.40.1 to 8.40.3

planting/hedgerows and permanent boundary fencing. Plot 0669 is required for temporary construction access to carry out works to the top of the cutting slope and to install planting/fencing etc at the top of the cutting.

- 7.203 NR is proposing to use Plot 0663 to extend the existing brick bridge parapet on the northeast side of the existing A413 railway bridge parallel to the A413. This is to provide additional vehicle incursion protection to the steep drop down to the railway line behind the existing cast iron fence. As part of the design process, NR has carried out a 'Vehicle Incursion Risk Assessment', which as a result of re-opening the railway, has identified a significant increase in the potential risk associated with vehicle incursion onto the railway line in to the cutting below from a vehicle potentially leaving the A413 or Great Horwood Road as a result of loss of control or an accident. The works required to form this new protection measure will include the construction of a new retaining wall parallel to, and below the level of, the A413 on which the extension to the bridge parapet will be supported because of the steep drop behind the current fence.
- 7.204 The construction of both the new retaining wall and the installation of the foundations for the new fence and the fence itself will require the temporary possession of Plot 0663 but, once these works are completed, they should require minimal permanent land take from within the existing field. The remainder of this land will then be reinstated and returned to the land owner. NR has carried out design checks on the stability of the existing cutting in accordance with NR Standards and Eurocodes and does not believe stability to be an issue.
- 7.205 NR is aware of the existence of the high-pressure gas main and has had detailed discussions with the utility owner SGN regarding the temporary and permanent protections measures that will be required to protect the existing gas main from both construction works and the operation of the railway. It is also aware of the reduced cover to the gas main in this area and is in discussions with SGN as to how this risk can be mitigated in terms of track

and earthworks design and any additional protection measures that may need to be provided⁷⁰⁸.

7.206 The Old Brickyard Farm site is in the list of RFFP as site PA3 in the ES. The design of the housing proposed for the site is not yet known and the site does not yet have planning approval. Therefore, it would be the developer, in agreement with the LPA, that would determine and implement noise control measures to ensure that noise impacts from the railway would be suitably mitigated. Ground-borne vibration is only likely to affect properties within 20m of the track, so any emerging design for the housing development should be able to allow for this⁷⁰⁹.

John Busby and Sons (OBJ 165)

7.207 The junction with the re-aligned Station Road will be adopted highway and sized to accommodate an articulated lorry. A vehicle gate will be installed beyond the field side of the junction, with the gate and the remainder of the access road being within the ownership and maintenance liability of the existing land owner. This access track will terminate once it reaches the ground level of the surrounding field.

7.208 It is currently proposed that the existing section of Station Road to the south of the existing level crossing will be retained, with most of it remaining as public highway to maintain access to the existing properties such as Station Cottage and through the existing underbridge OXD/35 to the equestrian land on the east side of the road. The section of the existing road immediately adjacent to the existing level crossing will form part of a new maintenance access point to the operational railway and will be owned and maintained by NR.

⁷⁰⁸ Document NR51 paragraphs 7.15.1 to 7.15.12

⁷⁰⁹ Document NR48 paragraphs 9.4.34 to 9.4.37

- 7.209 The narrow parcel of land between the existing and proposed highway alignment is currently partially woodland and will be maintained as such. The remainder of the parcel of land will be planted as woodland, so contributing towards the 'no net loss' in environmental effects of the Scheme. As such, this area is proposed to be permanently acquired. However, the environmental mitigation site will be handed back to the land owner once the mitigation has been created, subject to agreement on an appropriate management plan.
- 7.210 The proposed highway alignment will be served by drainage ditches/swales at the toe of the proposed embankments. Flows from the proposed new highway will be attenuated within these swales on the southern side of the railway and via an attenuation pond on the northern side of the railway. These proposed swales/ditches will discharge to the existing highway drainage ditches on the southern side of the railway and the attenuation pond will outfall to Launton Brook tributary on the northern side⁷¹⁰.
- 7.211 NR will undertake that the stone barn is excluded and fenced off from Construction Compound A2 to ensure that its structural integrity is maintained. Access will be maintained to the stone barn from Station Road⁷¹¹.
- 7.212 Plots 0217 and 0223 are to provide a CFSA to extend the natural floodplain of Launton Brook by reducing ground levels in the area adjacent to the existing floodplain, so enabling them to flood. It is required to mitigate for the loss of floodplain capacity caused by the proposed highway embankment and overbridge earthworks and has been sited to be as close to this loss as feasible, while avoiding existing utilities and other exclusion zones. This CFSA will drain into Launton Brook as a reprofiled pasture that accepts a wider floodplain.

⁷¹⁰ Document NR51 paragraphs 8.42.1 to 8.42.6

⁷¹¹ Document NR50 paragraphs 4.4.48 to 4.4.50

- 7.213 The design of the CFSAs will be refined during detailed design, based on a topographic survey and further hydrological and hydraulic modelling. If practicable, NR will reduce the area and/or excavation depth required, whilst still meeting the obligations to the EA and Lead Local Flood Authority, ensuring that flood risk is not increased in the wider area⁷¹². Whilst the land is to be acquired permanently, following completion of the CFSA, NR would be willing to return this land to the original land owner, subject to the agreement of an appropriate maintenance regime for the CFSA.
- 7.214 The ridge and furrow within plots 0217 and 0223 is not recorded as being part of a priority township, is not part of a larger and easily understood system of ridge and furrow, and is not associated with any earthworks relating to domestic settlement activity. Partial or total loss of this area of non-designated ridge and furrow will have a minimal impact on the understanding and appreciation of this form of medieval agricultural feature⁷¹³.

Grendon Underwood Parish Council (OBJ 167) and Edgcott Parish Council (OBJ 198)

- 7.215 The maximum daily construction traffic flows along School Hill are 44 vehicles, which is less than 10% of the existing traffic flow. Swept path analysis has demonstrated that School Hill is suitable to accommodate the construction traffic and, given the low impact, it is not considered that a footway or restrictions during operational times are required. In order to reduce any impacts, temporary signage and consultation with local stakeholders will identify the most appropriate mitigation measures⁷¹⁴.

⁷¹² Document NR16 Volume Appendix E: Flood Risk Assessment

⁷¹³ Document NR48 paragraphs 9.5.67 to 9.5.72

⁷¹⁴ Document NR55 paragraphs 3.1.59 and 3.1.60

Christopher Coward (OBJ 170)

7.216 An earlier version of the EWR TSS included the extension of the proposed Milton Keynes to Aylesbury service to London Marylebone via High Wycombe. To support this service, the single-track Princes Risborough to Aylesbury line was planned to be upgraded from 40mph to 80mph. This was removed from the scope of the Order in April 2016, as development work had by that time identified significant challenges in linking the West Coast and Chiltern mainlines, where pathing opportunities are limited, made more difficult with the single-track section between Princes Risborough and Aylesbury. However, connections for stations between Aylesbury and London Marylebone via Amersham or High Wycombe will still be available at Aylesbury, operated by Chiltern Railways. As development of the timetable is ongoing, NR is not currently in a position to confirm details of connection times that will be available at Aylesbury after the Milton Keynes to Aylesbury service is introduced⁷¹⁵.

Lorna Hill (OBJ 171)⁷¹⁶

7.217 The results of baseline noise monitoring in the Winslow area near to the property show 47dB_{LAeq} during the day and 44dB_{LAeq} during the night. The noise impact at the property is shown to be negligible i.e. the increase in night time noise is between 0.1dB_{LAeq} and 2.9dB_{LAeq}. The increase in the daytime would be smaller and, therefore, also be negligible. There is an aspiration that the noise barriers will be installed early in the construction process to be able to provide attenuation from construction activities as well as the operation of the trains. Further, there is a proposed planning condition with regard to noise barriers. The noise calculations include for the likely growth in the use of the railway in the assumptions to determine the extent

⁷¹⁵ Document NR53 paragraphs 10.11.2 and 10.11.3

⁷¹⁶ Document NR283 OBJ 171 Letter from NR to OBJ 171 dated 29 January 2019

and nature of the proposed noise measures as reported within the ES. A conservative assessment of the noise in respect of freight services has been assumed.

- 7.218 Where noise levels are below the significant effect threshold impacts are considered for mitigation when the impact is at least moderate (a change of at least 5dB_{L_{Aeq}}). The point at which mitigation is considered for Phase 2 is lower than that used in Phase 1.
- 7.219 There is no proposed route for the OCE and it is not possible to assess the in-combination effects. The noise assessment takes account of impacts from changes to traffic on the local road network with the Scheme in place. Changes in road traffic at and near the proposed Winslow Station have been assessed and any changes in noise are shown to be negligible in the long-term.
- 7.220 The proposed Winslow Station car park will be capable of accommodating 365 motor vehicles on its two storeys. It will also provide 2 bus bays, short stay and drop off facilities, cycle storage and provision for taxis. NR is working with BCC and Winslow Town Council to produce a Neighbourhood Car Parking Management Plan for Winslow Town.
- 7.221 With regard to ecology, the ES and FEI have assessed the impacts of the Scheme on bats. The roost at Station Road is situated outside of the 100m field study area and therefore no direct impacts to the roost resulting from the Scheme are likely to occur and it was not included in the assessment of impacts.

FCC Environment Ltd (OBJ 172)⁷¹⁷

- 7.222 NR continues to meet regularly with HS2 Ltd and the other interested parties to ensure the strategic integrated programmes for the Scheme and HS2

⁷¹⁷ Document NR50 paragraphs 4.4.51 to 4.4.54

facilitate the maintenance of FCC's rail freight operation throughout the works.

- 7.223 FCC has been monitoring boreholes located on the proposed land for Construction Compound B6. It does not own this land but has rights to monitor the boreholes. Within the compound parameters there are five boreholes: four of which monitor gas emissions (BH9; BH10c, BH11, BH12) and the other which monitors water levels (BH18). NR is in discussions with FCC to jointly agree the safeguarding measures and access arrangements required for these monitoring points and will seek to operate the Compound around them whilst providing access throughout.

Launton Parish Council (OBJ 174)⁷¹⁸

- 7.224 The use of the narrow lane between the Parish Hall and School in Launton was to be used to facilitate construction access to Manor Farm Overbridge. Discussions are near conclusion to extinguish the crossing rights over this crossing with the resulting removal of the structure from the scope of the Scheme. Once this structure is removed from the Scheme, NR will be able to undertake not to use this access for the works.
- 7.225 The proposed road closure at Bicester Road is to facilitate installation of a new bridge deck. All preparatory works to this structure will take place using lane closures and temporary traffic lights to control the traffic, with the proposed road closures taking place at night when traffic volumes are reduced to facilitate the removal of the existing bridge deck and the installation of the bridge deck replacement. Diversionary works will be agreed with the local Highway Authority.
- 7.226 The general approach taken to PRowS has been to close them temporarily throughout the works to remove the people/plant interface, which is one of the highest risks associated with construction of the works. The PRowS will

⁷¹⁸ Document NR50 paragraphs 4.4.55 to 4.4.60

be re-opened at the earliest opportunity once it is safe to do so. The closure of Footpath 272/7 is associated with the works to Charbridge Lane Overbridge. It is expected that it can remain open during the construction of the structure with closure only necessary during part of the embankment construction and the second temporary highway diversion. Given the limited duration of this closure, it would be disproportionate to construct a temporary diversion. The closure of Footpath 272/20 is associated with works on the main route, and it will need to be in place for the duration of the works until the footbridge at Grange Farm is constructed. The option to divert this footpath has been ruled out because it would be a significant length, being routed via Charbridge Lane/Bicester Road or Station Road Launton level crossing, land has not been taken in the Order to accommodate such a diversion and it would involve directing footpath users onto roads with no footpath.

The Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT)
(OBJ 181)⁷¹⁹

- 7.227 NR's position with regard to net gain is that stated under the response to NE (Paragraphs 7.4 to 7.8). NR's response to the concerns about the maintenance period is stated under OBJ 108 (paragraph 7.171).
- 7.228 In terms of the visitor experience at BBOWT Nature Reserves, the potential construction effects of this part of the Scheme were assessed and appropriate mitigation measures identified as part of the HS2 ES. With the exception of the extension to the bat mitigation structure, which is authorised under the HS2 Act, authorisation has been granted to construct the railway infrastructure required to support the Scheme within the HS2 Interface area. Potential construction effects of the Scheme on the section of the railway, excluding those related to the extension of the bat mitigation structure, and

⁷¹⁹ Document NR283 OBJ 181 Letter from NR to OBJ 181, dated 25 February 2019

any associated mitigation or compensation have therefore not been considered in the Scheme ES.

- 7.229 The LVIA within the ES provides an assessment of the impacts of the operation of the Scheme on Landscape Character Areas (LCAs), including Finemere Woods and Meadows Nature Reserve, which are part of Finemere Hill LCA and Kingswood Wooded Farmland LCA. Assessment of species which are present within any nature reserves adjacent or close to the Scheme has been carried out based on the relevant methodology outlined in the ES, and in particular it includes potential impacts to wintering and breeding bird assemblages at Calvert Lake and Calvert Brick Pits.
- 7.230 Impact on wildlife corridors will be avoided wherever possible and mitigation and compensation measures have been designed to allow continuity of movement between wildlife sites and across the broader landscape. There will be a continuous east-west vegetated corridor along the Scheme when the planting will be complete following the construction phase.
- 7.231 With regard to habitat loss, in some cases it will be reduced from the original estimate due to more accurate calculations of the land required. Most of the woodland creation sites identified in the ES have not yet been designed and hence accurate total figures could not be provided in the assessment. A significant area of new scrub will be provided in the ECS and scrub will also redevelop along the line of the widened railway post-construction. Specific mitigation will be put in place for the invertebrates, birds, reptiles and mammals, for example blackthorn would be planted in appropriate locations for the benefit of black hairstreak butterflies. Current figures on loss and gain of woodland, scrub and grassland habitats are provided in the FEI⁷²⁰. Since the publication of the FEI, more detailed design has been completed which would significantly further reduce habitat loss.

⁷²⁰ Document NR47 FEI Part II Appendix 9.16

- 7.232 All works in the area of Construction Compound B6 will be contained within the area of hardstanding and will not affect any semi-natural habitats. A buffer of scrub will be placed between the construction access road and the ancient woodland and LWS at Salden Wood and no impacts on Salden Wood LWS are anticipated.
- 7.233 With regard to the impact on reptiles, additional surveys had been undertaken for adders in 2018 and no adders were recorded⁷²¹. ECSs throughout the Scheme have been designed to provide alternative habitat for reptiles during construction. On completion of construction, the railway embankments will be seeded with grassland mix and planted with scrub and hedgerow, which will create suitable reptile habitat in the long-term and provide a corridor for the movement of reptiles in the wider landscape. All the mitigation proposed to protect reptiles will be included in the Scheme's Reptile Mitigation Strategy to be submitted to NE.
- 7.234 Comprehensive invertebrate surveys were undertaken in 2018 and the results presented in the FEI. Substantial areas of scrub habitat will be created in the ECS and the route of the line will also redevelop scrubby habitats post-construction. NR will seek to recreate as far as possible the habitats for invertebrates and birds which currently exist on the mothballed line, and will be willing to take advice from BBOWT and other consultees on the best way to achieve this.
- 7.235 The ECSs are located to provide stepping stones in the landscape and in relation to the existing network of protected sites and 'Biodiversity Opportunity Areas'.

⁷²¹ Document NR47 FEI Part II Appendix 9.9

Michael, Audrey, Peter, William and Simon Deeley and the M R Deeley and Son Farm Partnership (the Deeleys) (OBJ 183)⁷²²

- 7.236 NR has been in detailed discussions to respond to the points made in the objection and to offer commitments, encapsulated in a draft SoCG, so as to minimise the impact of the Order on the business. NR is willing, subject to contract, to enter into an agreement based on the items in the draft SoCG and a draft agreement is in circulation.
- 7.237 With regard to environmental mitigation land, plots 0041 and 0127 are shown as permanent acquisition, but NR is prepared to offer the land back to the Deeleys once the planting has been completed on condition that they maintain the site in accordance with an agreed management plan for which they will be reimbursed. There is no outstanding objection regarding the temporary use of land for bridge repair and maintenance works. NR has agreed to undertake additional planting in order to help address the issue of screening.
- 7.238 In terms of the access to Tythe Barn, NR has negotiated with a land owner (Kier) in order to purchase land which would enable it to progress an alternative access, subject to obtaining the necessary approval and consents. Without this land, NR cannot alter the access as required by the Deeleys. NR will endeavour to complete the new access prior to the start of the bridge works on Charbridge Lane.
- 7.239 NR will retain as much of the southern-most bund as reasonably practicable, but the new earthworks within most of Plot 0076 will require the two northern existing bunds to be moved towards the farm. NR will provide screen planting along the revised boundary, which will include the replanting of as

⁷²² Document NR283 OBJ 183 Letter from NR to OBJ 183, dated 29 April 2019 and attached draft SoCG

many of the existing trees as reasonably practicable where they are able to be relocated from the relocated bunds.

- 7.240 No work, except the realignment of the access from Charbridge Lane to the west of the farm, will commence before the beginning of 2020 at the earliest. Therefore, the wedding business will not be affected by the works until the beginning of 2020 and the business will be able to trade as normal until this time.

George Browns Limited (OBJ 184)

- 7.241 The access route chosen is the most direct route to the works from the local highway proposed for use by the project. It utilises the farm's existing access off Verney Road and runs around the perimeter of the fields, minimising the impact on the farmable area. Any alternative access from the north would be from roads not currently proposed for use under the Order. These roads are very narrow and rural in nature, by comparison to the proposed roads, and as such would require upgrade works to take place prior to their use. The cost of this upgrade work would be disproportionate to the cost of the works it facilitates. The proposed access route should remain⁷²³.
- 7.242 With regard to noise, mitigation is not proposed in the Scheme because the resultant noise levels will be below the significant effect thresholds of 58dB at night and 68dB during the day. However, Furzen Farm Cottage has now been included on the list for noise insulation, as it is predicted to have a major adverse noise impact where the resultant noise levels will be below but within 3dB of the significant effect thresholds.
- 7.243 Furzen Farm Cottage is approximately 45m from the Scheme boundary and, therefore, is identified in the ES as potentially receiving an adverse noise effect from the construction works along the railway. The other two properties are too far away from the Scheme to receive adverse construction

noise effects. NR is willing to implement the proposed noise insulation early if practicable, before the start of construction of the nearby Scheme elements, to also help reduce construction noise levels at this property.

- 7.244 NR will review the need for the permanent acquisition of that part of Plot 0532 that is not being retained for a permanent maintenance access to the railway⁷²⁴. The environmental mitigation sites will be handed back to the land owner once the mitigation has been created subject to agreement on an appropriate management plan⁷²⁵.

Nora Bennett (OBJ 196)⁷²⁶

- 7.245 The Order will authorise works to increase the line speed over Griffin Lane level crossing from 30mph to 90mph and introduce an additional hourly high-speed train service from Aylesbury to Milton Keynes Central. These enhancements to the service will result in an increased safety risk at Griffin Lane level crossing. Following an assessment that considers a number of important factors, such as the crossing's location, how much traffic (rail and pedestrian) it receives, and the crossing's history of near misses and accidents, NR has identified that this crossing will pose an intolerable safety risk. The most effective way of reducing and removing level crossing risk is by closing Griffin Lane level crossing and diverting pedestrians via the existing Griffin Lane overbridge. The proposed diversionary route is an existing PRow and maintained by the Highway Authority and, consequently, is safe and suitable for diverting pedestrians from Griffin Lane level crossing. While the diversion might not be seen as the most pleasant route, the safety risks with retaining the level crossing far outweigh any negative perceptions of the diversionary route.

⁷²³ Document NR50 paragraphs 4.4.61 and 4.4.62

⁷²⁴ Document NR48 paragraphs 9.5.73 to 9.5.80

⁷²⁵ Document NR52 paragraphs 9.58.1 to 9.58.4

⁷²⁶ Document NR51 paragraphs 8.47.1 to 8.47.5

The Oxford Diocesan Board of Finance (OBJ 206)

- 7.246 Plot 0526 is for the provision of a CFSA to extend the natural floodplain of the Claydon Brook by reducing ground levels in the area adjacent to the existing floodplain and as close to the loss of floodplain as feasible, while avoiding existing utilities and other exclusion zones. The option proposed at South Lake was not considered as a location for the entire CFSA, as the ecological impacts of excavation through some of the woodland to reduce ground levels adjacent to the lake are likely to be significant. There is also an archaeological designation in this area, due to a Roman Road between Thornborough and Akeman Street at Fleet Marston, which passes through the permanent pasture identified. However, it might be possible to provide some of the required floodplain capacity adjacent to the lake.
- 7.247 The design of CFSAs will be refined during detailed design, based on topographic survey and further hydrological and hydraulic modelling. If practicable, NR will reduce the area and/or excavation depth of the CFSA, whilst still meeting the obligations to the EA by ensuring that it does not increase flood risk in the wider area. It is intended that the land will return to its former use, albeit accommodating more floodwater during extreme events⁷²⁷.
- 7.248 The environmental mitigation sites will be handed back to the land owner once the mitigation has been created, subject to agreement on an appropriate management plan⁷²⁸.

R H Maycock & Sons (OBJ 207)

- 7.249 Plot 0954 is required for a maintenance access to the hedgerow and ditch along the north side of the railway east of Whaddon Road. Plot 0959 is required permanently to plant a hedgerow that will screen views of the railway from future residential receptors to the north, blend the proposals

⁷²⁷ Document NR48 paragraphs 9.5.81 to 9.5.85

into the existing landscape pattern and provide habitat and visual connectivity. Plot 0983 is mostly required for permanent engineering works with the remaining area along its north edge being required to plant a hedgerow. This will screen views of the railway from future residential receptors to the north, blend the proposals into the existing landscape pattern and provide habitat and visual connectivity. Once construction and planting have been completed, NR would be willing to return this environmental mitigation land to the original land owner, subject to agreement of an appropriate maintenance regime for the areas⁷²⁹.

- 7.250 Plots 0938 and 0945 are required permanently for the construction of a new maintenance access point, REB compound and access road to this compound. These are required to safely operate and maintain the new railway. As a result, the area of Plot 0938 immediately adjacent to Whadden Road is not available for use as a temporary construction compound.
- 7.251 Plot 0941 is being acquired temporarily for the provision of Construction Compound B5, as well as a strip of land required to refurbish an existing drainage ditch along the northern edge of the existing railway cutting in this area. On completion of the drainage works, this land will be reinstated and returned to the land owner⁷³⁰. The proposed alternative land plot for the Construction Compound is unsuitable because it is long and thin, which makes access and circulation around it very difficult, and it could not be used on its own as an alternative to the proposal. It is also designated as a BNS, making it less preferential for use when compared with the arable field proposed.
- 7.252 The land to the east of Whaddon Road (Plot 0989) is temporary land take to provide access from Whaddon Road to Construction Compound B6 via the haul road adjacent to the route. This haul road has remained as part of the

⁷²⁸ Document NR52 paragraphs 9.62.3 and 9.62.4

⁷²⁹ Document NR48 paragraphs 9.5.86 to 9.5.90

Scheme to remove traffic travelling through Newton Longville and the very tight left turn onto Bletchley Road, should this route be used to access Construction Compound B6 from the A421 avoiding the low bridge on Bletchley Road to the north of the Compound. This route and the associated land are required to enable the delivery of the Scheme⁷³¹.

- 7.253 The area known as Swanbourne Sidings has been designated as a wildlife habitat due to the abundance of wildlife and, therefore, it is not available for sale⁷³².

Graham Freshwater (OBJ 210)

- 7.254 To mitigate for potential adverse effects of construction, construction activities will be managed in line with the CoCP. The CoCP commits to providing a Community Liaison Officer and a 24-hour helpline to report issues, unsafe driving and incidences of non-conformance. At the start of construction, land take will be marked out and a temporary site fence will be installed to prevent unauthorised access, vandalism and theft, and also control access and egress by animals⁷³³.
- 7.255 The ES includes an assessment of the operational emissions to the air from trains and road traffic making journeys to and from the railway stations. It has identified no significant adverse effects on air quality and, therefore, no mitigation measures are required. There will be limited operational lighting in the Scheme and the potential impacts are assessed within the LVIA. This has identified no significant adverse effects in relation to operational lighting and, therefore, no mitigation measures are required.
- 7.256 Plot 0599 is wider to the west of the 'Cattle Arch' underbridge as it includes space for the provision of a hedgerow, which will reinstate the visual

⁷³⁰ Document NR51 paragraphs 8.48.1 to 8.48.4

⁷³¹ Document NR50 paragraphs 4.4.74 to 4.4.80

⁷³² Document NR283 OBJ 207 E-mail from NR to OBJ 207, dated 20 March 2019

⁷³³ Document NR50 paragraphs 4.4.81 to 4.4.84

character of the reinstated railway corridor when viewed from Verney Road and provide habitat connectivity. These environmental measures need to be maintained in perpetuity. Therefore, the land required is being acquired permanently. However, once construction and planting has been completed, NR would be willing to return this environmental mitigation land to the original land owner, subject to agreement of an appropriate maintenance regime for the area⁷³⁴.

- 7.257 NR has not yet completed the detailed design of the earthworks and drainage in the area, but will look to minimise the impact on the existing property, horse paddock, fields and access track wherever practical as part of the detailed design process. The proposed drainage pipe through the area is a filter drain serving the earthworks and track bed. It is proposed as a filter drain rather than an open ditch to minimise the required land take through the area. The pipe discharges to the watercourse that crosses beneath Verney Road.
- 7.258 The current access track will be reinstated in the permanent condition on the outside of the proposed new hedgerow on completion of the works, albeit that its current alignment may have to be adjusted slightly to take in to account the new earthworks, drainage and environmental mitigation design in the area. There is likely to be some disruption to the existing access track during the construction of the new earthworks and drainage through the area, but NR will look to minimise this impact wherever practical and will work closely with the land owner to keep this disruption to a minimum.
- 7.259 Plot 0600 is being acquired on a temporary basis as a works compound to allow general repair works to be carried out to the existing 'Cattle Arch' underbridge. These repairs will include general brickwork repairs, raising of the existing parapets and waterproofing to the top of the existing arch barrel

⁷³⁴ Document NR48 paragraphs 9.5.91 to 9.5.97

from above. On completion of these works, the temporary land will be reinstated to its former condition and handed back to the land owner⁷³⁵.

Bicester Town Council (OBJ 219)⁷³⁶

- 7.260 NR's response to the concerns about the London Road level crossing is the same as its response to LVCA (paragraphs 7.92 to 7.96). NR's response regarding electrification is given under paragraphs 7.34 and 7.35.
- 7.261 To facilitate the proposed closure of 3 footpath crossings between Bicester and Launton, a new footbridge will be provided at Grange Farm and the footpaths will be diverted to enable access over the railway. The new footbridge will provide sufficient opportunities for pedestrians to cross the railway.
- 7.262 The trees in the Field Farm area were planted as part of advance environmental mitigation for the Scheme. Landscape managers will be undertaking inspections to assess the condition of the trees and remediation measures will be put in place.

Peter Arthur Cox (OBJ 220)

- 7.263 NR confirms that it has made provision within the new highways design for the realigned Station Road to maintain all of the accesses to the Objector's land⁷³⁷.
- 7.264 Plots 0217 and 0223 are to provide a CFSA to extend the natural floodplain of Launton Brook by reducing ground levels in the area adjacent to the existing floodplain, so enabling them to flood. This CFSA will drain into Launton Brook as a reprofiled pasture that accepts a wider floodplain. The environmental

⁷³⁵ Document NR51 paragraphs 8.49.1 to 8.49.7

⁷³⁶ Document NR283 OBJ 219 Letter from NR to OBJ 219, dated 26 September 2018

⁷³⁷ Document NR51 paragraphs 8.54.1 to 8.54.4

mitigation sites will be handed back to the land owner once the mitigation has been created, subject to agreement on an appropriate management plan⁷³⁸.

Victoria Kemp (OBJ 238)⁷³⁹

- 7.265 The business case is that given for Mike Hamlyn (OBJ 02), Peter Bristow (OBJ 03) and Alan Marlow (OBJ 10). The consultation was extensive with both key stakeholders and the local community from August 2014 to March 2018.
- 7.266 With regard to the savings in journey times, many of the rail journeys the Scheme will enable are not currently feasible without interchanging and travelling significantly further, such as from Oxford to Milton Keynes via Coventry or London, with the time for this trip estimated at 1 hour 19 minutes and, following implementation of the Scheme, at 42 minutes. The Scheme will help alleviate some congestion and traffic between towns where people do not currently have convenient rail options. It will enable significantly more movement of freight across the entire growth area of the Oxford-Cambridge Arc, directly impacting its ability to function as a single, integrated economic area.
- 7.267 The area surrounding Oxford is known as the 'Science Vale' and is home to a number of bioscience and medical technology centres outside the city centres. Additionally, Milton Keynes is home to a number of major financial and professional service companies as well as high performance technology and motorsport companies. The BCR includes transport user benefits such as improved productivity through improved connectivity of both businesses and people.
- 7.268 The proposed OCE is being developed by HE under the Roads Investment Strategy. The purpose of the new road is anticipated to improve connectivity between Oxford, Milton Keynes and Cambridge by diverting through traffic

⁷³⁸ Document NR48 paragraphs 9.5.98 to 9.5.102

away from Oxford's ring road and to '*mitigate congestion on the A34*'. It is being developed with the intention of complementing EWR in supporting economic growth across the wider Arc.

Bletchley Developments Limited (OBJ 239)

7.269 Plot 1067 has been identified as permanent land take, but should be assigned as temporary for the duration of construction works to Bletchley Viaduct. This land is required to provide working room around Bletchley Viaduct during the refurbishment works. These works involve lifting the viaduct sections off their supports to facilitate bearing replacement. As such, the equipment required for these works is large and requires the land to enable other vehicles to pass around the works during construction. The land will be reinstated to its previous condition on completion of the works⁷⁴⁰.

Kevin and Shaun McBride and Direct Pallets Ltd (OBJ 247)⁷⁴¹

7.270 The proposed PRoW has been discussed and consulted upon with CBC, and it has been concluded that the intended diversion is acceptable in conjunction with the current use. Furthermore, footpaths will be unmade where they are not designated as bridleways, 2m wide where practical, and share space with a vehicle track, as is proposed on all accommodation bridges in the Order that have a PRoW diverted onto them.

Cemex UK (OBJ 248)⁷⁴²

7.271 In accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006, NR sent notices directly to all owners and occupiers identified as being affected by the compulsory purchase of property for the purposes of the Scheme. As part of this process Cemex UK was issued with notices in respect of Order plots 1068, 1069, 1073 and

⁷³⁹ Document NR283 OBJ 238 Letter from NR to OBJ 238, dated 3 January 2019

⁷⁴⁰ Document NR50 paragraphs 4.4.85 to 4.4.88

⁷⁴¹ Document NR283 OBJ 247 Letter from NR to OBJ 247, dated 29 April 2019

1090 to the registered office. The check of the records of the registered office was undertaken prior to Cemex UK changing registered office and registering it with Companies House on 4 June 2018. The notices were subsequently reissued by e-mail dated 14 March 2019.

- 7.272 Following a meeting with Cemex UK on 16 April 2019, NR has undertaken to generate a traffic model of the access with its current operation and the proposed signal-controlled operation. A response is required from Cemex UK regarding its usage of the weighbridge, which will be used as a critical input in generating the model.

Planning Conditions⁷⁴³

- 7.273 With regard to the omission of references to the EA and NE in the final proposed draft conditions, it is a standard approach not to interfere with public bodies consulting with other public bodies. It is not necessary to include in a condition a reference to consult with regulatory bodies. As such, Condition 9 (CoCP) makes express reference to ecological management measures but it is not good practice to include a provision to consult with NE or the EA, and Condition 11 (ecology) has omitted the need for the LPAs to consult with NE.
- 7.274 Condition 11 (a) refers to Appendix A⁷⁴⁴, which gives a summary of ecological mitigation as part of the condition. This includes detailed mitigation for barn owls, making it unnecessary to include a separate condition to deal with barn owls. As such, it would be disproportionate to prevent any development between March and August to protect nesting barn owls, as suggested by BCC. Appendix A also includes mitigation for Salden Wood, as requested by BCC. A minimum maintenance period of 30 years does not need to be prescribed in this condition, as it will be the expectation and, by not

⁷⁴² Document NR283 OBJ 248 Letter from NR to OBJ 248, dated 30 April 2019

⁷⁴³ Oral submissions made by Timothy Mould on 25 and 30 April

⁷⁴⁴ Document NR266

specifying it, it will give greater flexibility if necessary.

- 7.275 The alternative planning condition on ecology proposed by NE⁷⁴⁵ would be unworkable and unrealistic. The ecological management plan to be submitted to, for approval by, the LPA will cover each matter in sufficient detail to ensure that it is understood, in place and carried out as required. There is no need to micro-manage the process and the decision as to the plan's acceptability will be with the LPA, who will be expected to consult with NE before approving the plan. The works will not be undertaken until the plan is in place.
- 7.276 The change to Appendix A to Condition 11 suggested by NE is unacceptable in relation to the bat mitigation at Sheephouse Wood, as the risk to bats of the Scheme at that location is not as significant as that from HS2. The ES⁷⁴⁶ indicates that the potential for the operation of the Scheme to give rise to significant risk to bats is so small that the mitigation would not be required. To carry out the required works would add an unnecessary and unreasonable cost and there is no evidence to support such an expenditure to create the Bat Mitigation Structure⁷⁴⁷.
- 7.277 Condition 11 (b) should not include the unnecessary detail suggested by NE and BCC. The strategy to achieve an overall 10% net gain in biodiversity for the Scheme will specify how this will be achieved and give an implementation timetable. To state a set period as to when it will be achieved would be unacceptable, as it goes beyond what is required in the NPPF⁷⁴⁸ and NR's commitment. The LPAs will have a measure of control over this strategy as they must give their written approval. It is not appropriate to include any

⁷⁴⁵ Document OBJ/242-6A

⁷⁴⁶ Document NR16 ES Volume 2i page 9-96 paragraph 9.6.26

⁷⁴⁷ Document NR259

⁷⁴⁸ The NPPF seeks to encourage a net gain and to set an arbitrary period as to when this would be achieved is unreasonable

remediation measures in the condition, as the strategy will include appropriate measures to address any deficiency that monitoring has revealed.

Report continued on next page

8. INSPECTOR'S CONCLUSIONS⁷⁴⁹

8.1 I have considered the matters arising from the proposed TWAO and the application for deemed planning permission together, as they overlap. I have based these conclusions around those matters about which the SoS has indicated that he particularly wishes to be informed and then set out my overall conclusions.

The aims of, and the need for, the Scheme (Matter 1)

8.2 The aims of the Scheme are given as the 'Key Objectives' in NR's SoC. These objectives are to improve east west public transport connectivity; stimulate economic growth, housing and employment; contribute to improved inter-regional passenger connectivity and journey times; maintain current capacity for rail freight and appropriate provision for anticipated future growth; consider and plan for future demand and economic growth; and provide a sustainable transport solution to support economic growth in the area. Based on the evidence provided, I find that these aims of the Scheme are widely supported by most of the parties who have made submissions to the Inquiry. **[3.6]**

8.3 The need for the Scheme is given in the DfT report: 'The Case for East West Rail, Western Section Phase 2'. This document states that the Scheme will reinstate and upgrade railway lines to enable new train services to run between Oxford and Milton Keynes, between Oxford and Bedford and between Milton Keynes and Aylesbury. It will follow on from the successful delivery of Phase 1 of the Western Section which upgraded the line from Oxford to Bicester Village, allowing the introduction of a new London Marylebone to Oxford service in December 2016. **[3.7, 7.127 and 7.132]**

8.4 Whilst some objectors have suggested that the Scheme is not needed, most have not questioned its need and there has been a significant level of

⁷⁴⁹ In these conclusions, references thus [] are to previous paragraphs in this report

support. The NIC's report 'Partnering for Prosperity: A new deal for the Cambridge-Milton Keynes-Oxford Arc' has indicated that the project will be a vital part of the investment in the infrastructure needed to help tackle the most serious constraint on the future growth of these cities and this Arc, which is its lack of sufficient and suitable housing. It suggests that EWR and the proposed OCE will enhance connectivity across the Arc, expanding the labour markets of key towns and cities, as well as improving connections with international gateways such as Heathrow. They will also provide a vital step in the development of a strategic transport corridor connecting East Anglia to the west of England and South Wales, as well as playing a key role in tackling the Arc's housing crisis, unlocking major new development locations and enabling transformational growth around existing towns and cities. **[3.4, 3.5, 3.6(c) 3.21(i) and (ii), 4.1, 4.9, 4.10, 4.13, 4.35, 4.40, 5.189, 5.196 to 5.198 and 7.129]**

8.5 The Scheme will help to significantly reduce journey times by public transport between Oxford, Milton Keynes and Bedford, in an area where public transport links are relatively poor. There will be much welcomed improvements to existing stations, including Bletchley Station, and the provision of a new station at Winslow. It will represent an obvious extension to Phase 1 (Oxford to Bicester) and the benefits that it will bring are not dependent on the completion of the Central Section (Bedford to Cambridge) or Eastern Section (Cambridge to East Anglia). **[3.6(a), 4.4, 4.14, 4.15, 4.32, 4.36, 4.37, 4.41, 7.126 and 7.132]**

8.6 In terms of freight, the Scheme will retain the currently utilised capacity, including the use by Energy from Waste and landfill sites in the area, and make possible new freight flows through increased inter-connectivity between running lines. It will provide a route for new and existing freight services to operate between the Oxford (Great Western mainline), Milton Keynes (WCML) and Bedford (MML), with the potential to remove a number of lorries from congested local and national roads. The loading capability

and gauge clearance that the railway will be built to will reflect the potential freight growth which can operate over the line. **[3.6(e), 3.16, 3.17, 4.11, 4.22, 4.24, 4.27, 4.39, 5.169, 5.189 and 7.129]**

8.7 The need to provide for future demand and economic growth has been compromised by the need to reduce costs from the original proposals to ensure that the Scheme is affordable and economically viable. Whilst the Scheme is no longer making provision for electrification, it is ensuring that new overbridges are built to allow for future electrification. It has also made economies in platform lengths, which enable the proposed 3-Car services to run, the use of a single track between Aylesbury and Claydon and reducing line speeds. However, I am satisfied that options are open to provide in the future electrification, increased platform lengths and improved capacity, if demand requires it and the funding is available. **[3.6(f), 3.14, 3.17, 4.16, 4.17 to 4.22 and 5.90]**

8.8 There is a need for the project to positively contribute to tackling climate change. In this respect, it will provide an attractive choice of using a sustainable means of travel between areas that are proposed for significant future growth. As such, it will reduce the impact of this growth in development on the environment, albeit that it would have made a greater contribution to tackling climate change had electrified services been operating on it. **[3.6(g), 3.18, 4.12, 4.26, 5.86 and 6.8]**

8.9 I conclude on this matter that the Scheme will meet the stated aims. There is a strong identified need for it to be completed as soon as possible to ensure that its future benefits are fully realised. Any significant delay to the implementation of the Scheme could have serious consequences on the delivery of improved connectivity by public transport and hence the provision of new housing and economic growth in the area of the Oxford-Milton Keynes-Cambridge Arc.

The main alternatives considered by NR and the reasons for choosing the proposals comprised in this project (Matter 2)

- 8.10 I have found from the evidence that EWR2 has undergone a thorough selection process to determine the most appropriate train services to run and its physical infrastructure. The ES examined a number of alternatives, including a 'do nothing', non-rail, strategic and local design alternatives and a consideration of alternatives to avoid or reduce impacts upon the environment and communities. **[3.10 to 3.13]**
- 8.11 The selection process has led to changes to ensure that it can demonstrate VfM whilst still meeting the overarching aims and outputs of the Scheme. These changes have included the provision of an Aylesbury to Milton Keynes service, rather than a Marylebone to Milton Keynes service; deferring the electrification of EWR indefinitely to allow project resources to be focused on opening the EWR2 section of the railway at the earliest opportunity; the removal of the dual tracking between Aylesbury and Claydon; the removal of an hourly freight path between Oxford and the WCML; and a reduction in platform lengths at Aylesbury Vale Parkway and Winslow Stations and Bletchley High Level Station from a length capable of accommodating an 8-Car train to a length capable of facilitating a 4-Car maximum train length to be sufficient to accommodate the proposed 3-Car units. **[3.14]**
- 8.12 Taking account of the completion of Phase 1 of the western section of EWR and the existing railway corridors between Bicester, Bletchley and Bedford and between Aylesbury and Bletchley, some of which are already operational, I find that the proposed route is the most appropriate for EWR2 to take. It has been split into 6 sections: 2A, 2B, 2C, 2D, 2E and the HS2 Interface Area. No party has put forward a feasible alternative route for any of the sections of the Scheme. Whilst the route at the eastern end of Section 2D, near Bedford, has the potential to change following the choice of route options for the Central Section from Bedford to Cambridge, no

option had been selected at the time of the close of the Inquiry and insufficient evidence has been provided to support any claims that the making of the Order would involve any abortive costs as a result of which option is selected. **[2.1 to 2.7, 3.9, 5.1 and 6.16]**

- 8.13 With regard to electrification, some objectors and supporters have expressed concern that the Scheme will not provide for an electrified service. Whilst this was included within the original specification for the project, some of the measures to allow the Scheme to be electrified are no longer part of the Scheme, following cost and viability challenges. The additional cost of replacing the five existing structures with ones that can support an electrified railway has been estimated as £34.5 million. I understand that this omission has resulted in one of the main savings in costs that form the basis for the DfT to support the funding of the Scheme. I consider that the extra cost of carrying out these works later is not relevant to the decision to make the Order, as there is no guarantee that these works would be required due to potential changes in circumstances in the future. **[3.14(c), 4.22, 4.30, 4.42, 5.86, 5.88, 5.201, 5.207 and 7.92]**
- 8.14 Although EWR2 was originally to be part of the Government's Electric Spine programme, this has now been deferred and plans to electrify the line between Oxford and Bletchley, to link up with the WCML have been removed. As such, the electrification of a section of EWR2 between Bletchley and Bedford is no longer justified. However, new structures required to be constructed as part of the Scheme will allow sufficient clearance to accommodate electrification. Based on the evidence provided, I find that the benefits of the Scheme that have been put forward in the evidence and within the statement of aims are not reliant upon it being electrified and can be achieved with a diesel-only railway. **[3.14(c), 7.34 and 7.35]**

- 8.15 The decision to provide single track rather than double track for parts of the Scheme, in particular Section 2E, is as a result of the need to make cost savings. I am satisfied that the current and projected passenger demand does not support double-tracking the line from Aylesbury to Milton Keynes. Furthermore, it was deemed no longer necessary following the removal of the London Marylebone to Milton Keynes service. However, the design for the renewal of the single track will not prevent the future installation of a second track. **[3.14(e), 3.17, 4.20, 4.22, 5.89(a), (b) and (e), 5.220, 7.87 and 7.216]**
- 8.16 Platform lengths have been designed based on the proposed services being 3-Car units. The estimated additional cost of providing longer platforms has been given as between £1.2 million and £3.2 million for Bletchley high level platforms, which would be disproportionate to the benefits that it would provide. **[3.14(e), 4.19, 4.20, 4.22, 4.26, 5.86, 5.89(c) and 7.88]**
- 8.17 Based on the evidence that has been put before the Inquiry, I am satisfied that NR has considered enough alternatives, and provided satisfactory reasons, to demonstrate that the proposals comprised in the Scheme are the most appropriate and economically viable to achieve the identified aims.

The justification for the particular proposals in the draft TWAO, including the anticipated transportation, environmental and socio-economic benefits of the Scheme (Matter 3)

- 8.18 Evidence for the Applicant, which has not been challenged by any substantive evidence, identifies significant transportation and socio-economic benefits. The document 'The Case for East West Rail, Western Section Phase 2', December 2018, provides evidence to support the Scheme. In terms of transport, it considers that journey time savings between newly connected towns have the potential to be considerable, providing significant indicative time savings by rail between Oxford and Milton Keynes, Aylesbury and Milton Keynes and Oxford and Bedford. It

suggests that EWR2 provides additional connectivity in its own right but will also help alleviate some congestion and traffic between places where people do not currently have a convenient rail option. Also, it could provide additional opportunities and potential cost savings for moving freight by rail, some of which could be re-directed away from the busy radial routes serving London, and reduce pressure on London-bound capacity by providing an east-west service without needing to travel into and out of London. **[3.15 and 3.16]**

- 8.19 With regard to the socio-economic benefits, the above document states that EWR will be an important enabler to accelerate development and re-development by improving connectivity and unlocking land for development. It is an integral part of realising the Government's ambition to see up to one million high quality homes built across the Oxford-Cambridge Arc by 2050 to maximise its economic growth. **[3.15 and 3.16]**
- 8.20 Whilst the Scheme would result in environmental impacts during its construction and operation, these would be limited by the measures that would be in place, by the implementation of a CoCP and the use of the established hierarchy of avoidance, mitigation and compensation for its environmental design. NR's commitment to a 10% net gain in biodiversity will be controlled by a planning condition (Condition 11) recommended to be imposed on the deemed planning permission and will result in an environmental benefit. **[3.20]**
- 8.21 The Scheme uses mainly an existing railway corridor, which forms part of the existing landscape and therefore the extent of the works required to upgrade, reconstruct and refurbish it for its use, and the associated temporary and permanent land take under the Order, are less than for a completely new alignment. The environmental design covers landscape, ecology, noise and vibration, and flood storage, as set out in the ES. It will bring environmental benefits in terms of providing a more sustainable means of travel between the centres of growth along its corridor for both

passengers and freight, reducing the need to travel by road, even though the environmental impact would have been improved by electrification.

[3.18, 3.19 and 3.20]

- 8.22 I conclude on this matter that any adverse effects due primarily to the Scheme's environmental impact on ecology and as a result of additional noise and vibration and disruption during construction would, taking account of the proposed mitigation measures, be more than offset by the benefits. As such, NR has provided a strong case to justify the proposals in the draft Order.

The extent to which proposals in the TWAO are consistent with the National Planning Policy Framework (NPPF), transport policies, local planning and environmental policies (Matter 4)

- 8.23 The NPPF is supportive of the provision of infrastructure, such as that which would be provided under the Order. Paragraph 72 indicates that the supply of large numbers of new homes can often best be achieved through new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities. The Scheme would help provide this infrastructure to support the new homes that are proposed, and have been allocated on sites, near to the route. **[3.21(iii)]**
- 8.24 Section 6 of the NPPF recognises the role that infrastructure projects such as EWR can play in building a strong, competitive economy, with a reference in paragraph 81 to planning policies needing to seek to address potential barriers to investment, such as inadequate infrastructure. Section 9, dealing with promoting sustainable transport, seeks to ensure in paragraph 104 (e) that planning policies provide for any large scale transport facilities that need to be located in the area, and the infrastructure and wider development required to support their operation, expansion and contribution to the wider economy. As such, the Scheme represents the type of

sustainable transport promoted in the NPPF that is likely to play an important role in the economic growth of the area. **[3.21(iii)]**

- 8.25 Some objectors have suggested that the Scheme fails to comply with the environmental objectives in the NPPF with regard to the protection of birds and the assessment of flood risk. However, the mitigation hierarchy of avoiding, mitigating and compensating for adverse impacts that has been identified in the ES as being applied to the Scheme complies with the approach in paragraph 175 of the NPPF, and NR's commitment to delivering a biodiversity net gain of 10% complies with the objective given in paragraph 170 (d) of the NPPF. With regard to flood risk, I am satisfied that the mitigation measures that have been included within the design of the Scheme, including the provision of CFSAs at locations agreed with the EA, comply with the provisions in the NPPF. **[3.4, 3.20, 3.44, 5.73, 5.75, 5.215, 5.227 and 5.234]**
- 8.26 In terms of transport policies, the National Infrastructure Delivery Plan 2016-2021 lists EWR as one of the key projects as a priority to 2021. The project is also given importance in the NIC document 'Partnering for Prosperity: a new deal for the Cambridge-Milton Keynes-Oxford Arc' as presenting a 'once-in-a-generation opportunity' to enhance connectivity across the Cambridge-Milton Keynes-Oxford Arc, expanding the labour markets of key towns and cities, as well as improving connections with international gateways. The National Policy Statement for National Networks supports the principle of the Scheme in that it will '*encourage further modal shift to rail*' and re-open alignments '*to improve capacity, speed, connectivity and reliability.*' **[3.21(i), (ii) and (iv)]**
- 8.27 With regard to local policies, the Scheme will be located within a number of different local authority areas. As such, policy support for EWR is included in many local transport and development plans, including the Buckinghamshire County Council Local Transport Plan 4 (2016-2036), which supports '*the earliest possible delivery of East West Rail services*' and '*a new*

East West Rail station, which is located in Winslow. Other recent transport and local plans that offer support for EWR include Buckinghamshire Thames Valley Strategic Economic Plan Refresh (2016-2031), Connecting Oxfordshire: Local Transport Plan 2015-2031, Cherwell Local Plan 2011-2031, Milton Keynes: Local Transport Plan 3 (2011 to 2031), Bedford Borough Local Transport Plan (2011-2021), Central Bedfordshire Core Strategy (2009) and CBC Transport Strategy (2011). **[3.22]**

- 8.28 A number of emerging and adopted development plan policies include sites near to the Scheme corridor that are allocated for new development, including housing, which may be affected by the land take in the Order. In this respect, emerging VALP Policy T2 is headed 'Protected Transport Schemes' and provides that '*Planning permission will not be granted for development that would prejudice the implementation of existing or protected transport schemes including the implementation of the East West Rail project*'. Therefore, although the VALP allocates sites to accommodate the growth of 1,166 new homes in Winslow, as identified in Policy S2, this is linked with the development of EWR and a new station in Winslow. I find that this indicates that the provision of new housing development in the emerging VALP is dependent upon the delivery of EWR2 and the new station. **[3.22(vi) and (viii), 5.17, 5.18 and 7.41]**
- 8.29 In the recently adopted Plan:MK, Policy SD11 allocates land for the SEMK development and requires it to meet the requirements set out in other policies in the plan. Section 4, paragraph 4.17 of Plan:MK refers to the potential future opportunities provided by the completion of EWR and the new Cambridge-Milton Keynes-Oxford growth corridor and indicates that the housing delivery must not prejudice their delivery. Furthermore, Plan:MK paragraph 5.24 acknowledges that in some areas land may be required from within the Policy SD11 area in order to construct EWR2. Other than these objections regarding the use of allocated land, policy support for EWR2 has not been contested at the Inquiry. **[5.80, 5.157(iv), 7.82 and 7.197]**

8.30 For the reasons given above, I conclude on this matter that the proposals in the Order are consistent with the NPPF, and with transport policies, local planning and environmental policies.

The likely impact of the exercise of the powers in the proposed TWAO on land owners, tenants and statutory undertakers, including any adverse impact on their ability to carry on their business and undertakings effectively and safely and to comply with any statutory obligations applying to their operations during construction and operation of the Scheme. (Matter 5)

(a) the impact on roads, including the Strategic Road Network, from increased traffic and construction vehicles

8.31 The main concern of HE about the impact of the Order on the Strategic Road Network is regarding construction traffic at the M40 Junction 10 and Baynards Green roundabout. The SoCG includes measures that have been agreed by HE to remedy this concern. Based on this, I am satisfied that the Order would not result in any significant adverse impact on the Strategic Road Network. **[3.23, 3.63, 6.9 and 6.10]**

8.32 The imposition of a highways condition (Condition 14) that will include the approval of a CTMP to regulate and control the impact of construction traffic, which has been agreed with the local highway authorities, will satisfy the concerns expressed by these authorities, as confirmed by the SoCGs. Furthermore, a CoCP to be approved by the LPAs under a planning condition (Condition 9) will be implemented. These measures should ensure that the impact of construction traffic on the local roads will be suitably mitigated and minimised. **[3.23, 3.24, Error! Reference source not found., 3.59, 5.51, 5.183 and 7.121]**

8.33 Some objectors have expressed concerns about the impact of construction traffic, and in particular HGVs, on the roads in the area of their property. NR has addressed most of these concerns, but the construction of a scheme as

large as that proposed under the Order will inevitably result in some disruption to the roads in the area. There is very little evidence to counter NR's contention that construction traffic in the area of Littleworth Farm is not expected to result in any significant delay to other traffic on the road and that total traffic flows will remain very low. NR has suggested that access will be maintained along Mill Road and Poundon Road whilst highway improvements are being made to accommodate the construction traffic. NR has stated that the closure of Furze Lane is necessary to undertake general repairs and an upgrade to the bridge and that it will co-ordinate this and the temporary access to the footbridge with Bloor Homes, who will be affected. The evidence has demonstrated that NR has taken all the available measures to minimise disruption to local residents as much as possible during the construction phase. **[5.96, 5.97, 5.99, 5.143, 5.200, 5.208, 5.216, 5.218, 5.219, 7.109, 7.137, 7.148, 7.175 and 7.187]**

8.34 The impact on the roads during the operation of the Scheme would be likely to be positive due to it increasing the capability of taking freight traffic off the roads and public transport options in the area, thus reducing the reliance on the use of the roads, some of which are unsuitable for heavy traffic. The TA concludes that, without the project and given the expected population and economic growth in the area, traffic levels are likely to increase pressure on the existing road network leading to a worsening of environmental effects associated with traffic congestion. The traffic and transport benefits during the operation of the Scheme are included in the project's objectives. **[3.6(e), 4.12, 4.24, 4.37 and 4.39]**

8.35 Most of the objectors' concerns about traffic during the operation of the Scheme are regarding the impact at level crossings due to additional barrier down time. In this regard, the suggested proposal to alter the junction between Cranfield Road with Station Road, Woburn Sands, is a matter for the Highway Authority. Concerns about the impact on the roads due to congestion caused by the additional barrier down time at the level crossing

on London Road in Bicester have been examined by NR. Whilst this crossing is outside the area that is covered by the Order, NR has indicated that it is investigating a permanent solution, such as the introduction of a bridge or underpass, and will implement measures to reduce the impact in the meantime. The evidence provided by NR has demonstrated that the adverse impact as a result of the barrier down time after the proposed mitigation would be insufficient to outweigh the overall benefits that the Scheme would provide to the roads in the area. **[5.85, 5.104 and 7.92 to 7.96]**

8.36 With regard to concerns about the potential highway impact of the Scheme on the level crossing at Bow Brickhill, I observed that the congestion in the area is an existing problem, which NR has shown will not be made materially worse by the proposed services that will be provided as part of the Scheme. Furthermore, it will be the developers' responsibility to address any highway impacts at this location as a result of the proposed new development in the area. **[4.24, 4.44, 5.89(f), 5.124, 5.125 and 7.99 to 7.101]**

8.37 I find that the beneficial impact that the Scheme will have on the roads during the operation of the railway through its use by freight and passengers will be significant and will justify any resulting increases in congestion at localised areas along the route. I am satisfied that measures that will be implemented through planning conditions will ensure that there will be sufficient control over the construction traffic on the local roads to ensure that any impact during the construction of the Scheme will be minimised. As such, I conclude on this matter that the Scheme will have an acceptable impact on the roads, including the Strategic Road Network, from increased traffic and construction vehicles.

(b) the impacts on land use, including the effects on commercial property and the effect on other planned development in the area

8.38 The impact on land use is mainly due to the compulsory acquisition of land which has either been allocated, or has a planning application submitted, for

new development. In this respect, NR has shown that it has entered into, or is in the process of negotiating, agreements with the land owner/developer. As such, most of the objectors have not appeared at the Inquiry or have narrowed the scope of their evidence that they have referred to at the Inquiry. Much of this land is to be acquired for environmental mitigation by way of ECSs or CFSAs. NR has stated that many of the CFSAs can be returned to the original owner subject to agreement of an appropriate maintenance plan, making it unlikely that there would be any significant effect on the use of the land. This includes land in the ownership of David Aubrey Calcutt and land to be used for future development by Kier Group plc and Bloor Homes. **[3.25 to 3.27, 5.129, 5.130, 7.134, 7.139 and 7.173]**

8.39 The objections regarding the loss of potential or allocated land for development have not been on the basis that the Scheme would prevent the development from being carried out but that it would restrict or reduce the scale of that development. The proposed housing development on an allocated site in the VALP would potentially be reduced by about 20 dwellings should the land be taken under the Order for environmental mitigation (ECS B10). Therefore, I find that, if this land is considered to be necessary to be acquired for an ECS to satisfy the requirements of NE, the potential loss of the land for allocated housing is outweighed by the harm that the failure to adequately mitigate the impact of the Scheme on European Protected Species would have on the implementation of the Scheme and the resulting benefits. **[5.17 to 5.19, 7.40, 7.41 and 7.59]**

8.40 Similarly, land to be acquired for ECS B9, if considered necessary to satisfy the requirements of NE, has not been shown to be sufficiently valuable for future development to outweigh any harm that its omission as an ECS would cause to the delivery of the Scheme. The proposed development by Bloor Homes at Furze Lane should not be significantly compromised by the construction of the Scheme, as NR is willing to reach an agreement to ensure that access to the site would be maintained. The development of Swan Hill

Homes site should not be harmed by the Order, as NR has stated that it has a draft agreement to secure the relocation of the temporary access to the works across the land to a more acceptable location. **[5.40, 5.49, 5.142, 5.143, 5.151, 7.61, 7.175 and 7.186]**

- 8.41 Other potential development sites that might be affected by the Order include the SEMK, allocated in Plan:MK. In this regard, at the close of the Inquiry, the evidence has indicated that the only issue that remains to be agreed is the replacement of Woodleys Farm level crossing in Woburn Sands. In this respect, the Order would make provision for an overbridge at an appropriate location to accommodate the existing right at the farm crossing and Fisherman's Path PRow. It should not be expected to make provision for a new grade-separated public crossing to serve future development coming forward under the SEMK. However, NR has indicated that it will be prepared not to exercise the powers in the Order that authorise the provision of the Woodleys Farm Overbridge, provided that a new crossing is progressed as part of the SEMK without prejudicing the delivery of the Scheme. **[5.64, 5.72, 5.79, 5.81, 5.160 to 5.160, 7.79 to 7.86 and 7.197]**
- 8.42 The main area of dispute in the agreement regarding the provision of a new crossing as part of the SEMK appears to me to be the 'shared value' position of NR, which I do not consider is relevant to the decision to make the Order. Therefore, as there is no agreed programme for the delivery of the SEMK development to show when it is likely to commence, the existing rights within the Order should be accommodated by retaining the powers to construct the overbridge and to acquire or possess the land needed for its provision to ensure that there is no uncertainty over the timely and economic delivery of the Scheme. I am satisfied that this approach would not prejudice the delivery of the SEMK development as a result of severance issues. It would also accord with the relevant policies in Plan:MK, which seek to ensure that housing delivery must not prejudice the delivery of key infrastructure projects

that include EWR. **[5.68, 5.70 to 5.72, 5.80, 5.81, 7.82 to 7.86 and 7.198]**

- 8.43 The use of land from Woburn Estates, which is considered by the Objector as being productive agricultural land, is necessary for the purposes of ECS D2. I am not satisfied that sufficient evidence has been provided to show that there are any other suitable alternative sites or that it is not needed. However, NR has assumed that it would be returned to the land owner, subject to an agreement for it to be maintained and managed as an ECS. This would still require the Order to retain the powers of acquisition. **[5.50 and 7.71 to 7.78]**
- 8.44 The Old Brickyard Farm site has been noted in the ES as being one for development in the reasonably foreseeable future. Some land would be required for environmental mitigation. However, NR has not been provided with any details of the design of housing development and planning permission has not been granted on the land. Therefore, NR is not in a position to provide any measures in the Order to ensure that the future development would be protected from any effects of the Scheme. Furthermore, any necessary measures to mitigate the effects of the railway on future development would be the responsibility of the developer of the site. **[5.167 and 7.206]**
- 8.45 With regard to the two major planning applications at the former Kempston Hardwick Brickworks and at the former Stewartby Brickworks, the Objector is concerned that the Order fails to take account of the proposals which seek to deliver new homes and employment development in a location consistent with the aims of the NIC and emerging local policy. However, NR has indicated that it is working with the Objector to reach agreement on the main issues, including the provision of an alternative bridge to the proposed Manor Road overbridge. As such, I am satisfied that the Scheme would be able to accommodate any future development at these locations, by agreement,

without the need to modify the Order. **[5.1, 5.156 to 5.168, 7.36 and 7.193 to 7.196]**

- 8.46 Based on the evidence provided, the concerns about the effects on businesses due to loss of land at Newton Longville, at Mercury House and Salden Wood have not been substantiated and I am satisfied that the Order would ensure that any effects on the businesses would be kept to a minimum. The suggested alternatives to the land take at Newton Longville and access route at Salden Wood have been considered by NR and found to not be suitable for the proposed purposes. **[5.138, 5.139, 5.179, 5.190, 7.162 to 7.165, 7.249 to 7.259 and 7.269]**
- 8.47 The effect on the wedding business at the Tythe Barn would be kept to a minimum by new planting, the return of land after the completion of environmental mitigation works and other measures that would be secured under an agreement to be entered into with NR. NR has not been able to secure an alternative access but has shown that it is making attempts to do so by negotiation with another land owner. In the meantime, it will be necessary for access to be retained in the Scheme. NR has stated that the business will be able to trade as normal until the beginning of 2020, which would enable it to have sufficient time to make the necessary provisions for any works that might affect it. **[5.172, 5.173, 7.236 to 7.238 and 7.240]**
- 8.48 Other businesses that could be affected by the Scheme include a business in Bletchley and FCC Environment Ltd. NR has managed to reduce the amount of land to be acquired from the Bletchley business and will mitigate any adverse effects during construction, having drawn up a draft agreement. FCC Environment Ltd is concerned about the effect on its freight operation, which NR has sought to facilitate its maintenance throughout the works, and boreholes, which NR is seeking to agree the safeguarding measures and access arrangements required for monitoring them. These measures should ensure that these businesses would not be adversely affected. **[5.128, 5.169, 7.133, 7.222 and 7.223]**
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- 8.49 With regard to the concerns of FDL about the impact of the temporary loss of land on its business, NR has suggested that the use of vehicle tracking has shown that it is possible to operate the loading bays within the available space, and has indicated that discussions are ongoing in order to reach an agreement. Therefore, I find that there is insufficient evidence to show that the proposal would have an unacceptable effect on FDL's business. Although objections regarding the commercial use of land at Ridgmont Station and Bletchley Station were submitted at a late stage, I am satisfied that NR will be able to find a solution to the concerns expressed to ensure that the businesses would not be significantly harmed as a result of the works. **[5.153, 5.154, 5.191 to 5.195, 7.191, 7.192 and 7.270 to 7.272]**
- 8.50 Most of the statutory undertakers who objected to the Order have withdrawn their objections, with TWUL being the only remaining objector. The Protective Provisions in Schedule 16 of the draft Order, which cover electricity, gas, water and sewerage undertakers, operators of electronic communications code networks and drainage authorities, will ensure that the construction of the works does not impair on the continued ability of the statutory undertakers to discharge their statutory functions. **[3.28]**
- 8.51 With regard to TWUL, its outstanding objection is regarding Article 19(8) of the draft Order. It is concerned that it would fail to retain control over discharges, as Article 19(8) would allow NR to discharge without consent being given should TWUL not deliver within 28 days of an application to discharge. TWUL wishes to ensure that it retains its control over its ability to comply with its statutory duties to protect its customers' homes and the environment from flooding, ensure compliance with environmental permits and protect the health and safety of employees and the public. NR has provided evidence to show that this effective deemed consent has previously been applied to other orders made under the TWA authorising railways without any noted problems. **[5.5 to 5.9 and 7.37 to 7.39]**
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- 8.52 Based on the evidence submitted, I find that the inclusion of Article 19(8) would not compromise the ability of TWUL to carry out its statutory duties, as Article 19(3) gives TWUL the powers to refuse consent to discharge if it is not satisfied that the material to be discharged is appropriate or suitable for discharge. Any application will be accompanied by plans and an opportunity for TWUL to supervise any opening into a public sewer or drain must be given under Article 19(4), allowing TWUL the option of refusing an application if it considers that it does not have adequate information to determine it. Furthermore, it would ensure that consents would be determined within a reasonable time and thus prevent significant and potentially costly delays to the completion of the Scheme. **[5.9 and 7.38]**
- 8.53 For the above reasons, I have found that the impacts of the construction and operation of the Scheme on land use, including the effects on commercial property and the effect on other planned development in the area, would be adequately mitigated to ensure that the benefits of the Scheme would outweigh any harm.

(c) PRowS and access to public amenities

- 8.54 The findings of the TA in the ES have indicated that the impact of temporary and permanent closures of PRowS is potentially significantly adverse on pedestrians and cyclists due to severance with increases in journey times, gradient and crossing facilities. The mitigation includes consultation, enhanced wayfinding signage, provision of alternative routes, the erection of public information notices and improved crossing facilities on the railway line. Much of this mitigation would be secured by planning condition (Condition 14) which requires the approval of a CTMP to include temporary road and PRowS closures and details of PRowS diversions or new PRowS to be approved. The local highway authorities have withdrawn their objections regarding PRowS on the basis of the imposition of this condition on the deemed planning permission. Furthermore, the Ramblers Association withdrew its objection. **[3.29]**

- 8.55 NR has indicated that its general approach taken to PRowS is to close them temporarily throughout the works, which should remove the risks associated with the people/plant interface during the construction of the works. NR has stated that the PRowS will be re-opened at the earliest opportunity once it is safe to do so. The main outstanding concerns regarding PRowS are regarding the crossing points over the railway. Concerns expressed by Launton Parish Council and Bicester Town Council regarding footpath diversions and closures in the area between Bicester and Launton would be addressed by the provision of a new footbridge at Grange Farm, which I am satisfied would not result in excessive additional journey times/distances. **[5.170, 5.209, 5.239, 7.151, 7.226 and 7.261]**
- 8.56 The location of the diversion of Fisherman's Path PRow is potentially affected by the SEMK allocated development. However, as this development is at a relatively early stage in its design, the Order proposes a bridge appropriately located to accommodate the rights of access that the existing crossings that it will replace provide, which is a farm access route and public footpath. Similarly, Bow Brickhill bridleway 014 crossing does not need to take account of the allocated housing site due to the uncertainties at the current time. Cycling UK has objected to the proposal to install a stepped footbridge at the Jarvis Lane level crossing on a PRow, requesting that it be ramped to cater for cyclists and wheelchairs. However, insufficient land has been allowed in the Order for a ramped footbridge and its additional costs would be disproportionate to the advantages that it would provide, given the condition and usage of the PRow. **[5.65, 5.86, 5.162, 5.187, 5.188, 7.80, 7.81, 7.102, 7.117 and 7.198]**
- 8.57 The outstanding main issue involving access to public amenities is regarding the effect of the proposed works on the 'Cattle Arch' on access to the Allotments, Selbourne Avenue Cemetery and Mausoleum, Bowling Club and Scot Sports and Social Club. In this respect, NR has indicated that the necessary works to the Cattle Arch over Shelbourne Avenue will be
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programmed to ensure that they will not affect the access to the amenities.

[5.203 and 7.125]

- 8.58 For the above reasons, I find that the impact of the Order on PRowS has been suitably mitigated and, with the implementation of the planning conditions under the deemed planning permission, would not cause any unacceptable harm in terms of severance and journey distances. It would also not cause any significant problems with access to public amenities.

(d) the impact from the cumulative effects of HS2

- 8.59 The main concerns about the cumulative effects of the Scheme and HS2 are during the construction of these projects, and in particular the construction traffic accessing the area of their interface. The TA provides a detailed analysis of the impact of HS2 construction and operational traffic and an assessment of the HS2 interface with the Scheme in relation to other potential areas of environmental impact. None of the objectors have provided evidence to oppose the findings of the assessments of the cumulative effects. NR has stated that HS2 construction traffic is considered within the assessment of effects of the Scheme and the subsequent proposed mitigation measures and the works in the area of HS2 have been co-ordinated with the works for that adjacent scheme. **[3.30, 5.204, 5.208, 5.219, 6.11, 7.150 and 7.166]**
- 8.60 NR has indicated that it will have a strategic integrated programme in place which will allow for the Scheme and HS2. This will facilitate the maintenance of FCC Environment Ltd's rail freight operation. A request for an interface station between the two railways would not be possible under the Order, as it is not included as part of HS2. A suggestion to combine the compounds in the area of the schemes has been rejected by NR on the grounds that the HS2 Compound would be the incorrect place to service the works along the Scheme. **[4.44, 5.169, 5.208, 7.147 and 7.222]**

8.61 I am satisfied that NR has considered the impact from the cumulative effects of the Scheme and HS2 in its TA and that it has taken the appropriate measures to adequately mitigate any significant harm, including from the construction traffic that would be generated by the two projects.

The likely impacts of level crossing closures (Matter 6)

8.62 The approach that NR has taken to level crossing closures relies upon the ORR's guidance on reducing and controlling risk at level crossings, which where practicable seeks to replace level crossings with bridges, underpasses or diversions. As a result of this approach, the Order would allow for the closure of all level crossings on the routes between Bicester and Bletchley and between Aylesbury and Claydon (Sections 2A, 2B and 2E) where it is carrying out major works. On the section of route between Bletchley and Bedford (Section 2D), where the Scheme would result in a significant increase in the use of the railway, NR has taken a risk-based approach to closures using its ALCRAM assessment process. I find that this approach is acceptable and has successfully been used by NR elsewhere to determine level crossing closures. **[3.32 to 3.37]**

8.63 NR has assessed the impact of the proposed level crossing closures and diversions on vehicles, pedestrians, cyclists and users of public transport in the TA. Most of the objections in this respect are as a result of the proposed closures of Woburn Sands School Crossing and Lidlington School Crossing and the Scheme not including the closure of the level crossing and provision of alternative means of crossing the railway at London Road, Bicester and at Bow Brickhill. **[3.31]**

8.64 The objections regarding the closure of Woburn Sands School Crossing are mainly based on concerns that the alternative crossing at Station Road would not be safe for the number of people, particularly children, that would be likely to use it. WSTC, who represented the objectors at the Inquiry, has not disputed that the level crossing should be closed on safety grounds.

Based on the evidence provided, I agree that it is appropriate that it be closed due to the record of reported incidents and the proposed increase in services that would use the line at the crossing, even though some suggestions have been made to improve the safety. I am concerned that the likely additional use of the Station Road crossing would present an increase in risk to pedestrian safety at that location due to potential conflict with traffic entering and leaving the nearby junction of Cranfield Road with Newport Road/Station Road. **[4.27, 4.44, 5.82 to 5.84, 5.89(g), 5.101, 5.206 and 7.21 to 7.24]**

8.65 WSTC has supported the replacement of the School Crossing by a stepped footbridge, which would be less expensive and not as visually intrusive as the ramped footbridge that had previously been granted planning permission. However, it would not be suitable for use by pushchairs or those with reduced mobility, who would need to use the proposed diversion to the Station Road crossing. Whilst NR has submitted an application for this bridge, it is not included in the Order as part of the Scheme and NR would need to secure approval, purchase the required land and ensure that it would satisfy the relevant Equalities legislation. Therefore, although the preferred option of a footbridge was not opposed at the Inquiry, I am not able to consider it as being part of the Scheme. NR is proposing improvements to the Cranfield Road/Newport Road/Station Road junction and Station Road crossing and has indicated that there is no evidence of traffic accidents at that location. Taking account of this and the relatively poor safety record of the School Crossing, I have been provided with insufficient evidence to show that the proposed closure of the School Crossing and the use of the alternative route would result in a serious enough risk to pedestrian safety to justify any change to the Order. **[5.84, 7.23 and 7.24]**

8.66 The proposed closure of the Lidlington School Crossing has not met as much opposition as the closure of Woburn Sands School Crossing and I find that

the proposed alternative route to use the controlled crossing at Station Road would not present the same risks to pedestrian safety as at the Woburn Sands alternative route. The alternative would result in a relatively short additional distance, it would be unlikely to result in any significant increased risk to pedestrian safety and would not materially add to the cost of the Scheme. NR has indicated that it is considering the feasibility of providing a stepped footbridge at Lidlington School Crossing, as requested by Lidlington Parish Council and other objectors at the Inquiry. However, it will depend upon compliance with the Equality Act 2010, confirmation that the land required would be able to be acquired and a successful planning application. **[5.4, 5.91, 5.93 to 5.95 and 7.25 to 7.33]**

8.67 Whilst some of the objectors have supported the need for a bridge at Lidlington on the basis of future proposed development in the area, there are insufficient details of this development to determine where the appropriate crossing points would be located, and it would be the developers' responsibilities to make the necessary arrangements to accommodate it. There is no evidence to show that the proposed closure of Lidlington School Crossing, together with the South Pilling Farm level crossing would cause any significant problems due to severance. Therefore, although LPC has submitted a survey to demonstrate support for a replacement footbridge, I find that the evidence does not support the need for it at the Lidlington School Crossing and the proposed closure and diversion is justified. **[5.4, 5.91, 5.94 and 7.31]**

8.68 There have been objections regarding the resulting increased barrier down time at the London Road level crossing in Bicester, with LVCA representing the objectors at the Inquiry. NR has accepted that the introduction of the proposed increase in train services would lead to an increase in barrier down time. This will not form part of the Order. However, NR would be introducing measures, such as changes to signalling, to reduce barrier down time as part of the Scheme and has suggested that the resulting down times

would be comparable to that at other busy level crossings that operate safely. Furthermore, it has provided data to show that the level crossing would be operating within capacity. As such, I find that there is insufficient evidence to support the need for an alternative crossing, such as a bridge, to replace London Road level crossing, as part of the Order, particularly as there is access either side of the crossing to Bicester Village Station. Nevertheless, NR has suggested that it is investigating a permanent solution. **[5.102 to 5.106, 5.239, 7.92 to 7.96 and 7.260]**

8.69 Another crossing that objectors have indicated should be replaced by a bridge is at Bow Brickhill. Whilst I observed that the traffic in that area forms extensive queues during the evening peak times, this is the existing situation and NR has shown that the proposed train services would not make it materially worse. Therefore, the replacement of the crossing by a bridge is not justified under the Scheme, and its introduction would result in considerable delays to the implementation of the Scheme. The impact of future developments in the area on the highway network do not need to be considered in deciding whether to make the Order, as it is uncertain at the moment and it is primarily the responsibility of the developer. **[4.44, 5.89(f), 5.124, 5.125, 7.99 to 7.101 and 7.117]**

8.70 Other concerns that have been expressed about level crossing closures have included the one in the area of Griffin Lane, where service speed and frequency will be increased under the Scheme, increasing the risk to safety. The proposed closure and diversion over Griffin Lane Overbridge would be safe and suitable for use by pedestrians, even though NR has accepted that it may not be considered to be as attractive. Therefore, I find that its closure and diversion are justified on safety grounds. The concerns about level crossing closures at Manor Road and Stewartby are regarding the need to allow for future development proposals in terms of the design and location of alternative crossings, but there is currently too much uncertainty

over the development proposals to include these in the Scheme. **[5.1, 5.157(ii), 5.199, 5.238, 7.36, 7.136, 7.193, 7.195, 7.201 and 7.245]**

8.71 Concerns about the proposed diversion route following the proposed closure of Weasels Lodge level crossing with regard to moving livestock and machinery to land on the opposite side of the railway line have not been substantiated, given the evidence provided by NR. Similarly, I have insufficient details to substantiate other concerns about level crossing closures, including at Aspley Guise, to give them any weight. **[4.44, 5.138, 5.174 and 7.165]**

8.72 I have had regard to the duties under the Equality Act 2010. In this respect, I am satisfied that the diversions, with the proposed improvements, would be appropriate and not unacceptably circuitous. As such, I find that the level crossing closures would not disproportionately disadvantage anyone, including the elderly and wheelchair and pushchair users. Therefore, for the above reasons, I conclude on this matter that the likely impacts of level crossing closures have mainly been addressed by suitable diversions and/or replacement bridges to ensure that they would not be significant.

The likely environmental impacts of constructing and operating the project (Matter 7)

8.73 The ES has assessed the likely environmental effects, including cumulative impacts based on RFFP, and NR has published the FEI following further ecological survey work carried out throughout 2018. The principal findings have shown that the potential environmental impacts of the Scheme during construction and operation are mainly landscape and visual impacts, impacts on ecology, noise and vibration and flood risk. The material adverse impacts on air quality have been identified as occurring during construction, and in particular due to dust at some of the construction compounds, which would be mitigated under the CoCP. Whilst some

objectors have expressed concerns about the pollution from operating diesel locomotives, the operational effects on air quality were found to be negligible. **[3.38, 4.26, 7.35, 7.128, 7.189 and 7.255]**

- 8.74 The ES concludes that the landscape and visual impacts have been assessed in parallel with the development of the project design, which has guided the strategy to mitigate the effects. The potential construction phase impacts are given as the removal of existing vegetation, earthworks, the presence and movement of large construction plant and machinery and the presence of compound areas. The potential impacts during operation are the absence of mature vegetation alongside the railway, new or substantially increased train movements and new stations, masts, bridges and signalling infrastructure.
- 8.75 The ES summarises the potential effects on ecology as being, during construction, the complete loss of Railway Bank by Salden Wood LWS and the Waddesdon Station Complex LWS, with no loss of habitat from sites on the Ancient Woodland Inventory. It confirms that main river permanent watercourse habitat losses are minimal and will not result in any significant effects. Terrestrial and aquatic habitat losses have the potential to affect populations of GCN and reptiles, including the adder, and the removal of scrub and woodland have the potential to affect roosting, foraging and commuting bats, hazel dormouse, breeding and wintering birds, including the barn owl, and terrestrial invertebrates. During operation, it considers that the western boundary of Sheephouse Wood SSSI and ancient woodland could be indirectly affected by shading from the bat mitigation structure to be constructed over HS2. It suggests that otters, bats and barn owl would be at risk of death or injury through collision with trains.
- 8.76 The FEI has re-examined the potential effects on the ecology given in the ES following further ecological survey work. This has resulted in some changes, such as the white-clawed crayfish being found not to be present in the Scheme area. NR has confirmed that the calculation of net loss/gain in

biodiversity was calculated on the assumption that nothing would be retained within the Order's red line boundary and that there would be no on-site enhancement, which it has suggested would represent the worst-case scenario. It has then calculated the net overall loss in units under three different metrics (NR's, Defra and Warwickshire), with most of the loss being in the area of Route 2B. **[3.38, Error! Reference source not found. and 7.6]**

8.77 NE has criticised the level of survey work that has been carried out in order to determine the baseline used to assess the impact that the Scheme would have on biodiversity and European Protected Species, and in particular bats. In this respect, I accept NR's submissions that at the current stage of development of the project it is not possible to survey all the land, particularly as it would be difficult to gain access to land that is still in private ownership. I cannot see that the reasons for not being able to carry out the survey are relevant, given the extensive area that is required to be surveyed and the level of survey work that has been able to be carried out, including trapping and radio tracking of bats. **[5.109, 5.113 to 5.117 and 7.9]**

8.78 NR has adopted a precautionary approach in assuming, for instance, that all vegetation within the Scheme area would be lost; that there is a potential for moderate numbers of roosts of common species of bats and smaller numbers of roosts of rarer species and the rarest species and a smaller number are likely to be of higher conservation importance; and that there are a further 460 water bodies with populations of GCN. The level of information that will become available to assess the ecological impact of the Scheme will increase as more survey work is carried out and the design develops. As such, the impact on biodiversity and protected species will be better known. Whilst I accept that the baseline information is currently inadequate, particularly with regard to bats, I am satisfied that the planning conditions and land that would be available for mitigation would be sufficient to ensure that the necessary measures to protect species, including bats,

would be able to be provided to enable it to be licensed by NE. Therefore, at the current stage, I find that the precautionary approach that NR has taken would ensure that all the likely ecological impacts would be taken into account in the design of the Scheme and mitigation measures, even if a more precise determination of the actual impacts on species and habitats would be provided at a later date. **[5.109, 7.18(ii), (iv), (v) and (vi) and 7.231]**

- 8.79 In terms of noise and vibration, the ES concludes that, without appropriate mitigation measures, there will be potential significant adverse effects from noise associated with construction and the running of construction compounds in Route Sections 2A and 2B and the demolition or repair of existing structures and construction of new structures. NR has assessed the likely impacts during the operation of the Scheme on the assumption of full service operation, which it has taken as being the reasonable worst-case. This has identified that, without mitigation, the significant adverse effect threshold will be exceeded at 122 noise sensitive receptors at night and two during the day. 13 properties are predicted to have significant adverse ground-borne vibration effects from the operation of the Scheme. This is based on NR's calculations that show that properties further than 20m away from the Scheme will not suffer from any adverse effect, which has not been questioned. **[3.43, 7.107, 7.112, 7.145 and 7.206]**
- 8.80 The potential effects on water quality and flood risk are summarised in the ES. It concludes that there is mainly a low risk of flooding with the most significant sources being fluvial and surface water flooding. Without mitigation, the effects on flood risk are predicted to be major and moderate in localised areas. Water quality effects could be major for both construction and operational phases without mitigation.
- 8.81 Most of the above mentioned adverse environmental effects are to be suitably mitigated by measures to reduce their impact. I have described

below the environmental impacts of constructing and operating the project following mitigation.

The measures proposed by NR to mitigate any adverse impacts of the project (Matter 8)

(a) the proposed CoCP

8.82 The draft CoCP is included in the ES and the final CoCP will be subject to approval under the agreed planning condition (Condition 9) recommended to be attached to the deemed planning permission. No concerns have been expressed about the likely effectiveness of the CoCP. It will provide for measures to reduce types of noise which are of specific concern to objectors, such as reversing alarms. It will include a requirement to retain mature trees and hedges where reasonably practicable and to apply a range of tree protection measures during construction. It will commit to providing a Community Liaison Officer and a 24-hour helpline to report issues, including non-conformance. A CTMP is to be approved under a planning condition (Condition 14) to control the effects of the construction of the Scheme on the highway and accesses. Whilst a number of objectors have expressed concerns about the impact of noise, dust, fumes and vibration during construction, I am satisfied that the approved CoCP will be effective in controlling the environmental impacts during construction to ensure that the impacts would be acceptable. **[3.39, 5.127, 5.128, 5.180, 5.204, 5.218, 7.104, 7.113, 7.114, 7.131, 7.133, 7.187, 7.254 and 7.273]**

(b) measures to avoid, reduce or remedy any major or significant adverse environmental impacts of the project

8.83 NR has indicated in the ES that it has applied the hierarchical process of avoiding, mitigating and compensating for adverse environmental impacts, which is in accordance with the NPPF. Mitigation measures have been proposed for land use and agriculture, cultural heritage, air quality, noise and vibration, geology and land contamination, landscape and visual impact, and water quality and flood risk. The measures to mitigate any adverse landscape and visual impact have been included within the environmental

design of the Scheme. The landscaping design shall be approved under a condition (Condition 6) and implemented and maintained under another condition (Condition 7), recommended to be attached to deemed planning permission. **[3.40 and 3.41]**

- 8.84 The objections regarding visual impact have mainly been addressed by NR during the course of the Inquiry. In terms of specific concerns, the visual impact on the Deeleys' farm includes works required to move the earth bunds towards the farm. NR has agreed to provide screen planting along the revised boundary, including replanting as many of the existing trees as reasonably practicable, and will undertake additional planting in order to help address the issue of screening at the Tythe Barn, Launton. Views of the railway from Littleworth Farm will be screened by new planting parallel to the railway line adjacent to the property, but this will take some time to reach the same height as the existing vegetated corridor that it will reinstate. NR has indicated that during detailed design it will look for opportunities to retain existing line-side vegetation wherever possible, which will help to reduce the visual impact of the operational railway. **[5.97, 5.98, 5.173, 7.108, 7.237 and 7.239]**
- 8.85 NR has stated that, where it has been necessary to remove trees for the construction of the railway, appropriate arrangements for re-planting will be included in the proposed landscape works to be delivered under the Order. This will be applied to the area of Newton Road, Bletchley, where the mothballed line will be reopened. Therefore, the removal of mature trees at the rear of the gardens alongside the line in this area will be mitigated by replacement trees where possible, which the ES has assessed as resulting in a high adverse impact after the first year and medium adverse impact after 15 years of growth. NR will also seek to retain as many trees as possible. **[5.100, 7.113 and 7.114]**
- 8.86 The visual impacts of the Scheme at Springfield Farm have been assessed in the LVIA in the ES as not being significant, including the effects from light

pollution, particularly as the traffic in the area will be limited and the intervening vegetation will be retained to continue to provide visual screening. The visual impacts of the operation of the railway on the LCAs, which include the area of Finemere Woods and Meadows nature reserve and the Calvert Jubilee nature reserve that lie alongside the proposed route, have been assessed in the LVIA. There is very little evidence to show that the operation of the Scheme will have any significant effect on the visitor experience at these nature reserves. **[5.145, 5.229, 7.181 and 7.229]**

- 8.87 One of the most important measures that have been included in the Scheme to mitigate the predicted ecological impact is the ECSs along the route, which will act as 'stepping stones' to provide the connectivity for wildlife and biodiversity that will be lost during the construction and operation of the Scheme. The process of determining which ECSs were necessary as part of the Scheme involved initially identifying more ECSs as being potentially required, of which a significant number were identified as no longer being required. The ECSs will be designed to provide suitable replacement or alternative habitats for species to breed and/or forage. The future management of the ECSs and replacement habitats alongside the railway will be secured and controlled by a recommended condition (Condition 11) to be attached to deemed planning permission. **[3.42, 7.47 and 7.48]**
- 8.88 NR has committed to ensuring that the project will achieve a net gain in biodiversity of 10% using the Defra metric 2.0. This will be secured by Condition 11, which has been disputed by NE. NR has adopted a five-stage approach to achieve this net gain, which complies with government guidance given in paragraph 175 of the NPPF, and I am satisfied will ensure that a net gain would be able to be achieved, even if it is through the purchase of an off-set. This approach starts with avoidance of habitat loss to reduce the scale of the losses where possible. NR will seek to achieve the biodiversity gains on site through landscape planting and ECSs, based on the agreed metric. It will then seek to achieve habitat creation in the local

area in partnership and then finally resort to off-set sites if necessary.

[3.20, 5.60, 5.108, 5.119, 5.181, 5.183 to 5.185, 5.215, 7.7 and 7.169]

- 8.89 With regard to the objections concerning the ECSs, some objectors have questioned their location and have suggested alternative locations that would serve the same purpose. The ECSs have been designed on the basis of comprehensive surveys, the results of which have been presented in the ES and FEI. I am satisfied that NR's approach, which has created greater capacity in order to mitigate the short-term loss thereby avoiding a negative effect on the protected species, including GCN, is appropriate, even though it can result in a longer-term gain. The ECSs will be designed to include the appropriate habitat to replace that which will be lost. NR has provided evidence to support the need for and location of the proposed ECSs, which will mainly be located as near as possible to where the habitat will be lost to provide 'stepping stones' for terrestrial species. **[5.26 to 5.34, 5.37, 5.40 to 5.44, 5.78, 5.167, 5.213, 5.230, 7.50 to 7.53, 7.57 to 7.67, 7.69, 7.71, 7.73, 7.76, 7.77, 7.120, 7.169, 7.171, 7.231 and 7.235]**
- 8.90 Of the ECSs that have been contested, NR considers that ECS B10 is necessary as it is close to an area that includes part of the disused railway to be reinstated where pond habitat supporting GCN would be lost. I am satisfied that NR's calculation of the amount of suitable habitat that will be lost within the agreed 500m radius from the ponds is realistic and that the location of ECS B10 in relation to this lost habitat would be appropriate. ECS B9 is necessary because it is close to an area where pond habitat supporting GCN would be lost and it will extend an existing ecological compensation site for a housing development to the benefit of the protected species that that site supports. ECS D2 is close to an area where the loss of pond and terrestrial habitat supporting GCN would be lost, as 2 ponds and the terrestrial habitat along the railway corridor will be lost as a result of

construction work. **[5.26 to 5.34, 5.40 to 5.44, 5.50, 5.78, 5.166, 7.47 to 7.53, 7.61, 7.72 and 7.73]**

- 8.91 With regard to the suggested alternative sites for ECSs, the land referred to as the 'Yellow Land', would not be a suitable replacement for ECS B9 as any improvements to it would not provide any meaningful additional environmental mitigation; it would not be able to provide the required features, such as additional ponds; the land is being used for balancing ponds which would not be compatible with the use as an ECS; and if the area of land for ECS B9 were used for development it could affect the use of the adjacent Yellow Land. The alternative ECS B28 at Moco Farm, which is not included within the Order but has recently been acquired by NR, has not been agreed by NE as being an appropriate substitute for ECSs B9, B10 and B17 because of its distance from GCN metapopulations that would have to be translocated to it and its use could have an adverse effect on the viability of GCN metapopulations 2B6 and 2B11. **[5.35, 5.45 to 5.48, 5.112, 7.54, 7.55, 7.59, 7.67 and 7.69]**
- 8.92 The evidence has shown that Gladman's suggested alternative site to ECS B10 was not progressed by NR because it was unable to achieve additional capacity, as it already possessed the ideal habitat for GCN and would therefore be unlikely to be able to be enhanced to provide additional habitat. NR has suggested that it will agree to omit ECS B10 from the Order, and use Moco Farm instead, if NE agrees that Moco Farm is a satisfactory alternative. However, I find that the inclusion of the ECSs has been justified by NR as being necessary to compensate for the loss of habitat during the construction of the Scheme and that no suitable alternatives have been identified that would guarantee that the necessary ecological compensation would be provided, with particular regard to the need for NE to licence the sites. **[5.30, 7.54, 7.55 and 7.59]**
- 8.93 The 30-year maintenance and management plan that NR will put in place for each ECS should be enough to enable the sites to maintain their ecological

function, as after this period they will have matured sufficiently to keep fulfilling it. I understand that this maintenance period is typical and has been included in planning permissions for ECSs implemented ahead of the Order. **[5.120, 5.185, 5.215, 5.228, 6.13, 0, 7.77 and 7.171]**

- 8.94 In terms of noise and vibration, the proposed mitigation has been determined based on the reasonable worst-case scenario during the operation of the railway. This mitigation will include the provision of acoustic barriers, controlled by condition (Condition 15) recommended to be attached to deemed planning permission, at locations where the assessment of operational noise requires it to ensure compliance with the Noise Policy Statement for England; and noise insulation packages to individual properties where significant adverse effects are predicted, particularly at properties located in Route Sections 2B and 2C. Since the close of the Inquiry, the Noise Action Plan: Railways Environmental Noise (England) Regulations 2006 has been published by Defra in 2 July 2019. **[3.43]**
- 8.95 Objections have been submitted regarding increases in noise that would be experienced at Littleworth Farm and residential properties in Bletchley, at Winslow, Furzen Farm, Furzen Farm Cottage and the Verney Junction Business Park. NR has revealed the following level of mitigation that would be provided at these locations. Littleworth Farm and Furzen Farm Cottage would not be eligible for noise insulation, but NR would consider them for noise insulation under the criteria that it has adopted for a small number of properties where a moderate or major adverse impact is predicted and the resultant levels would be within 3dB of the SOAEL. Residential properties in Bletchley and Winslow would be protected by noise barriers which would run between the line of the railway and the properties and would reduce the operational noise impacts at them to what NR considers to be negligible, but NR has stated that it will continue to review the position at the detailed design stage. **[5.96 to 5.98, 5.100, 5.176, 5.207, 5.221, 7.104 to**

7.107, 7.111, 7.131, 7.144, 7.167, 7.188, 7.217, 7.218, 7.242 and 7.243]

- 8.96 Where the Scheme design could not be amended to avoid or minimise potential impacts on the water environment, mitigation measures have been proposed, which include the provision of CFSAs to compensate for the encroachment on existing floodplains. These measures have been agreed with the EA. The agreed Flood Risk Assessment will be implemented under a condition (Condition 12) that is recommended to be attached to deemed planning permission. Whilst the EA has expressed concerns that it is not specifically included as a party to any approvals in the planning condition, I am satisfied that it will be involved in, and be consulted upon, the design, implementation and maintenance of any mitigation measures as a matter of course. **[3.44, 3.62 and 5.225]**
- 8.97 The EA's concerns about the wording of paragraph 17(3)(b) of Schedule 16 of the draft Order, with regard to the protection of drainage authorities and the EA, are that it effectively gives NR deemed approval of works that might affect a watercourse. However, I am satisfied that Schedule 16 would provide adequate protection of watercourses, as it would ensure that the relevant drainage authorities would have the opportunity to examine plans of the works before they are carried out and refuse any works that might cause harm. It would be unreasonable to not have a time limit on the drainage authority's consideration of any proposed works, as this could result in significant and costly delays to the implementation of the Scheme. Furthermore, NR has indicated that this procedure is the standard that has been used in TWAO applications. **[5.224 and 7.122 to 7.124]**
- 8.98 The objections regarding the provision of CFSAs have mainly been addressed by NR. In this respect, NR has indicated that it is near to reaching an agreement with O&H over the use of the land for this purpose. I am satisfied that NR has demonstrated the need for the CFSAs at the proposed locations, as they are related to the loss of existing floodplain and

the watercourse that will receive the floodwater, leaving little or no scope to provide a reasonable CFSA in a different location. The concerns expressed about the provision of the CFSA at Claydon Brook have been addressed by NR in that it is adjacent to the existing floodplain and as close to the loss of floodplain as feasible, while avoiding existing utilities and other exclusion zones. The suggested alternative to enlarge the existing lake has been shown to result in significant ecological impacts due to the need to excavate through some of the woodland. **[5.16, 5.73 to 5.77, 5.178, 7.79 and 7.246]**

(c) whether, and if so, to what extent, any adverse environmental impact would still remain after the proposed mitigation

- 8.99 The ES has provided details of the predicted residual adverse environmental effects after the proposed mitigation. It has summarised its findings. These have found that the removal of lineside vegetation to facilitate the construction works would increase the prominence of construction elements and operations and extend the area over which they would influence landscape and visual amenity. These effects would be limited by the presence of existing buildings, hedges and tree belts in areas close to the railway corridor. The mainly flat or gently undulating topography means that there are few elevated viewpoints, which constrains the visual impact. In areas where lineside trees and vegetation are to be removed, and in particular along the mothballed part of the line, the new planting will take time to mature, leaving a potential high adverse visual impact until the newly planted trees and scrub vegetation has matured. **[3.45 and 7.114]**
- 8.100 The LVIA in the ES has identified that operational year 1 would result in significant adverse effects for receptors associated with 38 viewpoint locations, which will be reduced to 15 viewpoint locations after 15 years. The main adverse effects on the visual amenity are given as being from the removal of vegetation with the consequent open views towards the movement of trains and new structures. Most of the objections regarding

visual impact have been addressed by NR, indicating the effectiveness of the proposed mitigation. **[5.96, 5.100, 5.229, 7.108, 7.113, 7.114, 7.131, 7.164, 7.181 and 7.256]**

- 8.101 The main residual ecological effects given in the ES include the risk of collision mortality for bats and barn owls with trains, as the effectiveness of the proposed mitigation to address this effect is unproven. The mitigation planting should have some success in physically deterring bats from crossing the railway but there is no certainty that it would avoid all collisions. However, NR has carried out extensive survey work, including a Collision Risk Analysis to identify where bats cross the railway and the number of bats crossing to arrive at the probability of bats and trains being present at the same time. It found that any mortality would be at incidental levels due to mitigation in the form of vegetation of such a height so as to encourage bats to cross safely. **[7.18(ix)]**
- 8.102 NE no longer objects to the Scheme with regard to its effect on protected sites, including Sheephouse Wood SSSI, ancient woodland, veteran trees, or any terrestrial or freshwater habitat, aquatic or terrestrial invertebrates, including white-clawed crayfish, fish, reptiles, or birds, including barn owls. Whilst BCC has objected with regard to the impact on barn owls, I am satisfied that the recommended ecology planning condition (Condition 11) would address these concerns for the reasons given later in this report. On the basis of further information and assurances received from NR, NE has indicated that it no longer has an objection on the grounds of hazel dormice, water voles and otter. **[5.62 and 5.108]**
- 8.103 Licences will be required from NE in areas where wildlife will be disturbed or removed or habitats damaged. NR is seeking licences for bats for a replacement bat roost at Swanbourne Station and a route-wide licence to cover the loss or disturbance of low or medium significant roosts across the Scheme. It is seeking 4 licences for GCN for each of the sections of the route, one licence for otters to cover two resting sites and one licence for

badgers for the whole Scheme. NE has not expressed any concerns about the issuing of the otter licence. In terms of the badger licence, NE has indicated that its concerns, which include the delivery of artificial setts and the risks of the transmission of disease to cattle, should be able to be resolved subject to NR providing further information or assurances, which NR should achieve. Likewise, NE has agreed that its concerns about the issue of GCN licences can be resolved. **[5.109, 5.110 and 7.14]**

8.104 NE has maintained its objection to the impact of the Scheme on bats, with particular regard to the issue of licences. In this respect, NE has indicated that, until it is provided with the results of adequate survey coverage for bat populations and bat roosts, it is unlikely that it would grant a licence for the impacts on the bat roosts. Although NE refers to the recent SBMA as suggesting that there is a need for further survey work, NR has indicated that these surveys would be an update to enable the mitigation to be refined. NR has stated that its approach to the permanent loss of vegetation along the railway corridor has been to seek to plant new hedges to make sure that there is an alternative flight route for bats. **[5.113 to 5.115, 5.118, 5.123, 7.10 to 7.14 and 7.17 to 7.19]**

8.105 Whilst NE has concluded that it is unlikely to grant licences for the Scheme's impacts on bats, this is based on the information that it had been provided with at the time of the Inquiry, some of which it had not had sufficient time to fully consider. I agree with NR that it is reasonable to accept that the requirements of Regulations 55(2)(e) and 55(9)(a) of the Habitats Regulations would be met. Furthermore, I am satisfied that the implementation of the recommended Condition 11, which includes an approved ecological management plan in Appendix A, would ensure that the FCS of protected species, including bats, in the area of the Scheme would not be harmed. Therefore, I find that it is likely that the licensing tests would be satisfied to enable NE to grant the necessary licences in sufficient

time to ensure that the Scheme would be able to proceed without any undue delay. **[5.118, 5.122 and 7.15 to 7.18]**

- 8.106 The other objections regarding the impacts of the Scheme on ecology include concerns about the bat roost at Station Road, Winslow, which NR has identified as being outside the area considered where direct impacts resulting from the Scheme are likely to occur. There is no evidence to indicate otherwise and NE has not raised this concern. **[5.223 and 7.221]**
- 8.107 With regard to noise and vibration impacts during operation, with mitigation, only 19 receptors in Route Section 2D are predicted to give rise to residual significant adverse effects. The potential residual adverse effects from ground-borne noise and vibration from the operation of the project at 13 receptors in Route Sections 2A and 2B have been the subject of appropriate mitigation measures.
- 8.108 The ES predicts that there will be no permanent likely residual significant effects on surface water quality within the project. Also, with the proposed incorporated mitigation measures, the ES predicts generally negligible effects to flood risk. Neither the EA nor the local drainage authorities have suggested that there would be any significant effects on watercourses or flood risk as a result of the Scheme after mitigation. As such, I am satisfied that the proposed mitigation would remove any likelihood that there would be a residual adverse impact in terms of water quality and flood risk.

(d) any protective provisions proposed or other measures to safeguard the operation of statutory undertakers

- 8.109 Schedule 16 to the draft Order contains Protective Provisions for the protection of electricity, gas, water and sewerage undertakers, for the protection of operators of electronic communications code networks and for the protection of drainage authorities and the EA. The effectiveness of these provisions has not been questioned by any of the statutory undertakers. The remaining objection, from TWUL, is regarding Article 19 in

the draft Order, and in particular its concerns about the effective deemed consent that it would give NR to discharge into its sewers, drains and watercourses. I have found that the provisions of Article 19 would give the statutory undertaker sufficient control over any discharges to ensure that its statutory duties would not be compromised. **[3.28, 3.46, 5.9, 6.1 to 6.3 and 7.38]**

The adequacy of the ES submitted with the application for the TWAO, together with the FEI, having regard to the requirements of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006, and whether the statutory procedural requirements have been complied with (Matter 9)

8.110 Rule 11 of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 lists what an ES submitted in connection with a TWAO application should include. Schedule 1 to the Rules gives a more detailed description of the information to be included in an environmental statement. In this respect, the ES includes a non-technical summary and an outline of the main alternatives considered and reasons for the choice. I am satisfied that the ES and FEI have provided enough data to enable the main environmental effects to be identified and assessed. These documents also describe the proposed measures that would be taken in order to avoid, reduce and, if possible, remedy any significant adverse effects on the environment. **[3.13, 3.47, 5.14, Error! Reference source not found. and 7.110]**

8.111 Although NE has questioned the adequacy of the survey work that has been carried out for the ES and FEI, I find that NR has provided evidence to demonstrate that the level of survey work that has been undertaken is what would reasonably be expected to be provided to enable an assessment of the environmental effects and proposed mitigation at the current stage. Furthermore, NR has demonstrated that it has worked closely with NE in developing its approach and will refine the mitigation as more details become

available when the design is further progressed. Apart from the issue of bat licences, NE has accepted that NR should be able to provide the environmental information that will enable it to be in a position to make a conclusion on the mitigation/compensation. **[5.14, 5.33, 5.34, 5.54, 5.109, 5.110, 5.123, 7.18(iv), 7.19(i) and 7.50]**

8.112 I find that the ES and the FEI provide environmental information that is adequate to satisfy the requirements of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006. I have not been given any specific examples of where the information in the ES is insufficient to meet the statutory requirements. Furthermore, it is evident that the statutory procedural requirements have been complied with. **[3.47]**

Criteria for justifying compulsory purchase powers in paragraphs 12 to 15 of the Ministry of Housing, Communities and Local Government (MHCLG) Guidance on the “Compulsory purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion” (published on 29 October 2015, updated on 28 February 2018)⁷⁵⁰ (Matter 10)

8.113 The criteria for justifying compulsory purchase powers in paragraphs 12 to 15 of the Guidance on Compulsory purchase process and The Crichel Down Rules, July 2019 include the following:

- whether there is a compelling case in the public interest and the purposes for which it is made justify interfering with the human rights of those with an interest in the land affected⁷⁵¹;
- whether the Acquiring Authority has a clear idea of how it intends to use the land which it is proposing to acquire⁷⁵²;

⁷⁵⁰ The July 2019 update of Guidance on the Compulsory purchase process and the Crichel Down Rules does not materially alter the relevant paragraphs

⁷⁵¹ Guidance on Compulsory purchase process and The Crichel Down Rules, July 2019 paragraph 12

- whether the Acquiring Authority can show that all the necessary resources are likely to be available to achieve that end within a reasonable time-scale, including sources and timing of funding⁷⁵³; and
- whether the scheme is unlikely to be blocked by any physical or legal impediments⁷⁵⁴.

8.114 The criteria below are those that the SoS has specifically referred to:

a) whether there is a compelling case in the public interest for conferring on NR powers compulsorily to acquire and use land for the purposes of the project

8.115 With regard to the acquisition of land for ECSs, I am satisfied that NR has demonstrated the need for the land to compensate for loss of habitat for protected species along the route, particularly as the alternative Moco Farm site has not been considered as suitable for these purposes by NE. The ECSs form important parts of the proposed route-wide mitigation and compensation strategy which, amongst other things, ensures that there is no effect on the FCS of GCN. The location and design of them has been informed by an accepted survey methodology that involves surveying GCN in their breeding ponds and professional judgment as to suitable surrounding terrestrial habitats in which GCN are likely to reside. I consider that this is an appropriate methodology and the objectors have not provided anything better to assess the suitability of the ECSs. Most of the objectors have accepted the case in support of EWR2. **[5.13, 5.33(iii), 5.37, 5.40, 5.43, 5.49, 5.50, 5.72, 5.157(i), 7.47, 7.48, 7.60, 7.70 and 7.78]**

8.116 I have found that there is a compelling case for the project to be implemented in order to provide the benefits associated with improved public

⁷⁵² Ibid paragraph 13

⁷⁵³ Ibid paragraphs 13 and 14

⁷⁵⁴ Ibid paragraph 15

transport connectivity to support economic growth and proposed new housing development in the area. In terms of human rights, having given particular consideration to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention, I have found that no objections remain that have referred to a disproportionate interference with human rights. Taking these matters into account, and having regard to the Crichel Down Rules, July 2019, I am satisfied that there is a compelling case for the land's compulsory purchase in the public interest which justifies interfering with the human rights of those with an interest in the land. Loss of any interest could be met by compensation. **[3.4, 3.7, 3.48 and 3.49]**

(b) whether the land and rights in land for which compulsory acquisition powers are sought are required by NR in order to secure satisfactory implementation of the project

8.117 Having examined the draft Order plans and taken account of the objections to the acquisition of land in the draft Order, I am satisfied that the draft Order addresses no more land than is necessary and NR has a clear idea of how it intends to use the land. I have found that the land is necessary for the construction and reinstatement of the railway and environmental mitigation and compensation and that the alternatives suggested have not been shown to be acceptable for this purpose. Therefore, all the land and rights in land for which compulsory acquisition powers are sought have been shown by NR to be required to satisfactorily implement the project. Budgetary provision has been put in place by NR and, if the Order is made, work would start at the end of 2019, for which reason I am also satisfied that no land is proposed to be acquired ahead of time. For the reasons that I have given, I am satisfied that the project would be unlikely to be blocked by any impediment to its implementation, including the need for NE to issue species licences. **[3.3, 3.48 and 3.5049]**

Funding the project (Matter 11)

8.118 NR has provided details of the funding for the project, which is confirmed in a letter from the DfT. The costs of implementing the works have been estimated in July 2018 to be £1,084.726 million, following a significant cost challenge exercise in 2017 that saw changes to the scope and a reduction in cost. The aim is for the first passenger services to be running in 2023 and the project to be complete by 2024. No party has questioned the cost estimates for the project or the ability for it to be adequately funded. Many supporters, and some objectors, have expressed a desire for it to be progressed as quickly as possible, without delay, even though they have provided their own reservations about the Scheme. On this basis, I have no reason to consider that the project will not be adequately funded, provided that it has the required consents, keeps to the tight programme, and continues to be VfM. **[3.1, 3.50 and 5.196]**

The conditions proposed to be attached to the deemed planning permission for the project, if given, and in particular whether those conditions satisfy the six tests referred to in the National Planning Policy Framework (NPPF) (Matter 12)

8.119 The planning conditions proposed by NR were discussed at the Inquiry on Thursday 25 April and Tuesday 30 April, during which a number of amendments were made by NR. The final conditions suggested by NR took on board the amendments agreed by AVDC, acting in these discussions as the coordinator on behalf of all the relevant LPAs, and BCC, as the local Highway Authority in the discussions. Other than in relation to Condition 11 Ecology, no parties appearing at the discussions opposed these suggested conditions and no further objections to these conditions have been made. As such, I am satisfied that all the planning conditions have been agreed except for Condition 11. **[3.51]**

- 8.120 Whilst the EA has questioned the omission in the proposed conditions, and in particular Condition 9, of a reference to consult with it, I am satisfied that NR will need to consult with it as a matter of course in agreeing the environmental mitigation during construction and any other measures that it needs to agree with the LPA. It is generally not good practice to include a requirement for a public body to consult with another public body in a condition, and it would be unreasonable for the LPA to take enforcement action for non-compliance in such circumstances. **[5.225 and 7.273]**
- 8.121 With regard to Condition 11, NR suggested amendments following discussions held on 25 April and NE was involved in discussions regarding the amended condition on 30 April prior to the close of the Inquiry. The condition should be precise, and I agree with NR that it should not include any unnecessary detail, including setting a time frame for the ecological management plan, as this would reduce its flexibility and unduly constrain the LPA in deciding what is acceptable. **[5.62, 5.120 and 7.275]**
- 8.122 The Appendix A to Condition 11 gives a summary of ecological mitigation and includes all the necessary mitigation determined as a result of the ES and FEI. As such, it includes appropriate mitigation for barn owls, as requested by BCC, and for bats, as well as referring to Salden Wood. In terms of the 'Bat Mitigation Structure' to be provided as part of the mitigation for HS2, insufficient evidence has been provided to justify its provision should HS2 not go ahead, taking account the significant cost involved and the relatively small impact on bats in that area that the Scheme has been shown to have on its own. **[5.62, 5.122, 7.274 and 7.276]**
- 8.123 In terms of the ability of Condition 11 (b) to secure the delivery of an overall 10% net gain in biodiversity, I am satisfied that it complies with the instruction from the EWRCo, which is to deliver the NPPF guideline targets given in sections 170d and 102d. The Condition specifies the use of the updated Defra biodiversity metric as requested by NE. It leaves the
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timescales for achieving this net gain and any measures to address a deficiency revealed by the monitoring to be included in the strategy to be approved by the LPAs. As such, I find that it provides sufficient detail, whilst keeping the necessary flexibility, to enable an appropriate strategy to be provided within a specified timescale in order to achieve the net gain in biodiversity. **[5.62, 5.122 and 7.277]**

8.124 With regard to NE's request that it be specified in the condition as one of the parties to be consulted with, the approval of a scheme required by condition is the responsibility of the LPA and it will be for it to decide whether or not to consult with any other parties when considering if a submitted scheme is acceptable. It is reasonable to assume that NE will be consulted with regard to the LPA's approval of the submitted written ecological management plan and the strategy to achieve an overall 10% net gain in biodiversity for the Scheme. It is not appropriate to specify in a condition that a requirement should be carried out to the satisfaction of a third party as this decision rests with the LPA⁷⁵⁵. **[5.120 and 7.273]**

8.125 For the above reasons, and having considered the advice given in the PPG, I am satisfied that the conditions that I have included in Appendix C to this report are reasonable and necessary and meet the six tests referred to in Paragraph 55 of the NPPF. I conclude that, should deemed planning permission be granted, those conditions be imposed for the reasons given under each condition in Appendix C.

Whether the statutory procedural requirements have been complied with (Matter 13)

8.126 Evidence that the statutory procedural requirements have been complied with has been provided by NR at the Inquiry. No party has provided substantive evidence to show that the statutory procedural requirements

⁷⁵⁵ Planning Practice Guidance Paragraph: 016 Reference ID: 21a01620140306

have not been complied with. Whilst a number of objectors have expressed concerns about the level of consultation, NR has provided evidence to demonstrate that it has complied with the requirements in this respect and has continued to consult with objectors. This has been demonstrated by the significant number of objectors who withdrew their objections or have been near to reaching an agreement during the course of the Inquiry. **[3.52, 4.30, 5.25, 5.36(i), 5.37(iii), 5.129, 5.130, 5.138, 5.139, 5.161(i), 5.164, 5.166, 5.179, 5.200, 5.209, 5.210, 7.42 to 7.46, 7.110 and 7.265]**

- 8.127 The failure of Cemex UK to receive the notification on time appears to have been due to a change in the location of its office and not through any failure by NR to comply with the requirements. Furthermore, its objection has been received, albeit late in the proceedings, and I am satisfied that its interests have not been unduly prejudiced by the late receipt of the notice. **[5.192 and 7.271]**

**Proposed works affecting the Listed Buildings and Conservation Areas
(Matters 14, 15, 16, and 17)**

Accordance with Development Plan

- 8.128 The three applications for Listed Building Consent have not been opposed by the relevant local planning authorities, indicating that there are no concerns about any lack of compliance with adopted or emerging development plan policy. **[3.53]**
- 8.129 Quainton Road Station application has been the subject of an AVDC Officer Report which recommended informing the Secretary of State that, had AVDC retained its power to determine the application, it would have granted Listed Building Consent subject to conditions. I agree that the proposal accords with VALP Policy BE1 (Heritage Assets), as it would meet the requirement for causing less than substantial harm and the public benefits

outweigh this less than substantial harm. **[3.53**Error! Reference source not found.]

- 8.130 The Planning Officer Delegated Report from CBC regarding the Ridgmont Station application recommends that the Listed Building Consent be granted. I am satisfied that the proposed works to the Station accord with the relevant policies in Central Bedfordshire Core Strategy (2009), and in particular Policy CS15: Heritage, as they would conserve the quality and integrity of the building. **[3.53**Error! Reference source not found.]
- 8.131 The MKC Officer Report has recommended that the Listed Building Consent for Woburn Sands Station is granted subject to conditions. I agree that it accords with saved Policy HE4 of the Milton Keynes Local Plan 2001-2011, as it would preserve the character of the listed building and would not result in loss of, or damage to, the special interest of the building. **[3.53**Error! Reference source not found.]

Weight to be attached to Development Plan and any emerging plans

- 8.132 The saved policies in the development plans should be given significant weight in the determination of the Listed Building Consent applications where they are consistent with government policies given in the NPPF. Most of the policies offer considerable support for EWR. The VALP should be given considerable weight as this emerging plan is in a relatively advanced stage in its progress towards adoption. The Central Bedfordshire Submission Local Plan should be given limited weight due to the stage of preparation of this emerging plan. Where the development plans pre-date the NPPF, as in the case of Central Bedfordshire Core Strategy (2009) and Milton Keynes Local Plan 2001-2011, I have given greater weight to the relevant policies in the NPPF than those in the development plan, especially in this case to those relating to the protection of heritage assets. **[3.22 and 5.2]**

Accordance with the NPPF

- 8.133 Paragraph 196 of the NPPF states *'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'* I have taken account of the Heritage Statements that accompanied the three applications, the findings of which have not been disputed by the relevant local planning authorities. I agree with these findings. With regard to the grade II listed Quanton Road Station, the conclusions are that the proposed works would ensure that the platform structures would retain their architectural and historic interest, with minimal impact upon the structure's setting. The public benefits of the Scheme that I have described above would outweigh the less than substantial harm that would be caused by the proposed works. **[3.53Error! Reference source not found.]**
- 8.134 I agree that the proposed works to the grade II listed Ridgmont Station would ensure that the station house would retain its architectural and historic interest and would benefit from the contribution to its significance by its location within an active railway setting. As such, the benefits of the Scheme would outweigh the less than substantial harm that would be caused by the proposed works. **[3.53Error! Reference source not found.]**
- 8.135 In terms of the grade II listed Woburn Sands Station, the proposal would ensure that the station house would retain its architectural and historic interest and would benefit from the contribution to its significance by its location within an active railway setting. Therefore, this less than substantial harm would be outweighed by the considerable public benefits of the Scheme. **[3.53Error! Reference source not found.]**
- 8.136 I conclude that all three proposals would sustain the character and appearance and the setting of the heritage assets and comply with the relevant saved development plan policies and emerging development plan policies, the NPPF and the Planning (Listed Buildings and Conservation

Areas) Act 1990. Therefore, Listed Building Consent should be granted for all three proposals. **[3.53]**

Planning Conditions

8.137 I recommend the imposition of the planning conditions that are given in Appendix D to this report and have been accepted at the Inquiry by AVDC, acting as coordinator for the local planning authorities. These are based on those recommended in the Officer's Reports, with reference to the relevant plans for each consent. The reasons for the conditions are given in the Appendix. Having considered the advice given in the PPG, I am satisfied that the conditions that I have included in the Appendix are reasonable and necessary and meet the six tests referred to in Paragraph 55 of the updated NPPF. [Error! Reference source not found.]

Any other relevant matters (Matter 18)

Objections

8.138 Most of the objections to the Order are not against the principle of EWR2 but are more regarding specific concerns about the Scheme. I have dealt with many of the concerns expressed by the objectors under the above Statement of Matters. I refer below to the main objections that were represented at the Inquiry.

Natural England (NE) (OBJ 242)

8.139 By the close of the Inquiry, the evidence has indicated to me that NE's main outstanding objections are regarding the wording of the ecology condition attached to the deemed planning permission, particularly with regard to securing a net gain in biodiversity, and the mitigation for potential harm to bats, with particular regard to the level of survey information provided by NR. I have found that the wording of Condition 11 proposed by NR, following discussions at the Inquiry, is acceptable to ensure that NR's ecology and biodiversity commitments to the Scheme would be achieved. **[3.61, 5.107 to 5.123 and Error! Reference source not found. to 7.19]**

8.140 NE's concerns about bat mitigation appear to me to be regarding the need for it to have sufficient information to be confident that it will be able to issue the necessary licences. In this respect, I am satisfied that the level of survey work and design of the proposed mitigation is adequate at this stage to demonstrate that it will be unlikely that the Scheme will be detrimental to the maintenance of the FCS of bats, given the precautionary approach that NR has taken to the survey results. Also, additional survey work should be available which will assist in refining the design of the mitigation to enable NE to have sufficient information to be in a position to issue the necessary licences. I conclude that the remaining objections by NE are capable of being resolved and its concerns about the level of survey information currently available are insufficient to justify any delays to the project by postponing the making of the Order until NE is satisfied with the level of information that NR has provided. **[5.113 to 5.118, 5.123 and 7.17 to 7.19]**

Buckinghamshire County Council (BCC) (OBJ 232)

8.141 BCC is a strategic supporter of EWR2, as a member of the EWRC. BCC has adopted a similar stance to NE with regard to the level of survey information to support the proposed bat mitigation. It has also argued for changes to the proposed ecology conditions to be attached to the deemed planning permission, particularly regarding biodiversity net gain and the protection of barn owls. For the reasons given under the planning conditions, I have found that the proposed Condition 11 would secure NR's commitment to net gain and would ensure the necessary measures are provided to adequately protect barn owls along the route. Therefore, I conclude on this objection that any inadequacies in the surveying are resolvable and the concerns expressed by BCC do not carry enough weight to justify not making the Order. **[3.59, 5.51 to 5.62 and 7.20]**

Woburn Sands Town Council (WSTC) (OBJ 09)

8.142 The main concern of WSTC was expressed at the Inquiry as being the need to secure a footbridge crossing of the railway to replace Woburn Sands School Crossing that would be closed under the Scheme on safety grounds. This concern is also that expressed by a significant number of objectors. During the Inquiry, WSTC accepted that a footbridge would not be able to be included within the Order but appeared to me to accept NR's proposal to close the crossing and apply for the necessary planning permission for a footbridge at a similar location and seek to acquire the necessary land. This would all be subject to meeting Equalities legislation. On this basis, I find that the objection to the Order is capable of being resolved outside the terms of the Order and therefore carries limited weight against the making of the Order. **[5.82 to 5.85, 5.89(g), 5.101, 5.184, 5.206 and 7.21 to 7.24]**

Lidlington Parish Council (LPC) (OBJ 215) and Central Bedfordshire Council (CBC) (OBJ 241)

8.143 LPC's objection, which is also the main remaining objection from CBC, is regarding the proposed closure of the Lidlington School Crossing on safety grounds and diversion to use another crossing. At the Inquiry, they supported the replacement of the School Crossing by a footbridge. Whilst, NR has suggested that it would examine such a replacement footbridge, I find that the proposed closure and diversion to use Station Road level crossing would be acceptable. **[5.2 to 5.4, 5.94 to 5.95 and 7.25 to 7.33]**

Luton Borough Council (LBC) (OBJ 244)

8.144 LBC indicated at the Inquiry that it no longer objects to the making of the Order. However, it expressed concern that the closure of an existing road level crossing at Manor Road, Kempston Hardwick and replacement with an

overbridge may be affected by the choice of route for the Central Section of EWR. As such, I find that this objection is capable of being resolved following the decision on the route for the Central Section, which is due in August 2019, and that NR would be able to make a decision as to whether to exercise the powers under the Order in this respect after that date. **[5.1 and 7.36]**

Thames Water Utilities Ltd (TWUL) (OBJ 226)

8.145 TWUL has indicated that all matters of its objection, except to Article 19 of the draft Order, have been agreed in principle. In terms of Article 19, I have found that it would provide the correct balance between giving TWUL sufficient time and control over making a decision on a discharge application and avoiding unnecessary delay to the Scheme. **[5.5 to 5.9 and 7.37 to 7.39]**

Gladman (OBJ 228-231)

8.146 Gladman has expressed its support for the Scheme, but it has maintained its objection to the acquisition of land to be used for ECS B10. I have found that NR has demonstrated the need for ECS B10 and that no alternatives to providing the necessary mitigation, and in particular for GCN, have been shown at the Inquiry to currently be acceptable and deliverable. Therefore, without the inclusion in the Order of the power to acquire the land for ECS B10, the Order would be unlikely to ensure that the Scheme would properly mitigate its impacts on European Protected Species. **[5.10 to 5.38 and 7.40 to 7.60]**

Trustees of the HC Stock Will Trust (OBJ 27)

8.147 At the Inquiry the Trustees confirmed that they are supportive of EWR but object to the acquisition of land for ECS B9. Having visited the land and viewed the alternatives, including land at Moco Farm, and taken account of the evidence presented to the Inquiry, I have found that ECS B9 is

necessary to provide mitigation for protected species, and in particular GCN, and that the alternatives suggested are either unsuitable or have not been confirmed as being acceptable at the close of the Inquiry. Therefore, I conclude that, without ECS B9, the Order would be unlikely to ensure that the Scheme would properly mitigate its impacts on European Protected Species. **[5.39 to 5.49 and 7.61 to 7.70]**

O & H Q6 Limited and O & H Q7 Limited (O&H) (OBJ 156)

8.148 Although O&H has maintained its objection, mainly based on the effect of the Scheme on its proposed development in the area, it did not present its case at the Inquiry and it has stated that it supports the Scheme. The submissions made at the Inquiry indicate to me that the main obstacle to reaching an agreement with NR is the Heads of Terms for the construction of an alternative bridge to Woodleys Crossing. Whilst the objection extends to concerns about severance of land and loss of access, acquisition of land for CFSAs and ECSs, especially ECS D2, and the effect of the Scheme on the delivery of the proposed development, based on the evidence provided, I find that these matters are capable of being resolved. Therefore, I conclude that this objection does not carry sufficient weight to justify not making the Order as proposed. **[5.63 to 5.81 and 7.79 to 7.86]**

Milton Keynes Green Party (MKGP) (OBJ 212)

8.149 Whilst MKGP made a number of criticisms of the Scheme at the Inquiry, most of which I have referred to under other objections or under the Statement of Matters, it has stated that it fully supports the reinstatement of the rail line between Cambridge and Oxford via Milton Keynes. Furthermore, it has indicated that it wishes to see the delivery of the Scheme as early as possible. Taking account of this, I can see no benefit in delaying the Scheme to enable MKGP's suggested changes to be made. Therefore, even though MKGP has suggested that the Scheme would be 'barely adequate', I find that the likely additional costs and delays of

implementing the changes do not justify them being made, especially if the additional cost would reduce its viability. **[5.88 to 5.90 and 7.87 to 7.91]**

Langford Village Community Association (LVCA) (OBJ 142)

8.150 LVCA's objection is regarding concerns about the barrier down times at the London Road level crossing, Bicester, as a result of the proposed increase in the frequency of the train services. I accept NR's arguments on this matter that to introduce a solution to resolve this concern would result in delays and costs to the Scheme. Therefore, a solution should not form part of the Order. However, NR has indicated that it is committed to working with OCC to find a permanent road solution. **[5.102 to 5.106 and 7.92 to 7.96]**

Modifications

8.151 I am satisfied that the modifications to the draft Order that are proposed by NR are necessary to make the Order more acceptable to those parties that have been involved in discussions with NR. I do not accept the suggested further modifications, including the omission of ECS B9, ECS B10 and/or ECS D2, as the inclusion of this land in the Order is justified and there is potential to not use the powers to acquire the land if alternative land is available later that is found to be an acceptable replacement. **[3.64, 5.38 and 5.47]**

Overall conclusions

8.152 No relevant matters beyond those addressed above were raised. Of those objections that were outstanding at the close of the Inquiry that I have not previously mentioned, many appeared to be me to be close to resolution following negotiations between the parties, but it will be for the SoS to consider the implications of any subsequent developments in these respects.

8.153 In the light of all of the above, I conclude that the Order is justified on its merits and that there is a compelling case in the public interest for making it, with clear evidence that the substantial public benefit from public

transport improvements and economic development would outweigh the harm due to private losses. It would accord with relevant national, regional and local policies. I am satisfied that funding is available for the proposed project, there are unlikely to be any impediments to its implementation and there is a reasonable prospect of it going ahead without delay. I therefore conclude that the Order should be made, subject to modifications as indicated.

- 8.154 For similar reasons, I conclude that deemed planning permission should be granted for the works that would be authorised by the Order, subject to the conditions in Appendix C. I also conclude, for the reasons that I have given, that the three Listed Building Consent applications be granted subject to the conditions in Appendix D.

9. RECOMMENDATIONS

Recommendations to the Secretary of State for Transport

- 9.1 I RECOMMEND that:
- (a) The Network Rail (East West Rail Bicester To Bedford Improvements) Order 201[] be made, subject to the modifications in Document NR274.
 - (b) A Direction be made granting deemed planning permission for the works authorised by the Order, subject to the conditions set out in Appendix C to this Report.

Recommendations to the Secretary of State for Housing, Communities and Local Government

9.2 I RECOMMEND that:

- (a) Listed Building Consent for platform extension works to Woburn Sands Railway Station with associated fencing and ancillary works at Woburn Sands Rail Station, Station Road, Woburn Sands MK17 8UD be granted in accordance with application ref 18/01863/LBC, dated 27 July 2018, subject to the conditions set out in Appendix D to this Report.
- (b) Listed Building Consent for works to Quainton Road Station (Buckinghamshire Railway Centre) involving the erection of new fencing along the platforms to provide protection, creation of two new door openings (one within the former station building and one within the platform shelter) and ancillary works at Buckinghamshire Railway Centre Quainton Road Station, Station Road, Quainton HP22 4BY be granted in accordance with application ref 18/02661/ALB, dated 27 July 2018, subject to the conditions set out in Appendix D to this Report.
- (c) Listed Building Consent for platform extension works to Ridgmont Station, with associated fencing and ancillary works at Ridgmont Station, Station Road, Ridgmont MK43 0XP be granted in accordance with the application ref CB/18/02917/LB, dated 27 July 2018, subject to the conditions set out in Appendix D to this Report.

M J Whitehead

INSPECTOR

APPENDIX A: APPEARANCES

For Network Rail–:

Timothy Mould	Queen’s Counsel
Yaaser Vanderman	Of Counsel
	Both instructed by Winkworth Sherwood LLP

They called:

Martyn Angus BSc PGABL	Principal Programme Sponsor for the Western Section of East West Rail, Network Rail
Alex Macfarlane BA(Hons)	Head of Business Case and Benefits, East West Railway Company
Jill Stephenson MRTPI IEMA	Town Planning Manager for the London North Western Route, Network Rail
Simon Croft BSc CEng MICE	Engineering Leader, Laing O’Rourke and Head of Engineering for the East West Rail Alliance
Phil Holland BSc GMICE	Senior Project Manager, Laing O’Rourke and Lead for the Construction Methods Team for the East West Rail Alliance
Tim Colles BEng(Hons)	Senior Managing Consultant, Atkins Limited
Jonathan Smith MRICS, FCAAV	Partner, Bruton Knowles
Andrew Shuttleworth BA DipLD CMLI	Technical Director, Atkins Limited
Dr Stephanie Wray PhD FCIEEM	Director, Biocensus
Claire Wansbury MA MSc FCIEEM CEcol CEnv CMLI	Associate Director of Ecology, Atkins Ltd

For the Supporters

Martin Tugwell BSc(Hons) CEng FCIHT MICE	Programme Director of EEHSA and lead officer working on behalf of the East West Rail Consortium (SUP 408)
Nigel D Rose MA (Cantab) CEng MIMechE	Railfuture Thames Valley (SUP 327)

Lindsay Milne	SUP 310
Councillor Vanessa McPake	SUP 70
John Henderson	SUP 373
Leonard Lean	SUP 415
Roger Landells	Chairman, Twyford Parish Council (SUP 132)
Stephen Sleight	Transport Team Leader (Rail), Marston Vale Community Rail Partnership (SUP 367)

For the Objectors -

Woburn Sands Town Council (OBJ 09)

Councillor Michael Geddes	Councillor, Woburn Sands Town Council
Councillor David Hopkins	Councillor, Woburn Sands Town Council and Milton Keynes Council

Milton Keynes Green Party (OBJ 212)

Alan Francis BSc MSc	Representative
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Luton Borough Council (OBJ 244)

Keith Dove BSc MSc	Chief Policy Advisor, Luton Borough Council
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Local Residents

Caroline and Edward West	Residents of Littleworth Farm (OBJ 223)
Judith Barker	Local Resident OBJ 139
Anne Jordan	Local Resident OBJ 194

Cycling UK (OBJ 243)

Philip Ashbourn MA MRICS MRTPI	Member and Representative of Cycling UK
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Central Bedfordshire Council (OBJ 241)

Sara Kabir Sheikh	Queen's Counsel, instructed by the Solicitor for Central Bedfordshire Council
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She called:

Connie Frost-Bryant MRTPI	Head of Strategic Growth, Central Bedfordshire Council
Councillor Sue Clark	Councillor for the Central Bedfordshire Council Ward of Cranfield and Marston (OBJ 182)

Lidlington Parish Council (OBJ 215)

Peter Sparks

Thames Water Utilities Limited (OBJ 226)

Carys Evans	Solicitor, Eversheds Sutherland LLP
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She called:

Jane Battle	Senior Project Engineer, Thames Water Utilities Limited
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M Spooner & D Spooner (OBJ 228), Gladman Developments Limited (OBJ 229), J E Spooner (OBJ 230) and G W Fox (OBJ 231)

Richard Kimblin	Queen's Counsel, instructed by Laura Tilson, Gladman Developments Limited
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He called:

Laura Tilson MA MRTPI	Planning Director, Gladman Developments Limited
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Dr Dan Simpson BSc(Hons) PhD MCIEEM	Technical Director, Aspect Ecology
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Langford Village Community Association (OBJ 142)

Andrew Smith	Vice Chairman
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Trustees of the H C Stock Will Trust (OBJ 27)

Mark Westmoreland Smith	Of Counsel, instructed by Christopher Chandler, Chandler Ray Solicitors
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He called:

Thomas Haynes MSc DipEM MCIEEM	Principal Consultant and Manager of Ecological Business Unit, Lockhart Garratt Limited
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***Trustees of Woburn Estates and Bedford Estates Nominees Limited
(OBJ 114)***

Michael Horton BSc MRICS

Savills (UK) Limited

Buckinghamshire County Council (OBJ 232)

Ned Westaway

Of Counsel, instructed by Suzanne Ormsby,
Buckinghamshire County Council

He called:

Del Tester IEng FIHE
MCIHT

Managing Director, Origin Transport
Consultants Ltd

Dr Sarah Cox PhD BSc
CECOL CENV MCIEEM

Associate Director, The Ecology Consultancy

Natural England (OBJ 242)

Sarah Sackman

Of Counsel, instructed by Natural England

She called:

Suzanne Crutchley BSc
MSc

Senior Advisor, Natural England

O & H Q6 Limited and O & H Q7 Limited (OBJ 156)

Matthew Reid

QC, instructed by Kathryn Jump, Shoosmiths
LLP

Walton Community Council (OBJ 246)

Lesley Sung SILCM

Council Manager

Discussions on Planning Conditions

Claire Britton

Aylesbury Vale District Council and coordinator
for the local planning authorities on 25 & 30 April
Buckinghamshire County Council on 25 & 30
April

Ben Stutman

Del Tester

Buckinghamshire County Council on 25 & 30
April

Mrinalini Rajaratnam

Buckinghamshire County Council on 30 April

Jodie Colclough

Central Bedfordshire Council on 30 April

David Graham

Of Counsel, instructed by Natural England to
represent it on 30 April

APPENDIX B: INQUIRY DOCUMENTS

Core Documents	
<i>Documents submitted with the Order</i>	
NR01	Copy of Application letter
NR02	Draft Order
NR03	Explanatory Memorandum
NR04	Statement of Aims
NR05	Funding Statement
NR06	Estimate of Costs
NR07	List of Consents, permissions or Licences under other enactments
NR08	Request for deemed planning permission
NR09	Waiver direction under Rule 18
NR10	Planning Statement
NR11	Design and Access Statement
NR12	Consultation Report
NR13	Book of Reference
NR14	Deposited plans and sections and rights of way plans
NR15-1	Planning Drawings part 1
NR15-2	Planning Drawings part 2
NR16	Environmental Statement
<i>Documents Referenced within the Statement of Case</i>	
NR17	Transport and Works Act 1992
NR18	Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006
NR19	Transport and Works (Inquiries Procedure) Rules 2004 SI No 2018
NR20	Railways Act 1993
NR21	The Town and Country Planning Act 1990
NR22	Transport and Works Applications (Listed Buildings, Conservation Areas and Ancient Monument Procedure) Regulations 1992
NR23	High-Level Output Specification, Department for Transport (2012)
NR24	High Speed Rail (London-West Midlands) Act 2017
NR25	Greatmoor Railway Sidings Transport and Works Act Order (2018)
NR26	Transport Investment Strategy,

	Department for Transport (2017)
NR27	Government's Strategic Vision for Rail (2017)
NR28	National Infrastructure Delivery Plan (2016-2021)
NR29	National Planning Policy Framework (2018)
NR30	The National Policy Statement for National Networks (2014)
NR31	The Highway and Railway (Nationally Significant Infrastructure Project) Order 2013
NR32	Buckingham Thames Valley Strategic Economic Plan Refresh (2016-2031)
NR33	Cherwell Local Plan 2011-2031 Part 1, adopted 2016
NR34	Connecting Oxfordshire: Local Transport Plan 2015-2031
NR35	Aylesbury Vale District Local Plan 2004 (Saved Policies)
NR36	Vale of Aylesbury Local Plan: Submission Draft (2017)
NR37	Buckinghamshire County Council Local Transport Plan 4 (2016)
NR38	Milton Keynes Core Strategy 2013
NR39	Milton Keynes Council Proposed Submission Plan:MK October 2017
NR40	A Transport Vision and Strategy for Milton Keynes Local Transport Plan 3 - 2011 to 2031
NR41	Local Transport Plan 3 The Central Bedfordshire Council Transport Strategy April 2011 to March 2026
NR42	Bedford Borough Local Plan 2030 Draft Plan for Submission, September 2018
NR43	Bedford Borough Council Local Transport Plan 2011-2021
NR44	Partnering for Prosperity: A new deal for the Cambridge-Milton Keynes-Oxford Arc (2017)
NR45	Report from Sir Peter Hendy to the Secretary of State for Transport on the replanning of Network Rail's Investment Programme (November 2015)

NR46	Compulsory Purchase Act 1965
Additional Environmental Information	
NR47	Further Environmental Information Part I- Main Report Part II- Updated Technical Appendices Part III- Updated Figures
Network Rail's Statement of Case	
NR00	Statement of Case
Network Rail's Proofs of Evidence, Rebuttals and Additional Documents	
NR48	Proof of Evidence of Andrew Shuttleworth-Environment
NR48-1	Appendices to Proof of Evidence of Andrew Shuttleworth
NR48-2	Supporting Documents Index to Proof of Evidence of Andrew Shuttleworth
NR48-3	Rebuttal Proof of Tom Rouse
NR49	Proof of Evidence and Appendices of Jill Stephenson-Planning
NR49-1	Supporting Documents Index to Proof of Evidence of Jill Stephenson
NR50	Proof of Evidence of Phil Holland-Construction
NR50-1	Appendices to Proof of Evidence of Phil Holland
NR50-2	Supporting Documents Index to Proof of Evidence of Phil Holland
NR50-3	Rebuttal Proof of Phil Holland
NR51	Proof of Evidence of Simon Croft-Engineering
NR51-1	Appendices to Proof of Evidence of Simon Croft
NR51-2	Supporting Documents Index to Proof of Evidence of Simon Croft
NR52	Proof of Evidence of Jonathan Smith-Property
NR53	Proof of Evidence of Martyn Angus-Need Case
NR53-1	Supporting Documents Index to Proof of Evidence of Martyn Angus
NR54	Proof of Evidence of Dr Stephanie Wray-Ecology
NR54-1	Appendices to Proof of Evidence of Dr Stephanie Wray
NR54-2	Supporting Documents Index to Proof of Evidence of Dr Stephanie Wray

NR54-3	Rebuttal Proof of Dr Stephanie Wray
NR55	Proof of Evidence of Tim Colles-Traffic
NR55-1	Appendices to Proof of Evidence of Tim Colles
NR56	Proof of Evidence of Alex MacFarlane-Economic Case
NR56-1	Supporting Documents Index to Proof of Evidence of Alex MacFarlane
Network Rail's Supporting Documentation	
NR57	Natural England Guide to assessing development proposals on agricultural land, 16 January 2018
NR58	Institute of Air Quality Management and Environmental Protection UK: Land-Use Planning & Development Control: Planning for Air Quality, January 2017
NR59	Defra Local Air Quality Management Technical Guidance (TG16) February 2018
NR60	Department for Transport TAG UNIT A3 Environmental Impact Appraisal (December 2015)
NR61	Defra Additional railway noise source terms For "Calculation of Railway Noise 1995" A report produced for Defra by AEAT January 2007
NR62	National Planning Policy Framework 2018
NR63	National Infrastructure Delivery Plan 2016-2021
NR64	Government Industrial Strategy Building a Britain fit for the future 2017
NR65	Partnering for Prosperity: A new deal for the Cambridge Milton Keynes-Oxford Arc (2017)
NR66	National Planning Policy Statement for National Networks (2014)
NR67	Buckingham Thames Valley Strategic Economic Plan Refresh (2016-2031)
NR68	Buckinghamshire County Council Local Transport Plan 4 (2016)
NR69	Connecting Oxfordshire: Local Transport Plan 2015-2031
NR70	Cherwell Local Plan 2011-2031 Part 1,

	adopted 2016
NR71	Aylesbury Vale District Local Plan 2004 (Saved Policies)
NR72	Vale of Aylesbury Local Plan: Submission Draft (2017)
NR73	Marsh Gibbon Neighbourhood Plan 2013-2033
NR74	Quinton Neighbourhood Plan 2016
NR75	Winslow Neighbourhood Plan 2014-2031
NR76	Waddesdon Parish Neighbourhood Plan 2013-2033
NR77	Milton Keynes Core Strategy 2013
NR78	Milton Keynes Local Plan 2005 (Saved Policies)
NR79	Milton Keynes Site Allocations (Submissions Draft)
NR80	Woburn Sands Neighbourhood Plan (2014)
NR81	Milton Keynes Council A Transport Vision and Strategy for Milton Keynes Local Transport Plan 3 - 2011 to 2031
NR82	Central Bedfordshire Core Strategy and Development Management Policies (2009)
NR83	Central Bedfordshire Site Allocations (North Area)
NR84	Central Bedford Council Local Plan 2035 (Pre-Submission Version)
NR85	Local Transport Plan 3 The Central Bedfordshire Council Transport Strategy April 2011 to March 2026
NR86	Bedford Borough Council Local Plan 2002 (Saved Policies Version)
NR87	Bedford Borough Council Core Strategy & Rural Issues Plan (2008)
NR88	Milton Keynes Council Proposed Submission Plan:MK October 2017
NR89	Bedford Borough Local Plan 2030 Draft Plan for Submission September 2018
NR90	Bedford Borough Local Transport Plan 2011-2021
NR91	Heritage Statement: Quinton Road Station
NR92	Heritage Statement: Ridgmont Station

NR93	Heritage Statement: Woburn Sands Station
NR94	Not Allocated
NR95	Not Allocated
NR96	Network Rail Standards NR/L3/CIV/005: Level 3 Railway Drainage Systems Manual
NR97	Design Manual for Roads and Bridges HD 33/16 Design of Highway Drainage Systems
NR98	Not Allocated
NR99	Not Allocated
NR100	Not Allocated
NR101	CIRIA C689 Culvert design and operation guide 2010
NR102	EWR Alliance Climate Change Resilience Review Project Wide
NR103	East West Rail Phase 2 Technical Note: Culverts Hydraulic Assessment Technical Note
NR104	Not Allocated
NR105	Not Allocated
NR106	Not Allocated
NR107	Network Rail Standards NR/L2/ENV/015 Level 2 Contract Requirements Environment
NR108	Government response to 'Partnering for Prosperity: a new deal for the Cambridge-Milton Keynes-Oxford Arc'
NR109	Department for Transport The Case for East West Rail, Western Section Phase 2 Moving Britain Ahead (December 2018)
NR110	Department for Transport TAG Unit A5.3 Rail Appraisal
NR111	Not Allocated
NR112	Department for Transport Value for Money Framework Moving Britain Ahead
NR113	Not Allocated
NR114	Autumn Budget 2017: Philip Hammond's speech
NR115	Department for Transport Connecting people: a strategic vision for rail Moving Britain Ahead

NR116	Rail Freight Group East-West Rail Position Paper 18 July 2017
NR117	National Planning Policy Framework 2012
NR118	Not Allocated
NR119	Not Allocated
NR120	Not Allocated
NR121	Not Allocated
NR122	Not Allocated
NR123	Not Allocated
NR124	25 Year Environment Plan
NR125	East West Rail Business Case Summary
NR126	HM Treasury The Green Book Central Government Guidance on Appraisal and Evaluation
Network Rail's Summary Proofs of Evidence	
NR127	Summary Proof of Evidence of Andrew Shuttleworth
NR128	Summary Proof of Evidence of Jill Stephenson
NR129	Summary Proof of Evidence of Phil Holland
NR130	Summary Proof of Evidence of Simon Croft
NR131	Summary Proof of Evidence of Jonathan Smith
NR132	Summary Proof of Evidence of Martyn Angus
NR133	Summary Proof of Evidence of Dr Stephanie Wray
NR134	Summary Proof of Evidence of Tim Colles
Documents submitted by Network Rail during the Inquiry	
NR200	Opening Submissions on behalf of Network Rail
NR201	Order of appearances of Network Rail's witnesses
NR202	Revised Order for start of Inquiry dated 6 February 2019
NR203	Note on amendments in revised Order dated 6 February
NR204	List of withdrawals 5 February 2019
NR205	Compliance Folder
NR206	Network Rail Infrastructure Ltd Shared

	Value Policy
NR207	East West Railway Company Client Instruction Biodiversity Net Gain-Western Section
NR208	E-mail dated 31 January 2019: Network Rail's formal reply to the Biodiversity Instruction
NR209	E-mail dated 5 February 2019: Biodiversity Instruction
NR210	Updated list of objections withdrawn, 12 February 2019
NR211	Response to questions asked on Wednesday 6 February 2019
NR212	Network Rail Letter, dated 12 February 2019 to Milton Keynes Council in response to the Proof of Evidence
NR213	Copies of display material from Consultation Exhibition
NR214	Office of Rail and Road Regulation Level Crossings: A guide for managers, designers and operators Rail Safety Publication 7 December 2011
NR215	East West Rail Bedford to Cambridge Route Option Consultation Document January 2019
NR216	Network Rail Letter, dated 23 January 2019 to Luton Borough Council in response to its objection ref OBJ 244
NR217	Letter dated 28 January 2019 from Luton Borough Council in response to Network Rail Letter, dated 23 January 2019
NR218	Updated list of objections withdrawn, 19 February 2019
NR219	Network Rail Letter, dated 28 January 2019 to Mr and Mrs West ref OBJ 223
NR220	Network Rail Letter, dated 5 February 2019 to Ms Jordan ref OBJ 194
NR221	Network Rail Letter, dated 20 February 2019 to Ms Jordan in response to her e-mail dated 17 February 2019 ref OBJ 194
NR222	Network Rail Letter, dated 7 December 2018 to Alan Francis in response to the objection dated 6 September on behalf of Milton Keynes Green Party OBJ 212

NR223	Network Rail response to further questions asked on Wednesday 6 and Thursday 7 February 2019
NR224	Network Rail Letter, dated 20 February 2019 to Twyford Parish Council in response to its representation
NR225	Table of Railway Station Surveyed Cycle Parking Provision and Use
NR226	E-mail correspondence between Cycling UK and Network Rail, December 2018 to February 2019
NR227	Network Rail Letter, dated 29 January 2019 to Mrs J Barker in response to her objection ref OBJ 139
NR228	Network Rail Letter, dated 4 February 2019 to Central Bedfordshire Council in response to its objection ref OBJ 241
NR229	East West Rail draft planning condition 14: Highways, 26 February 2019
NR230	The Network Rail (East West Rail Bicester to Bedford Improvements) Order Technical Note – Draft Policies SA2 and SE2 Cumulative Impact Assessment, February 2019
NR231	Network Rail Letter, dated 1 February 2019 to Lidlington Parish Council in response to its objection ref OBJ 215
NR232	Updated list of objections withdrawn, 27 February 2019
NR233	Updated list of objections withdrawn, 12 March 2019
NR234	Signed Statement of Common Ground between Network Rail Infrastructure Limited, Oxfordshire County Council & Cherwell District Council
NR235	Extracts from other Transport and Works Act Orders
NR236	Planning Statement (including Affordable Housing Statement & Draft Heads of Terms) Land off Great Horwood Road, Winslow (Excluding land proposed for Compulsory Purchase) September 2018
NR237	Network Rail Note in response to Thames Water objection (OBJ 226)
NR238	The Network Rail (East West Rail

	Bicester to Bedford Improvements) Order Moco Farm Ecological Compensation Site B28 technical note March 2019
NR239	Network Rail Letter, dated 4 December 2018 to Langford Village Community Association in response to its objection ref: OBJ 142
NR240	Plan of London Road Level Crossing, Bicester
NR241	Updated list of objections withdrawn, 2 April 2019
NR242	Network Rail Letter, dated 18 March 2019 to Oxfordshire County Council in response to it and Cherwell District Council's objection ref OBJ 221
NR243	Network Rail Letter, dated 18 March 2019 to Central Bedfordshire Council in response to its objection ref OBJ 242
NR244	Network Rail Note on the potential impacts of alternative timescales for the grant of the Transport and Works Act Order
NR245	Signed Statement of Common Ground between Network Rail Infrastructure Limited and Milton Keynes Council
NR246	Signed Statement of Common Ground between Network Rail Infrastructure Limited and Buckinghamshire County Council
NR247	Network Rail response to environmental issues raised by Objector OBJ 223
NR248	Network Rail response to questions raised on 8 February 2019
NR249	Suggested locations for unaccompanied site visits
NR250	Claire Westbury CV
NR251	Network Rail letter, dated 27 March 2019 in response to Trustees of the H C Stock Will Trust
NR252	Note and Plan of Methodology for surveying Great Crested Newts, April 2019
NR253	Table providing the purposes for the acquisition of land owned by Trustees

	of the H C Stock Will Trust
NR254	Signed Statement of Common Ground between Network Rail and Buckinghamshire County Council re highway matters, dated 10 April 2019
NR255	Letter from Network Rail to Natural England, dated 5 April 2019
NR256	Updated Condition 11: Ecology
NR257	Note on tests in R (Morge) v Hampshire County Council [2011] 1 WLR 268 (SC), paragraph 29 (Lord Brown)
NR258	Bedford Borough Council letter to Secretary of State for Transport dated 5 February 2019
NR259	Letter from Director General, High Speed & Major Rail Projects, Department for Transport to CEO, High Speed Two (HS2) Ltd and CEO, East West Rail Company dated 3 April 2019
NR260	NR current position of Shared Value Policy in regard to Woodleys Farm Crossing
NR261	Walton Neighbourhood Plan 2016 to 2026
NR262	MK Council Plan:MK 2016-2031, section 5. Strategic Site Allocations (p. 66 & 67)
NR263	Revised draft planning conditions as of 29 April 2019
NR264	Planning Officer Delegated Report Ridgmont Station Listed Building Consent Application Ref CB/18/02917/LB
NR265	Case Officer Report and Recommendation for Quainton Station Listed Building Consent Application Ref 18/02661/ALB
NR266	Revised Appendix A to draft planning conditions, 29 April 2019
NR267	Listed Building Consent draft conditions- Quainton Road Station
NR268	Listed Building Consent draft conditions- Ridgmont Station
NR269	Listed Building Consent draft conditions- Woburn Sands Station

NR270	Update on Planning Matters
NR271	Signed Statement of Common Ground between Network Rail and the Environment Agency, dated 25 April 2019
NR272	Signed Statement of Common Ground between Network Rail and Highways England, dated 26 April 2019
NR273	Technical Note- Potential Mill Mound, Bicester Bypass
NR274	Filled-up Order as at 29 April 2019
NR275	Notes of amendments on Filled-up Order as at 29 April 2019
NR276	List of withdrawals as at 30 April 2019 (tracked)
NR277	List of withdrawals as at 30 April 2019 (untracked)
NR278	OBJ 153 Position Statement: Status of negotiations between AWE and NR
NR279	Letter, dated 29 April 2019 re OBJ 183 The Deeleys
NR280	Position Statement with regard to Aviva Insurance Limited (OBJ 155) and Fresh Direct UK Limited (OBJ 152)
NR281	Letter, dated 29 April 2019 to Trowers & Hamlins LLP in response to the objection (ref: OBJ 154) dated 7 September 2018 and Statement of Case dated 22 October 2018 sent on behalf of Fox Land and Property Limited
NR282	E-mail, dated 30 April 2019, in response to e-mail from Savills re Thomas White Properties Ltd
NR283	Formal Network Rail response correspondence – Objectors not appearing at Public Inquiry, April 2019
NR284	Letter, dated 29 April 2019 in response to the objection (ref: OBJ 247) made on behalf of Shaun Neil McBride and Kevin Daniel McBride
NR285	Letter, dated 30 April 2019, to Gerald Eve LLP in response to the objection (ref: OBJ 248) dated 24 April 2019 sent on behalf of Cemex UK
NR286	Amended planning conditions, dated 30

	April 2019
NR287	Signed Statement of Common Ground between Network Rail and Natural England, dated 30 April 2019
NR288	List of Objections withdrawn as of the close of the Inquiry
NR289	Closing Submissions on behalf of Network Rail
NR290	Further Submissions on behalf of Network Rail in response to Closing Statement and costs application of Spooner, Fox, Gladman
Objectors' Documents	
<i>OBJ 27 Trustees of the H.C. Stock Will Trust</i>	
OBJ/27-1	Statement of Case
OBJ/27-2	Proof of Evidence of Thomas Haynes
OBJ/27-3	Appendices to Proof of Evidence of Thomas Haynes
OBJ/27-4	Summary Proof of Evidence of Thomas Haynes
OBJ/27-5	Closing Submissions
<i>OBJ 86 Robert A Wilson, OBJ 88 Quentin Adam Craker and OBJ 89 Christine Craker</i>	
OBJ/86-88-89-1	Statement of Case
<i>OBJ 87 Lower Blackgrove Farm Limited</i>	
OBJ/87-1	Statement of Case
<i>OBJ 108 The Wildlife Trust for Bedfordshire, Cambridgeshire and Northamptonshire</i>	
OBJ/108-1	Letter regarding the Further Environmental Information, dated 18 December 2018
<i>OBJ 114 Trustees of Woburn Estates and Bedford Estates Nominees Limited</i>	
OBJ/114-1	Statement of Case
OBJ/114-2	Proof of Evidence of Michael Horton
OBJ/114-3	E-mail to Network Rail regarding Environmental Mitigation, dated 9 April 2019
<i>OBJ 118 C O'Dell personally and on behalf of M Waters</i>	
OBJ/118-1	Statement of Case
<i>OBJ 120 Bloor Homes</i>	
OBJ/120-1	Statement of Case
<i>OBJ 128 Thomas White Properties Limited</i>	
OBJ/128-1	Statement of Case
OBJ/128-2	E-mail, dated 4 April 2019 from Katie

	Benbow
OBJ 139 Judith Barker	
OBJ/139-1	Points presented to the Inquiry
OBJ 142 Langford Village Community Association (LVCA)	
OBJ/142-1	Statement of Case
OBJ/142-2	Letter from Andrew Smith following appearance at Inquiry, dated 17 April 2019
OBJ/142-3	Presentation by Andrew Smith- London Road Crossing
OBJ/142-4	Presentation by Andrew Smith- Electrification
OBJ 144 Swan Hill Homes Limited	
OBJ/144-1	Statement of Case
OBJ/144-2	Proof of Evidence of James Dewey
OBJ/144-3	Appendix
OBJ 148 Russell William Justin Read and Melanie Patricia Jayne Read	
OBJ/148-1	E-mail from Marcus Blake, dated 7 February 2019
OBJ-152 Fresh Direct (UK) Limited	
OBJ/152-1	Position Statement
OBJ/152-2	Appendix to Position Statement
OBJ 153 Arnold White Estates Ltd, Cloud Wing UK Ltd and Hanson Packed Products Ltd	
OBJ/153-0	Statement of Case
OBJ/153-1	Proof of Evidence of Paul Watson
OBJ/153-2	Appendices to Proof of Evidence of Paul Watson
OBJ/153-3	Summary Proof of Evidence of Paul Watson
OBJ/153-4	Supplemental Proof of Evidence of Paul Watson
OBJ/153-5	Appendices to Supplemental Proof of Evidence of Paul Watson
OBJ/153-6	Proof of Evidence of Mike Axon
OBJ 154 Fox Land and Property Limited	
OBJ/154-1	Statement of Case
OBJ/154-2	Proof of Evidence of Ivor Beamon
OBJ/154-3	Appendices
OBJ 155 Aviva Insurance Limited	
OBJ/155-1	Statement of Case
OBJ/155-2	Position Statement, dated 26 April 2019
OBJ 156 O&H Q6 limited and O&H Q7 Limited	
OBJ/156-0	Statement of Case

OBJ/156-1	Proof of Evidence of Pippa Cheetham - Public Engagement
OBJ/156-2	Appendices to Proof of Evidence of Pippa Cheetham
OBJ/156-3	Proof of Evidence of Heather Pugh-Planning
OBJ/156-4	Appendices to Proof of Evidence of Heather Pugh
OBJ/156-5	Summary Proof of Evidence of Heather Pugh
OBJ/156-6	Proof of Evidence of Amy Hensler-Flood Risk
OBJ/156-7	Proof of Evidence of Dr Ian Fairclough-Ecology
OBJ/156-8	Appendices to Proof of Evidence of Dr Ian Fairclough
OBJ/156-9	Summary Proof of Evidence of Dr Ian Fairclough
OBJ/156-10	Proof of Evidence of Neil Perrins-Impact
OBJ/156-11	Position Statement, dated 6 February 2019
OBJ/156-12	Second Position Statement, dated 25 April 2019
OBJ/156-13	Position Statement on Woodleys Crossing and Woburn Sands, 29 April 2019
OBJ 163 S Orpin	
OBJ/163-1	Statement of Case
OBJ 178 Environment Agency	
OBJ/178-0	Supplementary Statement- Protective Provisions
OBJ/178-1	Position Statement
OBJ/178/2	E-mail dated 25 April 2019 Comments on the conditions
OBJ 181 Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust	
OBJ/181-1	Response to Further Environmental Information, December 2018
OBJ 182 Sue Clark, Councillor for Central Bedfordshire Council Ward of Cranfield and Marston	
OBJ/182-1	Statement of Case
OBJ/182-2	Proof of Evidence
OBJ/182-3	Appendix
OBJ/182-4	Supplementary Appendix

OBJ/183 M, A, P, W & S Deeley and M R Deeley & Son Farm	
OBJ/183-1	Position Statement, dated 26 April 2019
OBJ 194 Anne Jordan	
OBJ/194-1	Proof of Evidence
OBJ/194-2	Appendices to Proof of Evidence
OBJ/194-3	Copy of letter to Network Rail, dated 17 February 2019
OBJ/194-4	Response to Network Rail letter, dated 20 February 2019
OBJ 212 Milton Keynes Green Party	
OBJ/212-1	Summary Proof of Evidence of Alan Francis
OBJ/212-2	Proof of Evidence of Alan Francis
OBJ/212-3	Proposed Layout for Denbigh Hall South Junction
OBJ/212-4	Supplementary Evidence regarding Woburn Sands Level Crossing
OBJ/212-5	Closing Statement, dated 30 April 2019
OBJ 214 Bedford Borough Council	
OBJ/214-1	Letter, dated 5 February 2019- holding objection
OBJ 215 Lidlington Parish Council	
OBJ/215-1	Statement of Case
OBJ/215-2	Proof of Evidence
OBJ/215-3	Appendices
OBJ 226 Thames Water Utilities Limited	
OBJ/226-0	Statement of Case
OBJ/226-1	Proof of Evidence of Jane Battle
OBJ/226-2	Response to Network Rail note of 5 February 2019
OBJ/226-3	E-mail, dated 30 April 2019, giving an update in relation to the progress of discussions with Network Rail
OBJ 228 M Spooner & D Spooner, OBJ 229 Gladman Developments Limited, OBJ 230 J E Spooner and OBJ 231 G W Fox	
OBJ/228-231-0	Statement of Case
OBJ/228-231-1	Opening Statement
OBJ/228-231-2	Proof of Evidence and Appendices of Laura Tilston (GDL)-Procedural Matters
OBJ//228-231-3	Summary of Proof of Evidence of Laura Tilston

OBJ//228-231-4	Proof of Evidence of Colin Whittingham (RSK)-Hydrology
OBJ//228-231-5	Appendices to Proof of Evidence of Colin Whittingham
OBJ//228-231-6	Summary Proof of Evidence of Colin Whittingham
OBJ//228-231-7	Proof of Evidence of Dr Dan Simpson (Aspect)-Ecology
OBJ//228-231-8	Appendices to Proof of Evidence of Dr Dan Simpson
OBJ//228-231-9	Summary Proof of Evidence-Dr Dan Simpson
OBJ/228-231-10	Closing Statement and costs application
OBJ/228-231-11	E-mail, dated 9 May 2019 in reply to Network Rails response to the Closing Statement and costs application
OBJ 232 Buckinghamshire County Council	
OBJ/232-1	Statement of Case
OBJ/232-2	Proof of Evidence of Del Tester
OBJ/232-3	Appendices to Proof of Evidence of Del Tester
OBJ/232-4	Proof of Evidence of Dr Sarah Cox
OBJ/232-5	Appendices to Proof of Evidence of Dr Sarah Cox
OBJ/232-6	Position Statement April 2019
OBJ/232-7	Appendices to Position Statement
OBJ/232-8	Closing Statement on behalf of Buckinghamshire County Council
OBJ 233 Milton Keynes Council	
OBJ/233-1	Proof of Evidence
OBJ 241 Central Bedfordshire Council	
OBJ/241-1	Statement of Case
OBJ/241-2	Proof of Evidence
OBJ/241-3	Supplementary Evidence
OBJ/241-4	Marston Road Overbridge- Approval of Detailed Design, dated 30 April 2019
OBJ 242 Natural England	
OBJ/242-1	Statement of Case
OBJ/242-2	Proof of Evidence of Suzanne Crutchley
OBJ/242-3	Appendices to Proof of Evidence of Suzanne Crutchley
OBJ/242-4	Summary Proof of Evidence of Suzanne Crutchley
OBJ/242-5	Position Statement 9 April 2019

OBJ/242-6	Closing submissions on behalf of Natural England
OBJ/242-6A	E-mail, dated 25 April 2019 giving Natural England's comments on Condition 11- ecology condition
OBJ 243 Cycling UK	
OBJ/243-1	Proof of Evidence of Philip Ashbourn
OBJ 244 Luton Borough Council	
OBJ/244-1	Proof of Evidence of Keith Dove
OBJ 246 Walton Community Council	
OBJ/246	E-mail, dated 8 April 2019, objecting to the Scheme
OBJ 247 Kevin and Shaun Mc Bride and Direct Pallets Ltd	
OBJ/247	Objection and Appendices
OBJ 248 Cemex UK	
OBJ/248-1	Letter, dated 24 April 2019 from Gerald Eve
Representations	
REP 6 Aylesbury Vale District Council	
REP/6-1	Statement of Case
REP 8 Highways England	
REP/8-1	Statement of Case
REP/8-2	Proof of Evidence
REP 12 Buckinghamshire and Milton Keynes Natural Environment Partnership	
REP/12-1	Response to the Further Environmental Information, dated December 2018
REP 13 Upper Thames Branch of Butterfly Conservation	
REP/13-1	Response to the Further Environmental Information, dated December 2018
REP 14 Anthony A Bush	
REP/14-1	Letter, dated 17 April 2019
Supporters' Documents	
SUPP 132 Twyford Parish Council	
SUPP/132-1	Statement of Roger Landells
SUPP 206 English Regional Transport Association	
SUPP/206-1	Proof of Evidence
SUPP 310 Lindsay Milne	
SUPP/310-1	Statement of Case
SUPP/310-2	Evidence presented at Inquiry
SUPP 327 Railfuture Thames Valley	
SUPP/327-0	Statement of Case
SUPP/327-1	Proof of Evidence of Nigel Rose
SUPP/327-2	Appendix 1
SUPP/327-3	Appendix 2

SUPP/327-4	Appendix 3
SUPP/327-5	Appendix 4
SUPP 367 Marston Vale Community Rail Partnership	
SUPP/367-1	Proof of Evidence of Stephen Sleight, 26 February 2019
SUPP 373 John Henderson	
SUPP/373-1	Statement of Case
SUPP 408 East West Rail Consortium	
SUPP/408-1	Proof of Evidence of Martin Tugwell
SUPP/408-2	Appendix 1
SUPP/408-3	Appendix 2
SUPP/408-4	Appendix 3
SUPP/408-5	Summary Proof of Evidence of Martin Tugwell
SUPP 415 Leonard Lean	
SUPP/415	Proof of Evidence
SUPP/415-1	Appendices to Proof of Evidence
SUPP/415-2	Closing Submissions
General Inquiry Documents	
INQ/01	Statement of Matters
INQ/02	Pre-Inquiry Meeting Note
INQ/03	Pre-Inquiry correspondence- Objections, Representations and Letters of Support
INQ/04	Listed Building Consent Folder
INQ/05	Attendance Sheets
INQ/06	Withdrawn Objections

APPENDIX C: SUGGESTED CONDITIONS FOR DEEMED PLANNING PERMISSION

1. Time for commencement

The development hereby permitted shall commence before the expiration of 5 years from the date on which the Order comes into force.

***Reason:** To ensure that the development is commenced within a reasonable period of time.*

2. Development stages

No development shall commence until a written scheme setting out the division of the development into individual stages has been submitted to and approved in writing by the local planning authorities. The scheme shall include details of all land to be occupied permanently or temporarily during the construction of each stage or part thereof. The development shall thereafter be carried out in accordance with the approved written scheme.

***Reason:** To identify Individual Stages for the purpose of these conditions.*

3. Approved drawings

The development shall be carried out in accordance with the planning drawings, as scheduled in the List of Planning Direction Drawings.

***Reason:** To ensure that the development complies with the approved drawings in the interests of certainty.*

4. Design, external appearance and materials

(a) The materials, colours and finishes to be used for all highway overbridges, footbridges and new platforms shall be in accordance with the principles set out in the Design and Access Statement, July 2018.

(b) Prior to the commencement of construction of any building provided by way of mitigation for the accommodation of bats, drawings showing the layout and external appearance of the structure shall be submitted to the relevant local planning authority for approval and built in accordance with the approved drawings.

(c) The height of any Global System for Mobile Communications–Railway masts required in connection with the operation of the Scheme shall not exceed 20 metres above rail level.

***Reason:** To enable proper control to be exercised over the external appearance of structures in the interests of protecting the character and appearance of the area.*

5. Implementation and maintenance of railway fencing

No individual stage of the development shall commence until details of the appearance, size and location of any proposed new permanent boundary fencing which abuts a highway, residential or commercial land or premises within that stage of the development have been submitted to and approved in writing by the local planning authority. All permanent boundary fencing shall be maintained so as to retain its approved appearance.

Reason: *To protect the safety of residents, occupiers and highway users and to protect the character and appearance of the area.*

6. Landscaping

(a) No later than 6 months after the commencement of the individual stage of the development to which it relates, a scheme of both hard and soft landscaping works, covering the locations where landscaping will be undertaken as listed in this condition shall be submitted to the relevant local planning authority for approval.

The works shall be set out in that scheme which shall include the details of:

- (i) any structures, such as street furniture, means of enclosure and lighting;
 - (ii) a plan of existing trees and tree features (such as groups of trees or woodland) to be retained and to be removed in accordance with BS5837(2012);
 - (iii) any new trees showing their species, spread and maturity and new planting plans with written specifications (including cultivation and other operations associated with plant and grass establishment) and schedules of plants (including the location, number, species, size and planting density);
 - (iv) any earth screen bunds;
 - (v) any areas of grass turfing or seeding and depth of topsoil to be provided; and
 - (vi) a timescale for the implementation of hard landscaping works.
- (b) The locations where landscaping schemes shall be submitted to and approved in writing by the local planning authority are as follows:
- (i) Charbridge Lane (OXD/36AA)
 - (ii) Station Road Launton (OXD/34A)
 - (iii) Queen Catherine Road (OXD/26B)
 - (iv) Verney Junction Overbridge (OXD/24C)

- (v) Newton Approach (OXD/9)
- (vi) Marston Road Overbridge (BBM/8A)
- (vii) Kempston Hardwick Station / Manor Road Overbridge (BBM/9B)

Reason: *To ensure appropriate landscaping of the development in the interests of protecting the character and appearance of the area.*

7. Implementation and maintenance of landscaping

All landscaping works shall be undertaken in accordance with the appropriate landscaping scheme, approved in writing by the relevant local planning authority under Condition 6. Hard landscaping works shall be implemented in full in accordance with the timescales set out within the relevant approved landscaping scheme. Soft landscaping works shall be carried out within the first available planting season after the completion of the adjacent structures. Any tree or shrub planted as part of an approved landscaping scheme that, within a period of 5 years of the date of planting, is removed, dies or becomes, in the opinion of the relevant local planning authority, seriously damaged or seriously diseased, shall be replaced in the first available planting season with a specimen of the same species and size as the original planted to be approved by the relevant local planning authority.

Reason: *To ensure satisfactory implementation of the landscaping in the interests of protecting the character and appearance of the area.*

8. Archaeology

- (a) No development shall commence in respect of any individual stage until the Heritage Delivery Strategy document has been produced and approved in writing by the relevant local planning authority related to that individual stage. This document shall detail evaluation and mitigation measures for heritage assets including buried archaeology. These measures shall include geophysical surveys, trial trenching and excavation and a programme of works.
- (b) Where archaeological evaluation is planned, no development, unless otherwise agreed in writing beforehand by the local planning authority, shall take place until a location specific Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the relevant local planning authority.
- (c) Where archaeological remains of national importance are found, no development at that location shall take place until an appropriate methodology for their preservation in situ, where reasonably practical, has been submitted to and approved in writing by the relevant local planning authority. The methodology shall be implemented as approved.

- (d) Where archaeological remains are recorded by evaluation and are not of sufficient importance to warrant preservation in situ but are worthy of recording, the development at the relevant location shall be carried out in accordance with a WSI, that includes details of timings, provision for post excavation analysis and the publication of a report, which has been submitted to and approved in writing by the relevant local planning authority.

Reason: *To ensure adequate protection and recording of historic features and archaeological remains.*

9. Code of Construction Practice

No stage of the development shall commence within the area of a local planning authority until a Code of Construction Practice (CoCP), which incorporates the means to mitigate the construction impacts identified in the Environmental Statement (including the tree protection measures and ecological management measures contained within Volume 3, Appendix 2.1), has been submitted to and approved in writing by the relevant local planning authority.

The development shall be implemented in accordance with the approved CoCP and the relevant plans or programmes.

Reason: *To mitigate anticipated construction impacts arising from the development and to protect local and residential amenity.*

10. Contaminated land

No development shall commence within the area of a local planning authority until a contaminated land risk assessment has been submitted to and approved in writing by the relevant local planning authority.

The contaminated land risk assessment shall include ground investigation, monitoring (including groundwater and gases) within the Order Limits identified in the Environmental Statement which is likely to cause significant harm to persons, or pollution of controlled waters or the environment.

Where contamination has been shown to be a risk, a remediation strategy (including a remediation timeframe where applicable) shall be submitted to and approved in writing by the relevant local planning authority.

Any required remediation shall be carried out in accordance with the approved remediation strategy and on completion of the development, the objectives, methods and results of the remediation works shall be reported in a verification report which shall be submitted to and approved in writing by the relevant local planning authority in accordance with a timetable that shall first be agreed by the relevant local planning authority.

Reason: *To mitigate anticipated construction impacts arising from the development and to ensure that the development does not adversely affect humans or the environment during and following construction in the interests of health and safety.*

11. Ecology

- (a) No stage of the development shall commence within the area of a local planning authority until, for that stage, a written ecological management plan comprising the management of ecology compensation sites and replacement habitats alongside the railway within that route section, reflecting the survey results and ecological mitigation and enhancement measures included in the Environmental Statement (and Further Environmental Information) has been submitted to and approved in writing by the local planning authority with responsibility for any area within each stage.

The ecological management plan shall include:

- (i) a programme of implementation, management and maintenance;
- (ii) mitigation measures as required in accordance with the register of commitments contained within Appendix A⁷⁵⁶ to these conditions updated annually based on the results of the survey; and
- (iii) a programme of monitoring with thresholds for action, setting out, if required, a remedial plan of alternative ecological actions.

The requirements of the ecological management plan shall be carried out as approved.

- (b) No later than 6 months after the commencement of the development a strategy to achieve an overall 10% net gain in biodiversity for the Scheme, including monitoring, maintenance, management and reporting arrangements, shall be submitted for approval in writing by each local planning authority. From the time the Scheme comes into operation measures to achieve an overall 10% net gain in biodiversity for the Scheme (assessed in accordance with the 2019 update proposed by Defra to the 2012 Defra biodiversity metric) shall be implemented in accordance with the approved strategy.

Reason: *To ensure that the development does not adversely affect the natural wildlife and ecology of the area, including protected species, and secures a net gain in biodiversity.*

⁷⁵⁶ Document NR266

12. Flood Risk Assessment

The development shall be undertaken in accordance with the EWR2 Flood Risk Assessment July 2018 with further information as outlined in the EWR2 Flood Risk Assessment to be submitted and approved in writing by the relevant local planning authority in a phased manner to be first agreed by the relevant planning authority to inform each development stage.

Reason: *To prevent the increased risk of flooding through an appropriate hierarchy of flood risk management.*

13. Surface water drainage assessment

- (a) No construction of the structures and stations listed in part (c) shall commence until an overarching surface water drainage assessment, based on the principles of sustainable drainage, has been submitted to and approved in writing by the relevant local planning authority.
- (b) A surface water drainage scheme for each of the structures and stations listed in part (c) which shall comply with the outputs of the approved surface water drainage assessment and include arrangements for the whole life maintenance and management of the drainage scheme, shall be submitted to and approved in writing by the relevant local planning authority.
- (c) Structures:
- OXD/36AA Charbridge Lane OXD/35B
 - Manor Farm OXD/34A
 - Station Road Launton OXD/33A
 - Marsh Gibbon OXD/26B
 - Queen Catherine Road OXD/25
 - Sandhill Road (Middle Claydon) OXD/24C
 - Verney Junction OXD/14A
 - Moco Farm OXD/10AA
 - Salden BBM/9B
 - Manor Road BBM/8A
 - Marston Road BBM/6AA
 - Woodleys Farm MCJ2/178A
 - Lower Blackgrove No.1 MCJ2/177
 - Fleet Marston
- Stations:
-

Ridgmont Station Platform Extensions
Woburn Sands Platform Extensions
Aylesbury Vale Parkway Station Platform Extension
Winslow Station (new station)
Bletchley Station (2 new High Level Platforms)

The development shall be implemented and maintained in accordance with the approved surface water drainage strategy and scheme.

Reason: *To improve and protect water quality and ensure the provision and maintenance of adequate surface water drainage systems.*

14. Highways

(a) No stage of the development shall commence within the area of a local planning authority until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the relevant local planning authority. The CTMP shall include but shall not be limited to:

- (i) Details of construction access routes including access and egress points onto the public highway, including visibility splays, width, radii, fencing and gates.
- (ii) Prohibited routes for construction traffic.
- (iii) Any time restrictions imposed on any routes.
- (iv) Temporary road and Public Right of Way (PRoW) closures and diversions.
- (v) A signage strategy for each construction access route adopting the principles set out on the following drawings:

133735_2A-EWR-OXD-CC_A4-DR-CH-010301
133735_2A-EWR-OXD-CC_A4-DR-CH-010302
133735_2A-EWR-OXD-CC_A4-DR-CH-010303
133735_2A-EWR-OXD-CC_A4-DR-CH-010304
133735_2A-EWR-OXD-CC_A4-DR-CH-010305
133735_2A-EWR-OXD-CC_A4-DR-CH-010306
133735_2A-EWR-OXD-CC_A4-DR-CH-010307
133735_2A-EWR-OXD-CC_A4-DR-CH-010308
133735_2A-EWR-OXD-CC_A4-DR-CH-010309
133735_2A-EWR-OXD-CC_A4-DR-CH-010310
133735_2A-EWR-OXD-CC_A4-DR-CH-010311

133735_2A-EWR-OXD-CC_A4-DR-CH-010312

133735_2A-EWR-OXD-CC_A4-DR-CH-010313

- (vi) Details of the audit and performance monitoring for construction traffic to ensure their adherence to the stated routes and restrictions
- (vii) Traffic control measures (including details of traffic signal installations)
- (viii) Site specific controls in consideration of the potential nuisance (noise, vibration, mud and dust)
- (ix) Prohibition of parking of any construction site vehicles along the public highway
- (x) Detailed plans of highway improvements for safety, capacity, accessibility and resilience along any routes where considered necessary by the local planning authority including but not limited to details of passing bays, junction alterations, areas of carriageway widening, highway structures, footways, cycleways, drainage, signage, Intelligent Traffic Systems, road markings and carriageway strengthening required as a result of construction of the works with a timetable for implementation of the improvements and removal where appropriate
- (xi) Details of site hoarding
- (xii) Details of control of access/site security
- (xiii) Parking, including for site operatives, turning, loading and off-loading facilities
- (xiv) Pre-condition survey of the existing highway network to be used for construction traffic to be undertaken prior to the construction route being brought into use and proposals for inspection and repair of any damage to the highway network attributable to construction traffic
- (xv) Proposals for the reinstatement of PRowS where used for construction traffic
- (xvi) Details of the storage of materials, plant and machinery
- (xvii) Details of the management and handling of the movement of any excess excavated material and any new imported material

The construction of each stage of the development shall be carried out in accordance with the approved CTMP.

(b) No PRowS diversions or new PRowS shall be constructed until the detailed designs including the method of construction and the timeframe for completing such works have been approved in writing by the relevant local planning authority. The

construction of all PRow diversions or new PRow shall be carried out in accordance with the approved details.

Reason: *To protect public amenity and highway safety*

15. Noise Attenuation

All noise barriers shall be constructed in accordance with the Network Rail (East West Rail Bicester to Bedford Improvements) Order Environmental Statement dated July 2018 and maintained for the duration of the operation of the railway.

Reason: *To protect residential amenity.*

APPENDIX D: SUGGESTED CONDITIONS FOR LISTED BUILDING CONSENT

D1 Application Ref: 18/01863/LBC

Woburn Sands Rail Station, Station Road, Woburn Sands MK17 8UD

1. The works hereby authorised shall commence not later than the expiration of five years beginning with the date of this consent.

Reason: *To ensure that the development is commenced within a reasonable period of time that corresponds with the deemed planning permission for the Scheme.*

2. The works hereby authorised shall be carried out in accordance with the following approved plans: Drawing Nos 133735_2D-EWR-WOB-XX-DR-CA-016020, 133735_2D-EWR-WOB-XX-DR-CA-016021, 133735_2D-EWR-WOB-XX-DR-CA-016022 and 133735_2D-EWR-WOB-XX-DR-CA-056020.

Reason: *To ensure that the development complies with the approved drawings in the interests of certainty.*

3. No works shall commence until a full schedule of all proposed works together with detailed plans at a scale of 1:20, 1:50 or 1:100, as appropriate, details of materials and finishes and details of how the works are to be carried out have been submitted to and approved in writing by the local planning authority. The submitted details shall include full details and specifications for fitting, laying joints and attachment of all materials required to carry out the works and shall be accompanied by an explanation of the engineering and construction risks associated with the works. The works shall be carried out in accordance with the approved schedule and details.

Reason: *To enable proper control to be exercised over the external appearance of works in the interests of the character and appearance of the building.*

D2 Application Ref: 18/02661/ALB

Buckinghamshire Railway Centre Quainton Road Station, Station Road, Quainton HP22 4BY

1. The works hereby authorised shall commence not later than the expiration of five years beginning with the date of this consent.

Reason: *To ensure that the development is commenced within a reasonable period of time that corresponds with the deemed planning permission for the Scheme.*

2. The works hereby authorised shall be carried out in accordance with the following approved plans: Drawing Nos 133735_2E-EWR-MCJ2-XX-DR-CA-006001, 133735_2E-EWR-MCJ2-XX-DR-CA-006002, 133735_2E-EWR-MCJ2-XX-DR-CA-016000, 133735_2E-EWR-MCJ2-XX-DR-CA-016200, 133735_2E-EWR-MCJ2-XX-DR-CA-016501, 133735_2E-EWR-MCJ2-XX-DR-CA-016510, 133735_2E-EWR-MCJ2-XX-DR-CA-016511 and 133735_2E-EWR-MCJ2-XX-DR-CA-016600.

Reason: *To ensure that the development complies with the approved drawings in the interests of certainty.*

3. No works shall commence until a full schedule of all proposed works together with detailed plans at a scale of 1:20, 1:50 or 1:100, as appropriate, details of materials and finishes and details of how the works are to be carried out have been submitted to and approved in writing by the local planning authority. The submitted details shall include full details and specifications for fitting, laying joints and attachment of all materials required to carry out the works and shall be accompanied by an explanation of the engineering and construction risks associated with the works. The works shall be carried out in accordance with the approved schedule and details.

Reason: *To enable proper control to be exercised over the external appearance of works in the interests of the character and appearance of the building.*

D3 Application Ref: CB/18/02917/LB

Ridgmont Station, Station Road, Ridgmont MK43 0XP

1. The works hereby authorised shall commence not later than the expiration of five years beginning with the date of this consent.

Reason: *To ensure that the development is commenced within a reasonable period of time that corresponds with the deemed planning permission for the Scheme.*

2. The works hereby authorised shall be carried out in accordance with the following approved plans: Drawing Nos 133735_2D-EWR-RID-XX-DR-CA-016110, 133735_2DEWR-RID-XX-DR-CA-016111, 133735_2D-EWR-RID-XX-DR-CA-016112 and 133735_2D-EWR-RID-XX-DR-CA-056020.

Reason: *To ensure that the development complies with the approved drawings in the interests of certainty.*

3. No works shall commence until a full schedule of all proposed works together with detailed plans at a scale of 1:20, 1:50 or 1:100, as appropriate, details of materials and finishes and details of how the works are to be carried out have been submitted to and approved in

writing by the local planning authority. The submitted details shall include full details and specifications for fitting, laying joints and attachment of all materials required to carry out the works and shall be accompanied by an explanation of the engineering and construction risks associated with the works. The works shall be carried out in accordance with the approved schedule and details.

Reason: *To enable proper control to be exercised over the external appearance of works in the interests of the character and appearance of the building.*

APPENDIX E- COSTS APPLICATION

Application for Costs on behalf of M Spooner & D Spooner (OBJ 228), Gladman Developments Limited (OBJ 229), J E Spooner (OBJ 230) and G W Fox (OBJ 231) (Gladman)

Submissions made on behalf of Gladman in support of the application for costs⁷⁵⁷

- E1 An application for a full award of costs is made based on the following reasons.
- E2 There has been no consultation on the compulsory acquisition of the parcels of land and no approach has been made to acquire the land by private treaty. There is no answer to the points that have been made on consultation and negotiation by private treaty, which fail to comply with the law and the Government's policy in respect of the interests of persons in their land that state that compulsory purchase should be a matter of last resort and so the acquiring authority will be required to show that it has taken reasonable steps to acquire the land by agreement. This suffices for the SoS to make an award of costs in the Objectors' favour because it is unreasonable and contrary to well established policy.
- E3 In circumstances where even the statutory nature conservation advisor has had to appear at the Inquiry to explain the significant uncertainties in the environmental information, it is clear that the Objectors were obliged to appear and to follow the evolution of the evidence in order to protect their interests in the land which the Promoter proposes to take on the sole justification of ecological compensation.
- E4 If the Promoter had properly justified its ecological case upon publication of the Order, and the Objectors sought to challenge that and lost, then the Objectors could not expect their costs to be awarded. However, in these

⁷⁵⁷ Document OBJ/228-231-10

circumstances the Promoter's approach has required participation in the Inquiry.

Response on behalf of NR to the application for costs⁷⁵⁸

- E5 In response to the application for a full award of costs, NR has stated that it has not acted unreasonably in relation to seeking to consult and negotiate by private treaty.
- E6 Negotiations between NR and Gladman have led to substantial agreement between the parties over Plot 0670 (access) and Plot 0681 (CFSA) with the result that Gladman did not find it necessary to pursue its case on those plots at the Inquiry. Gladman's reasonable costs of the drafting, negotiation and completion of that agreement will be met by NR in accordance with the established practice.
- E7 Negotiations between NR and Gladman have not resulted in agreement over Plot 0677 (ECS B10), not through any unreasonable behaviour on the part of NR, but because there remains a genuine and substantial dispute between the parties as to whether that Plot is needed to provide ecological mitigation for the impacts of the construction of the Scheme on protected species, in particular GCN.
- E8 That which was reasonably capable of being resolved by negotiation and agreement, thus avoiding the need for Gladman to incur the expense of pursuing its objection at the Inquiry, has been so resolved. That which was not in fact capable of being so resolved, notwithstanding negotiation, remains for the SoS to determine.
- E9 The Crichel Down Rules state, under the question '*When should compulsory purchase powers be used?*': '*...The confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to*

⁷⁵⁸ Document NR290 paragraphs 20 to 27

*acquire all of the land and rights included in the Order by agreement....
Compulsory purchase is intended as a last resort to secure the assembly of all
the land needed for the implementation of projects. However, if an acquiring
authority waits for negotiations to break down before starting the compulsory
purchase process, valuable time will be lost...'* Measured against this, NR has
acted reasonably, and the outcome is that the Inquiry has had to consider only
the issue of compulsory purchase which resulted from there being a
breakdown in negotiations i.e. the need for Plot 0677 (ECS B10) to be included
within the Scheme for ecological mitigation.

- E10 The requirement for ECS B10 as mitigation for GCN was identified in the ES (published in July 2018) and in the FEI (published in November 2018), which provided a clear summary of the purposes for which ECS B10 was required as ecological mitigation⁷⁵⁹. Gladman did not need to attend the hearing of NE's objection to learn that information. Gladman cannot rely on NE's position to bolster its argument, as NE did not object to the provision of ECS B10. The logic of NE's stated position was that more ecological compensation sites were needed to support GCN, not fewer. That does not make NR's defence of the inclusion of Plot 0677 in the draft Order unreasonable, but it supports that case. Further, the environmental information is not inadequate.
- E11 The approach of the Promoter (NR) has required Gladman's participation in the Inquiry only on the issue of the need for Plot 0677 to provide ECS B10 on which those parties remain in genuine and substantial disagreement, notwithstanding reasonable efforts on both sides to reach common ground and to resolve that point of disagreement. NR has properly justified its ecological case for that ECS. If Gladman succeeds in persuading the SoS to accept that case and to retain Plot 0677 in the Order for that purpose, there is no justification for an award of costs in favour of Gladman (as the unsuccessful

⁷⁵⁹ Document NR16 ES Volume 3 Appendix 9.13 and Document NR47 FEI Part II Appendix 9.13 v2

objector) on its asserted grounds of unnecessary Inquiry costs resulting from NR's alleged unreasonable behaviour. Therefore, the application for costs should be refused.

Inspector's conclusions on the application for a full award of costs against NR

- E12 I have had regard to the TWA and DfT Circular 3/94 in relation to the application for costs. Section 11, subsections (5) and (6) of the TWA apply the discretionary power to the SoS contained in section 250 of the Local Government Act 1972 to make an order as to the costs of parties at an inquiry or hearing. A party to an inquiry or hearing would be likely to be granted an award of costs against another party where: (a) a party is found to have behaved unreasonably and has thereby caused another party to incur unnecessary expense; or (b) where a statutory objector successfully opposes the compulsory acquisition of his or her land or rights in land (in whole or in part).
- E13 The application for an award of costs by Gladman is under category (a) above, but they would be awarded costs under category (b) if successful. The reasons given are not those in the examples of the criteria listed in the Appendix to Circular 3/94, as no substantive evidence has been provided to show that NR has failed to comply with the procedural requirements for inquiries or has introduced new or amended evidence late in the proceedings and it has not withdrawn its application or failed to attend the Inquiry.
- E14 I accept that the negotiations between NR and Gladman could have been undertaken earlier in the proceedings and that this would have potentially avoided the need for many of the issues to have been raised in the written evidence presented to the Inquiry, which were subsequently resolved during the course of the Inquiry. However, there is insufficient evidence to show that the main remaining issue regarding the need for ECS B10 as mitigation for GCN would have been able to have been resolved prior to the Inquiry.

Therefore, I do not consider that any unreasonable behaviour by NR in failing to negotiate with Gladman earlier than it did would have resulted in Gladman avoiding the need to be represented at the Inquiry.

E15 Although Gladman has provided written evidence to the Inquiry in the form of a SoC and proofs of evidence, much of the evidence heard at the Inquiry was regarding the remaining main issue and there is insufficient evidence to demonstrate that the production of this evidence would have been unnecessary had negotiations taken place earlier. NR has provided substantive evidence, supported by the evidence for NE, to demonstrate the continued need for Plot 0677 in the Order.

E16 Whilst NR has offered an alternative to ECS B10 in Moco Farm, the land had only just been made available at the time of the Inquiry and the site had not been considered acceptable by NE at the close of the Inquiry. Therefore, it would not have avoided the need for Gladman to have been represented at the Inquiry. Furthermore, Gladman has not provided sufficient evidence to demonstrate that it has incurred unnecessary expense due to their attendance at the Inquiry during the presentation of evidence by NE.

E17 In conclusion on the application for costs, I find that, even if unreasonable behaviour by NR has been demonstrated with regard to its failure to negotiate earlier with the Objectors, there is insufficient evidence to demonstrate that this has resulted in unnecessary expense being incurred by Gladman.

Recommendation on the application for a full award of costs against NR

E18 I RECOMMEND that the application for a full award of costs be refused.