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Our ref: TWA 8/1/12
Your ref: TRXCP311

Dear Sirs,

5 February 2015

PLANNING ACT 2008: APPLICATION FOR THE CORNWALL COUNCIL (A30 TEMPLE TO HIGHER CARBLAKE IMPROVEMENT) ORDER

1. I am directed by the Secretary of State for Transport ("the Secretary of State") to say that consideration has been given to the report of the Examining Authority, Alan T Gray MRICS DipTP MRTPI, who conducted an examination into the application made by The Cornwall Council ("the applicant") on 15 August 2013 for the Cornwall Council (A30 Temple to Higher Carblake Improvement) Order ("the Order") under sections 37, 114, 115, 117(4), 120 and 122 of the Planning Act 2008 ("the 2008 Act").

2. The examination of the application began on 6 February 2014 and was completed on 6 August 2014. The examination was conducted on the basis of written evidence submitted to the Examining Authority and by a series of hearings held at Bodmin between 7 April 2014 and 22 July 2014.

3. The Order would grant development consent for the dualling of the existing single carriageway section of the A30 trunk road for a distance of 4.5 kilometres between Temple and Higher Carblake to the north-east of Bodmin in Cornwall (referred to in this letter as "the project"). The Order would also authorise the compulsory acquisition and use of land for the purposes of the project. The objectives of the project are to support the Cornish economy, improve journey time reliability, reduce congestion, improve road safety and improve the resilience of the route.

4. Enclosed with this letter is a copy of the Examining Authority's report. The project is described in section 2 of the report. The Examining Authority's findings are set out in sections 4 to 6 of the report, and his overall conclusions and recommendation are at section 7 of the report.

Summary of the Examining Authority's recommendation

5. The Examining Authority recommended that the Order be made, in the form set out in Appendix E to his report.

Summary of Secretary of State's decision

6. **The Secretary of State has decided under section 114 of the 2008 Act to make with modifications an Order granting development consent for the project.** This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and regulation 23(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Secretary of State's consideration

7. The Secretary of State's consideration of the Examining Authority's report is set out in the following paragraphs. Where not stated in this letter, the Secretary of State can be taken to agree with the Examining Authority's conclusions as set out in his report. All paragraph references, unless otherwise stated, are to the Examining Authority's report ("ER") and references to requirements are to those in Schedule 2 to the Order, as set out in Appendix E to the ER.

Legal and policy context

8. Since the Examining Authority wrote his report, the Secretary of State designated the National Networks National Policy Statement ("NNNPS") under section 5(4) of the 2008 Act on 14 January 2015. The Secretary of State is now therefore required to decide this application in accordance with section 104 of the 2008 Act (decisions in cases where national policy statement has effect) rather than section 105 of the 2008 Act. This means that, in addition to the matters set out at ER 3.1, he must also have regard to the NNNPS as designated and must decide this application in accordance with the NNNPS unless any of the considerations described in section 104(4) to (8) of the 2008 Act apply.

9. The Secretary of State has accordingly taken the designated NNNPS into account and has considered whether the applicant and other parties should be consulted on the implications of the changes to the December 2013 draft NNNPS for the cases which they presented to the examination. He has concluded that none of those changes are significant to his decision on this application to the extent that warrants further consultation. He is satisfied that the policies in the draft NNNPS on the need for development of the national road network, assessment principles and generic impacts have been sufficiently carried forward into the designated NNNPS and were adequately addressed in the examination, such that, in the Secretary of State's opinion, the Examining Authority's overall conclusion on the support which the project draws from the draft NNNPS remains relevant in relation to the designated NNNPS. However, to the extent that the designated NNNPS differs materially from the December 2013 draft, the Secretary of State's consideration of the Examining Authority's conclusions in the light of those changes is explained at paragraphs 13, 23, 24 and 26 below.

10. In all other respects, the Secretary of State agrees with the Examining Authority's assessment of the legislation and policy that are relevant and important matters to be taken into account in deciding this application and the weight to be given to relevant policies (ER 3.5-33), with the qualification that the designated NNNPS is now the primary basis for decisions on development consent orders relating to the national road network. The Secretary of State confirms that he has had regard to the legislation and policy referred to by the Examining Authority in deciding this application. He agrees with the

Examining Authority that the project enjoys broad support at national and local policy levels subject to the provision of effective mitigation (ER 3.35-37).

The Environmental Statement

11. The Secretary of State agrees with the Examining Authority that the overall approach of the Environmental Statement (“ES”) is appropriate (ER 4.7-16). He is satisfied that the ES taken with all the supplementary environmental information submitted by the applicant before or during the examination is sufficient for the purposes of his decision on this application and notes that the Examining Authority has taken all the environmental information into account in writing his report (ER 1.6).

Need and justification for the project and alternatives

12. The Secretary of State notes that the need to address the problems of poor road safety, congestion, poor journey time and poor route resilience on the existing single carriageway section of the A30 between Temple and Higher Carblake is unchallenged. Taking into account the predicted safety, transportation and economic benefits, he agrees with the Examining Authority that there is a sound justification for the project as a means of addressing those problems (ER 4.17-21). In addition, with regard to road safety and paragraphs 4.60-66 of the designated NNNPS, the Secretary of State is satisfied that the applicant has taken and will take all reasonable steps to minimise the risk of road casualties arising from the project and to contribute to an overall improvement in the safety of the Strategic Road Network.

13. The Secretary of State notes that both online and offline alternatives to the project have been properly explored over the last decade and agrees with the Examining Authority, for the reasons he has given, that the project is the best means of addressing the problems and securing the benefits (ER 4.22-24). With regard to paragraph 4.27 of the designated NNNPS, the consideration of alternatives reported in the ES did not include viable modal alternatives as this was not required at the time when the project was being developed or during the examination. The Secretary of State notes, however, from paragraph 1.1.4 of the applicant’s Transport Assessment that neither train nor bus was considered to be a viable alternative to car travel on the A30 corridor because of the relatively long journey times involved in travel by those modes. He is satisfied, therefore, that those modes would not realistically be likely to address the identified need for the project and that it would not be appropriate to require the applicant to provide a further assessment of modal alternatives to this project before he decides this application.

Transport Assessment

14. The Secretary of State agrees with the Examining Authority that the applicant’s Transport Assessment, which concludes that the project would alleviate current and predicted congestion by enhancing capacity, is robust and reliable (ER 4.25-27). He notes also that the project represents high value for money with a benefit to cost ratio of 6.34:1 and agrees with the Examining Authority that the applicant’s economic assessment soundly reinforces the case for the project (ER 4.29–33).

Highway design

15. The Secretary of State notes that the applicant's approach to the design of the project has included minimising its footprint within the existing route corridor so as to contain its visual impact and reflect the surroundings of the project, for example by use of local materials, to mitigate landscape impacts. He agrees with the Examining Authority that the project would in this way respect, maintain and enhance local landscape character and distinctiveness (ER 4.36-41). Like the Examining Authority, he does not consider that the design of the grade separated junctions should be modified as proposed by some interested parties and is satisfied overall that the design principles are sound (ER 4.42-53, 4.57). With regard to paragraphs 4.28-35 of the designated NNNPS, the Secretary of State considers that the applicant has demonstrated good design.

Community and private assets

16. The Secretary of State notes that the project would have a *slight adverse* impact as a result of the permanent loss of 12.4 hectares of agricultural land, but that it would have a slight or moderate beneficial effect by reducing severance between communities on either side of the A30. He agrees with the Examining Authority's overall conclusion that the project's impact on community and private assets would be minimal and that, where required, mitigation would be secured through the requirements (ER 4.63-71).

Cumulative effects

17. The Secretary of State agrees with the Examining Authority that the applicant's assessment of cumulative effects has been appropriately undertaken in accordance with the Design Manual for Roads and Bridges ("DMRB") and notes that *minor adverse* cumulative effects are predicted for some nearby dwellings during construction and operation. He agrees with the Examining Authority that these effects are regrettable but inevitable given the proximity of those dwellings to the project (ER 4.72-75).

Cultural heritage

18. The Secretary of State has considered the effects of the project on archaeological remains and historic buildings summarised at ER 4.76-84 and notes in particular that English Heritage had no outstanding concerns in respect of the high grade designated assets affected by the project. He agrees with the Examining Authority that, while there would be some adverse impacts on cultural heritage assets, those impacts would be moderate following the mitigation secured through the requirements and the Environmental Mitigation Schedule; and that they are acceptable when balanced against the scale and corridor nature of the project (ER 4.85). The Secretary of State agrees also that with the proposed mitigation the affected heritage assets and their setting would be preserved to an acceptable degree (ER 4.86).

Ecology and nature conservation

19. The Secretary of State agrees with the Examining Authority that there is no requirement to carry out an appropriate assessment under the Conservation of Habitats and Species Regulations 2010 in respect of the project (ER 4.88-89). He notes that the applicant's assessment of potential ecological effects follows DMRB guidelines and that Natural England ("NE") has no objection to the project subject to the provision of

satisfactory mitigation (ER 4.90-92). In this regard, the Secretary of State notes that NE has issued a “letter of no impediment” to the granting of a European Protected Species Licence for dormice and he is, like the Examining Authority, satisfied that comprehensive mitigation for the project would be secured through the requirements and the applicant’s commitments to engage with NE and other parties (ER 4.93-99).

Noise and vibration

20. The Secretary of State notes that, with mitigation, the impact of construction noise for most of the affected roadside dwellings was predicted to be negligible/minor or negligible, but that four properties within 20 metres of construction activities could suffer a greater adverse effect. He agrees with the Examining Authority that the measures secured through the requirements would mitigate the adverse noise impacts during construction as much as practically possible, and if necessary, compensation would be available to deal with quantifiable residual adverse impacts (ER 4.103-106, 4.115).

21. With regard to operational traffic noise, the Secretary of State notes that the majority of dwellings within the vicinity of the A30 would experience a decrease in noise levels as a result of the project and that where an increase in noise level is predicted the significance of the effect would, with mitigation, be *negligible adverse* (ER 4.107-108, 4.116). He agrees with the Examining Authority that the predicted noise impacts of the project in operation are acceptable (ER 4.110-114, 4.116) and considers that the vibration impacts of the project are similarly acceptable (ER 4.109).

Air quality

22. The Secretary of State notes that the project is predicted to have an overall beneficial air quality impact on the locality, largely due to the reduction in traffic congestion on the A30 during peak demand periods (ER 4.117). He notes in particular that during construction the risk of dust and particulate emissions would, with mitigation, be managed and reduced to an acceptably low level; and that in operation concentrations of particulate matter (PM₁₀) and NO₂ would be well within the objectives of the UK Air Quality Strategy (ER 4.119-120). The Secretary of State agrees with the Examining Authority that the air quality impacts of the project do not give cause for concern (ER 4.121-125).

23. Although the applicant did not provide in its ES a judgement on the risk of the project affecting the UK’s ability to comply with the EU Directive on Ambient Air Quality (2008/50/EU) as now required by paragraph 5.9 of the designated NNNPS, the Secretary of State notes that the ES predicts at paragraph 6.8.28-29 that the increase in vehicle kilometres as a result of the project is likely to result in an imperceptible increase in emissions at a regional level. In the light of this and the Examining Authority’s conclusions on air quality impacts referred to above, he is satisfied that the project is unlikely to affect the UK’s ability to comply with that Directive. With regard to paragraph 5.14 of the designated NNNPS he considers also that the project is unlikely to delay the point at which the South West air quality zone will meet compliance timescales.

24. With regard to paragraphs 5.16-19 of the designated NNNPS about carbon emissions, the Secretary of State notes the applicant’s assessment that by reducing congestion at peak times the project would reduce emissions from queuing traffic and result in an improvement in local air quality and that no mitigation of adverse impacts is

therefore required (paragraph 6.9.4 of the ES). As regards the impact of the project on regional emissions of pollutants, he notes that the increase was predicted to be of imperceptible magnitude and therefore negligible (paragraph 6.9.5 of the ES). Although the ES did not assess the project against the Government's carbon budgets - which was not a requirement at the time of the application - the Secretary of State is satisfied that the emissions resulting from the project are unlikely to be so significant as to affect the Government's ability to meet its carbon reduction plan targets.

Landscape and visual effects

25. The Secretary of State notes that the project has the potential to effect the Bodmin Moor Area of Outstanding Natural Beauty ("AONB") and other Areas of Great Landscape Value and Landscape Character Areas, particularly as a result of the construction of grade-separated junctions (ER 4.126-129). He agrees with the Examining Authority that the applicant has incorporated appropriate measures in the design of the project to ensure that it would be integrated into the local landscape (ER 4.130-135). With regard to the Examining Authority's assessment of specific landscape impacts at ER 4.136-145 he notes that overall they would reduce from *moderate adverse* during construction and Year 1 to *slight adverse* by Year 15 and agrees with the Examining Authority that the potentially adverse effects have been satisfactorily mitigated and are acceptable (ER 4.147).

26. The Secretary of State agrees with the Examining Authority that, having regard to paragraphs 5.150-153 of the designated NNNPS, there are exceptional circumstances for granting development consent for the project because it is in the public interest (ER 4.145). He is satisfied that the other tests referred to in those paragraphs of the NNNPS are met in this case and, in particular, that the presumption against significant road-widening in an AONB at paragraph 5.153 of the designated NNNPS does not apply because there are compelling reasons for the project (ER 4.19, 5.94) and the benefits of the project significantly outweigh its costs (ER 4.32).

27. With regard to the loss of visual amenity for nearby dwellings, the Secretary of State notes that there would be a severe, temporary impact during construction, but that with the establishment of mitigation planting this would reduce to *slight adverse* by Year 15. He agrees with the Examining Authority that these effects are not so severe as to outweigh the overall balance in favour of the project (ER 4.148). He similarly agrees that the project would not have significant permanent adverse effects on the setting of listed buildings (ER 4.149).

30. The Secretary of State agrees with the Examining Authority's overall conclusions on the landscape and visual impacts of the project. He is satisfied that the adverse impacts have been appropriately mitigated and are outweighed by the factors in favour of the project (ER 4.150-153).

Public rights of way

31. The Secretary of State agrees with the Examining Authority that the project will have no long-term adverse effect on the public rights of way network, and that the network would be improved by the provision of grade separated junctions allowing non-motorised users access to cross the A30 safely. He agrees also with the Examining

Authority that the issue of long-distance cycling facilities on the A30 could not be addressed by this project in isolation (ER 4.154-160).

Socio-economic implications

32. The Secretary of State agrees with the Examining Authority that the project would make a significant contribution to revitalising the Cornish economy by offering valuable socio-economic benefits. These include enhanced economic efficiency by minimising delays on the A30, the removal of barriers to key employment sectors that rely on motorised transport, and improved access to major development sites (ER 4.161-167).

The case for development consent

33. The Secretary of State agrees with the Examining Authority's overall conclusion that the project is needed and that, after mitigation, the residual adverse impacts would be acceptable and would not outweigh the benefits of the project. He is satisfied also that the project is consistent with the objectives of the NNNPS as now designated. He therefore agrees with the Examining Authority that the case for granting development consent has been made (ER 4.168-171).

Infrastructure Planning (Environmental Impact Assessment) Regulations 2009

34. The Secretary of State confirms for the purposes of regulation 3(2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 that, in coming to the above conclusions, he has taken into consideration all the environmental information as defined in regulation 2(1) of those Regulations. For the purposes of regulation 23(2)(d)(iii), the Secretary of State considers that the main measures to avoid, reduce and, if possible, offset any major adverse environmental impacts of development are those specified in the requirements.

Compulsory acquisition and other land matters

35. The Secretary of State has considered the applicant's request for compulsory acquisition powers against the tests in sections 122, 123, 131, 132 and 135 of the 2008 Act, relevant guidance and the Human Rights Act 1998. He has considered also the cases of the affected parties in relation to specific areas of land within the Order limits, as set out in section 5 of the ER, and the Examining Authority's conclusions on these matters.

36. In relation to the cases of the affected parties, the Secretary of State agrees with the Examining Authority's conclusions at ER 5.26-28, 5.35-36, 5.56-58, in particular that the compulsory acquisition of the land of the affected parties is justified. He is similarly satisfied that the provisions in the Order for the temporary possession of land are appropriate and necessary for the reasons given by the Examining Authority (ER 5.77-79, 5.98).

37. With regard to the compulsory acquisition of common land and rights for the project and the applicant's proposals as to replacement land, the Secretary of State agrees with the Examining Authority that the change proposed by the applicant during the examination in relation to the replacement land for the part of Manor Common that would be taken for the project is appropriate (ER 5.66-71). He accordingly agrees with the

Examining Authority that all four plots of replacement land meet the tests in sections 131(3) and (11) and 132(2) and (11) of the 2008 Act (ER 5.75, 5.95).

38. The Secretary of State agrees with the Examining Authority's overall conclusions on these matters, for the reasons given. In particular, he agrees that:

- the project is for a legitimate purpose, there is a likelihood of sufficient funds being available and each plot to be acquired has been identified for a clear purpose (ER 5.92);
- all of the land of which compulsory acquisition is sought is required for the project or to facilitate it or is incidental to it (ER 5.93);
- there is a compelling case in the public interest for the land sought to be acquired compulsorily (ER 5.94, 5.97);
- the examination process has ensured a fair and public hearing and any interference with human rights due to the project is proportionate and strikes a fair balance between the rights of the individual and the public interest, with compensation available in respect of any quantifiable loss (ER 5.96).

39. With regard to section 135 of the 2008 Act, the Secretary of State does not consider that the letter from the Highways Agency ("HA") of 24 July 2013 satisfies the requirements of section 135 for the express consent of the Crown authority to the inclusion in the Order of compulsory acquisition and other provisions which would apply to Crown land. However, by letter of 28 January 2015, the HA has given consent which satisfies those requirements.

The Order and legal agreements

40. The Secretary of State has considered the Examining Authority's description of the evolution of the Order during the examination and his residual concerns at ER 6.1-30. Subject to the further changes referred to below, he is satisfied that the Order as recommended by the Examining Authority at Appendix E to the ER is appropriate and necessary for the implementation of the project. He is satisfied also that it is within the powers of section 114 of the 2008 Act for him to make the Order in a form which takes into account all the changes made to the Order since the application, including those referred to below. With regard to the modifications proposed by affected parties, the Secretary of State agrees with the Examining Authority, for the reasons given, that the Order should not authorise the alternative access arrangements at Higher Carblake nor require them to be provided (ER 5.57-58, 6.19-21).

41. The further changes which the Secretary of State is making to the Order are as follows:

- in article 37 (certification of plans etc.), a requirement to certify the Special Category Replacement Land plans has been added;
- in article 39 (service of notices), provisions for the service of notices or documents electronically have been added;

- article 40 (Crown land) has been deleted as it duplicates the provisions of section 135 of the 2008 Act;
- in paragraph 1 of Schedule 2 (requirements), the definition of “commence” has been deleted as section 155 (when development begins) of the 2008 Act provides for this matter;
- in requirements 4(3), 5(3), 7(3), 8(3), 9(3), 10(2), 12(6), 13(2), 14(2), 15(3), 16(2) and 17(3) of Schedule 2 the words “unless otherwise agreed/approved in writing by the local planning authority” have been deleted as they duplicate the provisions of paragraph 1(3) of Schedule 2; and.
- a number of other minor textual amendments to the Order have been made in the interests of clarity, consistency and precision, and in order to conform with the current practice for drafting Statutory Instruments.

42. The Secretary of State agrees with the Examining Authority that the legal agreements with statutory undertakers, the HA and Adrian Mansfield are necessary and proportionate in relation to the project in order to make it acceptable in planning terms (ER 6.34-41). In particular, with regard to section 138(4) of the 2008 Act and article 31 statutory undertakers), the Secretary of State agrees with the Examining Authority that the extinguishment of relevant rights or the removal of relevant apparatus is necessary for the purpose of carrying out the project (ER 6.38).

Post-examination correspondence

43. On 6 November 2014 the applicant submitted to the Secretary of State the Stage 2 Road Safety Audit of the project. The Secretary of State is satisfied that the issues raised in that report can appropriately be left to further discussion and resolution between the applicant and the HA and that any resulting design changes can be accommodated within the limits specified in the Order. The Secretary of State has also received correspondence from four interested parties submitted after the close of the examination. Nothing in any of the post-examination correspondence leads him to differ from the Examining Authority’s conclusions on this application.

Secretary of State’s overall conclusions and decision

44. The Secretary of State agrees with the Examining Authority’s overall conclusion that any disadvantages arising from implementation of the project are outweighed by the public interest benefits. He is satisfied that for all the reasons given in this letter the case for authorising the project is compelling. He has accordingly decided to accept the Examining Authority’s recommendation at ER 7.7 and is today making the Order as recommended by the Examining Authority, but subject to the modifications referred to at paragraph 41 above. The Secretary of State confirms that in reaching this decision he has had regard to all the matters specified in section 104(2) of the 2008 Act. He is satisfied that none of the considerations in section 104(4) to (8) of the 2008 Act apply and that the project accords with the principles in the NNNPS.

Challenge to decision

45. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

Publicity for decision

46. The Secretary of State's decision on this application is being publicised as required by section 116 of the 2008 Act and regulation 23 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Yours faithfully,

Stephen Cave

ANNEX

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the date when the Order is published. The A30 (Temple to Higher Carblake Improvement) Order (as made) is being published on the Planning Inspectorate website at the following address:

<http://infrastructure.planningportal.gov.uk/projects/south-west/a30-temple-to-higher-carblake-improvement/>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).



The Planning Inspectorate Yr Arolygiaeth Gynllunio

The Planning Act 2008

A30 Temple to Higher Carblake Improvement

Examining Authority's Report of Findings and Conclusions

and

**Recommendation
to the
Secretary of State for Transport**

Alan T Gray

MRICS DipTP MRTPI & Accredited Mediator

Examining Authority

Date: 6 November 2014

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File Ref TR010014

The Cornwall Council (A30 Temple to Higher Carblake Improvement) Order 201[]

The application, dated 7 August 2013, was made by Cornwall Council under section 37 of the Planning Act 2008 (as amended). It was fully received by the Planning Inspectorate on 15 August 2013 and accepted for examination on 9 September 2013. The examination began on 6 February 2014 and was completed on 6 August 2014.

The proposed development comprises a scheme for the improvement of 5.15km of permanent highway by dualling the A30 trunk road for a distance of 4.5km (2.8 miles) between Temple and Higher Carblake, to the north-east of Bodmin in Cornwall. The scheme involves widening and realigning the existing single carriageway to provide additional lanes, a central reserve and verges. It also includes construction of three new grade-separated junctions to replace existing at-grade crossings, with three new overpass bridge structures and associated side roads.

Summary of Recommendation

The Examining Authority recommends that the Secretary of State should make the Order in the form attached at Appendix E.

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1 INTRODUCTION

- 1.1 My appointment as a Single Examining Inspector to be the Examining Authority (ExA) for this application was confirmed in Annex F to the letter of 15 January 2014 announcing the Preliminary Meeting (PM) ^{PD5}. This report sets out my findings, conclusions, and recommendations to the Secretary of State for Transport (SST) under section 83 of the Planning Act 2008 (PA2008). References to documents in the Examination Library and cross-references to other parts of this report are provided at the ends of sentences in ^{subscript}.
- 1.2 The scheme for which development consent is sought comprises the dualling of the A30 trunk road for a distance of 4.5km (2.8 miles) between Temple and Higher Carblake to the north-east of Bodmin, in Cornwall. It lies wholly within England and comprises a nationally significant infrastructure project (NSIP) as defined by sections 14(h) and 22(1) and (5) of the PA2008, requiring consent under section 31.
- 1.3 The five objectives of the scheme are set out in the Statement of Need and in summary they are to ^{APP94}:
- support the Cornish economy;
 - improve journey time reliability;
 - reduce congestion and associated delays;
 - improve road safety; and
 - improve the resilience of the route.
- 1.4 The applicant is Cornwall Council (CC), which is a unitary authority. The Council is also the LPA, Highway Authority and Ordinary Watercourse Regulator. The inter-relationships are controlled by separation of powers **through the Council's** Constitution and Strategic Planning Committee and managed through an organisational structure reflecting the separation of functions ^{APP18}.
- 1.5 The scheme has been designed and would be implemented by CC on behalf of the Highways Agency (HA), which is the responsible authority for operating and maintaining the A30 trunk road and associated slip roads. An agreement provides that the applicant would be responsible for the design and delivery of the scheme but that the HA would be fully consulted throughout the process and on completion of the scheme, the HA would become responsible for its operation and maintenance ^{APP95}.
- 1.6 On 4 January 2013 the applicant notified the Planning Inspectorate (the Inspectorate) under Regulation 6(1)(b) of the Infrastructure Planning (Environmental Impact Assessment) Regulations (as amended) (the EIA Regs) that an environmental statement (ES) would be provided in respect of the scheme. The application was accompanied by an ES which satisfies the definition in Regulation

2(1) of the EIA Regs ^{APP48 to APP92}. It was supplemented during the examination and all the environmental information as defined in Regulation 2(1) has been taken into account.

- 1.7 The application was submitted to the Inspectorate on 15 August 2013 and accepted for examination under s55 PA2008 on 9 September 2013. It was then advertised by the applicant and 28 relevant representations (RR) were received. I subsequently accepted one submission from Public Health England, which purported to be a RR but could not be treated as such as it was received late and was not in the prescribed form ^{AS18}. Nevertheless, I took account of its content in preparing the initial assessment of principal issues (IAPI).
- 1.8 A separate application under ss131 and 132 of the PA2008 was made seeking certification for the compulsory acquisition (CA) of replacement common land, but as a consequence of provisions in the Growth and Infrastructure Act 2013 (GIA2013), there is no longer any need for certification. The application was accepted, has been concurrently examined and is reported with recommendations on the statutory requirements ^{APP97 & APP98}.
- 1.9 On 13 September 2013, the Inspectorate issued s51 advice to the applicant to be read in conjunction with the published Section 55 Acceptance of Applications Checklist ^{PD2 & PD3}. The Inspectorate advised that it would be of benefit to the examination if other environmental information were provided in the pre-examination period to clarify some of the content of the ES. The applicant was advised to address the issues identified before the examination of the application began.
- 1.10 On 8 January 2014, the applicant submitted documents in response to the s51 advice issued by the Inspectorate ^{AS1 to AS17}. This other environmental information was published on the National Infrastructure Portal on 14 January 2014. In the PM invitation dated 15 January 2014, representations were invited on the other environmental information, and the procedural decision issued thereafter confirmed the deadline for receipt of such representations as 26 February 2014 ^{PD5 & PD6}. Two representations on the other environmental information were received; from the Environment Agency (EA) and the Blisland Commoners Association (BCA) ^{REP1 & REP2}.
- 1.11 The PM was held on 6 February 2014 where interested parties (IPs), affected persons (APs) and others were able to make representations about how the application would be examined. The examination then commenced and my procedural decisions about the timetabling and form of the examination were communicated on 24 February 2014 ^{PD6}.
- 1.12 Hearings were held regarding the draft Development Consent Order (DCO), and specific issue hearings (ISHs) were held in

relation to mitigation measures, landscape and visual impact, ecology and highway design. Compulsory acquisition hearings (CAHs) were held, as was an open floor hearing (OFH). For the avoidance of doubt, those who sought the OFH did not appear and nor did any other IP, although the applicant was present and spoke as an IP HG23 & REP79.

- 1.13 I undertook accompanied site inspections (ASIs) with IPs and APs during the examination, and unaccompanied site inspections (USI) before and during the examination ASI1 to ASI3.
- 1.14 The scheme lies within the administrative area of CC. A Local Impact Report (LIR) was prepared by CC as local planning authority (LPA) REP22. A number of Statements of Common Ground (SoCG) were requested early in the examination and five were produced REP23 to REP27. A further unrequested SoCG with the EA emerged later in the examination process REP90.
- 1.15 I posed two rounds of written questions PD7 & PD10. A number of additional questions were also posed in four procedural decisions comprising requests for further information under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) PD11, PD14, PD16 & PD17.
- 1.16 The application together with RRs, written representations (WRs), other written submissions, procedural decisions, my questions, responses and comments thereon were all made and remain available on the National Infrastructure Portal.
- 1.17 The examination closed on 6 August 2014 and its expiry was communicated to IPs on 7 August 2014 PD18.

Change to the Application¹

- 1.18 On 17 July 2014, the applicant made an application to substitute replacement common land provided in the draft DCO submitted with the application for development consent AS38 to AS52 & APP17. The proposed change involved the substitution of plot numbers 05/05 and 05/06 (in the submitted draft DCO and Book of Reference APP17 and APP21) by another new plot of replacement common land, namely plot 05/07. After inviting and considering representations from IPs and having had regard to **the applicant's targeted consultation** exercise undertaken outside of the examination process, a procedural decision was issued to IPs on 4 August 2014 announcing my decision to accept the change to the application PD16 & PD17.

¹ See also Section 5

Other Consents

- 1.19 Other consents are required to implement the scheme and these are listed at Appendix B of this report. They are also identified in the Consents Management Plan (CMP) which forms part of the application APP39.
- 1.20 The ES identifies the potential for dormice, otters, badgers and bats in the area and survey work by the applicant is on-going. Protected Species Licences would be required if any protected species were found in pre-construction surveys and consent would need to be obtained from Natural England (NE). A draft European Protected Species Licence (EPL) for dormice was submitted with **the application and a letter of 'no impediment' has been produced** by NE. Site of Special Scientific Interest (SSSI) Consent would also be required and a letter seeking consent from NE was also submitted with the application APP40, APP44 & REP17.
- 1.21 Consent would be required from CC (in its capacity as Ordinary Watercourse Regulator) for the culverting, discharging and impounding of freshwater. Draft applications were made to the Ordinary Watercourse Regulator and the EA, and letters of 'no impediment' were provided with the application APP41.
- 1.22 Consent from the HA to include the compulsory acquisition (CA) of interests that they hold in Crown land within the DCO was obtained before the application was submitted APP43.

Report Structure

- 1.23 This introduction comprises Section 1. Section 2 summarises the main features of the proposed development and Section 3 summarises the legislative and policy context. Section 4 sets out findings, conclusions and recommendations in respect of the main issues. Section 5 considers CA and other land matters and Section 6 deals with the draft DCO. Section 7 sets out my overall conclusions and recommendation.
- 1.24 The report has several appendices. The submitted documents form the examination library at Appendix A. Appendix B is described in paragraph 1.19. The main events taking place throughout the examination and the main procedural decisions are listed at Appendix C, while the abbreviations used in the report are at appendix D. The recommended DCO forms Appendix E and is based on the final DCO (v8) with recommended variations in track changes REP95.

2 THE SCHEME, THE SITE AND THE SURROUNDINGS

The Scheme

- 2.1 The scheme proposes improvements to a 4.5km (2.8 mile) stretch of the A30 trunk road between Temple and Higher Carblake, across Bodmin Moor in Cornwall, dualling the single carriageway and linking it with the existing dual carriageway at each end.
- 2.2 The whole scheme is 5.15km long. It comprises a dual carriageway which would closely follow the existing road alignment, widen and realign the existing carriageway to provide additional lanes, a central reservation and verges. Safety barriers would be introduced to central reserves physically segregating the opposing vehicle flows. Three grade-separated junctions would be constructed at Cardinham Downs, Preeze Cross and Temple Tor, replacing existing at-grade crossings with three new overpass bridge structures and associated side roads.
- 2.3 Where existing Public Rights of Way (PRoW) abut or cross the existing A30 trunk road within the length of the scheme, the application proposes that these should be modified whilst retaining their current functions.
- 2.4 The scheme would also improve or redirect existing private accesses onto the section of the A30, which it is proposed to improve. Access to two service stations located adjacent to the existing eastbound carriageway of the A30 would also be improved.
- 2.5 A Sustainable Drainage System (SuDS) is proposed, which is designed to cater for the increased hard surface that would be introduced, manage rainwater run-off and provide opportunities for improving water quality and biodiversity. It would comprise an active collection system discharged to three outfalls, utilising existing ditches where possible. Three attenuation basins would also be created to control excessive run-off, which would be subject to pollution controls².
- 2.6 The draft DCO includes principal powers that relate to the CA of land; the creation of new rights in land; the interference with or extinguishment of existing rights in land. Temporary possession of land is also proposed. The Statement of Reasons explains the need for the scheme and offers a public interest case for the land to be acquired compulsorily APP19.
- 2.7 Powers within the draft DCO also make provision for the CA of special category land; specifically interests in Crown land and

² South of the trunk road in the locality of Higher Carblake; south of the trunk road adjacent to Pounds Conce; and north of the trunk road, west of the proposed junction at Temple Tor.

common land. In relation to common land, in accordance with ss131 and 132 of the PA2008, the draft DCO makes provision for replacement land to be given in exchange³.

- 2.8 A full description of the proposed works is set out in Schedule 1, Part 1 of the recommended DCO ^{Appendix E}. The scheme is illustrated in the Works Plans and in the revised ES Non-Technical Summary APP7, AS4 & AS5.

The Site

- 2.9 The site is contained by the Order limits and illustrated on the Works Plans ^{APP6}. Including all associated and temporary works, it extends to approximately 63.1ha. It embraces highway land including the existing single carriageway and agricultural land. The highway comprises the existing trunk road and side road carriageways with associated verges. The agricultural land is mainly improved grassland, which is open access land generally used for moorland grazing and subject to common land rights. The topography of the surroundings is generally elevated, rising from west to east.
- 2.10 Existing surface water drainage relies on site topography and uses current highway drainage systems where these exist, but the site itself is not within an area at risk from flooding.

The Surroundings

- 2.11 There are 18 dwellings within 200 metres of the scheme, three of which front the existing public highway. There are also two filling stations at the eastern end and there are a number of PRowS nearby, including one crossing the existing carriageway in the vicinity of Pounds Conce⁴.
- 2.12 The scheme lies to the north-east of Bodmin and south-west of Launceston on Bodmin Moor. Its landscape is characterised by granite uplands rising to tors and clitter slopes⁵; extensive treeless heathland, wet moorland, and improved grassland; Cornish hedgerows; prehistoric monuments; and a dispersed settlement pattern of hamlets and farmsteads.

³ Part 7 of the PA2008 defines 'replacement land' as land which is not less in area than the Order land and which is no less advantageous to the persons, if any, entitled to rights of common or other rights, and to the public.

⁴ FP/503/16.

⁵ Trails of blocks down slopes.

3 LEGAL AND POLICY CONTEXT

Introduction

3.1 No national policy statement (NPS) for national networks has been designated. However, the draft National Policy Statement for the National Road and Rail Networks (dNPSNN) was published for consultation during the examination and is discussed below ^{Paragraph 3.5 to 3.9.} If it were subsequently designated, the dNPSNN would carry full weight in deciding whether the scheme should be approved. Nevertheless, in the absence of a relevant NPS regard must be paid to:

- The Local Impact Report (LIR) prepared by Cornwall Council in its capacity as local planning authority;
- Any matters prescribed in relation to development of the description to which the application relates; and
- Any other matters considered both relevant and important to the decision.

Local Impact Report

3.2 The LIR reaches the following conclusions ^{REP22}:

- Need for the Proposal
 - Scheme would play a vital role in the future prosperity of Cornwall, reduce congestion and delays, and improve highway safety
- Development Plan and Local Policies
 - Development plan comprises the saved policies of the North Cornwall Local Plan 1999 but none directly relate to scheme
 - Relevant policies in the emerging Cornwall Local Plan have limited weight
 - Cornwall Local Transport Plan encourages improvement of the A30 between Temple and Higher Carblake.
 - Cornwall AONB Management Plan encourages better integration of the A30 with the Bodmin Moor AONB.
- Landscape Character Impact
 - Scheme alignment and topography are the principal means of mitigation
 - Overall effects on landscape character would reduce from *moderate adverse* (during construction) to *slight adverse* (design year⁶)
- Setting of Listed Buildings (LBs) and Archaeology
 - Route would minimise impact

⁶ Fifteenth year following completion.

- Potential ***moderate adverse*** direct impact on cultural resource but scope for reduction to ***slight adverse*** with appropriate mitigation
- Ecology and Wildlife
 - Presence of protected species including badgers, common dormouse, breeding birds, bats, reptiles and potential habitat to support otters and marsh fritillary butterfly
 - Low ecological impacts
- Hydrology and Drainage
 - Not in flood risk area
 - Drainage mitigation should be secured by requirement
- Noise
 - Scheme impact ***negligible*** to ***moderate beneficial***
 - Construction Management Plan (CMP) should be agreed prior to commencement
- Air Quality
 - Scheme should lead to improvement
 - Should be controlled during construction by a Construction Environmental Management Plan (CEMP)
- Economy
 - Substantial benefit to Cornish economy
- Local Transport and Highways
 - Improved safety on A30 and surrounding roads and junctions, increased capacity and reduced journey times

3.3 Although the LIR identifies positive impacts, it also identifies the potential for adverse environmental impacts in relation to landscape, ecology, cultural heritage assets, and potentially for noise and vibration levels, but concludes that effective mitigation measures should offset adverse impacts. The LIR concludes that, on balance, the benefits of the scheme would outweigh any adverse environmental impacts and that the scheme should be positively endorsed.

3.4 I find that the LIR accords with the appropriate guidance⁷.

National Policy

Draft dNPSNN

3.5 The dNPSNN sets out the national vision and strategic objectives, namely ***to 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. This means:***

⁷ Planning Inspectorate Advice Note 1: Local Impact Reports

- *networks with the capacity and connectivity to support national and local economic activity and facilitate growth and create jobs*
- *networks which support and improve journey quality, reliability and safety*
- *networks which support the delivery of environmental goals and the move to a low carbon economy*
- *networks which join up our communities and link effectively to each other⁸*

- 3.6 The dNPSNN set out the detailed case for the conclusion that ***there is a compelling need for development of the national road network***. The national policy is to deliver improvements in capacity and connectivity on the national road network to support economic growth and improve the quality of life, rather than meet unconstrained traffic growth. But increased traffic without sufficient capacity would result in more congestion, greater delays and more unpredictable journeys. Without action, congestion would constrain the economy and impact negatively on quality of life.
- 3.7 New and improved road transport links are identified as playing an important role in unlocking economic development and housing, including by unblocking barriers for labour or product markets. In addition, road development is needed to fix safety problems, enhance the environment and/or enhance accessibility for pedestrians and cyclists. Paragraph 2.22 specifically refers to the Government's policy to reduce congestion and unreliability by focusing on improving and enhancing the existing national road network including ***improvements to trunk roads, in particular dualling of single carriageway strategic trunk roads to increase capacity and improve performance and resilience***.
- 3.8 The dNPSNN also sets out general policies for the assessment and determination of applications for national networks infrastructure and the consideration of generic impacts.
- 3.9 In considering the implications of the dNPSNN, I sought and obtained the views of the applicant and all other IPS PD7, PD14 & REP65. The responses reinforced my own, namely that the scheme draws considerable support from the draft.

National Planning Policy Framework

- 3.10 The National Planning Policy Framework (NPPF) has relevance as a national expression of planning policy and the applicant relies on its core principles to justify the scheme APP93. The scheme exhibits little conflict with the NPPF and draws broad encouragement in promoting economic growth and relieving congestion. But although

⁸ DI-004 Part 2 dNPSNN page 7

the NPPF introduces a presumption in favour of sustainable development, it also underlines the importance of the development plan as the starting point for decision-making.

National Infrastructure Plan

- 3.11 The National Infrastructure Plan (NIP) was published in 2010 and is updated annually. The 2012 publication announced funding of the dualling of the A30 from Temple to Higher Carblake and the 2013 version identifies the scheme as one of the Top 40 priority infrastructure investments⁹.

European Legal Requirements and related UK Regulations

- 3.12 The principal European directives for this project are those dealing with environmental impact assessment and habitats, which are discussed below.

Environmental Impact Assessment (EIA) Directive

- 3.13 The scheme requires an EIA because it falls within Schedules 2 and 3 of the EIA Regulations. An ES accompanies the application APP48 to APP92. Key environmental impacts examined include air quality and climate, cultural heritage, landscape effects, ecology and nature conservation, geology and soils, construction and waste materials, noise, effects on all travellers, impact on community and private assets, road drainage and the water environment, and cumulative impacts. As part of the EIA the applicant prepared a Transport Assessment (TA) in accordance with Department for Transport (DfT) guidance.
- 3.14 I have had due regard to the ES and all the environmental information produced in the examination.

Habitats Directive (Council Directive 92/43/EEC)

- 3.15 A screening exercise was undertaken by the applicant to determine whether an Appropriate Assessment was required under the Habitats Regulations 2010 to establish whether the scheme would be likely to have any significant effect on a Ramsar or Natura 2000 site. The screening confirmed that there would be no likely significant effects from the scheme, either alone or in combination, following mitigation, on the qualifying features of the River Camel Special Area of Conservation (SAC); and I agree with that assessment.

⁹ NIP 2013, Appendix A

Local Policy

The Development Plan and Emerging Planning Policy

3.16 The adopted development plan comprises the saved policies of the North Cornwall Local Plan 1999 (NCLP). It pre-dates any road widening proposals including the scheme and has no promotional policies directly relating to the improvement of the A30 between Temple and Higher Carblake, but relevant environmental policies are APP93:

- DVS3 Maintaining Amenity
- ENV1 Protecting Countryside & Landscape Character
- ENV4 Protecting National & International Sites
- ENV5 Protecting Locally Important Sites
- ENV7 Safeguarding Protected Species
- ENV9 Safeguarding Water Quality
- ENV10 Controlling Flood Risk
- ENV11 Controlling Pollution & Ensuring Public Safety
- ENV12 Preserving the Historic Environment
- ENV14 Protecting Archaeology & Historic Resources
- TRU1A Regulating Primary Route Roadside Facilities

3.17 These adopted policies are dated but remain relevant to consideration of the scheme. It is of note that the scheme lies in or adjoining, or close to statutory and other designated sites protected by Policies ENV1-7, including:

- Bodmin Moor and Bodmin Moor North Sites of Special Scientific Interest (SSSIs)
- River Camel Special Area of Conservation (SAC)
- Camel and Allen Valleys Area of Great Landscape Value (AGLV)
- Bodmin Moor Area of Outstanding Natural Beauty (AONB)
- Countryside Wildlife Sites (CWSs)
- Bodmin Moor Important Bird Area (IBA)
- Bodmin Moor Area of Great Historic Value (AGHV)

3.18 Emerging planning policy has some relevance too. The consultation period for the draft Cornwall Local Plan: Strategic Policies Proposed Submission ended on 28 April 2014 and during the examination it was anticipated that the draft plan might be submitted for examination concurrently with the production of this report; but it has been subject to further consultation and remains to be submitted¹⁰.

3.19 Nevertheless, these emerging policies encourage the provision of 42,250 dwellings and 50,000 jobs over the next 20 years, as a

¹⁰ Schedule of Focused Changes to the Cornwall Local Plan: Strategic Policies was published for consultation between 4 September and 16 October 2014.

consequence of which traffic flows would increase. Moreover, a number of major development proposals are planned for the region, including APP94 3.2.12:

- The Newquay Growth Area
- Aerohub Enterprise Zone and Newquay Cornwall Airport
- The Clay Country Eco-Community
- The Falmouth Docks Master Plan
- Hayle Harbour/Wave Hub

3.20 These sites lie to the west of the scheme and the draft plan recognises the need for improvements along the A30 generally, and at specific locations. It does not, however, identify the scheme on its proposals map or in its policies REP22. Nevertheless, the scheme is identified in the key diagram and draws support from the strategic policies.

3.21 Adopted and emerging planning policies provide some support for the scheme but there is scope for conflict with policies for protection of the environment or amenity and the scope for effective mitigation is considered in Section 4.

Cornwall Local Transport Plan 2001

3.22 Local Transport Plans are statutory documents submitted to DfT, which can be material considerations in land use decision-making. The Cornwall Local Transport Plan (LTP3) identifies congestion and unreliability as key objectives towards improving connectivity, while Policy 8 specifically identifies improvement of the A30 from Temple to Higher Carblake as a priority. The relevant policies and objectives are APP93:

- Policy 1 Reduce emissions
 - Policy 6 Adapt network to climate change
 - Policy 8 Work with partners to improve connectivity
 - Policy 11 Maintain assets in a good repair
 - Policy 15 Minimise and mitigate environmental impacts
 - Policy 16 Protect habitats, landscape and townscape
 - Policy 17 Manage existing infrastructure
 - Policy 18 Minimise use of natural resources and waste
 - Policy 23 Improve road safety and reduce casualties
 - Policy 28 Reduce noise and air quality impacts
-
- Objective 3 Adapt and improve the transport network to ensure resilience to climate change
 - Objective 5 Ensure a resilient and reliable transport system for people, goods and services
 - Objective 12 Improve road safety
 - Objective 13 Increase public confidence in a safer transport network
 - Objective 14 Reduce noise and air quality impacts

- Objective 15 Improve access to employment, education, health and leisure
 - Objective 17 Encourage community participation in shaping and delivering transport services for their communities
- 3.23 The scheme complies with and draws considerable support from these LTP policies and objectives.

Other Local Policy Documents

- 3.24 The Cornwall Local Investment Plan 2011 **sets out the Council's** priorities for spatial investment and the scheme has been included within the medium-term capital programme highlighting it as a priority APP93.
- 3.25 The Cornwall Council Tourism Issue Paper 2012 notes that *the east of the County now bears the brunt of the summer holiday bottlenecks which are now a regular feature on the A30 in the Temple area* APP93.
- 3.26 The Cornwall AONB Management Plan supports measures to better integrate the A30 with its wider moorland setting APP93.
- 3.27 The Cornwall Biodiversity Plan identifies six Biodiversity Action Plan habitats within 2km of the scheme and to 're-wet' Bodmin Moor to mitigate storm impacts further downstream APP93.
- 3.28 These local policy documents offer some support for the scheme and little by way of obvious conflict.

Other Legal and Policy Provisions

The National Parks and Access to the Countryside Act 1949

- 3.29 The National Parks and Access to the Countryside Act 1949 (NPAC) provides the framework for AONBs, National Nature Reserves (NNRs) and Sites of Special Scientific Interest (SSSIs) and for Local Nature Reserves (LNRs).
- 3.30 The scheme lies within the Bodmin Moor Area of AONB APP93. There would be adverse landscape and visual effects resulting from the creation of grade-separated junctions and the carriageway works, but if suitably mitigated they could be acceptable. The effects are considered in Section 4.

The Wildlife and Countryside Act 1981 (as amended)

- 3.31 The Wildlife and Countryside Act 1981 (WCA) provides for the management and protection of SSSIs. The scheme skirts Bodmin Moor North SSSI and the applicant has submitted a SSSI Impact Assessment to determine the likely significant effects and the

necessary mitigation in relation to habitats APP37. Such effects are discussed in Section 4.

The Countryside and Rights of Way Act 2000

- 3.32 The Countryside and Rights of Way Act 2000 (CROW) introduces further measures for the protection and management of SSSIs and AONBs. Because the scheme would be largely within the existing highway corridor, its adverse effects on AONB and SSSI designations would require to be suitably mitigated and they are considered in Section 4.

United Nations Environment Programme Convention on Biological Diversity 1992

- 3.33 I have had due regard to the Biological Diversity Convention in considering the **scheme's** likely impacts and mechanisms for mitigation and compensation.

Conclusions

- 3.34 Examination of the scheme is set in the European and national statutory framework and in its policy framework; and it is necessary to consider conformity.
- 3.35 So far as national policy is concerned, the scheme draws support from the dNPSNN, the NPPF and the NIP. The NPS would become pre-eminent and have full force if it were designated before determination of the application for the scheme.
- 3.36 So far as local policy is concerned, the scheme enjoys broad support from adopted and emerging planning policies and specific support from the LTP. But there is the scope for conflict with policies for protection of the environment and amenity which could be addressed by mitigation and that is considered in Section 4.
- 3.37 In summary, I am satisfied that the scheme enjoys broad support at national and local policy levels, and there should be no policy conflict provided environmental and amenity effects are effectively mitigated.

4 MAIN ISSUES

Introduction

4.1 When identifying the main issues, in addition to the application, RRs, written representations and oral submissions, I also had regard to the legislative framework set by s105 of the PA2008 and other relevant legislation, policy and guidance included in Section 3. Early consideration of these matters before the examination commenced led to the identification of the following principal issues, which were announced at the PM:

- ***The Application including***
 - Adequacy of Consultation
 - CA and Other Land Matters
 - Draft DCO
 - Parallel Consents and Agreements
 - Policy Framework
- ***The Environmental Statement including***
 - Basis of Assessment
 - Consultation
 - Cumulative Effects
 - Mitigation through the DCO
 - Residual Impact Assessment
- ***The Scheme including***
 - Construction Implications
 - Costings
 - Highway Design
 - Need and Justification
 - Principal and Associated Development
 - Traffic Assessment
- ***The Scheme's Impact including***
 - Community and Private Asset Implications
 - Cumulative Effects
 - Cultural Heritage Implications
 - Ecology and Nature Conservation Implications
 - Environmental Effects
 - Landscape and Visual Effects
 - Public Rights of Way Effects
 - Socio-Economic Implications
- ***The Overall Balance in the Public Interest***

4.2 Receipt of other environmental information, representations, submissions, responses to questions and requests for further information¹¹, together with oral representations at hearings has

¹¹ Under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010

refined the principal issues, leaving a collection of main issues to be addressed in this report. Some issues, such as policy, CA and other land matters, the DCO, parallel consents and agreements, and the overall balance are specifically addressed in other sections. All other issues relating to the scheme and its environmental or other effects are considered in this section in the order of principal issues above.

The Application

- 4.3 Parallel consents and agreements, the policy framework, CA and other land matters, and draft DCO, CA, are dealt with in Sections 1, 3, 5 and 6 respectively. The residual matter in relation to the application not addressed elsewhere, is the adequacy of consultation.

Adequacy of Consultation

- 4.4 **It appeared from the application's acceptance process that there** were concerns regarding the adequacy of consultation from 13 Parish and Town Councils, the Coal Authority and statutory undertakers ^{PD2}. Nevertheless, I am satisfied that notwithstanding the apparent inadequacies the affected bodies have been alerted as necessary and have had every opportunity to participate in the examination. The fact that some have chosen not to implies no prejudice to their interests.
- 4.5 Following acceptance and before the examination began, the 13 Parish and Town Councils were subsequently notified of the application and formally consulted by the applicant ^{AS17}. None subsequently made representations or submissions. Nor did the Coal Authority, which was not consulted because the application is not within an area of past, present or prospective coal mining. All relevant statutory undertakers were similarly consulted and invited to the PM ^{PD5}, but only Western Power Distribution made a relevant representation and it was subsequently withdrawn ^{RR26 & AS24}.
- 4.6 I am thus satisfied as to the adequacy of consultation in respect of the application.

The Environmental Statement

Basis of Assessment

- 4.7 The ES was considered adequate for acceptance, but as submitted it contained limited information about the scheme as a result of the quality of plans, cross-sections, photomontages and the non-technical summary (NTS). Specifically, there was limited information regarding the extent and nature of the proposed development, the design of the carriageway and related structures. Consequently, it would have been difficult to examine

the scheme effectively without the provision of other environmental information ^{PD2}.

- 4.8 Therefore, s51 advice was issued to the applicant ^{PD3}, resulting in the production of a substantial amount of other environmental information ahead of the examination ^{AS1 to AS16}. This other environmental information, when taken together with the ES itself, constituted a more comprehensive description of the scheme that formed a better basis for examination. It was still necessary, inevitably, to pose questions and request other information for a full examination of all relevant and important matters regarding the scheme.

Consultation

- 4.9 The issue of inadequate consultation has already been addressed in relation to the application.

Cumulative Effects

- 4.10 **I was initially concerned about the ES's assessment of cumulative effects** because no account was taken of projects other than those already committed ie confirmed trunk road projects and other EIA projects with planning permission; and particularly because no assessment of cumulative effects appeared to have been undertaken as regards visual impact, landscape, ecology and nature conservation, or community and private assets.
- 4.11 However, the ES assessment has been appropriately undertaken in accordance with the Department for Transport (DfT) Design Manual for Roads and Bridges (DMRB) guidance and I am thus satisfied about the way in which cumulative effects have been assessed by the applicant ^{REP60}. Moreover, during the examination I have not identified any further need to consider cumulative effects, other than for the combined effects of different aspects of the scheme and they are addressed later in this section ^{Paragraphs 4.147 to 4.150}.

Mitigation through the DCO

- 4.12 I was initially very concerned that necessary mitigation identified in the ES for a wide range of potentially adverse effects did not appear to be adequately secured through DCO. I therefore explored all apparent inconsistencies between the two, resulting in appropriate clarifications supported by iterative revisions of the draft DCO (both generally and in terms of requirements), the Environmental Mitigation Schedule (EMS), the draft CEMP, the draft LEMP and a WSI to come. The content of the CEMP, LEMP and WSI (within the CEMP) are secured in the DCO through the EMS in Requirements 4, 7 and 14 ^{PD7, PD10, PD11 & PD17}.

- 4.13 Mitigation is addressed for specific effects later in this section but from an overall point of view I am now satisfied that the approach to securing mitigation through the DCO is comprehensive and soundly based ^{Appendix E}.

Residual Impact Assessment

- 4.14 The ES regards all impacts as ***significant*** without drawing the customary distinction with ***not significant*** ^{APP48 Paragraph 4.6.9}. Nevertheless, the ES follows the usual methodology for assessing highway proposals set out in DMRB guidance. It assigns each beneficial effect to one of three significance categories, namely ***large beneficial, moderate beneficial or slight beneficial***; and each adverse effect to one of four significance categories ranging from ***slight***, to ***moderate, large*** and ***very large*** using a scale of significance rather than distinguishing between significant or not; ***neutral*** is also used. According to DMRB, impacts of ***large*** or ***very large*** significance are likely to be material in decision-making, although for this scheme, no impacts are predicted as having effects of ***very large*** adverse significance¹².
- 4.15 Other NSIP highway schemes take the customary EIA approach to the assessment of significance¹³, but it does not follow that the use of the DMRB approach is inappropriate. On the contrary, I am satisfied that it is entirely possible to assess the residual impacts of the scheme against the significance criteria of the appropriate highway guidance, namely DMRB; and there is some merit in assessing significance on a scale.

ES Conclusions

- 4.16 I am satisfied that any initial concerns that I may have entertained regarding the overall approach of the ES have been laid to rest. It remains however, to assess specific environmental impacts as necessary for balanced conclusions on the acceptability of the scheme to be reached.

The Scheme

- 4.17 There is no opposition to the scheme. On the contrary it has been long-awaited and enjoys widespread support. The very few objections are on points of detail while supporting the principle of the scheme. All of the following matters are identified within the principal issues but are considered here in a more logical order.

Need and Justification

¹² Volume 11, Section 2, Part 5 (HA205/08)

¹³ A556 Knutsford to Bowden & Woodside Link

- 4.18 The A30 trunk road is the main highway route connecting the major Cornish towns to the regional and national road networks. Following the completion of the A30 Bodmin-Indian Queens improvement in 2007, the A30 provides a dual carriageway standard route from the M5 at Exeter to its junction with the A39 north of Truro at Carland Cross, with the exception of the stretch of single carriageway between Temple and Higher Carblake, east of Bodmin. This stretch constrains the capacity of the route, causing significant congestion and delay, particularly during summer months when traffic flows on the A30 increase. As a consequence, there is a detrimental impact on journey times, journey time reliability and the resilience of the route, with a consequent impact on the Cornish economy ^{APP94}.
- 4.19 In summary, the scheme is thus needed to improve the trunk road by dualling the existing carriageway between Temple and Higher Carblake in order to address the following problems ^{APP94}:
- poor road safety;
 - congestion during peak periods and at weekends in the **summer months causes a significant constraint to Cornwall's** economic prosperity;
 - poor journey time reliability; and
 - poor route resilience.
- 4.20 The benefits of the scheme would include ^{APP94}:
- an estimated £18m accident saving over a 60 year period;
 - avoiding four fatal and 25 serious casualties anticipated over the design life of the scheme;
 - eliminating congestion and journey delays of 33-60 minutes resulting in queues of up to 9 miles that occur at weekends from May to October and at other times;
 - providing estimated transport benefits of some £387m arising from reduced congestion and delays;
 - enhancing economic growth and provide wider economic benefits in excess of £62m to the Cornish economy by generating more employment, reducing business costs and improving productivity; and
 - encouraging economic growth by aiding regeneration and business expansion and supporting tourism in Cornwall.
- 4.21 The identified needs arising from the shortcomings of the existing single carriageway are unchallenged and in my view they are accurately described. I am satisfied that there is a sound justification for the scheme as a means of addressing them.
- 4.22 Online and offline alternatives to the scheme have been properly explored, with extensive public involvement over more than 10 years, and rejected ^{APP48 Paragraph 3.1.1 to 3.2.1}. Each of the route options assessed and discounted would be likely to require more extensive

interference with public and private interests. Moreover, implementation of any of the alternative discounted route options would not avoid the need for CA. No alternative route for the scheme is proposed by IPs and the alternative access proposals for Higher Carblake have not found favour Paragraphs 5.37 to 5.59.

- 4.23 The online route option of the scheme demonstrates the most cost-effective and least environmentally damaging solution, not least through its maximisation of avoidance mitigation in relation to visual and ecological receptors associated with the rejected offline options.
- 4.24 I therefore conclude that the scheme is the best means of addressing the problems and securing the benefits.
- 4.25 The transport assessment (TA) supporting the scheme has been properly executed in accordance with the appropriate guidance¹⁴ APP46. It takes the customary form of assessing the existing conditions for users, evaluating the impacts of the scheme using SATURN modelling in accordance with current DfT guidance as detailed in WebTAG. The methodology, approved by the HA on whose behalf the applicant is promoting the scheme, makes the familiar comparisons of *do minimum* and *do something* strategies, supported by proposed junction traffic modelling, impacts on non-motorised users (NMUs) and implications for road safety.
- 4.26 The existing single carriageway section on the A30 is operating over capacity during the summer periods, causing major congestion and queuing along the route. But forecasting suggests that congestion would occur throughout the year in the future and that the scheme would alleviate that congestion level by providing a major capacity enhancement and thereby removing the existing bottleneck APP46.
- 4.27 No issue is taken with the TA, save in relation to the proposed alternative access arrangements at Higher Carblake, but they are dismissed in the CA section and do not undermine its conclusions Paragraphs 5.37 to 5.59 & 5.80 to 5.85.
- 4.28 I regard the TA as robust and find every reason to rely on it.

Costings

- 4.29 An economic assessment is appended to the TA which forms part of the application. The cost benefit analysis (CBA) compares the economic impacts to users and providers of the transport system with costs of implementation, maintenance and operation, analysing how beneficial the scheme is to the users of the road

¹⁴ Regulation 5(2)(q) Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 & DfT Guidance on Transport Assessments (March 2007)

network in the study area. It has been undertaken in accordance with well-established DfT guidance, practice and procedures, and I find it thorough in execution and robust in conclusion that the Present Value Benefits (PVB) of the scheme would total approximately £400 million APP46 Appendix 4.

- 4.30 The majority of transport user benefits would occur during the inter-peak hours, which make up almost 35% of the total travel time benefit (because they represent the largest proportion during the daytime hours). The summer weekday and summer weekend peak periods account for approximately 4% of the total time in the year, but the benefits from this time would account for approximately 37% of the total travel time benefits. The congestion and delay is at its greatest for the year during this period and it is expected that a significant proportion of the total travel time benefits would occur during these weeks.
- 4.31 The scheme would provide shorter journey times, although increased speeds would result in a disbenefit in vehicle operating cost on account of slight increases in the use of fuel. However, upgrading to a dual carriageway would reduce the number of accidents and the scheme would provide over £18 million in safety benefits, representing approximately 5% of the PVB.
- 4.32 Importantly, the scheme would offer a benefit to cost ratio (BCR) of 6.34. That would represent high value for money, providing significant benefits to the local economy and transport users. To my mind this is a very respectable BCR in comparison with other highway schemes that have been consented by SST.
- 4.33 In conclusion, I am satisfied that the economic assessment soundly reinforces the case for the scheme.
- 4.34 Matters relating to the funding of the scheme are addressed in the CA section, where reference is made to updated arrangements Paragraphs 5.80 to 5.85. But for the avoidance of doubt, they do not affect the economic assessments reported here.

Principal and Associated Development

- 4.35 I was initially concerned that all of the works were not properly differentiated as between principal and associated components, but through questions and answers I am assured on that score by **the final DCO's description of Works and to the extent necessary**, this matter is embraced within the DCO section PD7, REP7, Appendix E & Section 6 of this report.

Highway Design

- 4.36 By minimising its footprint within the existing route corridor, the online design of the scheme goes a long way to enhancing its appearance and containing its visual impact, in my opinion.
- 4.37 This approach has allowed the design to provide the necessary capacity and safety improvements while:
- Reducing land take requirements;
 - Minimising potential environmental impacts;
 - Maximising economic benefits; and
 - Lowering Scheme costs.
- 4.38 The design of the scheme would reflect its surroundings. Engineered embankments would replicate natural landform with **elongated 'S' side slope profiles, and 'landform replication' where practical**. This type of landform is natural and replicates the effects of natural weathering processes on local varying geology. Gradients and degrees of roundness vary with the local geology and the effects of several thousands of years of weathering. Rounded profiles and variations in slope would suggest a natural rather than an engineered approach. Local stone would be used, red surfacing would not be employed and the scheme APP48 Chapter 2.
- 4.39 Junction designs are sensitive to their situation, with materials and the use of colour softening the visual impact as much as the topography would allow; and the scheme would not be lit.
- 4.40 The landscape strategy has been developed in liaison with statutory bodies including the AONB Officer. The aim is that the scheme should merge into the existing landscape, mitigating potential impacts and, where possible, enhancing the existing roadside landscape. Throughout the scheme the principle is to retain existing vegetation, or where this cannot be achieved to retain topsoil to create a seed bank from which natural regeneration can be encouraged AS1 Part 2.
- 4.41 I am thus satisfied that the design of the scheme would respect, maintain and enhance local landscape character and distinctiveness by reflecting local design characteristics and use local materials. Nevertheless, IPs do have some concerns.
- 4.42 David Mattos considers that there is no need for three grade-separated junctions as proposed and that the middle Preeze Cross junction could be eliminated or made eastbound only because the existing junction is used only for left-turning movements RR8.
- 4.43 However, the highway design rightly gives the improvement of road safety a high priority, involving the replacement of at-grade junctions with compact grade-separated ones. The proposed Preeze Cross junction would provide access to both carriageways and inter-connectivity for settlements to the north and south of

the scheme. Without grade-separation at Preeze Cross, lengthy link roads would be required to connect these settlements to the other two junctions at Temple Tor to the east and Cardinham Downs to the west. Moreover, additional highways would have adverse environmental implications ^{REP7}.

- 4.44 I therefore consider that the design of the proposed Preeze Cross **junction is entirely appropriate for the scheme's objectives.**
- 4.45 Victor Newman and the Pencarrow Maintenance Trust (PMT) question the proposed use of a grade-separated junction with an overbridge as opposed to an underpass for the proposed Temple Tor junction, mainly because of the landscape and visual impact significance ^{RR18 & 19}; and those issues are reported later ^{Paragraphs 4.126 to 4.153}. But in my opinion, the considerations relating to the choice of an overbridge are every bit as much matters of highway design and I therefore address them here also.
- 4.46 In the interests of safety, the scheme positions the proposed junction to provide greatest forward visibility for users of the highway. The geological and ground conditions at this point would not favour an underpass. In a previous design considered some **time ago and before the applicant's involvement, the proposed** junction was in a different location where an underpass would have been feasible, but the safety characteristics of the mainline and the side roads were poorer ^{REP28}.
- 4.47 I understand these trade-offs, agree that road safety should be paramount and endorse the use of an overbridge in the design of the scheme.
- 4.48 Blisland Commoners Association (BCA) and Blisland Parish Council object to the design of the bridge over the A30 within the grade-separated junction at Temple Tor and particularly to 1m high parapets, which they believe would be insufficiently high for the safe passage of livestock and should be 2m high. There are three holdings to the south of the A30 with rights on Manor Common to the north and a further five holdings to the north of the A30 with rights on Brockabarrow Common to the south of the A30. Because of the associated danger of crossing the road at surface, movement of livestock across the A30 is now infrequent. But it has been crossed in the past and with the provision of a bridge, could be increasingly crossed in future ^{RR12 & 17}.
- 4.49 With **many years' experience of moving livestock over the A30** on a nearby bridge, commoners are sure that the higher parapets are required for the safe movement of moorland livestock. Moorland cattle, sheep and ponies are less docile and manageable than traditional farm livestock, and are liable to jump barriers if spooked. Commoners do not handle livestock at close quarters on farms without substantial barriers ^{REP2}.

- 4.50 I understand the concerns of commoners and those who support them, but I believe their fears are unfounded. The design of the bridge with a parapet height of 1m reflects the appropriate DMRB guidance and its use at Temple Tor enjoys the support of HA. The guidance only envisages higher parapets in circumstances which do not pertain at Temple Tor; and nor are they analogous. 1.5m parapets would be used only for an accommodation bridge provided for the exclusive and frequent use of livestock. The proposed bridge would be much wider than an accommodation bridge and livestock would have freer movement.
- 4.51 Furthermore, as only a few commoners have interests on both sides of the A30, livestock movements would be relatively infrequent and possibly by vehicle. There are examples of other standard bridges with 1m high parapets and a narrower accommodation bridge where livestock is successfully driven over the A30 REP28.
- 4.52 I am not therefore persuaded that the design of the proposed Temple Tor grade-separated junction should be modified because there is no need to employ higher parapets for safety reasons.
- 4.53 In overall conclusion, I am satisfied that the design principles of the scheme are sound.

Construction Implications

- 4.54 Constructing the scheme would inevitably create disruption and have other implications. Environmental impacts such as noise and vibration are addressed below, but disruption implications are considered here Paragraphs 4.87 to 4.111.
- 4.55 Detailed arrangements for traffic management to permit construction do not form part of the application and would need to be devised by the contractor after the contract were let. However, Martin Bishop is concerned about the handling arrangements for traffic delay during construction of the scheme RR9. But it is clear that a single lane of traffic would be maintained for east and or westbound movements, signal-controlled as required. When road closure proved necessary (eg for bridge works) it would occur with advance warning and signed detours REP28.
- 4.56 I am therefore confident that necessary disruption associated with construction of the scheme would be responsibly contained.

Scheme Conclusions

- 4.57 I am satisfied that the scheme is needed, and that by addressing identified problems and providing related benefits it is justified. The TA has been undertaken in the appropriate manner and is sound, while the BCR is high value in comparative terms. There is no issue around principal and associated development. The

scheme's design is safe, practical and sensitive to its surroundings, with any adverse highway design impacts avoided by design or mitigation.

4.58 Consequently I consider that there are no reasons to reject the application on grounds of need, costs and benefits or highway design.

The Scheme's Impact

4.59 **The ES makes a comprehensive assessment of the scheme's** environmental impact and I shall be referring to it frequently in this sub-section. It addressed the following topics ^{APP48}:

- Traffic and Transport;
- Air Quality and Climate;
- Cultural Heritage;
- Landscape and Visual Effects;
- Ecology and Nature Conservation;
- Geology and Soils;
- Materials;
- Noise;
- Effects on All Travellers;
- Community and Private Assets;
- Road Drainage and the Water Environment.

4.60 I shall not be referring to them all and will be concentrating on the largest or most significant effects, depending on the sensitivity of the receptor. In doing so I am mindful that the ES was prepared against DMRB guidance which regards only impacts of **large** or **very large** significance as material to decision-making¹⁵.

4.61 Impacts of greatest significance relate to cultural heritage and landscape and visual effects, where **large adverse** effects are predicted to occur. But in my opinion, not all predicted impacts are of such significance as to require specific consideration within this section and if they are not addressed it is because I am satisfied that the significance of the predicted effect is lower and the impact could be adequately mitigated and secured through DCO provisions. On the other hand, some predicted impacts, although less in the significance of effect, are worthy of consideration because of, for example, and the frequency of occurrence of the effect or the sensitivity of the receptor.

4.62 Impacts as identified in the ES and considered during the examination are now addressed against the framework of principal issues set out at the beginning of this section, with cumulative effects addressed as necessary in a following sub-section ^{Paragraphs}

4.72 to 4.75.

¹⁵ DMRB Volume 11, Section 2, Part 5 (HA205/08)

Community and Private Assets

- 4.63 The ES considers the effects of the scheme on private land, community land, agricultural and development land. It also assesses the impact on community severance. The existing A30 effectively severs the communities on either side of the road and **scheme's impact on severance requires assessment** also APP48 Chapter 14.
- 4.64 As regards private land, the route of the scheme is bordered by 18 dwellings, two fuel stations, a garage and a commercial fishery. While some of these properties are situated in close proximity to the existing carriageway, there is no residential or commercial land within the Order limits. **The scheme's impact on nearby dwellings beyond the Order limits is considered later in the section** Paragraph 4.110 to 4.116 & 4.123.
- 4.65 The scheme cuts across a moorland area and is bounded by agricultural land for almost its entire length. The adjoining land is either dedicated agricultural land or used by commoners for agricultural purposes. It is of moderate to very poor quality, is mainly used for rough grazing and none of the land is classified as Best and Most Versatile (BMV). Nonetheless, the scheme would result in adverse effects on agricultural land during construction and operation; and there is an agricultural impact assessment to judge the effects APP48 Chapter 14 & APP87.
- 4.66 Some agricultural land would be required temporarily for construction. Wherever possible, it would be restored to agricultural use once construction activities were completed. The mitigation of construction impacts is addressed in the draft CEMP and secured by the EMS in Requirement 4, including reduction of impacts from noise, dust and pollution, and arrangements for maintained access to operational farmland REP111 to 120, REP114 & Appendix E.
- 4.67 Some 12.4ha of agricultural land would be lost permanently to the scheme and it would be impossible to mitigate this operational impact. The largest areas of agricultural land would be acquired for the proposed grade-separated junctions. Land holdings affected are peripheral to the farm businesses and none would be subject to land take of greater than 5% of its total holding. The significance of the effect is therefore predicted as ***slight adverse*** APP48 Chapter 14.
- 4.68 The scheme would result in adverse effects on community land during both construction and operation. Adverse effects during construction would be mitigated by ensuring that any common land required temporarily for construction would be appropriately restored on completion of the scheme. The scheme would also involve a permanent common land take, but that would be replaced by the creation of new common land located within the

affected commons, which would be no less in extent and equally advantageous Paragraphs 5.60 to 5.76.

- 4.69 However, the scheme would have a beneficial effect on community severance because the proposed grade-separated junctions would provide safer movement from one side of the A30 to the other, thereby reducing severance between communities and improving access to services or facilities on an opposite carriageway. The predicted effect would be *slight* or *moderate beneficial*.
- 4.70 No development land would be affected by the scheme¹⁶. There **are RRs about the scheme's impact on the development potential** of private land and they are considered in the CA section Paragraphs 5.37 to 5.59.
- 4.71 In summary I agree with all the assessments of effects on **community and private assets, am satisfied that the scheme's** impact upon these assets would be minimal and that where required, adequate mitigation is properly secured by the DCO through CEMP and LEMP via the EMS in Requirements.

Cumulative Effects

- 4.72 As stated earlier, the assessment of cumulative effects has been appropriately undertaken in accordance with the DMRB guidance and it is now appropriate to consider cumulative effects arising from the combined effects of different impacts of the scheme Paragraph 4.11. According to the guidance, the significance of effect that is likely to be determinative is *major* or *severe*. No such effects are predicted APP48 Table 16.2.
- 4.73 During construction, *minor adverse* cumulative effects are predicted for residential receptors and recreational users arising from construction activities, changes to the landscape, settings of heritage assets, reduced access, traffic, noise and dust, based on the significance criteria e in DMRB (HD 205/08). Some loss of agricultural land would also be experienced and cumulative effects may be greater for farms if there were also effects on the farmhouse. Effects on ecological receptors from the preceding sources of disturbance, when coupled with habitat fragmentation and danger or mortality, are assessed as *not significant* APP48 Paragraph 16.7.4.
- 4.74 During operation, cumulative effects would diminish over time as traffic flow on the A30 improved and landscaping became established, but *minor adverse* cumulative effects are predicted for some nearby dwellings. Cumulative effects on recreational users

¹⁶ Land allocated in the adopted or emerging development plan for certain purposes, or for which planning permission has been granted or is pending.

and ecological receptors are predicted as *not significant* during operation APP48 Paragraph 16.7.5.

- 4.75 In my opinion the assessment is thorough and I see no reason to disagree with its conclusions. I agree with these conclusions and regard the cumulative mitigated impact on dwellings as regrettable, but inevitable, given their proximity to the scheme.

Cultural Heritage Implications

- 4.76 Cultural heritage assets that could be affected by this scheme include archaeological remains and historic buildings in a landscape of Historic Landscape Character (HLC). The methodological approach for **assessing the scheme's effect on the assets** mirrors that for landscape and visual impact, ultimately scaling the significance of the effect against DMRB guidance, accepting that *large* and *very large adverse* effects are material to decision-making Paragraph 1.14 & 1.15. The assessment was undertaken in **co-operation with Cornwall's Historic Environment Planning Advice Officer (HEPAO)** APP48 Paragraph 7.2.1.
- 4.77 Within a 20m scheme corridor, 118 features have been identified including boundary stones, crosses, posts, milestones, buildings, field systems and many other features APP48 Table 7.5. Of the 118 features, three are designated as nationally important (high value), five as equivalent national importance (high value) and 110 of regional or local importance (low/medium value). The three nationally designated features are the **Peverell's Cross Scheduled Monument (SM)** and two Grade II listed milestones (LB). The five nationally equivalent features are a low earthwork, a prehistoric enclosure, the **remains of a medieval cross, a wheelwright's stone** and a former coaching inn.
- 4.78 Beyond 20m but within about 1km of the scheme are nine sites with structures or earthworks of designated national importance (high value); five of these sites are scheduled and five are listed (one receptor is both scheduled and listed). Two additional sites (one an extensive complex), in or around 1km from the scheme are of equivalent value to designated sites of national importance (high value). Further than 1km but less than 8km from the scheme there are numerous SMs and listed buildings (high value); and in addition, there are many other features ranked as of equivalent value to SMs (high value).
- 4.79 A geophysical survey reveals several buried features potentially of high importance, notably those recorded as 1C and 2C APP74. In addition, the assessment process reveals that of the 75 built field boundaries (hedge banks) in the study corridor, 58 are considered important under the historic criteria of the Hedgerow Regulations 1997.

- 4.80 Partly in response to my testing of the methodology together with the proposed mitigation and the surety of its provision through questions and requests for further information, a SoCG between the applicant, EH and Cornwall Historic Environment Service was produced for the examination. It provides assurances about consultation arrangements during the examination and that certainty was helpful to its purpose; the appropriateness of the assessment methodology was agreed; construction mitigation **measures at Peverell's Cross were agreed for inclusion in the CEMP**; safeguarding arrangements for a listed milestone were agreed; the ES conclusions on Manor Common were agreed as comprehensive; and a brief for a Written Scheme of Investigation (WSI) was agreed for inclusion in the CEMP ^{REP24}. Furthermore, EH confirms that there are no outstanding concerns in respect of high grade designated heritage assets **and Cornwall's HEPAO has no residual concerns in respect of other heritage assets** ^{REP137 & REP142}.
- 4.81 Considering the 118 affected receptors (sites) and the range of potential effects upon them, most would experience a *neutral* effect and relatively small numbers from *neutral/slight* through *slight* and *slight/moderate* to *moderate adverse*. More concerning, however, are the six high value sites that would suffer a *large adverse* effect on their settings. They are:
- Blisland turning milestone (GII LB);
 - Pennant enclosure;
 - Preeze Cross milestone (GII LB);
 - **Preeze Cross wheelwright's stone;**
 - Pounds Conce coaching inn; and
 - **Peverell's Cross (SM).**
- 4.82 However, following appropriate mitigation tailored to the circumstances of each, the residual effects would reduce to *moderate adverse* at WORST ^{APP48 Table 7.5}.
- 4.83 The geophysical survey reveals six features or complexes with heritage value, varying from low to potentially high where the significance of potential effects is assessed as *neutral* other than for one site where it is *moderate adverse*. But with the mitigating archaeological work proposed and secured by Requirement 14 in the recommended DCO that would reduce to *slight adverse* ^{APP48 Table 7.5 & Appendix E}.
- 4.84 The detailed archaeological assessment indicates that, overall, the scheme would have a *moderate adverse* direct effect impact on the historic resource including on HLC. It is expected that the potential effect on the known and potential undetected archaeological sites would be reduced to *slight adverse* through development of the agreed programme of recording and other mitigation measures ^{APP48 Paragraph 7.11.1}. The assessment also indicates a *moderate adverse* effect after mitigation on the setting

of designated and equivalent value heritage assets located around the scheme corridor APP48 Paragraph 7.11.2.

- 4.85 I support all the assessments. DMRB guidance regards only *large* or greater effects as material for decision-making. There would be some adverse impact on cultural heritage assets, but the impact would be *moderate* following mitigation that is effectively secured through the **DCO's Requirements and the EMS** Appendix E & REP143. I regard that impact as acceptable when balanced against the scale and corridor nature of the scheme. In my experience it is seldom possible to provide major infrastructure projects without adverse **impacts and I do not regard the scheme's relatively contained** impact on cultural heritage assets as unacceptable in that context.
- 4.86 The decision-maker must have regard to the desirability of preserving an affected LB, or its setting; or an affected, or likely to be affected, SM or its setting¹⁷. The scheme would have an impact on LBs, SMs and their settings as described above, but I regard the effective mitigation proposed and secured in the DCO would ensure preservation of such heritage assets to an acceptable degree.

Ecology and Nature Conservation

- 4.87 The scheme passes through an area of considerable ecological and nature conservation interest. It bisects the Bodmin Moor SSSI, skirts the Bodmin Moor North SSSI and lies near to the Hawkstor Pitt (1.46km), Cabilla Manor Wood (3.05km) and De Lank Quarries (3.5km) SSSIs. It is also in the vicinity of the Goliath Falls National Nature Reserve (9.5km). The River Camel SAC (1.89km) lies nearby. As for non-statutory designations, the scheme skirts the Bodmin Moor IBA (which is coincident with the Bodmin Moor North SSSI) and the South West Moor, Helligan Wood, Cardinham Wood, and Hardhead Downs and Warleggan Downs CWSs; four other CWSs are nearby. Land is taken for the scheme, both temporarily and permanently, from the Bodmin Moor North SSSI and the South West Moor CWS APP13 & APP59.
- 4.88 The application is supported by a Habitats Regulations Assessment (HRA) Report. It identifies the River Camel SAC at some 1.89km from the scheme as the only European site that could be affected by the development APP91. The report concludes there are no direct pathways for land, water or air that could cause direct ecological effects on the qualifying habitat features, largely due to the distance of the SAC from the proposed development. Consequently, there are no likely significant effects on the SAC and the conclusion is supported by a letter of comfort from NE in the HRA report, stating:

¹⁷ Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010

... the Screening Assessment confirms that there are no Likely Significant Effects either alone or in combination following mitigation on the qualifying features of the River Camel SAC. Natural England agrees that no Appropriate Assessment is needed.

Given these findings and the position of NE, I saw no need to prepare a Report of the Impact on European Sites (RIES) during the examination and am satisfied that there is no requirement for an Appropriate Assessment to be undertaken under the Habitats Regulations.

- 4.89 The scheme could have an influence on many habitats and protected species, including badgers, otters, dormice and bats, together with breeding birds, reptiles and marsh fritillary, aquatic macro-invertebrates and flora APP48 Paragraphs 9.5.17 to 9.5.164.
- 4.90 The assessment of potential scheme effects follows DMRB guidelines and has been informed by desk and field-based surveys determining the baseline conditions of the survey area. The valued ecological receptors (VERs) have been identified and assigned a geographic value in consideration of their abundance and location. The potential effects of the scheme have been identified during construction and operational phases, and potential significant effects to the VERs identified. Where significant adverse effects have been identified, appropriate mitigation is proposed to ensure no significant net loss of VER habitats and no significant detrimental effects on any of the protected species populations APP48 Paragraph 9.10.2.
- 4.91 The ES concludes that scheme would have no potentially significant long-term residual adverse effects subject, of course, to satisfactory mitigation secured through the draft DCO and the draft CEMP and LEMP; the content of which is secured by the EMS in Requirements 4 and 7 APP48 Paragraph 9.10.2, Appendix E, REP111 to 114, REP 107 & REP143.
- 4.92 NE considers that there is no fundamental reason why the proposed development should not be permitted, subject to satisfactory mitigation for dormice and habitat management for golden plover; and importantly, NE has no objection to the scheme RR15. That is reflected in the SoCG between the applicant and NE which identifies only minor outstanding matters in relation to compensatory land and its adequacy for replacement SSSI habitat for land potentially affected by the scheme at Temple Tor, together with the inclusion of mitigation measures for golden plover and dormice in the draft CEMP and draft LEMP REP25. These matters are addressed below and in the CA Section in relation to where a conclusion on SSSI habitat is also reached in the context of replacement land Section 5.

- 4.93 At the beginning of the examination NE highlighted important, though relatively minor unresolved questions about necessary mitigation, particularly as regards reinstatement in Bodmin Moor North SSSI, dormice connectivity, badger surveys and golden plover breeding sites. The focus since has been on resolving these concerns and related issues through questions, requesting information and holding hearings. NE has been fully involved throughout in addressing these concerns, together with the EA and the Cornwall Wildlife Trust, as necessary. There is no need to give a detailed account of that process; rather, it is more helpful to concentrate on the outcome, namely the final draft DCO and the final drafts of the CEMP and LEMP secured through the EMS ^{REP95, REP111 to REP114 & REP108}. **The applicant's final EMS is helpful in understanding the relationship between identified effects and proposed mitigation** ^{REP143}.
- 4.94 The final draft DCO contains all necessary revisions to address the mitigation concerns expressed and explored in the examination, **including Schedule 2's Requirements 4, 6, 7 and 15**. Subject only to remarks about the drafting of Requirement 6 in the DCO Section, I am content with these requirements in their final form ^{Appendix E}. Two of these requirements refer to the CEMP in Requirement 4 and the LEMP in Requirement 7, the content of which is secured by the EMS ^{Appendix E & REP143}. The CEMP and LEMP are necessarily in draft form at this stage but I am content that they take appropriate account of all concerns raised during the examination, by NE, other IPs and me ^{REP111 to REP114 & REP107}. Nevertheless, brief reference is also necessary in relation to two matters that are, to some extent, unresolved. For the avoidance of doubt however, they should not represent a reason for deciding not to approve the application for the scheme.
- 4.95 The presence of dormice still needs to be confirmed by seasonal surveys that could not be undertaken before the end of the examination. However, NE confirm that when combined with existing hedgerows and woodland, planting should be sufficient to provide connectivity between blocks of suitable dormouse habitat on the north and south sides of the scheme carriageway with linkage to the Cardinham Downs vegetated central reserve to the **west of the scheme**. **NE also confirm that the applicant's proposed multi-species culvert could potentially provide an additional point of connectivity and consequently that mitigation for impacts on dormice is largely secured and that if dormouse presence were detected at Preeze Cross, any further mitigation required should be deliverable within the DCO boundary** ^{REP83}.
- 4.96 Importantly, a European Protected Species Licence (EPL) would be required if any dormice or any other protected species were found in pre-construction surveys and consent would need to be obtained from NE. A draft EPL for dormice was submitted with the

application and a letter of 'no impediment' has been produced by

NE APP40 & Paragraph 1.19.

- 4.97 Similarly, SSSI Consent would also be required and a letter seeking consent from NE was also submitted with the application APP44, REP17 & Paragraph 1.19. That is relevant to further representations arising from my acceptance of a change to the application relating to replacement common land and my consequential requests for further information Paragraph 1.17, PD16 & PD17. All that resulted in the production of a schedule to the draft LEMP (detailing works for delivery of SSSI notification features on replacement land), **concurrent concerns being raised by NE and the applicant's final response including revisions to the EMS, draft CEMP and draft LEMP** REP 109, AS61, REP138, REP144, REP143, REP146, REP111 to REP114, & REP107.
- 4.98 **In my opinion the applicant's final response and revised documentation adequately addresses NE's concerns about mitigation required by the change, without the need for any associated revision of the DCO** REP143 to REP146. Furthermore, I am also satisfied that the applicant will keep faith with the process by making such further revisions to the CEMP and LEMP as may become necessary for the delivery of comprehensive mitigation appropriate to the scheme; by cooperating as necessary with NE, EA and any other party, by concluding any further necessary agreements with NE and any other party; and by making a contribution of up to £2000 to the Higher Level Stewardship Scheme in respect of PMT, if required REP144.
- 4.99 All this leads me to conclude that concerns about mitigating the **scheme's impact on ecological and nature conservation receptors are properly secured through the DCO, the EMS, the Requirements and the applicant's commitment to continuing engagement with other parties and other necessary actions mentioned in the preceding paragraph.**

Environmental Effects

Flooding

- 4.100 The scheme does not lie within a flood zone and there are no known flood zones within the immediate vicinity of the scheme. The Flood Risk Assessment and Addendum accompanying the **application assess the scheme's potential to influence flooding as negligible** APP34. I am thus satisfied that flooding is not an issue in relation to the scheme.

Noise and Vibration

- 4.101 The environmental effects that appeared to be of most significance **in the RRs were the scheme's generation of noise and vibration, and its predicted effects on air quality.** The ES does not identify

any materially adverse effects ie of **large** or **very large** significance, but they still require to be taken seriously. However, dwellings adjacent to the existing A30 are already exposed, for example, to high traffic noise levels that dominate the local noise climate. It is therefore against that background that the noise implications of the scheme should be considered.

4.102 Dualling of the A30 has the potential to affect noise and vibration levels experienced by nearby residents due to changes in alignment, coupled with changes in speed and volume of vehicular traffic along existing and altered sections of road. The ES assessment considers the potential impacts from construction and operation of the scheme on local receptors APP48 Chapter 12.

4.103 Regarding construction noise, the principal sources of potential noise impacts are likely to be associated with civil engineering works, namely excavation and construction; piling; resurfacing and HGV movements on haul routes. There are 33 noise sensitive receptors (NSR) within the search area applied in the ES noise assessment methodology¹⁸ APP48 Chapter 12. The NSRs comprise 29 dwellings and 4 other sensitive receptors (OSR) and all PRowS. The dwellings that would be located closest to construction activities are:

- Pounds Conce (5m);
- Greenbarrow (8m);
- Four Winds, Preeze Cross (14m);
- Genavon, Darcroft Garage (17m);
- Lyndhurst, Preeze Cross (20m);
- Dwellings at Higher Carblake (107m); and
- Westfork, Penland Garage (114m).

4.104 **Unavoidable noise impacts associated with the scheme's** construction would require mitigation measures such as screening and restriction of use of the noisiest equipment to short periods APP38. With mitigation, the impact on roadside dwellings between 20m and 75m of the A30 is predicted to be **negligible/minor**. For dwellings more than 75m from the A30 the impact with mitigation is predicted to be **negligible**. Mitigation measures are secured by Requirement 4 in the recommended draft DCO via the EMS Appendix E & REP111 to REP114.

4.105 However, Pounds Conce, Greenbarrow and the dwellings at Preeze Cross junction (Four Winds and Lyndhurst) would be located less than 20m from construction activities. Mitigation measures proposed in the draft EMS and draft CEMP would not reduce construction impacts to **negligible/minor** and as a result they could suffer a greater adverse effect, but that is an inevitable

¹⁸ Within 600m of the scheme.

consequence of dwellings in close proximity to a trunk road undergoing improvement.

- 4.106 I am satisfied that mitigation would minimise the adverse noise impacts of the scheme during construction as much as practically possible with a large infrastructure project, but there is statutory provision for compensation to deal with any quantifiable residual adverse effects.
- 4.107 Should the scheme become operational, traffic would be the principal source for noise and vibration impacts, although the scheme would not result in a significant increase in traffic volumes on any road¹⁹. Taking the worst case scenario of comparing 2017 *do minimum* with 2032 *do something* scenarios, 45% of dwellings are predicted to experience a *negligible increase* in noise levels, 48% a *negligible decrease* and 7% a *minor decrease* in the long-term. In the future assessment year (2017) 13 dwellings are predicted to experience a *negligible increase* in traffic noise levels, 14 a *negligible decrease* and two a *minor decrease*. One PRoW is predicted to experience a *negligible increase* in noise levels and three PRoWs a *negligible decrease*. Night-time impacts have been assessed in relation to 25 qualifying dwellings, with 52% predicted to experience a negligible increase in road traffic noise levels, 44% a negligible decrease, and 4% a minor decrease²⁰.
- 4.108 **However, design mitigation to reduce the scheme's impacts on NSRs includes low noise surfacing on new and altered sections of carriageway, and a noise barrier approximately 30m long at Penhallow** APP48 Paragraph 12.7.1 & 12.7.2. I regard this mitigation as **acceptable, secured through the DCO's Requirement 9.**
- 4.109 The only potentially significant source of vibration likely to occur during construction would be piling. When the scheme became operational, in the *do something* scenario, five dwellings would experience an increase in vibration of <10% and three dwellings would experience a decrease of <10%. In the *do minimum* scenario, two dwellings would experience an increase in vibration <10% and six dwellings would experience a decrease of <10%

APP48 Table 12.11.

IPs' Concerns

- 4.110 Graham Spittey is concerned about the impact of additional traffic noise and vibration on Greenbarrow^{RR4}. However, the dwelling is predicted to experience only a *negligible* increase in noise in the long-term as a result of the scheme APP48 Paragraph 12.10.6; and that seems acceptable to me.

¹⁹ An increase in in excess of 25% is the threshold for a significant change as defined in DMRB.

²⁰ Between 24:00 and 06:00

- 4.111 Nevertheless, the applicant acknowledges a duty to undertake an assessment to identify dwellings potentially eligible for a grant for noise insulation measures²¹. The assessment would be undertaken six months prior to construction to allow for noise insulation works to be carried out prior to the opening of the scheme to traffic. Where dwellings were eligible, noise insulation measures would be provided prior to the commencement of any construction works associated with the scheme REP42.
- 4.112 Andrew Roose is concerned about an increase in noise from higher speed traffic and increased traffic volumes on Four Winds RR27. However, the predicted increase in traffic speeds would be offset by the use of low noise surfacing on the carriageway and consequently the occupants of Four Winds are predicted to experience a **negligible decrease** in noise levels in the short-term, although a **negligible increase** in the long-term REP28.
- 4.113 The scheme is not predicted to result in significant changes in traffic volumes and a closeboard fence would help to reduce noise levels from road traffic, but the applicant acknowledges the NIR responsibilities mentioned above²². Consequently, it seems to me that the mitigated impact on Four Winds would be acceptable.
- 4.114 Peter Underwood is concerned about the impact of increased noise and vibration on **his family's** ability to keep horses on land at his home in Higher Carblake²³ REP5 & RR16. However, Mr **Underwood's** property is expected to experience a **moderate decrease** in noise levels in the baseline year of the scheme as a result of low noise surfacing on the new carriageway and consequently the noise impact would actually be beneficial REP42. In terms of vibration, impacts are not considered significant on dwellings over 40m from **the scheme and Mr Underwood's is** over 100m away²⁴ APP48 Table 12.5.
- 4.115 Whilst construction activities would inevitably lead to some noise disturbance at locations close to the scheme, it would be of a temporary nature. Furthermore, I am satisfied that mitigation measures secured in EMS would suppress those impacts to an acceptable level through the CEMP.
- 4.116 Turning to operational traffic noise, no increase in traffic volumes is predicted. Further, the majority of dwellings within the vicinity of the A30 would experience a decrease in road traffic noise levels as a result of the scheme APP48 Paragraph 12.10.6. At those dwellings where an increase in noise level is predicted, the significance of the effect is predicted to be **negligible adverse**. I do not regard that as an unacceptable implication of a major highway scheme

²¹ Under the Noise Insulation Regulations 1975 (as amended) (NIR)

²² As defined in DMRB HD213/11.rev1

²³ Mr Underwood also expresses concern in relation to CA and air quality and these are considered in paragraphs 5.32 to 5.36 and paragraph 4.123

²⁴ Following guidance in DMRB HA213/11

and I note again, that dwellings could be eligible for noise insulation under the NIR.

Air Quality

- 4.117 The air quality implications of the scheme are altogether more positive and the scheme would have an overall beneficial impact in the locality, largely because of a reduction in traffic congestion levels on the A30 during peak demand periods APP48 Chapter 6.
- 4.118 Air quality along the A30 is currently described as good, with no major sources of air pollutants other than vehicular traffic. But the scheme has the potential to affect both human and ecological receptors during both construction and operational phases as a result of:
- dust and particulate emissions from construction activities; and
 - changes in emissions from vehicles on the local road network due to changes in vehicle flows and composition during operation.
- 4.119 Given the proximity of receptors to the scheme, without mitigation the impact of construction activities and associated dust production would be high. However, with the proper observation of mitigation secured through the EMS the risk would be managed and reduced to an acceptably low level and any adverse effects from construction activities would be negligible APP48 Section 6 & REP111 to REP114.
- 4.120 In the operational phase of the scheme the ES predicts that in both the *do minimum* and *do something* scenarios, and for all receptors, the concentrations of particulate matter (PM₁₀) would be well within the objectives of the UK Air Quality Strategy and it can therefore be concluded that the impact of the scheme would be negligible. Similarly, the predicted annual mean concentration of nitrogen dioxide (NO₂) is well below the relevant air quality objective and there would be a negligible risk of exceedance of the hourly mean objective APP48 Paragraph 6.8.13.
- 4.121 The adjoining Bodmin Moor North SSSI is an ecological receptor sensitive to nitrogen deposition and NO₂. Nitrogen deposition rates are likely to exceed the critical load over the majority of the SSSI by a considerable margin, but rates are expected to fall in the future with regional (European) emissions, although the rate of decrease is uncertain at present. However, that would occur with or without the scheme and the significance of this predicted impact is negligible APP48 Paragraph 6.8.27.
- 4.122 In summary, the scheme would have a negligible effect on ecological receptors. Non-negligible changes in NO₂ concentrations would be limited to a zone within 0-5m metres of the roadside

which, given the extent of the SSSI and the level of increase in nitrogen oxides, would have no impact on the integrity of the site APP48 Paragraph 6.10.10. Because of the lack of significance of impact on these receptors, and because of the overall beneficial impact on air quality in the operational phase, no mitigation measures are included in the design of the scheme.

- 4.123 Peter Underwood expresses concern about the impact on his Higher Carblake home of increased air pollution, including dust and general debris from the highway RR17 & REP5. Nevertheless, the dwelling is over 100m from the scheme and air quality assessments demonstrate NO₂ concentrations decrease rapidly with distance from the roadside. With one exception all other monitored concentrations of NO₂ were well below the national air quality limit value and there would therefore be no likely significant environmental effects arising from the scheme REP42. The monitoring location at the roadside lies between the roadside and the exit from a lay-by where high concentrations of NO₂ could be influenced by emissions from idling vehicles waiting to join the main carriageway. There is, however, no potential for long-term exposure to pollutants at this location APP48 Paragraph 6.5.7.
- 4.124 Furthermore, during the temporary period of construction where higher risk is acknowledged to exist, the measures proposed in the draft CEMP would provide proportionate and appropriate mitigation and consequently I am not persuaded that any adverse air quality conditions from the operational scheme would impact on the enjoyment of the dwelling.
- 4.125 In summary consideration of the evidence, I find no reason to question the conclusions of the ES and I have no significant concerns about the implications of the scheme for air quality.

Landscape and Visual Effects

- 4.126 The scheme would generate a combination of impacts on landscape and visual amenity resulting in significant effects, but according to the ES the overall significance of those effects would fall from ***large/moderate*** at most during construction to at least ***slight/neutral*** in Year 15 APP48 Paragraph 8.10.3 & 8.10.4. Testing this overarching conclusion in the examination has involved probing the assessment methodology, requesting further information, and ensuring provision of the necessary mitigation through refinement of the DCO and the EMS, which importantly secures the content of the LEMP through Requirement 7 Appendix E, REP107 & REP143.
- 4.127 The scheme sits within and has the potential to affect the Bodmin Moor Area of Outstanding Natural Beauty (AONB) and the Camel and Allen Valleys, and Mid-Fowey Areas of Great Landscape Value (AGLVs), within the Camel and Allen Valleys, and Bodmin Moor

Landscape Character Areas (LCAs) with the following regional and local characteristics APP48 Paragraph 8.5.1 to 8.5.17:

Camel and Allen LCA

- Undulating plateau with valleys;
- Valleys well wooded; and
- On the plateau, exposed higher land with medium scale fields and straight Cornish hedge boundaries with few trees.

Bodmin Moor LCA

- Exposed large scale unenclosed moorland with gorse, bracken and heather;
- Several dominant tors with associated scree-strewn (clitter) slopes and cairns visible over large areas;
- Areas of recently enclosed moorland intake on moorland edge enclosed and subdivided, mainly with wire fencing and some dry stone walls;
- Cornish hedge highway boundaries; and
- Widespread evidence of prehistoric activity, such as relict field patterns and standing stones.

- 4.128 The landscape receptors are defined in the ES as the Bodmin Moor LCA, and the Camel and Allen Valleys LCA. Each is assessed as having an overall ***moderate*** sensitivity to change APP48 Table 8.8.
- 4.129 The scheme would create impacts as a consequence of carriageway widening and realignment, and particularly construction of grade-separated junctions. Two of the proposed junctions have the potential for significant intrusion on account of the prevailing topography, at Cardinham Downs to the west and Temple Tor to the east. That opinion is reinforced by the ES and it is therefore necessary to ensure that any adverse effects and especially large ones are effectively mitigated Paragraph 8.10.2.
- 4.130 I therefore believe it is important to ensure at this stage that the scheme would be integrated into the local landscape to minimise adverse landscape and visual impacts. That objective should be met through mitigation and that could be achieved by avoidance, reduction, remedy, or compensation for impacts. But I am reassured on that score, as the following considerations confirm.
- 4.131 Mitigation of adverse impacts can be achieved by avoidance, reduction, remedying of, or compensation for the impact APP48 Paragraph 8.7.1. The design of the scheme goes some way to influencing its landscape and visual impacts. These impacts are largely considered below, but it is important to consider how mitigation is achieved through the design itself Paragraphs 4.114 to 4.140.

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- 4.132 Alignment and topography of the scheme would be the principal means of mitigation as the route closely follows the existing A30 both horizontally and vertically. Much of the scheme lies within the existing highway corridor carriageway; and fortunately, the existing road corridor mirrors the landscape beyond the highway boundary.
- 4.133 To minimise handling, movement and compaction, soils would be stripped and stored as close to the area of re-use as possible in agreed locations before the commencement of work. The scheme could then rely on natural regeneration, with retention of existing topsoil for re-use to enable re-establishment of local vegetation. Furthermore, the embankments at the Cardinham Downs and Temple Tor grade-separated junctions have been designed to replicate natural landform, as opposed to the commonplace engineered approach.
- 4.134 The scheme should respect, maintain and enhance local landscape character and distinctiveness, and in my opinion it would because the design reflects local characteristics and uses local materials. Woodland and scrub planting would help integrate the scheme into the landscape setting of the Camel and Allen Valleys LCA, using native plant species in locally characteristic patterns (with added biodiversity benefits). Furthermore, re-establishment of local vegetation would help blend the scheme into the surrounding heath and open moorland of Bodmin Moor LCA.
- 4.135 Additionally, local stone would be re-used or sourced and used in locally characteristic ways to replicate variations in height and form of design features such as structures and associated abutments, boundaries and detailing. Red road surfacing and hatching is used on the existing carriageway but would not be replicated. And finally, the use of retro-reflective signage would be minimised and the scheme would involve no street lighting.
- 4.136 Significant effects can usefully be assessed with reference to landscape and other designations, including LCAs, AONB, AGLV and LBs.
- 4.137 The Camel and Allen Valleys LCA lies at the western end of the scheme. During the construction phase there would be disruption to the local landscape pattern in the vicinity of the Cardinham Downs grade-separated junction. The scale of the embankments and works area would be at odds with local landform and could not be mitigated. I accept that at the construction stage the overall significance of the effect would be **moderate adverse** and that in Year 1 the new embankments and the structure would remain out of character with the surrounding landscape, with the effect remaining **moderate adverse**.
- 4.138 But the adverse effects on landscape pattern and character would gradually reduce over time as woodland planting matured and

integrated with adjacent woodland; and the lower slopes became reunited with the adjoining grazing regime and should marry in with the grass cover and pattern of the fields in this area. I therefore agree that the overall significance of the effects would decline to ***slight adverse*** by summer of Year 15.

- 4.139 Turning to the Bodmin Moor LCA, during the construction phase there would be disruption to the local landscape pattern in the vicinity of Preeze Cross, Greenbarrow and Temple Tor junction. The scale of the regrading on the moorland at Greenbarrow, and the new embankments, structure and works area would be at odds with local landform and could not be mitigated during the construction phase and I accept the overall significance of the effect would be ***moderate adverse***. In Year 1 the impacts would remain due to the scale of the landscape change and the inability of the vegetation pattern to become re-established. I therefore agree that the overall effects remain ***moderate adverse*** APP48

Paragraphs 8.9.2-8.9.7.

- 4.140 However, the adverse effects would reduce over time as moorland, scrub and heath became established and blended with the surrounding moorland landscape pattern.

- 4.141 Specifically, the Preeze Cross bridge would take advantage of the existing topography; it would be in a cutting, enabling the introduction of a structure without the need for large embankments. At Temple, embankments for bridge approach roads would replicate the existing landform, re-using soils to re-establish local vegetation and the existing landscape pattern. The Temple Tor grade-separated junction's embankment slopes would be returned to the landowner and re-established as moorland with the same grazing pattern as the surrounding land; and over time these slopes should marry in with the colour, texture and pattern of the moorland setting. I therefore agree that the overall significance of the effects would diminish to ***slight adverse*** by summer of Year 15 APP48 Paragraph 8.9.1.

- 4.142 As for the Bodmin Moor AONB, the significance of the effect of the scheme would initially be ***moderate adverse*** because of the impact of the proposed Temple Tor grade-separated junction at the eastern end of the scheme (as reported above) reducing to ***slight adverse*** over time. Victor Newman and the PMT question the use of an overbridge as opposed to an underpass for the proposed junction RR18 & RR19. The choice between the two options clearly has landscape and visual impact significance, but the issues relating to that choice are considered together with other scheme design issues, where the decision to use an overbridge is endorsed. They also question its successful integration into the sensitive AONB surroundings but I am satisfied that the approach to this issue has been competently addressed in the design process Paragraphs 4.45 -4.47.

- 4.143 The proposed Cardinham Downs grade-separated junction at the western end of the Scheme is located approximately 0.8km from the AONB and an assessment of the effect on its setting is also necessary. The embankments and bridge would be located below the ridge line and when the proposed woodland is established it should integrate satisfactorily into the landscape pattern in my judgement. Consequently, I do not believe that the proposed junction would result in significant adverse impacts on the setting of the AONB.
- 4.144 The proposed Preeze Cross grade-separated junction has been designed to take advantage of the existing topography (as reported above) and would not, in my opinion, have any significantly adverse impacts on the AONB.
- 4.145 Nevertheless, the resulting overall effect on the AONB would still ultimately be **slight adverse** and that is problematic in policy terms. Whilst the scheme supports the aims of the AONB Management Plan²⁵ because it would **support measures to better integrate the A30 with its wider moorland setting**, such an effect does not accord with NPPF policy for AONBs which states that permission should be refused other than in exceptional circumstances where it can be demonstrated that the scheme is in the public interest; and that is reflected in the dNPSNN. The scheme is in the public interest and the conflict is thus resolved. **The scheme's impact** on the Camel and Allen Valleys AGLV would be **slight adverse** by Year 15 and that too has policy implications with some local planning conflict, though I would not regard such conflict as unacceptable Section 3.
- 4.146 Visual receptors chosen for assessment, the choice of which I support, are mainly near to the scheme and unsurprisingly the magnitude of change generally increases with proximity. Those in the middle distance are generally of **low** sensitivity while those near to the scheme are **high**. Most of the receptors near to the scheme are dwellings where the significance of effect would almost inevitably be **large adverse** during construction, falling to **slight adverse** after 15 years. Those in the middle distance are generally open views across farmland or over moorland where the significance of effect would be **slight/moderate** adverse during construction, falling to near to **slight adverse/neutral** in Year 15.
- 4.147 I agree with these impact assessments and do not find the results surprising for major highway proposals. Almost all the effects can be mitigated to a significant extent and there are comprehensive proposals to do so. I am satisfied that such effects are almost inevitable for a scheme such as this and with satisfactory mitigation, would be an acceptable concomitant.

²⁵ Guiding Principle GP12.7

- 4.148 I have more concern however about a number of dwellings which lie close to the scheme and would suffer a substantial loss of visual amenity during construction. As stated before, DMRB guidance states that such **large adverse** effects should be material in decision-making. I take the impact very seriously and have sympathy for the affected residents. Nevertheless, the severe impact would not be permanent, with the significance for most affected dwellings falling to **moderate** or **slight adverse** in Year 1 and with the establishment of mitigation planting to a point where **it might be deemed as 'substantially effective' in Year 15, to slight adverse**. To my mind, these effects are not so severe as to outweigh any overall balance in favour of the scheme.
- 4.149 Construction of the Cardinham Downs overbridge and its northern approach embankment would result in a temporary **moderate adverse** effect on the setting of Trewardale, a Grade II* listed building located approximately 1km to the north. Whilst the effect would remain in Year 1, fortunately it would decline to **neutral** by Year 15 as woodland planting matured and helped integrate the junction infrastructure into the landscape pattern of the woods and scrub to the west. I agree with the conclusion that the scheme would not have significant adverse effects on the setting of Trewardale APP48 Paragraph 8.9.13. I also agree that there would be no significant permanent effect on the setting of Trethorne, a Grade II listed building, located to the north of the scheme near Pounds Conce and Colvannick, where the effect would fall from **slight adverse** during construction to **neutral** in Year 15 APP48 Paragraph 8.9.14. The short/medium-term effects before Year 15 are unfortunate and could, in other circumstances, represent an unacceptable effect. But I do not believe they are of such significance in this case to create unacceptable conflict with the relative adopted local plan policies Section 3.
- 4.150 Landscape and visual impact conclusions can thus be summarised as follows. Because dualling of the carriageway would mainly be within the existing highway corridor, that element of the scheme would not result in significant adverse effects on landscape or visual amenity by Year 15. Adverse landscape and visual effects resulting from the creation of a grade-separated junction at Cardinham Downs would diminish over time as new planting becomes established. And the adverse effects of a grade-separated junction at Temple Tor on Bodmin Moor AONB, on landscape character and on visual amenity would also reduce over time as a result of the re-establishment of moorland grassland and scrub mosaic.
- 4.151 During construction and for the first few years of establishment, the scheme would have a **moderate** adverse effect on the landscape character of the Bodmin Moor AONB in and around the proposed Temple Tor grade-separated junction. However, the effect would be reduced to **slight** over time as the re-

establishment of local vegetation will help integrate the scheme into the local landscape pattern and moorland setting APP48 Paragraph 8.9.8. The proposed regeneration of heath, moorland and local grass and scrub mosaic vegetation pattern would reflect Cornwall AONB Management Plan Guiding Principle GP12.7. Moreover, the Scheme would not be lit and there would be a rationalisation of signage to reduce visual impact APP48 Paragraph 8.9.9.

- 4.152 The principal mitigation for the Cardinham junction would be integration of the engineered earthworks with the landscape character of the surroundings. Embankments would replicate natural landform in terms of gradients, slopes, profiles and landform. Their slopes would be re-established as heath and moorland mosaic with the incorporation of natural stone to provide a visual connection to the surrounding moorland and its rocky outcrops, while surrounding slopes and level areas would be established as marshy grassland with occasional scattered scrub APP48 Paragraph 8.7.4, 8.7.29 & 8.7.30. This design-based mitigation leaves me in no doubt that the grade-separated junction could be satisfactorily integrated into the sensitive surroundings of the AONB.
- 4.153 Overall landscape effects reduce from *moderate adverse* during construction and Year 1 to *slight adverse* by Year 15. Overall effects on visual amenity would reduce from *large/moderate adverse* during construction to *slight adverse* or *neutral* once mitigation had become established. In my opinion the potentially adverse impacts of the scheme have been competently contained and any potential adverse impacts would be outweighed by factors in favour of the scheme in the overall balance.

Public Rights of Way

- 4.154 Within the ES study area there are a range of routes which can be used by non-motorised users (NMUs), including PRoWs (byways, footpaths and bridleways) and minor roads APP64. Much of the common land adjacent to the scheme is designated as Countryside and Right of Way (CRoW) land over which the right to roam exists.
- 4.155 Three public footpaths meet or adjoin the existing A30, and one crosses the existing carriageway in the vicinity of Pounds Conce (FP/503/16). No bridleways or other categories of PRoW abut or intersect the carriageway, although one bridleway runs approximately parallel. There are also a number of nearby footpaths and bridleways which do not connect with the A30. Some connect nearby settlements and some connect nearby settlements to the A30. Remaining PRoWs appear to be shortcuts reducing the need for users to travel along the trunk road network, but to reach another PRoW, users must traverse the grass verge and/or cross the public highway. The number of crossing points is low, partly as a result of the intervening distance

between the A30 and significant attractors, and partly because of **the trunk road's danger for PRow users** APP48 Chapter 13. Severance adversely affects enjoyment of the existing PRow network, reinforced by the **A30's noise and visual intrusion** APP48 Paragraphs

13.8.16-13.8.22.

- 4.156 So far as the scheme is concerned, some temporary disruption to PRowS would occur during construction resulting in a **neutral** or **slight adverse** effect. Where appropriate, temporary diversions would be created to mitigate adverse impacts, secured by the EMS which will inform the content of the CEMP REP143 & REP111 to REP114. The scheme would not prevent the use of any PRowS in the operational phase. On the contrary, safe linkages across the A30 would be provided by way of grade-separated junctions, with the DCO securing the necessary reconfiguration, diversion and/or adjustment of the PRow network APP8, APP48 & Appendix E Work nos. 1 & 3. The predicted effects would be **slight** to **moderate beneficial** APP48, Section 13.
- 4.157 **The Cyclists' Touring Club (CTC) is concerned about the scheme's inadequate provision for cyclists and perceived flaws in the TA's consideration of alternatives to the motor car.** CTC considers that there is suppressed demand for cycling and good quality off-carriageway cycling provision should be provided within the scheme.
- 4.158 Long distance cycling is an element of tourism in Cornwall, with **Land's End the start or finish of many long distance cycling trips.** Given the landforms of Cornwall with deep valleys north and south of the gently undulating spine, the A30 route is a geographically desirable cycling route. The dual carriageway stretch of the A30 from Indian Queens to Bodmin has improved cycling provision along the route, but the scheme makes no provision at all; and that shortcoming is reflected in the approach to the schemes design as a whole, which ignores the importance of encouraging a modal shift towards sustainable transport RR28 & APP46.
- 4.159 **Nevertheless, the TA and the applicant's approach to assessing the scheme's impact on NMUs, including cyclists, reflects DMRB guidance.** Recent traffic counts show low levels of cycle usage on the existing carriageway and consequently the applicant does not consider the provision of integral cycle facilities is justified REP28. I agree with the applicant that whilst there may be a case for considering the provision of long-distance cycling facilities, that could not be solved by the scheme in isolation and that a more comprehensive response would be required in that regard. I regard the TA as comprehensive and its conclusions well founded APP46 Paragraphs 5.7.1 & 5.7.2.
- 4.160 In conclusion, the scheme would have no long-term adverse effect on the PRow network and I believe that the network would be

improved by the provision of grade-separated junctions permitting NMUs to cross the trunk road safely.

Socio-Economic Implications

- 4.161 **The scheme's objectives include the socio-economic aims of removing a significant constraint to Cornwall's economic prosperity and** APP94:
- encouraging economic growth, aiding regeneration and business expansion, and supporting tourism; and
 - providing wider economic benefits to the Cornish economy by generating more employment, reducing business costs and improving productivity.
- 4.162 The LIR **identifies the A30 as Cornwall's most important traffic** connection with the rest of the UK and acknowledges the socio-economic constraints posed by the existing single carriageway section between Temple and Higher Carblake, with its detrimental effect on the Cornish economy. It highlights positive benefits that the scheme could offer the region, including enhanced safety for users of the A30 and the surrounding road network; enhanced economic efficiency through the minimisation of delays on the main arterial road and the removal of a barrier to key employment sectors which rely on motorised transport REP22.
- 4.163 As a region, Cornwall demonstrates less than 75% of the EU average gross value added (GVA). In 2005 the European Regional Development Fund (ERDF) identified Cornwall and the Isles of Scilly under its convergence programme, which aims to re-establish the region's **economy**. **But** the investment programme will place further pressure on the road network and exacerbate the problems identified elsewhere in this chapter APP94. Cornwall is remote and its comparatively poor accessibility by road constrains growth. Its economy is the second weakest in the UK and relies on **seasonal tourism**. **69% of Cornwall's population and 82% of** employment is located to the west of the scheme, so improved accessibility is the key to maintaining existing markets and crucial to sustaining intended growth APP94.
- 4.164 Emerging local plan policies encourage 42,250 new dwellings and 50,000 new jobs over the next 20 years, and as a result traffic flows are predicted to increase in future years. Moreover, a number of major development proposals are planned for the region, including APP94 Paragraph 3.2.12:
- The Newquay Growth Area
 - Aerohub and Newquay Cornwall Airport
 - The Clay Country Eco-Community
 - The Falmouth Docks Master Plan
 - Hayle Harbour/Wave Hub

- 4.165 These sites all lie to the west and realisation of the proposals would result in an associated increase in motorised trips, placing further burdens on the A30 and the existing single carriageway between Temple and Higher Carblake, which demonstrates critical levels of congestion at present ^{REP10}. The scheme would address that shortcoming.
- 4.166 Representations, including those of the local businesses and the A30 Action Group (TAAG), reinforce the perceived potential for the scheme to benefit the Cornish economy ^{RR1, RR2, RR3, RR10, RR11, RR13, RR15 & RR23 & REP3}. No representations were received questioning the socio-economic merits of the scheme and it enjoys widespread public support on anticipated benefits. Where concern has been expressed, it is in relation to localised socio-economic impacts (eg Higher Carblake TRSA or livestock movements) and these issues have been addressed to my satisfaction through the examination process ^{Section 5}.
- 4.167 I therefore conclude that the proposed scheme would make a significant contribution to a revitalisation of the Cornish economy by offering valuable socio-economic benefits.

Conclusions on the Main Issues

- 4.168 I have satisfied myself on the various matters about the application that concerned me before the examination began and similarly, I am now satisfied about the sufficiency of the ES and the other environmental information.
- 4.169 The scheme enjoys widespread support. It is well designed, would solve serious highway problems, bring much-needed benefits and represent good value for money (VfM). It is fully justified in my opinion.
- 4.170 The scheme would have adverse impacts. But mitigation can be secured through the design itself, additional measures and compensation for quantifiable loss. Significantly, after mitigation **none of the scheme's adverse effects are predicted to assume large** or greater significance, at which point they would be regarded as material to decision-making. None of the impacts would create unacceptable conflict with approved, adopted or emerging planning policies in my view, or the NPPF or the dNPSNN when the benefits of the scheme are weighed in the balance.
- 4.171 I consider that the scheme is needed and any adverse impacts would be **outweighed by the scheme's benefits; and I therefore** conclude that the case has been made for approving the proposed development and granting development consent.

5 COMPULSORY ACQUISITION AND OTHER LAND MATTERS

Request for Compulsory Acquisition Powers

- 5.1 CA powers are sought over land and rights required for a largely online improvement of the A30 trunk road between Temple and Higher Carblake. The majority of the land required for the scheme is currently in agricultural use, mainly comprising improved grassland. Other land required for the scheme includes highway land (including some Crown land) and open access moorland subject to rights of common.
- 5.2 CA of common land and rights over common land, and replacement land is proposed. Common land constitutes special category land, engaging ss131 and 132 of the PA2008 and the statutory tests have been applied²⁶ Paragraphs 5.60 to 5.76.
- 5.3 The necessary CA tests have also been applied in respect of the proposed acquisition of interests in Crown land. All Crown interests are held by the Secretary of State for Transport (SST) and to meet the requirements s135 of the PA2008, SST consents to the acquisition APP43.
- 5.4 The application is accompanied by a Statement of Reasons APP19; a Funding Statement APP20; a Book of Reference (BoR) APP21; Land Plans APP6; and plans showing Crown interests APP15. Alongside its certificate of compliance with ss56 and 59 of the PA2008, a schedule of changes to the BoR was provided AS19 & APP21, a revised version of the BoR reflecting these changes and other corrections were subsequently submitted to the examination REP45. The final BoR accompanied the requested (and granted) change to the application AS48 & AS38 to AS52.
- 5.5 Schedule 1 of the BoR provides a list of Statutory Undertakers (SUs) and similar bodies AS48. Only one SU, Western Power Distribution (South West) PLC, made a relevant representation (RR) but it was subsequently withdrawn and s127 of the PA2008 is not therefore engaged RR26 & AS24.
- 5.6 Temporary possession powers are sought by virtue of Articles 28 and 29 of the draft Order, and Schedule 7 lists the plots of land that may be taken.

Purposes for which the Land is Required

- 5.7 CA powers are required to enable the applicant to implement the scheme ie construct the proposed development set out in Schedule 1 of the draft DCO by removing existing easements

²⁶ Under ss131 and 132 of the PA2008 in respect of common land, and under s135 of the PA2008 in respect of Crown land.

servitudes and other private rights; acquiring freehold and new rights; and replacing special category land. Temporary possession is also required for construction purposes.

Requirements of the Planning Act 2008

- 5.8 In addition to the statutory provisions for acquisition of replacement and Crown land, and the provisions in respect of statutory undertakers mentioned above, CA powers can only be granted if the tests in ss122 and 123 of the PA2008 are met.
- 5.9 In summary the s122 tests, are that:
- the land must be required for the development to which the development consent relates, or is required to facilitate or is incidental to the development; and the land to be taken must be no more than is reasonably required and must be proportionate²⁷; and
 - there must be a compelling case in the public interest, meaning that the public benefit derived from the CA must outweigh the private loss that would be suffered by those whose land is affected.

These tests are addressed later Paragraphs 5.81 & 5.82.

- 5.10 Section 123 requires that one of three conditions is met and I am satisfied that a condition is met because the application includes a request for CA of the land to be authorised and all persons with interests in the additional land subsequently included within the application consented to its inclusion²⁸.
- 5.11 In addition, all reasonable alternatives to CA must be explored, there must be a clear indication of how the land would be used, funds are likely to be available; and the stated purposes of the acquisition must be legitimate and sufficient to justify any interference with the human rights of those affected²⁹.

Case for Compulsory Acquisition

- 5.12 Representations were submitted by some APs and are addressed below Paragraphs 5.21 to 5.59. No requests were received from APs to be

²⁷ Guidance related to procedures for compulsory acquisition DCLG February 2010

²⁸ (1) An order granting development consent may include provision authorising the compulsory acquisition of land only if the Secretary of State is satisfied that one of the conditions in subsections (2) to (4) is met.

(2) The condition is that the application for the order included a request for compulsory acquisition of the land to be authorised.

(3) The condition is that all persons with an interest in the land consent to the inclusion of the provision.

(4) The condition is that the prescribed procedure has been followed in relation to the land.

²⁹

Planning Act 2008: Guidance related to procedures for compulsory acquisition (February 2010).

heard at a CA hearing, although three hearings were held ^{HG15 to HG17, HG18 to HG20 & HG24 to HG28}.

Applicant's Case for CA

- 5.13 CA is necessary for the purposes of the DCO to ensure that the scheme could be implemented **and to ensure DfT's requirements** for timely completion could be met. There is a need for certainty that the land required for a publicly funded scheme would be available. Furthermore, the extent of the Order land has been drawn as tightly as reasonably possible so as to avoid unnecessary land take ^{APP19}.
- 5.14 There is a compelling case in the public interest for CA powers to implement the scheme and thus improve poor road safety, relieve congestion, and improve journey time reliability and overall resilience along the A30 between Temple and Higher Carblake. Moreover, the scheme would offer economic benefit, contributing to the future prosperity of Cornwall by aiding regeneration and business expansion, and supporting tourism. There is support for the scheme from local businesses and the Local Enterprise Partnership (LEP) ^{APP94}.
- 5.15 The s122 tests are thus met.
- 5.16 There is no practical, alternative option or alignment that would achieve the objectives of the scheme and funds are likely to be available ^{APP48 to APP92 & REP89}.
- 5.17 When the application was made the scheme cost was estimated at £60m, including £498,000 for land acquisition. The capital costs of the scheme would be jointly funded, with £30m from DfT and £30m from the applicant ^{APP20}. An Agreement and Memorandum of Understanding describes the relationship between the applicant and the Highways Agency, the required collaboration to complete the scheme and the funding arrangements ^{APP20 Appendices 2 & 3}.
- 5.18 A conditional offer of £30m was made by the Treasury (HMT) and announced in the Autumn Statement on behalf of DfT on 5 December 2012, with a £10m funding commitment in 2014-2015 and the remaining £20m being met in later years from within DfT capital expenditure ^{APP20 Appendix 4}.
- 5.19 Scheme costs have increased from £60m to £66m but funding resources are now **£36m from DfT, with the applicant's committed funding at £10m and the balance being sought from the ERDF** ^{REP78, HG20, REP89 & HG18-HG20}. Even if that bid were unsuccessful, CA could be funded. Current estimated CA costs of £500,000 could be **met from the applicant's £10m funding commitment** ^{HG20 & REP78}.

- 5.20 Finally, the CA powers sought are both necessary and proportionate to the extent that interference with private land and rights is justified.

Cases of Affected Persons in relation to CA

Rupert Hanbury-Tenison

Plots 03/12 and 14, 4/05, 07 and 09

Case for the Affected Person

- 5.21 Mr Hanbury-Tenison enjoys freehold and other interests on Cardinham Moor to the south of the A30 and west of the proposed Temple Tor junction; he also has interests in the adjoining highway. He does not object to CA of his interests but rather to the potential impact of alternative access arrangements for his remaining interests RR21, REP12, REP15, REP30 & REP70.
- 5.22 The scheme would require a new access road running parallel to the proposed westbound carriageway, but would not provide a link to the existing track network on the moor and would require further extension at private expense. The Order limits should be extended to allow for access track construction works to be undertaken as an element of the scheme, instead of compensating the AP to carry out the works HG12 to HG14 & REP70.
- 5.23 The proposed track would require provision of a gateway from a redundant stretch of trunk road carriageway which would then be a cul-de-sac attracting unregulated car parking and increased public use of the moor. Relocation of the gate with a different specification would be more appropriate PD7 & REP12.

Applicant's Response

- 5.24 The land being acquired is required for the scheme which could not be undertaken within the existing highway boundary. The proposed location of the gate is required to facilitate the turning of school transport vehicles operating in the area and the gate could not be repositioned without CA of additional land REP76 & REP8.
Moreover, the scheme addresses the AP's concerns about public access to the moor by abandoning the originally proposed Colvannick Tor public footpath (PRoW) diversion REP28 & REP43.

Counter-Objection

- 5.25 Mr and Mrs Gibson are neighbouring APs whose land would be required to reposition the gate. They oppose that and take no **issue with the applicant's design for the new gate** REP36.

Conclusions

- 5.26 The issue here is how alternative access should be provided and by whom. The process of extending the Order limits to incorporate alternative access track works now would present a barrier to the timely implementation of the scheme and in turn to the associated public benefits. That would be procedurally unacceptable. Compensation should ensure that Mr Hanbury-Tenison is in a position to provide appropriate access arrangements to his moorland interests.
- 5.27 Furthermore, I am unconvinced that relocation of the access gate would have a significant effect on public behaviour because it would still be within a cul-de-sac; but importantly, relocation would require further land acquisition which would also be procedurally unacceptable. Finally, design of the proposed gate is adequate for agricultural purposes in my opinion.
- 5.28 Consequently, I am not persuaded that there is any substance in this objection and CA is therefore justified.

Victor Newman

Plots 04/43, 44, and 53, 05/02 and 04

- 5.29 Mr Newman owns moorland plots around Temple Tor comprising grazing land ^{RR18 & REP13}. His objection relates to the need for CA of replacement land, which he owns (Plot 05/04) and it is addressed along with other replacement land considerations ^{Paragraphs 5.60 to 5.76}.

Pencarrow Maintenance Trust

Plots 04/26, 31, 32, 33, 34, 35, 37, 40, 42, 72 and 75

PMT owns and has rights in moorland around the Temple Tor Junction which is proposed for compulsorily acquisition. The Trust does not object to CA of its interests; rather, its concern is identical to that of Mr Newman and is similarly addressed in relation to replacement land ^{RR19 & Paragraphs 5.60 to 5.76}.

Adrian Mansfield

Plots 04/31, 32, 35, 42, 72, and 75, 05/05, 06 and 07

- 5.30 Mr Mansfield owns Hawks Tor Farm and has other interests in land on Manor Common, to the north of the proposed Temple Tor junction. He objects to the acquisition of land beside the farm to provide replacement common land ^{RR22 & REP55}. During the examination, however, he reached agreement with the applicant about provision of alternative land in his ownership and Plots 05/05 and 06 are no longer proposed for CA. Plot 05/07, which he also owns would be compulsorily acquired instead without objection. Like preceding representations, his objection is reported

below along with others relating to replacement land ^{Paragraphs 5.60 to 5.76}.

Blisland Commoners Association

- 5.31 The Blisland Commoners Association (BCA) has no interests recorded in the BoR but represents the interests of all those with common rights in the Parish of Blisland, whose interests are recorded. BCA object to the replacement land proposals, but like the preceding representations, that concern is addressed below ^{RR12}.

Peter Underwood

Plots 1/18, 21, 22 and 23, 02/03 and 09

Case for the Affected Person

- 5.32 Mr Underwood lives, owns and has interests in land at Higher Carblake Farmhouse, on the south side of the A30 between Cardinham Downs and Preeze Cross. He objects, arguing that acquiring some 12% of his holding would result in it being completely surrounded by the works. That would have a seriously deleterious effect on his quality of life on account of impacts relating to noise; air pollution; vibration; water, dust and debris from the highway; and highway access and visual impact. In addition, there would be unacceptable implications for the conduct **and enjoyment of his family's equestrian interests** ^{RR16 & REP5}.

Applicant's Response

- 5.33 **Only 8.66% of Mr Underwood's holding would be permanently** acquired for the scheme, with 6.59% being required temporarily during some but not all of the construction period and probably amounting to only a few months. The holding would not be completely surrounded by the works. The dwelling is located to the south of the land holding, away from the scheme and adjoining land to the west is being acquired only to provide an attenuation pond, for which accommodation works have been agreed ^{REP28}. The land being acquired from Mr Underwood comprises only a strip adjoining the existing carriageway to the north of the holding and rights over an existing access track to the south to maintain the pond ^{REP28}.
- 5.34 As regards environmental impacts, by the time the scheme became operational, the dwelling would actually experience a modest decrease in noise levels, there would be no perceptible change in air quality or vibration and spray would be reduced by additional drainage. Proposed landscaping would minimise visual impact and the proposed Cardinham Downs junction would not be visible from the dwelling in any event. Moreover, if any

quantifiable loss were actually incurred it could be addressed by way of compensation ^{REP42}.

Conclusions

- 5.35 I regard the CA of Mr Underwood's interests as necessary for the scheme and no more land is being acquired than is required. I accept that there could be some temporary adverse environmental impacts during construction, but there should be no long-term adverse effects. Moreover, compensation provisions exist to address any harm or loss that might result.
- 5.36 I have considered whether the anticipated impact on the quality of life could amount to interference with human rights, but for reasons set out above, I consider that any interference as a result of CA is justified and necessary in the public interest.

Charles Robertson (Developments) Ltd, Bruce Robertson and Trago Mills Ltd

Plots 01/08, 17, 18 and 21, 02/06, 07, 08, 09, 10 and 12

Introduction

- 5.37 Separate, identical RRs were made on behalf of ^{RR24 and RR25}:
- Bruce Robertson; and
 - Charles Robertson (Developments) Ltd (CRDL).
- 5.38 It later emerged that CRDL changed its name to Trago Mills Ltd (TML) ^{REP39}. Consequentially, all subsequent participation in the examination proceeded in the conjoined identities of Bruce Robertson and TML.

Background to the Objections

- 5.39 When the APs were consulted prior to the application being made, they raised no objection. Their RRs supported the principle of the scheme and largely focussed on the location of an attenuation basin. When the examination began their professionally prepared WRs dealt at length with severance, access and the impact of the scheme on land abutting the highway, in addition to the attenuation basin ^{REP 19 & 20}.
- 5.40 The APs then asked the applicant to appraise initially three and finally four options for a proposed link road. The applicant did that by way of Technical Note No5, but when it was produced the APs wanted more time to consider it, seeking and being granted an adjournment of a CAH to another full day ^{AS34, HG14 & PD15}. The APs had requested an OFH at which they did not appear. They concurrently sought further information underlying the production of the technical note and when that was not forthcoming from the

applicant, a Freedom of Information (FOI) request was made and answered shortly before the examination was closed, but no further representations were made by the APs ^{AS55 & AS69}.

Case for the Affected Persons

- 5.41 Bruce Robertson and TML own land and have other interests on the south side of the A30, at Higher Carblake between the proposed Preeze Cross and Cardinham Downs junctions.
- 5.42 They support the principle of the scheme, but object to the siting of an attenuation basin on land in their ownership. They propose that the attenuation basin be relocated closer to the scheme, thereby reducing the extent of CA and minimising the adverse impact on the future development potential of their land for a trunk road service area (TRSA) that they suggest could be developed to offset an absence of such facilities on the A30 in the locality.
- 5.43 They also object to the proposed access arrangements for Higher Carblake as a result of the proposed central reservation barrier blocking cross-carriageway turning movements. Eastbound traffic from Higher Carblake would first have to travel westbound and navigate the proposed Cardinham Downs junction in order to join the eastbound carriageway. Similarly, traffic heading for Higher Carblake on the eastbound carriageway would first have to navigate the proposed Preeze Cross junction and join the westbound carriageway, lengthening journeys and resulting in additional emissions. Furthermore, the geometry of the Higher Carblake junction with the westbound A30 does not cater safely for the entry and egress of longer or articulated vehicles, with consequent implications for other users of the A30 ^{REP19 & REP20}.
- 5.44 Such movements would place burdens on residential and agricultural traffic by increasing travel distances and generating unnecessary emissions. Moreover, the geometry of the existing junction would result in longer or articulated vehicles making unsafe exits onto the proposed dual carriageway. That could be offset by the provision of a link road from the proposed Preeze Cross junction, extending westward along the south side of the scheme to Higher Carblake ^{REP19 & 20}. A privately provided metalled road, 2.75m wide without positive drainage or passing places could be achieved within the Order limits ^{AS37 & REP98}. Such a link road could be provided for in the DCO by including it as associated development in Schedule 1 and by introducing a Grampian requirement in Schedule 2, requiring that the link road to be provided before the improved trunk road were brought into use ^{HG26 to 28}.
- 5.45 The proposed link road would have little impact on the scheme's BCR and would find support in paragraphs 4.59-61 of the dNPSNN in its requirement that all reasonable steps should be taken to

improve safety, while the suggested TRSA could find support in DfT Circular 02/2013 ^{REP19 to REP20 & REP135}. Such policy support would reinforce the case for planning permission when sought for a TRSA.

5.46 In summary, therefore:

- the scheme would be safer with a link road, than without;
- there is sufficient room within the DCO limits to construct a suitable link road and although some of the land required is privately owned it lies within the DCO limits and would be used only temporarily for construction of the scheme;
- most of the land required for the link road outside the DCO limits is owned by Bruce Robertson and TML; and
- no planning objections have been raised in respect of the proposed link road.

Applicant's Response

5.47 There is no longer an issue about the attenuation basin, which can **be relocated to the APs'** satisfaction ^{REP28}. Updated works plans, land plans and an updated BoR reflect the associated changes, including a reduction in the extent of associated CA ^{AS41, AS42, AS48 & REP100}.

5.48 In response to the APs desire for a link road and at the APs request, four options have been explored in considerable technical detail. All four have proved unsatisfactory. None could be developed within DCO limits; all would require the acquisition of additional land from the APs themselves and another land owner **who has stated objections; each would increase the scheme's** environmental impact; there would be no benefit in risk reduction and each would involve additional maintenance costs. There could be a reduction in travel distances and related emissions but the benefits arising from 39 predicted movements would be minimal ^{AS34}.

5.49 The (fifth) proposed link road could not be provided within the Order limits and would be unsuitable to serve traffic generated by Higher Carblake and a TRSA. Further CA powers would need to be exercised with consequent delay, not least because affected landowners have stated that they would not agree to the acquisition of any additional rights over their land ^{REP100 and REP131}.

5.50 Furthermore, there could be no certainty that planning permission would be granted for the suggested TRSA or the associated link road. And finally, including a Grampian requirement in the DCO would create uncertainty and thereby threaten implementation of the scheme. That could not be justified as a proper basis for public expenditure on the scheme.

- 5.51 As for the alleged safety issues at the existing junction, the wide swept paths of turning movements are not uncommon on the A30 and the first stage of a Road Safety Audit of the scheme has already been concluded, making no adverse safety observations on the proposed access arrangements for Higher Carblake; and production of the second stage audit is imminent AS62, REP100 & 101.
- 5.52 The objection has no merit and should not be sustained.

Counter-Objections by IPs

- 5.53 Mr and Mrs Gibson are concerned about the reduction in capacity of the attenuation basin and whether that would have any resulting effect on its functionality, while Mr Underwood welcomes the reduction in its size but is nevertheless concerned about its visual impact, and also the visual impact of the suggested development of a TRSA REP96 & REP52.
- 5.54 Mr and Mrs Gibson express concern about the design of the (fifth) proposed link road and the safety of a 2.75m wide carriageway without passing places for agricultural vehicular movements REP96 & REP98. Further representations from Mr and Mrs Hendry, Cardinham Parish Council, Lesley Martin and Sue Crier all **regard the APs'** proposals as unnecessary and unwanted REP129, REP131, REP132, REP133 & REP134, REP99 & REP128.

Applicant's Response to Counter-Objections

- 5.55 The capacity requirements of the modified attenuation basin can be reconciled with associated calculations contained within the Flood Risk Assessment Addendum; and the EA has not made any adverse representations in relation to the modification of the basin AS60, REP43 & AS36. Furthermore, the visual impact of a relocated attenuation basin would be negligible, appearing as a field depression with additional planting reinforcing existing screening.

Conclusions

- 5.56 In relation to the relocation of the attenuation basin and the reduction in its capacity, all works would be undertaken within the existing Order limits and I am satisfied that its impact has been adequately assessed APP48 to APP92. Additional planting should contain its visual impact. I am therefore satisfied that the new arrangement is lawful and has no un-assessed environmental effects.
- 5.57 The APs cast doubt on the adequacy of the proposed access arrangements for Higher Carblake, but I am satisfied that they are appropriate in terms of road safety, having regard to access geometry and safety audits. Furthermore, I have strong reservations about any link road, reinforced by the characteristics of the fifth proposal. I am not persuaded that its proposed

geometry would be suitable to serve traffic generated by Higher Carblake and a TRSA, if one were permitted and provided.

- 5.58 Nor am I convinced that the link road could be provided within the Order limits. Further CA would be necessary to provide it, with associated delay threatening implementation of the scheme. Moreover, I cannot see how it could be provided within the scope of the DCO. Whilst the revision to Schedule 3 would be uncontroversial, for the reasons given elsewhere I am not persuaded of the merits of a Grampian requirement because of the clear threat that uncertainty would pose to implementation of the scheme ^{Paragraph 5.44 & 5.50.}
- 5.59 Consequently, I can find no merit in this objection and I regard CA as fully justified.

Replacement Land

- 5.60 The DCO would authorise CA of all land and rights needed for the scheme including registered common land. Registered common land is special category land, generally requiring the provision of replacement land which would be no less in extent and equally advantageous. Consequently, the DCO would be the subject of special parliamentary procedures unless the Secretary of State were satisfied under either s131(3) or s132(2) of the 2008 Act. The applicant applied for a replacement land certificate which used to be required, but the application provides most of the evidence necessary for consideration of the matter³⁰ ^{APP42, APP97 & APP98.}
- 5.61 There are also other statutory requirements relating to rights and vesting.
- 5.62 The original draft Order for scheme involves CA of registered common land and rights together with their replacement as necessary in ^{APP16:}
- Manor Common (Commons Registration Number CL183)
 - Land Plots 04/32, 04/35 and 04/40
 - Replacement Land Plot 05/05³¹
 - New Rights Plot 04/75
 - Replacement Land Plot 05/05³²
 - New Rights Plots 04/31, 04/37, 04/42 and 04/72
 - Replacement land unnecessary³³

³⁰ The replacement land certificate application is duplicated at APP4 & APP98 owing to confusion about where responsibility then lay for consideration and certification, the documentation is identical and as a result of s24 of the Growth & Infrastructure Act 2013 there is no longer a need for a certificate to be given, merely that the decision-maker should be satisfied that the appropriate statutory tests have been met.

³¹ Paragraphs 5.66 to 5.71 explain that Plot 05/05 has been superseded by Plot 05/07

³² Now 05/07, see footnote 17 above

- Menacrin Downs (Commons Registration Number CL145)
 - Land Plots 04/44, 04/65 and 05/02
 - Replacement Land Plot 05/04
 - New Rights Plot 04/76
 - Replacement Land Plot 05/04
 - New Rights Plots 04/03, 04/48, 04/49, 04/50, 04/51 and 04/71
 - Replacement land unnecessary³⁴
- Greenbarrow Common (Commons Registration Number CL144)
 - Land Plot 04/12
 - Replacement Land Plot 04/17
 - New Rights Plots 04/19 and 04/22
 - Replacement Land unnecessary³⁵
- Cardinham Moor (Commons Registration Number CL137)
 - Land Plot 04/09
 - Replacement Land Plot 04/04
 - New Rights Plot 04/06
 - Replacement Land unnecessary³⁶

5.63 Total common land (not rights) subject to CA extends to 4608.92m² and is generally open moorland used for rough grazing. Plot-for-plot, the replacement land is greater and not less in extent than the common land to be acquired in the Order land APP98 Table 2. However, the land being acquired in Manor Common and in Menacrin Downs lies within the Bodmin Moor North SSSI, so to be equally advantageous to commoners and the public, the replacement land must satisfy not only common use and open access requirements, but environmental ones also.

5.64 A comprehensive assessment was commissioned by the applicant, which identified proposed plots for replacement against the foregoing criteria APP42, APP97 & APP98. 18 options were considered, including nine for Manor Common, three for Menacrin Downs, two for Greenbarrow Down and four for Cardinham Moor. They were assessed against common use criteria including stocking (with cattle and/or ponies and/or sheep), estovers (taking of wood), turbarry (taking of turf), piscary (fishing) and pannage (turning out pigs); environmental criteria including ecology, historic features and landscape; and public accessibility.

5.65 **The applicant's options exercise comprised** a set of credible professional assessments in my view, concluding that the statutory

³³ The provision of replacement land is considered unnecessary for these plots because the common, when burdened with the right, would be no less advantageous than before to the landowner, commoners and the public.

³⁴ See footnote 18 above

³⁵ See footnote 18 above

³⁶ The provision of replacement land is considered unnecessary for these plots because the common, when burdened with the right, would be no less advantageous than before to the landowner, commoners and the public.

tests for replacement land could be met by the favoured options for each common area which clearly emerged:

- Manor Common MC Option A (Plot 05/05)
- Menacrin Down MD Alternative A (Plot 05/04)
- Greenbarrow Down GD Alternative A (Plot 04/17)
- Cardinham Moor CM Option B (Plot 04/04)

- 5.66 Manor Common (MC) Option A (Plot 05/05) proves contentious. BCA oppose it on the basis that it is not equally advantageous as regards rights of common generally and specifically that it is badly drained and inaccessible to freely grazing livestock ^{RR12}. It is also opposed by Adrian Mansfield (who owns it and whose farmstead adjoins it) on the grounds that it would be inappropriate for exercising common rights essentially for the BCA reasons, that its use as common would adversely impact on his farming enterprise by removing a holding pen and fencing, thus making the herding of livestock more hazardous; and that the assessment underlying its selection by the applicant is flawed ^{RR22 & REP55}.
- 5.67 A SoCG between the applicant and BCA displays no agreement but alludes to a concurrent discussion with Mr Mansfield regarding an alternative plot (MC Option M5) ^{REP23}. That alternative was subsequently promoted as a change to the application to effect the substitution ^{AS38 to AS52}. I accepted the change and there is therefore no need to conclude on the statutory appropriateness of MC Option A.
- 5.68 To overcome the potential disadvantages for Mr Mansfield arising from using MC Option A (Plot 05/05) as replacement land, the applicant proposed the substitution of MC Option M5 (Plot 05/07) ^{AS40 & PD17}. MC Option M5 extends to 3824.64m² and is no less in extent than the Order land in Manor Common which it is intended to replace (3594.97m²) ^{APP97}. It has been assessed like all the others with the same outcome, namely that the land would be no less advantageous to the commoners or the public than the Order land.
- 5.69 That conclusion is supported by most IPs and significantly Mr Mansfield and BCA ^{AS51 & REP102}. PMT's support is conditional as is that of NE, both expressing concern about the continued **application of funding from Defra's Higher Level Stewardship Scheme (HLS)** for the maintenance and upkeep of MC Option M5, pending its inclusion in the SSSI. NE also expressed some concern about the implementation of minor mitigation measures in relation to SSSI compensatory habitat.
- 5.70 However, the applicant has provided assurances about mitigation relating to culvert design and underwriting costs amounting to £2000 if NE is unable to do so through HLS. That satisfies PMT and NE ^{REP136 & REP138}, but the applicant would continue to work with NE

and PMT to secure that funding by way of a legal agreement. Furthermore, the EMS, CEMP and LEMP have been appropriately updated and the mitigation measures are secured by way of Requirements 4(2) and 7(2) ^{REP144}.

- 5.71 I therefore consider that MC Option M5 (Plot 05/07) satisfies the area and advantageous tests.
- 5.72 MD Alternative A (Plot 05/04) also proves contentious. Victor Newman owns it and opposes its use as replacement land for common land in his ownership, as does the PMT which also owns common land ^{RR18, RR19 & REP13}. In their shared view, acquisition and replacement are unnecessary and unwanted. Victor Newman further argues that unlike the land being acquired, the replacement land does not have direct access from the public highway and is separated from adjoining common land by a traditional boundary stone.
- 5.73 However, it is not only necessary and reasonable that replacement land be provided if common land is to be compulsorily acquired; it is required by statute. **The applicant's assessment** of MD Alternative A (Plot 05/04) satisfies me that it would be equally advantageous. I do not consider that its lack of direct highway access would be significant to its common use or that the boundary stone would significantly interfere with free-grazing, or that the advantageous conclusion is incorrect.
- 5.74 As regards Plots 04/04 and 04/17, I am satisfied that they meet the statutory tests, being equally advantageous as replacement land for the corresponding land and rights being compulsorily acquired. That conclusion is reinforced by the absence of objection to these plots from IPs with rights of common.
- 5.75 Consequently, all four plots of replacement land meet the statutory tests. They also meet the other requirements relating to rights and vesting³⁷.
- 5.76 As a postscript, BCA promoted a favoured alternative plot for replacement land, initially when opposing MC Option A. The plot comprises existing common land which would not normally be given as replacement land and as BCA do not oppose the settled proposals for replacement land, there is no point in considering this alternative.

Temporary Possession

***Victor Newman
Plots 04/26, 41, 45 and 53 and 05/01***

³⁷ ss131 (11) and 132(11)

**Pencarrow Maintenance Trust
Plots 04/23, 30, 33, 36, 38, and 54**

**Adrian Mansfield
Plots 04/23, 33, 36, 39, 54 and 05/06**

- 5.77 There are three objections to the temporary possession of their land which enjoys rights of common. Those from Victor Newman and PMT are identical; and Adrian Mansfield's has fallen away as a result of the change to the application because his land originally identified for temporary occupation is no longer for that purpose RR18, RR19 & RR22. The objections are addressed above in connection with replacement land Paragraphs 5.60 to 5.76.
- 5.78 As regards temporary occupation of their land, I am satisfied that temporary access is required for scheme works and that reasonably contained temporary access provisions would be secured by the CEMP and the EMS through Requirement 4 of the DCO, with the land restored thereafter by virtue of DCO Article 29 REP28.
- 5.79 Temporary possession is a common provision of DCOs and its use for implementation of the scheme is entirely appropriate. Moreover all the land is needed in connection with the scheme and the DCO's Articles 28 and 29 make appropriate provisions for reinstatement and return of the land.

Alternatives and the Availability of Funds

- 5.80 Alternative route options are addressed earlier in this section and I am satisfied that the scheme is preferable to any of the offline route options Paragraph 4.22 & AS4 FIG 05.01.
- 5.81 Each of the route options assessed and discounted would be likely to require more extensive interference with public and private interests. Moreover, implementation of any of the alternative discounted route options would not avoid the need for CA. No alternative route for the scheme is proposed by IPs and the alternative access proposals for Higher Carblake have not found favour.
- 5.82 The online route option of the scheme demonstrates the most cost-effective and least environmentally damaging solution, not least through its maximisation of avoidance mitigation in relation to visual and ecological receptors associated with the rejected offline options. Similarly, I am satisfied that design of the grade-separated junctions has resulted in structures which minimise environmental impact whilst maintaining cost and road safety objectives.

- 5.83 The Higher Carblake alternative access arrangements would offer no significant benefit and would threaten implementation of the scheme.
- 5.84 I do not therefore consider that there are reasonable practicable alternatives to the scheme for which development consent is required and consequently, the land for which CA is proposed.
- 5.85 As to the likely availability of funds, arrangements for £66m funding have been clearly demonstrated. ERDF approval is required for some of the costs, but sufficient funds are available to pay reasonable compensation for CA ^{REP89}. So I am satisfied as to the likely availability of funds.

Human Rights Considerations

- 5.86 Article 1 of the First Protocol is concerned with the rights of those whose property is to be compulsorily acquired and whose peaceful enjoyment of their property could be interfered with. It is clearly engaged because a number of interests are proposed to be acquired and rights are to be imposed on further land. In addition to the proposed CA, land would also be used temporarily. In my judgement CA and temporary use of land is justified in so far as the public benefit would outweigh the loss of private interests in a way that is proportionate to the circumstances.
- 5.87 Article 6 is also engaged. It entitles those affected by proposed CA to a fair and public hearing of their objections. The requirements of this article have been fully met through compliance with the procedures of the PA2008 and related regulations and because I have had regard to all representations in writing and orally in reaching conclusions.
- 5.88 Article 8 relates to the right to respect for his private and family life and his home. I do not consider that it is engaged because no person would be deprived of his home or have his living conditions worsened to an extent that would be regarded as unacceptable.

The Public Benefit

- 5.89 The public benefit of the scheme would arise from the relief of poor road safety and congestion, and the improvement to both journey time reliability and the overall resilience of the route along the A30; and that is reinforced by the predicted economic benefits, particularly for tourism. I find the uncontested evidence of benefit robust, supporting the conclusion that the provision of CA powers for the scheme is fully justified in the public interest.
- 5.90 In other circumstances it might be possible for the acquisition of land and rights to proceed simply by agreement, but the need for certainty through timely and cost-effective acquisition producing

clear title would render that approach unsatisfactory for the scheme and makes CA essential.

Overall Conclusions and Recommendation on CA and Other Land Matters

- 5.91 The case for CA powers relies firstly on the case for the scheme. Preceding sections of this report reveal that there is a need for the scheme and it is against that background, coupled with the foregoing considerations, that the I have reached the following conclusions.
- 5.92 As a consequence of the examination process, including consideration of:
- the relevant representations and all written submissions;
 - two rounds of written questions and the relevant responses;
 - requests for further information and responses thereto; and
 - the proceedings of the hearings including specifically, three CAHs:

I am satisfied that the proposed development is for a legitimate purpose, that there is a likelihood of sufficient funding being available and that each plot to be acquired has been identified for a clear purpose.

- 5.93 In respect of the test set out in s122(2) of the PA2008, I am satisfied that all of the land in respect of which CA is sought is required for the development to which the development consent relates or is required to facilitate it or is incidental to that development Paragraph 5.1 to 5.76.
- 5.94 In respect of the test set out in s122(3), I am also satisfied that there is a compelling case in the public interest for this land to be acquired compulsorily as there are no practicable alternatives to meet the objectives sought and the public benefit outweighs the loss to private interests or the restrictions imposed on those interests Paragraph 5.89 to 5.90.
- 5.95 In respect of the tests set out in ss131 and 132, I am satisfied that the land secured as replacement common land within the **applicant's final draft DCO** can be made to be no less advantageous to those with rights of common, as the common land and rights over common land which are proposed to be compulsorily acquired. In relation to the creation of new rights over common land for which no replacement land is provided, I am satisfied that the relevant Order land, when burdened with the Order right, would be no less advantageous that it was before to the persons in whom it is vested, to other persons entitled to rights of common and the public Paragraphs 5.60 to 5.76.

- 5.96 And finally, so far as human rights are concerned, I am satisfied that the examination process has ensured a fair and public hearing; that any interference with human rights arising from implementation of the scheme is proportionate and strikes a fair balance between the rights of the individual and the public interest; and that compensation would be available in respect of any quantifiable loss Paragraphs 5.86 to 5.88.
- 5.97 In my judgement there is a compelling case in the public interest for CA of the land and rights sought for the scheme.
- 5.98 So far as temporary possession is concerned, I am satisfied that the land is required and that the associated provisions for return and reinstatement are appropriately secured Paragraphs 5.77 to 5.79.

6 DRAFT DEVELOPMENT CONSENT ORDER

Introduction

- 6.1 This section addresses the development of the draft DCO from the original APP17, submitted as part of the application, to the recommended Appendix E. **The latter is the applicant's eight and final version, modified by way of my track changes.**

Original Order

- 6.2 The original draft Order is accompanied by the required Explanatory Memorandum (EM) and both form part of the application APP17 & APP18.
- 6.3 Powers are sought to enable dualling of the existing A30 trunk road single carriageway between Temple and Higher Carblake together with the construction of three grade-separated junctions (the Works). In summary, the DCO would authorise the following principal development APP17 Part 2 & Schedule 1, Work No 1:
- widening and realignment of the A30 single carriageway;
 - reconfiguration of the accesses to existing service stations;
 - reconfiguration of the access to Higher Carblake;
 - reconfiguration of public rights of way;
 - construction of a sustainable drainage system (SuDS) including attenuation basins;
 - diversion and protection of public and private utility apparatus;
 - reconfiguration of private accesses and accesses to common land;
 - temporary removal of a Grade II listed milestone; and
 - other works associated with the foregoing.
- 6.4 The Order would authorise associated development including APP17 Part 2 & Schedule 1, Work Nos 2, 3, 4, 5 & 6:
- construction of grade-separated junctions at Cardinham Downs, Preeze Cross and Temple Tor;
 - reconfiguration and relocation of private accesses on the side road network; and
 - accommodation works associated with replacement land
- 6.5 The Order would also authorise further minor works APP17 Part 2 & Schedule 1.
- 6.6 Ancillary matters (ie provisions not comprising development) provided for by the Order include:
- improvement, alteration, diversion and stopping-up of highways including public rights of way APP17 Part 3;
 - CA and provisions for special category land APP17 Part 5; and

- Deemed consents in relation to highway matters.
- 6.7 The original draft Order has several schedules, including Schedule 2 which lists requirements and Schedule 8 which could be used in the event of a need for protective provisions. The schedules include customary provisions for streets and accesses etc.
- 6.8 Drafting of the Order is generally based on the model provisions³⁸. Because of the linear nature and related characteristics of the scheme, however, some articles are based on the associated model provisions for railways in the Transport and Works Act (TWA) model clauses³⁹ and Orders⁴⁰ or other DCOs made by SST⁴¹ and Hybrid Bills⁴². Requirements are based on the model provisions where possible and otherwise based on models reflecting best practice for planning conditions.
- 6.9 Although there is no legal requirement to use the model provisions, they are a useful benchmark for assessing the Order. But where variations from the model provisions are proposed I am satisfied that there are good reasons and that a broadly suitable alternative approach has been adopted APP18.
- 6.10 Aspects of the Order requiring further consideration are dealt with below.

DCO development through successive drafts

- 6.11 The original draft Order (DCOV0) developed progressively during the examination. Drafting was amended iteratively as a result of my questions and responses thereto, together with representations, submissions and hearing proceedings. There were also unprompted revisions, including those in response to negotiations between the applicant and IPs and APs, and in relation to the provisions for replacement common land as a result of the proposed change to the application AS38 to AS52. Consequently there are now eight substantive drafts, the eighth revision (DCOV8) being the final draft REP95. Clean and ***track change*** versions are provided for successive drafts, illustrating revisions, while affording comparisons with the original draft Order and the immediately preceding version.

Applicant's DCO revisions

³⁸ Infrastructure Planning (Model Provisions)(England and Wales) Order 2009

³⁹ Transport and Works Act (Model Clauses for Railways and Tramways) Order 2006

⁴⁰ River Mersey (Mersey Gateway Bridge) Order 2011, Network Rail (Thameslink 2000) Order 2006, Network Rail (Nuneaton North Chord) Order, Network Rail Hitchin (Cambridge Junction) Order 2011 & Nottingham Express Transit System Order 2009

⁴¹ Network Rail (North Doncaster Chord) Order 2011, Rookery South (Resource Recovery Facility) Order 2011, Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) Order 2013 & M1 Junction 10a (Grade Separation) Order 2013

⁴² Crossrail Act 2008

- 6.12 The drafting has been amended or clarified throughout so that the final draft now accords with current drafting practice for statutory instruments and is generally consistent with made DCOs. Minor inaccuracies have been corrected and definitions added or deleted; and there have also been important amendments of the provisions relating to CA of common and replacement land. Requirements have been refined and reworded to accord with the provisions of the ES for mitigation of adverse impacts and to comply with the tests of Department of the Environment Circular 11/95.
- 6.13 Schedule 8 in the original Order has been deleted by the applicant because no protective provisions have been sought by any statutory undertaker, such provisions are unnecessary in the light of the embodiment of the provisions of the New Roads and Street Works Act 1991 (NRSWA) within Article 9(3) of the DCO and agreements have been reached with affected undertakers APP45.
- 6.14 These are all important but uncontroversial revisions, but I am satisfied that the changes are necessary, that the DCO has been improved as a result and that it is now fit for purpose, save for my residual concerns about modifications proposed by APs, and Requirement 6 and Schedule 8 of the final draft as discussed below Paragraphs 6.22 to 6.31.
- 6.15 My commentary below on legal agreements does not suggest the need for any further revision of the DCO Paragraphs 6.31 to 6.37.

Modifications proposed by APs

- 6.16 Bruce Robertson and Trago Mills Ltd are APs who propose modifications to the Order in respect of their interests at Higher Carblake REP97. The substantive commentary on their representations is in Section 5 but in summary, alternative access arrangements are proposed at Higher Carblake in the perceived interests of road safety and to accommodate prospective development of land adjoining the proposed carriageway for a suggested TRSA REP97. To that end, they propose modifications to Schedules 2 and 3.
- 6.17 In Schedule 2, a negative requirement is proposed in the following terms REP98:
- The right hand turn on the A30 into and out of Higher Carblake shall not be stopped up before a link road has been constructed from the C0110 to Higher Carblake and made available for use.*
- 6.18 In Schedule 3, Parish of Cardinham, District of Lanivet and Blisland (1) C0110 to Millpool (2) the description (3) should be expanded to incorporate the following words:
- ...and to provide a junction with a new private access to Higher Carblake.*

- 6.19 If SST were minded to approve the scheme and were persuaded to incorporate the Higher Carblake alternative access proposals, it is necessary to consider whether the Order should be modified.
- 6.20 I have strong reservations about the proposed requirement. The appropriateness of a Grampian requirement, as proposed, relies on a degree of certainty. But there could be no certainty that the link road would be provided within the timeframe of the scheme. The suggested requirement could prevent implementation or at least part-implementation of the scheme until a link road had been provided, potentially resulting in the expenditure of public funds on a scheme that might be incapable of completion. That would **threaten the scheme's benefits and therefore be wholly** unreasonable in my judgement. Moreover, I do not think any alternative requirement would be appropriate and none has been proposed by the applicant or any other party. I cannot therefore recommend this proposed requirement.
- 6.21 The modification to Schedule 3, however, is uncontroversial in my opinion but should only be made in the event that the Secretary of State favours the alternative access arrangements.

Residual Concerns

- 6.22 Notwithstanding **the applicant's** positive responses to questions posed and hearing proceedings during which my concerns were aired and addressed, I remain concerned about the adequacy of the drafting in several respects.

The Application

- 6.23 The final draft DCO states on page three that the application has been made under various sections of PA2008. However, s121 was repealed by the Localism Act 2001. Reference to s132 should be extended include s132(2), 132(3) and 132(4) of the Act to reflect the redrafting of Article 30.

Interpretation

- 6.24 The meaning of ***environmental impact assessment*** should be revised in the interests of certainty. It refers only to the ES and should include ***all other environmental information submitted during the examination.*** The definition is therefore redrafted accordingly.

Special Category Land

- 6.25 Article 30(3) refers to the requirements of paragraph (1) being satisfied for replacement land to vest. But that is clearly a drafting error and reference should be made to paragraph (2). Paragraph (3) is accordingly redrafted.

Discharge of Requirements

- 6.26 The drafting of Article 41 and Schedule 8 of the final draft Order represents a bespoke approach to the discharge of requirements, differing from the customary Town and Country Planning Act (TCPA) approach to the discharge of conditions and resulting in tighter timescales than employed in planning permissions. The justification for the bespoke approach is the fact that the scheme is an NSIP with associated pressures in terms of delivery and programme and I can see the force of that argument, especially when this approach has been used in other DCOs⁴³ HG8 & Rep74.
- 6.27 Timescales are undoubtedly tight but there is no evidence to suggest that they are not achievable. But it would be inappropriate to recommend alternative timescales when none have been offered by the LPA in response to my questions. These timescales therefore remain in the recommended DCO.

Requirement 6

- 6.28 The final draft **Order's** Requirement 6 (2) states:

The authorised development must also be carried out in accordance with the indicative detail shown on the approved plans, unless otherwise approved in writing by the local planning authority.

- 6.29 The tailpiece *unless otherwise approved in writing by the local planning authority* is lawful insofar as it is restricted to minor or immaterial changes, unlikely to give rise to effects other than those within the environmental impact assessment of the scheme⁴⁴. My concern is about precision and specifically with the word *indicative*. As originally drafted the requirement referred to *in general accordance*; the word *general* was deleted by the applicant in the light of that concern but *indicative* remains on the basis that it is never possible to identify every detail of a large project in advance of approval, and that the scheme must be implemented within the draft Order limits and limits of deviation REP74.
- 6.30 I accept that there is a need for flexibility in the implementation of a major infrastructure project but it is equally important that there should be reasonable certainty about what is being approved for the benefit of the decision-maker, the LPA and the general public. I can see that some other made DCOs use *indicative*, but it is not used in the legends of Works Plans in this case and I am loathe to recommend its use in Requirement 6⁴⁵. However, the Works Plans

⁴³ Hinkley Point, Kings Lynn, North Killinghome, North London Reinforcement Project & Thames Tideway Tunnel

⁴⁴ As secured by requirement 1(4) of the DCO

⁴⁵ DIRFT, East Anglia One, Rampion & Thames Tideway Tunnel

refer in every case to *illustrative engineering detail* and provided that wording were used, uncertainty would be eliminated and I recommend that it be used instead of *indicative*, thus retaining the flexibility which the applicant seeks; and Requirement 6 is redrafted accordingly in the Recommended DCO.

Typographical Errors

- 6.31 Where errors of spelling, grammar or syntax have been discovered they have been corrected at various points in the Recommended Order.

DCO Conclusions

- 6.32 The final draft DCO addresses all my concerns about drafting raised during the examination, save for those identified above. The Recommended DCO has been redrafted to reflect those concerns and that can be seen in Appendix E.
- 6.33 The final Order does not incorporate the modifications proposed by APs in respect of Higher Carblake and nor are they recommended, but were SST minded to approve the application and incorporate the proposed Higher Carblake modifications, I would further recommend that the Order be modified as described above Paragraphs 6.16 to 6.21.

Legal Agreements

- 6.34 There are three sets of legal agreements relating to the scheme between the applicant and:
- Statutory Undertakers (SUs) APP45 & REP44;
 - The Highways Agency APP95; and
 - Adrian Mansfield AS51 & REP102.
- 6.35 The statutory undertaking agreements between the applicant and **five of the six affected undertakers, confirm the applicant's intention to fulfil the requirements of the New Roads and Street Works Act 1991 (NRSWA) and the statutory undertakers' intentions not to object to, or make representations other than in support of the DCO and to abide by the terms of the NRSWA.** NRSWA is embodied in the original draft Order by Article 9(3) and remains so in the recommended Order. These agreements would allow the applicant to compulsorily acquire and to acquire new rights over land belonging to the affected statutory undertakers, and extinguish their rights and remove or reposition apparatus.
- 6.36 Subsequent to completing an agreement with the applicant, Western Power Distribution (one of the five) withdrew its RR (the only RR from an SU) and completed a SoCG with the applicant AS24 & REP26. I consider that all these concords protect the interests of statutory undertakers satisfactorily.

- 6.37 Vodafone Limited is the sixth statutory undertaker and, despite very considerable efforts by the applicant, did not conclude an extensive exchange of correspondence prior to making the application APP45. The company did not participate in the examination process, making neither a RR nor any other submission. Nevertheless, I do not consider that even in the absence of protective provisions its interests are adversely affected and I do not consider that its lack of engagement with the process presents an impediment to the making of the DCO.
- 6.38 In summary therefore, I am satisfied that all SU rights extinguished and any apparatus removed by the DCO are necessary for the purpose of carrying out the development and I am also satisfied that the interests of the affected SUs are adequately protected by the agreements in place and by the recommended DCO.
- 6.39 In summary, the HA agreement sets out the detail of the **applicant's authorisation to improve the A30 trunk road on behalf of SST**.
- 6.40 The agreements between Adrian Mansfield and the applicant relate to land at Hawks Tor Farm in Manor Common, which would be substituted for other land identified in the application as replacement for common land that would be compulsorily acquired for the scheme. This replacement land became known as Manor Common Option 5 and is referred to more fully in the consideration of replacement common land elsewhere ^{Paragraphs 5.59 to 5.72}. The effect of the agreement is that the land owner (Adrian Mansfield) consents to CA of the land and the applicant commits to consulting stakeholders as to its suitability as replacement common land.
- 6.41 I regard these legal agreements as necessary and proportionate in relation to the proposed development in order to make the scheme acceptable in planning terms. They are directly related to the proposed development and fairly and reasonably related in scale and kind to the scheme.

7 SUMMARY OF CONCLUSIONS AND RECOMMENDATION

Conclusions

- 7.1 The principle of dualling the A30 between Temple and Higher Carblake is consistent with national planning policies and broadly supported by relevant local policies Section 3. There is little by way of conflict with protective local planning policies and where there is the potential for conflict, it can be adequately addressed by appropriate mitigation measures secured through the draft DCO Section 4.
- 7.2 The draft DCO submitted with the application and amended during the examination, is appropriate for implementation of the scheme subject to amendments proposed which are shown as track changes in the recommended DCO in Appendix E Section 6. The draft DCO makes provision for the CA of land and rights, and the creation of new rights; provision is also made for temporary possession of land. These powers are necessary for implementation of the scheme and meet the tests in s122 of the PA2008. The draft DCO also makes provision for the CA of replacement land for common land and rights required to construct the scheme. The replacement land provisions meet the tests in s131 and s132 of the PA2008 Section 5.
- 7.3 So far as human rights are concerned, the examination process has ensured a fair and public hearing; any interference with human rights arising from implementation of the scheme is proportionate and strikes a fair balance between the rights of the individual and the public interest; and compensation would be available in respect of any quantifiable loss Paragraph 5.86 to 5.88.
- 7.4 Other consents are required to implement the scheme and there is every reason to believe that they would be granted by the appropriate statutory bodies Paragraphs 1.18 to 1.21 & Appendix B.
- 7.5 Agreements are in place to facilitate implementation. They are necessary and proportionate in relation to the proposed development in order to make the scheme acceptable in planning terms. They are directly related to the proposed development and fairly and reasonably related in scale and kind to the scheme Paragraph 6.31 to 41.
- 7.6 In the overall balance, any disadvantages arising from implementation of the scheme are outweighed by the public interest benefits.

Recommendation

- 7.7 For the reasons set out above and in accordance with s83 of the PA2008, I recommend that the Cornwall Council (A30 Temple to

Higher Carblake) Improvement Order 201[] be made by the Secretary of State for Transport in the form set out in Appendix E.

APPENDICES

APPENDIX A - EXAMINATION LIBRARY

The following is a list of documents that were submitted during the course of the examination. The documents are grouped together by type or deadline.

Each document has been given a unique identifier (see table below) and all documents are available to view of the National Infrastructure portal, here: <http://infrastructure.planningportal.gov.uk/projects/south-west/a30-temple-to-higher-carblake-improvement/?ipcsection=docs>

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| Accompanied site inspections | ASlxx |

| Doc Ref | Doc Name |
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| APPLICATION DOCUMENTS | |
| Application Form | |
| APP1 | 1.01 Application Documents List |
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| Draft Development Consent Order | |
| APP17 | 3.01 Draft DCO |
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| APP19 | 4.01 Statement of Reasons |
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| Reports | |
| APP22 | 5.01 Consultation Report |
| APP23 | 5.01 Consultation Report Appendix 2.1 Phase 1 Consultation Documents |
| APP24 | 5.01 Consultation Report Appendix 2.2 Part 1 Phase 2 Consultation Documents |
| APP25 | 5.01 Consultation Report Appendix 2.2 Part 2 Structures Notes and General Arrangement Drawings |
| APP26 | 5.01 Consultation Report Appendix 3.1 – 3.7 S42 Statutory Consultee List; Local Authority SOCC Responses; s42 Landowners and Persons with an Interest in the Land; Consultee Letters Phase 1 & 2; Pre-consultation Questionnaire Phase 1 & 2; Exhibition Photo Montage; Scheme Description Phase 1 & 2 |
| APP27 | 5.01 Consultation Report Appendix 3.8 Phase 1 Consultation SOCC |
| APP28 | 5.01 Consultation Report Appendix 3.9 – 3.11 Phase 2 Consultation SOCC; Wider Community Consultation Area Map; Wider Community Consultation Site Notices & Locations |
| APP29 | 5.01 Consultation Report Appendix 3.12 Exhibition Boards for Phase 1 Consultation |
| APP30 | 5.01 Consultation Report Appendix 3.13 – 3.15 Exhibition Boards for Phase 2 Consultation; s48 Public Notice Phase 1 & 2; s47 Non-statutory Consultee List |
| APP31 | 5.01 Consultation Report Appendix 3.16 – 3.18 S47 Wider Community Consultation; s46 Notification to PINS Phase 1 & 2; s28 Public Notice Local Newspaper |
| APP32 | 5.01 Consultation Report Appendix 3.19 – 4.7 S48 Public Notice National Newspaper; Section 48 Public Notice Local Government Newspaper; HA Consultation Report; Feasibility Option Plan and Environmental Options Report; Feedback/Suggestions Record; Parish Council Presentation; A30 Temple Scheme Update Leaflet; Early Engagement Session Comment Sheet; Early Engagement Letter |
| APP33 | 5.01 Consultation Report Appendix 6.1 – 8.2 DCO Boundary Phase 1 Consultation (Plan); Changes to DCO Boundary; DCO Boundary Phase 2 Consultation Plan; DCO Boundary Summary Table and Plan Changes |
| APP34 | 5.02 Flood Risk Assessment |

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| APP35 | 5.03 Effects on Natural Features |
| APP36 | 5.04 Assessment of Historic Environment Effects |
| APP37 | 5.05 SSSI Impact Assessment |
| APP38 | 5.06 Statutory Nuisance Statement |
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| APP51 | 6.02 Chapter 6 Part 1 Air Quality and Climate Fig 06.01 – 06.02.00 |
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| APP56 | 6.02 Chapter 8 Part 1 Landscape & Visual Fig 08.01 – 08.03 |
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| APP59 | 6.02 Chapter 9 Part 1 Ecology Fig 09.01.01 – 09.01.02 |
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| APP68 | 6.03 Chapter 3 Appendix 03.01 Part 1 Design Options Feasibility Report |
| APP69 | 6.03 Chapter 3 Appendix 03.01 Part 2 Design Options Feasibility Report |
| APP70 | 6.03 Chapter 3 Appendix 03.01 Part 3 Design Options Feasibility Report |
| APP71 | 6.03 Chapter 3 Appendix 03.01 Part 4 Design Options Feasibility Report |
| APP72 | 6.03 Chapter 4 Appendix 4.01 – 4.03 Response to Stat Comments; Scoping Opinion; Letter to PINS |
| APP73 | 6.03 Chapter 6 Appendix 6.01 – 6.07 Construction Impact Assessment Criteria; Detailed Modelling Inputs; DMRB Screening Level Inputs; Model Verification; Monitoring Results; Model Results; DMRB IAN Update |
| APP74 | 6.03 Chapter 7 Appendix 07.01 Detailed Archaeological Assessment |
| APP75 | 6.03 Chapter 8 Appendix 08.01 – 08.03 Email to Cornwall AONB Officer; Arboricultural Impact Assessment; Cornwall Landscape Character |
| APP76 | 6.03 Chapter 9 Part 1 Appendix 09.01 Phase 1 Habitat and Marsh Fritillary Survey Report |
| APP77 | 6.03 Chapter 9 Part 2 Appendix 09.02 NVC Survey Report |
| APP78 | 6.03 Chapter 9 Part 3 Appendix 09.03 Otter survey Report |
| APP79 | 6.03 Chapter 9 Part 4 Appendix 09.04 Dormouse Survey Report |
| APP80 | 6.03 Chapter 9 Part 5 Appendix 09.05 Bat Survey Report |

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| APP81 | 6.03 Chapter 9 Part 6 Appendix 09.06 Breeding Bird Survey Report |
| APP82 | 6.03 Chapter 9 Part 7 Appendix 09.07 Reptile Survey Report |
| APP83 | 6.03 Chapter 9 Part 8 Appendix 09.08 Badger Survey Report |
| APP84 | 6.03 Chapter 9 Part 9 Appendix 09.09 Macro Invertebrate Survey Report |
| APP85 | 6.03 Chapter 11 Appendix 11.01 Draft Site Waste Management Plan |
| APP86 | 6.03 Chapter 12 Appendix 12.01 – 12.05 Acoustic Terms; Traffic Data; Calibration Certificates; Baseline Noise Monitoring Results; Predicted Road Traffic Noise Levels |
| APP87 | 6.03 Chapter 14 Appendix 14.01 Agricultural Impact Assessment |
| APP88 | 6.03 Chapter 15 Appendix 15.01-15.05 Flood Risk Assessment; Water Quality Analysis; Assessment of Pollution Impacts from Routine Runoff on Groundwaters and Spillage Risk Assessment; DMRB Criteria for Significant Effects |
| APP89 | 6.03 Chapter 17 Appendix 17.01 Draft Construction Environmental Management Plan |
| Environmental Statement – Other Volumes | |
| APP90 | 6.04 ES Non-Technical Summary (NTS) |
| APP91 | 6.05 HRA Screening |
| APP92 | 6.06 EIA Publicity Requirements |
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| APP93 | 9.01 Planning Statement |
| APP94 | 9.02 Statement of Need |
| APP95 | 9.03 Section 6 Agreement with the Highways Agency |
| APP96 | 9.04 Departures from Standard Report |
| Information to accompany proposed provision within the draft Development Consent Order to compulsorily acquire registered common land | |
| APP97 | s131 and s132 Special Category Land - Common Land Application Letter Covering Letter |
| APP98 | s131 and s132 Special Category Land - Common Land Application |

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ADEQUACY OF CONSULTATION REPRESENTATIONS

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| AoC1 | Cornwall Council |
| AoC2 | Devon County Council |
| AoC3 | Torridge District Council |

PROJECT DOCUMENTS

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| PD1 | Notification of decision to accept application |
| PD2 | s55 Checklist |
| PD3 | s51 advice to Cornwall Council |
| PD4 | Transboundary screening matrix re-screening |
| PD5 | Rule 4 and Rule 6 notification letter |
| PD6 | Rule 8 letter |
| PD7 | Examining Authority's first written questions |
| PD8 | Notification of hearings, ASI and timetable corrections |
| PD9 | Notification of second written questions |
| PD10 | Examining Authority's second written questions |
| PD11 | Notification of June and July hearings and second site inspection to be held in the company of interested parties, and request for further information 23 May 2014 |
| PD12 | Rule 9 Notification 4 June 2014 |
| PD13 | Rule 9 Notification 13 June 2014 |
| PD14 | Request for further information 20 June 2014 |
| PD15 | Notification of hearing adjournment |
| PD16 | Request for further information 25 July 2014 |
| PD17 | Confirmation of acceptance of applicant's proposed change to the application and request for further information 4 August 2014 |
| PD18 | Notification of completion of ExA examination |

RELEVANT REPRESENTATIONS

| Doc Ref | Doc Name |
|----------------|--|
| RR1 | Kim Roscoe |
| RR2 | Sandra Webber |
| RR3 | Temple to Bodmin A30 Action Group |
| RR4 | Kevin Hicks on behalf of Mr Graham Spittey |
| RR5 | Mrs Julie Best |
| RR6 | Not Assigned |
| RR7 | David Williams |
| RR8 | Dave Mattos |
| RR9 | Martin Bishop |
| RR10 | Scott Mann |
| RR11 | Lesley Martin |
| RR12 | Blisland Commoners Association |
| RR13 | Cardinham Parish Council |
| RR14 | Peter Crier |
| RR15 | Natural England |
| RR16 | Mr Peter Underwood |
| RR17 | Blisland Parish Council |
| RR18 | Michael Pennington on behalf of Victor Newman |
| RR19 | Michael Pennington on behalf of Pencarrow Maintenance Trust |
| RR20 | Highways Agency |
| RR21 | Christopher Anderson on behalf of Rupert Hanbury-Tenison |
| RR22 | Adrian Mansfield |
| RR23 | Sue Crier |
| RR24 | Ian Lamond on behalf of Bruce Robertson |
| RR25 | Ian Lamond on behalf of Charles Robertson (Developments) Limited |
| RR26 | Western Power Distribution |

| Doc Ref | Doc Name |
|---------|---|
| RR27 | Andrew Roose |
| RR28 | John Martyn Aldis on behalf of Cyclists' Touring Club |
| RR29 | Cornwall Wildlife Trust |

ADDITIONAL SUBMISSIONS

Other environmental information provided by the applicant on 8 January 2014, between the acceptance of the application and the start of the examination

| | |
|------|---|
| AS1 | Cornwall Council - Other Environmental Information - Supplementary Information |
| AS2 | Cornwall Council - Other Environmental Information - Submission Errata Sheets |
| AS3 | Cornwall Council - Other Environmental Information - Letter to PINS |
| AS4 | Cornwall Council - Other Environmental Information - NTS Part 1 |
| AS5 | Cornwall Council - Other Environmental Information - NTS Part 2 |
| AS6 | Cornwall Council - Other Environmental Information - Appendix A Part 1 Figures |
| AS7 | Cornwall Council - Other Environmental Information - Appendix A Part 2 Figures |
| AS8 | Cornwall Council - Other Environmental Information - Appendix A Part 3 Figures |
| AS9 | Cornwall Council - Other Environmental Information - Appendix B Part 1 Ground Investigation Report & Geotechnical Design Review |
| AS10 | Cornwall Council - Other Environmental Information - Appendix B Part 2 Ground Investigation Report & Geotechnical Design Review |
| AS11 | Cornwall Council - Other Environmental Information - Appendix B Part 3 Ground Investigation Report & Geotechnical Design Review |
| AS12 | Cornwall Council - Other Environmental Information - Appendix C Design Options Report |
| AS13 | Cornwall Council - Other Environmental Information - Appendix C Design Options Report Appendices Part 1 |
| AS14 | Cornwall Council - Other Environmental Information - Appendix C Design Options Report Appendices Part 2 |
| AS15 | Cornwall Council - Other Environmental Information - Appendix C Design |

| Doc Ref | Doc Name |
|---|---|
| | Options Report Appendices Part 3 |
| AS16 | Cornwall Council - Other Environmental Information - Appendix C Design Options Report Appendices Part 4 |
| AS17 | Cornwall Council - s42 consultation clarification document |
| Other submissions received between the acceptance of the application and the start of the examination but which were not able to be treated as relevant representations | |
| AS18 | Public Health England 25 November 2014 |
| Additional evidence or documents received outside of the deadlines specified in the Rule 8 examination timetable and not received to any additional deadlines notified to interested parties under Rule 8(3) | |
| AS19 | Cornwall Council - Certificates of Compliance 27 November 2014 |
| AS20 | Cornwall Council - s59 notice errata sheet 1 February 2014 |
| AS21 | Cornwall Council - Acceptance notice 11 March 2014 |
| AS22 | SM Facer on behalf of Bodmin Town Council 12 March 2014 |
| AS23 | Cornwall Council - Revised Works Plan 19 March 2014 |
| AS24 | Western Power Distribution (South West) Plc - re withdrawal of RR 26 March 2014 |
| AS25 | Cornwall Council - DCO 1 v2 Draft DCO Clean 17 March 2014 |
| AS26 | Cornwall Council - DCO 2 v2 Draft DCO track changed 17 March 2014 |
| AS27 | Cornwall Council - Draft LEMP v0 23 April 2014 |
| AS28 | Ian Lamond on behalf of Bruce Robertson & Trago Mills Ltd 28 April 2014 |
| AS29 | Natural England - re golden plover impact 29 April 2014 |
| AS30 | Cornwall Council - Hearing notice 28 May 2014 |
| AS31 | Ian Lamond on behalf of Bruce Robertson & Trago Mills Limited 29 May 2014 |
| AS32 | Ian Lamond on behalf of Bruce Robertson & Trago Mills Limited 9 June 2014 |
| AS33 | Cornwall Council - comments on responses to WRs 11 [REP19] & 12 [REP20] on 11 June 2014 |
| AS34 | Cornwall Council - Technical Note 05 12 June 2014 |

| Doc Ref | Doc Name |
|----------------|---|
| AS35 | Ian Lamond on behalf of Bruce Robertson and Trago Mills Limited 18 June 2014 |
| AS36 | Cornwall Council - Response to MJ Paddle Supplementary WRs on behalf of Bruce Robertson & Trago Mills Ltd |
| AS37 | Ian Lamond on behalf of Bruce Robertson and Trago Mills Limited 16 July 2014 |
| AS38 | Cornwall Council - Letter to PINS re Red Line Boundary Change 17 July 2014 |
| AS39 | Cornwall Council - Letter to PINS re Manor Common Substitution 17 July 2014 |
| AS40 | Cornwall Council - Addendum to Special Category Land application 17 July 2014 |
| AS41 | Cornwall Council - 2.02 Land Plans v2 17 July 2014 |
| AS42 | Cornwall Council - 2.03 Works Plans v3 17 July 2014 |
| AS43 | Cornwall Council - 2.05 Long Sections & Cross Sections v2 17 July 2014 |
| AS44 | Cornwall Council - 2.12 Replacement Land Plans v2 17 July 2014 |
| AS45 | Cornwall Council - 3.01 v7 Draft DCO - clean 17 July 2014 |
| AS46 | Cornwall Council - 3.01 v7 Draft DCO - track changes from v1 17 July 2014 |
| AS47 | Cornwall Council - 3.01 v7 Draft DCO - track changes from v6 17 July 2014 |
| AS48 | Cornwall Council - 4.03 v3 Book of Reference - clean 17 July 2014 |
| AS49 | Cornwall Council - 4.03 v3 Book of Reference - tracked 17 July 2014 |
| AS50 | Cornwall Council - 5.10 M51 Common Land Supplementary Report on Option M5 17 July 2014 |
| AS51 | Cornwall Council - 5.10 M52 Manor Common Option M5 Legal Agreement 17 July 2014 |
| AS52 | Cornwall Council - 6.02 FIG 14.01 C 01-07-14 17 July 2014 |
| AS53 | Cornwall Council - Technical Note 05 errata 18 July 2014 |
| AS54 | Cornwall Council - Submitted Document Amendments 17 July 2014 |

| Doc Ref | Doc Name |
|----------------|--|
| AS55 | Ian Lamond on behalf of Bruce Robertson and Trago Mills Limited 18 July 2014 |
| AS56 | Jo Maynard on behalf of Mr R Cornelius 28 July 2014 |
| AS57 | Cornwall Council - letter to NE re NVC survey 28 July 2014 |
| AS58 | Bodmin Town Council - letter of support 29 July 2014 |
| AS59 | Environment Agency - re attenuation basin drawings 29 July 2014 |
| AS60 | Cornwall Council - providing annotated attenuation basin drawings to EA 30 July 2014 |
| AS61 | Natural England - re NVC assessment 31 July 2014 |
| AS62 | Cornwall Council - Road Safety Audit 2 update 1 August 2014 |
| AS63 | Environment Agency - re satisfaction with drawing annotation 1 August 2014 |
| AS64 | Cornwall Council - Application Documents List v3(a) 1 August 2014 |
| AS65 | Cornwall Council - response to NE letter re Draft CEMP 1 August 2014 |
| AS66 | Cornwall Council - Application Documents List v3(b) 1 August 2014 |
| AS67 | Altarnun Parish Council - letter of no objection 4 August 2014 |
| AS68 | Cornwall Council - Applicant's Comments on BCA's Response to ExA's Rule 17 6 August 2014 |
| AS69 | Ian Lamond on behalf of Bruce Robertson and Trago Mills Limited 6 August 2014 |

PRELIMINARY MEETING – 6 February 2014

| | |
|-----|---|
| PM1 | Preliminary Meeting Audio |
| PM2 | Preliminary Meeting Note |

DEADLINE I – 3 March 2014

Submissions in relation to other environmental information provided by the applicant on 8 January 2013

| | |
|------|------------------------------------|
| REP1 | Environment Agency |
|------|------------------------------------|

| Doc Ref | Doc Name |
|----------------|-----------------|
|----------------|-----------------|

REP2 [Blisland Commoners' Association](#)

DEADLINE II – 19 March 2014

Written Representations and responses to ExA's first written questions

REP3 [Michael Martin on behalf of the A30 Action Group - WR](#)

REP4 [Lesley Martin - WR](#)

REP5 [Mark Bunt on behalf of Mr Peter Underwood - response to first written questions](#)

REP6 [Natural England - response to first written questions](#)

REP7 [Cornwall Council Part 1 - response to first written questions](#)

REP8 [Cornwall Council Part 2 - response to first written questions - Temple Tor overbridge approval in principle from HA](#)

REP9 [Cornwall Council Part 3 - response to first written questions - updated BoR](#)

REP10 [Devon County Council - WR](#)

REP11 [John Martyn Aldis on behalf of the Cyclists' Touring Club - response to first written questions](#)

REP12 [Christopher Anderson on behalf of Rupert Hanbury-Tenison - response to first written questions](#)

REP13 [Michael Pennington on behalf of Victor Newman - WR](#)

REP14 [Environment Agency - WR](#)

REP15 [Christopher Anderson on behalf of Rupert Hanbury-Tenison - WR](#)

REP16 [John Martyn Aldis on behalf of Cyclists' Touring Club - WR](#)

REP17 [Natural England - WR and response to first written questions](#)

REP18 [KCS Hicks on behalf of Graham Spittey - WR](#)

REP19 [MJ Paddle on behalf of Bruce Robertson - WR](#)

REP20 [MJ Paddle on behalf of Charles Robertson \(Developments\) Limited - WR](#)

REP21 [Highways Agency - response to first written questions](#)

Local Impact Reports

| Doc Ref | Doc Name |
|----------------|-----------------|
|----------------|-----------------|

REP22 [Cornwall Council \(Local Planning Authority\)](#)

Statements of Common Ground (see also REP90)

REP23 [Cornwall Council and Blisland Commoners Association](#)

REP24 [Cornwall Council, English Heritage and Cornwall Historic Environment Service](#)

REP25 [Cornwall Council and Natural England](#)

REP26 [Cornwall Council and Western Power Distribution \(South West\) plc](#)

REP27 [Cornwall Council and Cyclists' Touring Club](#)

Comments on Relevant Representations

REP28 [Cornwall Council](#)

Itinerary recommendations for accompanied site inspection on 8 April 2014

REP29 [Cornwall Council](#)

REP30 [Christopher Anderson on behalf of Rupert Hanbury-Tenison](#)

REP31 [Ian Lamond on behalf of Bruce Robertson and Trago Mills Ltd](#)

Other

REP32 [Cornwall Council - Updated Book of Reference](#)

REP33 [Cornwall Council - v2 draft DCO clean - superseded by AS25](#)

REP34 [Cornwall Council - v2 draft DCO with tracked changes - superseded by AS26](#)

DEADLINE III – 15 April 2014

Post-hearing documents

REP35 [Jo Maynard on behalf of Mr R Cornelius](#)

REP36 [Jo Maynard on behalf of Mr & Mrs Gibson](#)

REP37 [Ian Lamond on behalf of Bruce Robertson](#)

REP38 [Ian Lamond on behalf of Charles Robertson \(Developments\) Ltd](#)

REP39 [Cornwall Council - written summary of oral reps at DCO issue specific hearing \(ISH\)](#)

Comments on Local Impact Reports

| Doc Ref | Doc Name |
|----------------|-----------------|
|----------------|-----------------|

REP40 [Cornwall Council](#)

Comments on responses to ExA's first written questions

REP41 [Cornwall Council re Draft LEMP](#)

REP42 [Cornwall Council](#)

Comments on Written Representations

REP43 [Cornwall Council](#)

Other

REP44 [Cornwall Council - Private Agreements Schedule](#)

REP45 [Cornwall Council - v2 Book of Reference - clean](#)

REP46 [Cornwall Council - v2 Book of Reference - tracked](#)

REP47 [Cornwall Council - v2 Mitigation Schedule - clean](#)

REP48 [Cornwall Council - v2 Mitigation Schedule - tracked](#)

REP49 [Cornwall Council - DCO 3 v3 Draft DCO - clean](#)

REP50 [Cornwall Council - DCO 4 v3 Draft DCO - tracked changes from v1](#)

REP51 [Cornwall Council - DCO 5 v3 Draft DCO - tracked changes from v2](#)

DEADLINE IV – 21 May 2014

Responses to ExA's second written questions

REP52 [Mark Bunt on behalf of Mr Peter Underwood](#)

REP53 [Dominic Fairman on behalf of Blisland Commoners Association](#)

REP54 [Cornwall Council \(Local Planning Authority\)](#)

REP55 [Adrian Mansfield](#)

REP56 [Natural England](#)

REP57 [Ian Lamond on behalf of Charles Robertson \(Developments\) Limited](#)

REP58 [Ian Lamond on behalf of Bruce Robertson and Trago Mills Ltd](#)

REP59 [Environment Agency](#)

| Doc Ref | Doc Name |
|---|---|
| REP60 | Cornwall Council Part 1 |
| REP61 | Cornwall Council Part 2 |
| REP62 | Highways Agency (Late) |
| Other | |
| REP63 | Cornwall Council - Mitigation Schedule v3 - clean |
| REP64 | Cornwall Council - Mitigation Schedule v3 - tracked |
| REP65 | Cornwall Council - NPS Statement |
| REP66 | Cornwall Council - DCO 6 v4 Draft DCO - clean |
| REP67 | Cornwall Council -DCO 7 v4 Draft DCO - tracked changes from v1 |
| REP68 | Cornwall Council - DCO 8 v4 Draft DCO - tracked changes from v3 |
| DEADLINE V – 11 June 2014 | |
| Comments on responses to ExA’s second written questions | |
| REP69 | Cornwall Council - <u>Comments on IP’s Responses to second round questions</u> |
| DEADLINE VI – 3 July 2014 | |
| Post-hearing documents for hearings held from 23 to 27 June 2014 | |
| REP70 | Christopher Anderson on behalf of Rupert Hanbury-Tenison - written summary of oral reps at Highway Design ISH |
| REP71 | Michael Martin on behalf of A30 Action Group - written summary of oral reps at OFH |
| REP72 | Ian Lamond on behalf of Bruce Robertson and Trago Mills Ltd - submission to Highway Design ISH |
| REP73 | Cornwall Council - written summary of oral reps at Mitigation ISH |
| REP74 | Cornwall Council - written summary of oral reps at DCO ISH |
| REP75 | Cornwall Council - written summary of oral reps at Landscape and Visual Impact and Ecology ISH |
| REP76 | Cornwall Council - written summary of oral reps at Highway Design ISH |
| REP77 | Cornwall Council - written summary of oral reps at Common Land CAH |
| REP78 | Cornwall Council - written summary of oral reps at CAH on general CA |

| Doc Ref | Doc Name |
|---|---|
| | <u>matters</u> |
| REP79 | <u>Cornwall Council - written summary of oral reps at OFH</u> |
| REP80 | <u>Jo Maynard on behalf of Mr R Cornelius - reiteration of previous WRs</u> |
| REP81 | <u>Jo Maynard on behalf of Mr & Mrs Gibson - reiteration of previous WRs</u> |
| REP82 | <u>Jo Maynard on behalf of Ms SE Outlaw and Mr IG Miles - submission in relation to mitigation</u> |
| REP83 | <u>Natural England - written summary of oral reps at Landscape and Visual Impact and Ecology ISH</u> |
| REP84 | <u>Cornwall Council - DCO v5.2 (tracked)</u> |
| REP85 | <u>Cornwall Council - DCO 12 v6 Draft DCO - clean</u> |
| REP86 | <u>Cornwall Council - DCO 13 v6 Draft DCO - track changes from v1</u> |
| REP87 | <u>Cornwall Council - DCO 14 v6 Draft DCO - track changes from v5</u> |
| REP88 | <u>Cornwall Council - Applicants Note on Draft LEMP Schedule</u> |
| REP89 | <u>Cornwall Council - Funding Statement v2</u> |
| REP90 | <u>Cornwall Council - SoCG between Cornwall Council and the Environment Agency</u> |
| REP91 | <u>Cornwall Council - Applicant's CV's of Key Personnel</u> |
| REP92 | <u>Cornwall Council - Correction to Draft LEMP v2</u> |
| DEADLINE VII – 29 July 2014 | |
| Post-hearing documents for compulsory acquisition hearing held on 22 July 2014 | |
| REP93 | <u>Cornwall Council - DCO 15 v8 Draft DCO - track changes from v1</u> |
| REP94 | <u>Cornwall Council - DCO 16 v8 Draft DCO - track changes from v7</u> |
| REP95 | <u>Cornwall Council - DCO 17 v8 Draft DCO - clean</u> |
| REP96 | <u>Jo Maynard on behalf of Mr and Mrs Gibson - written summary of oral reps at Higher Carblake Highway Design & CAH</u> |
| REP97 | <u>Ian Lamond on behalf of Bruce Robertson and Trago Mills Ltd - written summary of oral reps at Higher Carblake Highway Design & CAH</u> |

| Doc Ref | Doc Name |
|----------------|--|
| REP98 | MJ Paddle on behalf of Bruce Robertson and Trago Mills Ltd – submission to Higher Carblake CAH comprising draft Requirement and plan for alternative access to Higher Carblake |
| REP99 | Michael Martin on behalf of A30 Action Group - written summary of oral reps at Higher Carblake Highway Design & CAH |
| REP100 | Cornwall Council - written summary of oral reps at Higher Carblake Highway Design & CAH |
| REP101 | Cornwall Council - Higher Carblake junction vehicle swept paths |
| REP102 | Cornwall Council - Manor Common Option M5 Deed of Variation of a Plan |
| REP103 | Cornwall Council - NVC Assessment 2014 |
| REP104 | Cornwall Council - Application Documents List v2 |
| REP105 | Cornwall Council - Dormouse Interim Survey Results |
| REP106 | Cornwall Council - Environmental Mitigation Schedule v2 |
| REP107 | Cornwall Council – Draft LEMP 01 v3 - clean |
| REP108 | Cornwall Council – Draft LEMP 01 v3 - track changes from v2 |
| REP109 | Cornwall Council – Draft LEMP 03 Schedule of Works for Delivery of SSSI Notification Features on Replacement Land |
| REP110 | Cornwall Council - Mitigation Tracker v4 |
| REP111 | Cornwall Council - v3 Draft CEMP Part 1 |
| REP112 | Cornwall Council - v3 Draft CEMP Part 2 |
| REP113 | Cornwall Council - v3 Draft CEMP Part 3 |
| REP114 | Cornwall Council - v3 Draft CEMP Part 4 |
| REP115 | Cornwall Council - Applicant's updated CV's of Key Personnel |

FURTHER INFORMATION REQUESTED BY THE ExA

Deadline of 6 June 2014 for responses to Rule 17 request issued by the ExA on 23 May 2014

| | |
|--------|---|
| REP116 | Cornwall Council - LEMP 01 v2a - clean |
| REP117 | Cornwall Council - v2 Draft CEMP Part 1 |

| Doc Ref | Doc Name |
|----------------|---|
| REP118 | Cornwall Council - v2 Draft CEMP Part 2 |
| REP119 | Cornwall Council - v2 Draft CEMP Part 3 |
| REP120 | Cornwall Council - v2 Draft CEMP Part 4 |
| REP121 | Cornwall Council - Response Matrix to Rule 17 request for further information dated 23 May 2014 |
| REP122 | Cornwall Council - Environmental Mitigation Schedule |
| REP123 | Cornwall Council - LEMP 01 v2a - tracked changes to v1 |
| REP124 | Natural England - comments on early Draft LEMP |
| REP125 | Cornwall Council - DCO 9 v5 Draft DCO - clean |
| REP126 | Cornwall Council - DCO 10 v5 Draft DCO - tracked changes from v1 |
| REP127 | Cornwall Council - DCO 11 v5 Draft DCO - tracked changes from v4 |

Deadline of 4 July 2014 for responses to Rule 17 request issued by the ExA on 20 June 2014

| | |
|--------|--|
| REP128 | Michael Martin on behalf of A30 Action Group |
| REP129 | Lesley Martin |
| REP130 | Cornwall Council |
| REP131 | Mark Bunt on behalf of Mr and Mrs Hendry |
| REP132 | Mark Bunt on behalf of Mr Peter Underwood |
| REP133 | Dave Stevens on behalf of Cardinham Parish Council |
| REP134 | Peter and Sue Crier |
| REP135 | MJ Paddle on behalf of Bruce Robertson and Trago Mills Ltd |

Deadline of 1 August 2014 for responses to Rule 17 request issued by the ExA on 25 July 2014

| | |
|--------|---|
| REP136 | Jan Trefusis on behalf of Trustees of the Pencarrow Maintenance Trust |
| REP137 | English Heritage |
| REP138 | Natural England |
| REP139 | Environment Agency |

| Doc Ref | Doc Name |
|---------|--|
| REP140 | Blisland Commoners' Association |
| REP141 | Cornwall Council (as Ordinary Watercourse Regulator) |
| REP142 | Cornwall Council |

Deadline of 6 August 2014 for responses to Rule 17 request issued by the ExA on 4 August 2014

| | |
|--------|--|
| REP143 | Cornwall Council - Environmental Mitigation Schedule |
| REP144 | Cornwall Council - Response to ExA's Rule 17 |
| REP145 | Cornwall Council - Application Documents List v4 [Final] |
| REP146 | Cornwall Council - Mitigation Tracker |

DOCUMENTS RELATING TO HEARINGS AND ACCOMPANIED SITE INSPECTIONS

Hearings

Issue specific hearing relating to the draft DCO – 7 April 2014

| | |
|-----|---|
| HG1 | Agenda for DCO ISH |
| HG2 | DCO ISH Audio Recording |

Issue specific hearing relating to mitigation – 23 June 2014 (morning)

| | |
|-----|---|
| HG3 | Draft agenda for Mitigation ISH |
| HG4 | Final agenda for Mitigation ISH |
| HG5 | Mitigation ISH Audio Recording |

Issue specific hearing relating to the draft DCO – 23 June 2014 (afternoon)

| | |
|-----|--|
| HG6 | Draft agenda for DCO ISH |
| HG7 | Final agenda for DCO ISH |
| HG8 | DCO ISH Audio Recording |

Issue specific hearing relating to landscape and visual and ecology – 25 June 2014 (morning)

| | |
|------|--|
| HG9 | Draft agenda for Landscape and Visual Impact and Ecology ISH |
| HG10 | Final agenda for Landscape and Visual Impact and Ecology ISH |
| HG11 | Landscape and Visual Impact and Ecology ISH Audio Recording |

| Doc Ref | Doc Name |
|----------------|-----------------|
|----------------|-----------------|

Issue specific hearing relating to highway design – 25 June 2014 (afternoon)

| | |
|------|---|
| HG12 | Draft agenda for Highway Design ISH |
| HG13 | Final agenda for Highway Design ISH |
| HG14 | Highway Design ISH Audio Recording |

Compulsory acquisition hearing relating to common land – 26 June 2014 (morning)

| | |
|------|--|
| HG15 | Draft agenda for Common Land CAH |
| HG16 | Final agenda for Common Land CAH |
| HG17 | Common Land CAH Audio Recording |

Compulsory acquisition hearing relating to general acquisition matters – 26 June 2014 (afternoon)

| | |
|------|--------------------------------------|
| HG18 | Draft agenda for CAH |
| HG19 | Final agenda for CAH |
| HG20 | CAH Audio Recording |

Open floor hearing – 27 June 2014 (morning)

| | |
|------|--------------------------------------|
| HG21 | Draft agenda for OFH |
| HG22 | Final agenda for OFH |
| HG23 | OFH Audio Recording |

Issue specific and compulsory acquisition hearings relating to Higher Carblake – 22 July 2014 (morning)

| | |
|------|---|
| HG24 | Draft agenda for Higher Carblake Highway Design & CAH |
| HG25 | Final agenda for Higher Carblake Highway Design & CAH |
| HG26 | Part 1 of Higher Carblake Audio Recording |
| HG27 | Part 2 of Higher Carblake Audio Recording |
| HG28 | Part 3 of Higher Carblake Audio Recording |

ACCOMPANIED SITE INSPECTIONS

Accompanied site inspection – 8 April 2014

| Doc Ref | Doc Name |
|----------------|-----------------|
|----------------|-----------------|

| | |
|------|---|
| ASI1 | <u>Cornwall Council - Itinerary & Drawings for the Accompanied Site Inspection - 8 April 2014</u> |
|------|---|

| Accompanied site inspection – 24 June 2014 | |
|---|--|
|---|--|

| | |
|------|--|
| ASI2 | <u>Cornwall Council - Itinerary & Drawings for the Accompanied Site Inspection part 1 - 24 June 2014</u> |
|------|--|

| | |
|------|--|
| ASI3 | <u>Cornwall Council - Itinerary & Drawings for the Accompanied Site Inspection - 24 June 2014 Part 2</u> |
|------|--|

APPENDIX B - OTHER CONSENTS REQUIRED

List of other consents required in order for the scheme to be delivered (derived from applicant's Consents Management Plan

APP39)

| Consent required | Authorising Authority |
|---|--|
| Dormouse European Protected Species licence | Natural England |
| SSSI Consent | Natural England |
| Ordinary Watercourse Consent | Cornwall Council (in its capacity as Ordinary Watercourse Regulator) |
| Fisheries Byelaw Consent | The Environment Agency |
| Listed Building Consent | Cornwall Council (in its capacity as Local Planning Authority) |
| Section 61 Noise Byelaw Consent (Control of Pollution Act 1974) | Cornwall Council |

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APPENDIX C - EVENTS IN THE EXAMINATION

List of the main events occurring during the examination and the main procedural decisions taken by the ExA

| Event Date | Description |
|------------------|---|
| 6 February 2014 | EXAMINATION BEGINS |
| 24 February 2014 | Issue by ExA of: <ul style="list-style-type: none"> • Examination timetable • ExA's first written questions |
| 3 March 2014 | Deadline I Deadline for receipt by ExA of: <ul style="list-style-type: none"> • Comments by interested parties on other environmental information provided by the applicant on 8 January 2014 and published to the National Infrastructure portal on 14 January 2014 • Request for receipt of written notification by statutory parties of a wish to be considered as an IP • Request for receipt of notification (using the prescribed form) by persons with certain categories of interest in the land of wish to become an IP |
| 4 March 2014 | Issue by ExA of: <ul style="list-style-type: none"> • Notification of ISH on the draft DCO on 7 April 2014 • Notification of ASI on 8 April 2013 • Corrected examination timetable |
| 19 March 2014 | Deadline II Deadline for receipt by ExA of: <ul style="list-style-type: none"> • Any comments by IPs on the comments received at Deadline I in relation to the other environmental information • Comments by IPs on RRs • Summaries of RRs by IPs whose RRs exceeded 1500 words • WRs by IPs |

| | |
|---------------|---|
| | <ul style="list-style-type: none"> • Summaries of WRs by IPs whose WRs exceeded 1500 words • LIR(s) from local authorities defined under s56A of the PA2008 • SoCG requested by ExA • Responses to ExA's first written questions • Notification by IPs of wish to speak at a CAH • Notification by IPs of a wish to make oral representations at the ISH on the draft DCO on 7 April 2014 • Notification by IPs of a wish to speak at an OFH • Notification by IPs of wish to attend ASI on 8 April 2014 • Recommendations from IPs on suitable itinerary items for the ASI on 8 April 2014 |
| 7 April 2014 | <p>Issue Specific Hearing</p> <p>ISH dealing with the draft DCO</p> |
| 8 April 2014 | <p>Site Visit (Accompanied)</p> <p>Site inspection in the company of IPs</p> |
| 15 April 2014 | <p>Deadline III</p> <p>Deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> • Post-hearing documents including any written summary of an oral case put at the ISH on the draft DCO and any documents/amendments requested orally by the ExA • Comments by IPs on WRs and responses to comments on RRs • Comments by IPs on LIR • Comments by IPs on responses to ExA's first written questions • Applicant's revised draft DCO • Applicant's updated BoR • Applicant's mitigation schedule • Applicant's schedule of private agreements |
| 30 April 2014 | <p>Issue by ExA of:</p> <ul style="list-style-type: none"> • Second written questions |

| | |
|--------------|--|
| 21 May 2014 | <p>Deadline IV</p> <p>Deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> • Responses by IPs to ExA's second written questions |
| 23 May 2014 | <p>Issue by ExA of:</p> <ul style="list-style-type: none"> • Notification of ISHs on 23 and 25 June 2014, and 21 and 22 July 2014 • Notification of CAHs on 26 June 2014 • Notification of OFH on 27 June 2014 • Notification of second ASI on 24 June 2014 • Request for further information |
| 6 June 2014 | <p>Additional deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> • Applicant's progressed draft LEMP • Applicant's progressed draft CEMP • Applicant's draft DCO Requirement securing mitigation measures for dormice • Suggestions from IPs on features/sites to be viewed at second ASI to be held on 24 June 2014 |
| 11 June 2014 | <p>Deadline V</p> <p>Deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> • Comments by IPs on responses to ExA's second written questions • Notification by IPs of wish to attend/speak at June hearings and/or to attend second ASI |
| 23 June 2014 | <p>Issue Specific Hearing</p> <p>ISH dealing with issues relating to mitigation measures (am)</p> |
| 23 June 2014 | <p>Issue Specific Hearing</p> <p>ISH dealing with issues relating to the draft DCO (pm)</p> |
| 24 June 2014 | <p>Site Visit (Accompanied)</p> <p>Second site inspection in the company of IPs</p> |

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|--------------|--|
| 25 June 2014 | <p>Issue Specific Hearing</p> <p>ISH dealing with issues relating to landscape and visual impact and ecology (am)</p> |
| 25 June 2014 | <p>Issue Specific Hearing</p> <p>ISH dealing with issues relating to highway design (pm)</p> |
| 26 June 2014 | <p>Compulsory Acquisition Hearing</p> <p>CAH dealing with issues relating to CA of common land (am)</p> |
| 26 June 2014 | <p>Compulsory Acquisition Hearing</p> <p>CAH dealing with issues relating to general CA matters (pm)</p> |
| 27 June 2014 | <p>Open Floor Hearing</p> <p>OFH</p> |
| 3 July 2014 | <p>Deadline VI</p> <p>Deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> • Post-hearing documents including any written summary of an oral case put at the ISHs; OFH; and CAHs held between 23 and 27 June 2014 and any documents/amendments requested orally by the ExA <p>Issue by ExA of:</p> <ul style="list-style-type: none"> • Notification of adjournment on 26 June 2014 of hearing of matters relating to Higher Carblake • Notification of rescheduled CAH on 22 July 2014 to deal with matters relating to Higher Carblake |
| 4 July 2014 | <p>Additional deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> • Any comments by IPs on Cornwall Council's technical note assessing alternative access arrangements at Higher Carblake; and • Any comments by IPs on the draft dNPSNN |

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|---------------|--|
| 14 July 2014 | <p>Additional deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> • Notification by IPs of wish to attend/speak at hearing on 22 July 2014 dealing with matters relating to highway design and CA at Higher Carblake |
| 17 July 2014 | <p>Receipt by Planning Inspectorate of:</p> <ul style="list-style-type: none"> • Documents from the applicant introducing change to the application |
| 22 July 2014 | <p>Compulsory Acquisition Hearing</p> <p>CAH dealing with CA matters relating to Higher Carblake</p> |
| 29 July 2014 | <p>Deadline VII</p> <p>Deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> • Post-hearing documents including any written summary of an oral case put at the Higher Carblake hearing on 22 July 2014, any documents/amendments requested orally by the ExA and the applicant's final draft DCO |
| 1 August 2014 | <p>Additional deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> • Responses from IPs in relation to proposed change to the application comprising the substitution of replacement common land |
| 4 August 2014 | <p>Issue by ExA of:</p> <ul style="list-style-type: none"> • Confirmation of acceptance of proposed change to the application • Request for further information |
| 6 August 2014 | <p>Additional deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> • Applicant's further information in relation to the change to the application |
| 6 August 2014 | <p>CLOSE OF EXAMINATION</p> |

APPENDIX D - LIST OF ABBREVIATIONS USED IN THIS REPORT

| | |
|----------|---|
| AGLV | Area of Great Landscape Value |
| AGHV | Area of Great Historic Value |
| AHLV | Area of Historic Landscape Value |
| AONB | Area of Outstanding Natural Beauty |
| AP | Affected Person |
| APP | Application Document |
| AS | Additional Submission |
| ASI | Accompanied Site Inspection |
| BCA | Blisland Commoners' Association |
| BCR | Benefit Cost Ratio |
| BMV | Best and Most Versatile |
| BoR | Book of Reference |
| CA | Compulsory Acquisition |
| CAH | Compulsory Acquisition Hearing |
| CBA | Cost Benefit Analysis |
| CC | Cornwall Council |
| CEMP | Construction Environmental Management Plan |
| CM | Cardinham Moor |
| CRDL | Charles Robertson (Developments) Ltd |
| CRoW | Countryside and Rights of Way Act 2000 |
| CTC | Cyclists Touring Club |
| CWS | County Wildlife Site |
| DCLG | Department for Communities and Local Government |
| DCO | Development Consent Order |
| Defra | Department for Environment, Food and Rural Affairs |
| DfT | Department for Transport |
| DMRB | Design Manual for Roads and Bridges |
| EIA | Environmental Impact Assessment |
| EIA Regs | The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) |
| EMS | Environmental Mitigation Schedule |
| EPL | European Protected Species Licence |
| EPR | Infrastructure Planning (Examination Procedure) Rules 2010 |
| ERDF | European Regional Development Fund |
| ES | Environmental Statement |
| ExA | Examining Authority |
| GD | Greenbarrow Down |
| GDP | Gross Domestic Product |
| GIA | Growth and Infrastructure Act 2013 |
| GVA | Gross Value Added |
| HA | Highways Agency |
| HEPAO | Historic Environment Planning Advice Officer |
| HLC | Historic Landscape Character |

| | |
|------------------|---|
| HLS | Higher Level Stewardship |
| HRA | Habitats Regulations Assessment |
| IAPI | Initial Assessment of Principal Issues |
| IBA | Important Bird Area |
| IP | Interested Party |
| ISH | Issue Specific Hearing |
| LB | Listed Building |
| LCA | Landscape Character Area |
| LEMP | Landscape and Ecology Management Plan |
| LEP | Local Enterprise Partnership |
| LIR | Local Impact Report |
| LPA | Local Planning Authority |
| LTP | Local Transport Plan |
| MC | Manor Common |
| MD | Menacrin Down |
| MoD | Ministry of Defence |
| NCLP | North Cornwall Local Plan 1999 |
| NE | Natural England |
| NERC | Natural Environment and Rural Communities Act 2006 |
| NIP | National Infrastructure Plan |
| NIR | Noise Insulation Regulations 1975 (as amended) |
| NNR | National Nature Reserve |
| NMU | Non-Motorised User |
| dNPSNN | Draft National Planning Statement for National Networks |
| NO ₂ | Nitrogen Dioxide |
| NPAC | National Parks and Access to the Countryside Act 1949 |
| NPPF | National Planning Policy Framework 2012 |
| NRSWA | New Roads and Street Works Act 1991 |
| NPS | National Policy Statement |
| NSIP | Nationally Significant Infrastructure Project |
| NSR | Noise-Sensitive Receptors |
| NTS | Non-technical Summary of Environmental Statement |
| NVC | National Vegetation Classification |
| OFH | Open Floor Hearing |
| OSR | Other Sensitive Receptors |
| PA2008 | Planning Act 2008 (as amended) |
| PD | Project Document |
| PINS | Planning Inspectorate |
| PM | Preliminary Meeting |
| PM ₁₀ | Particulate Matter |
| PMT | Pencarrow Maintenance Trust |
| PRoW | Public Right of Way |
| PVB | Present Value Benefits |
| REP | Representation |
| RR | Relevant Representation |

| | |
|------|---|
| RIES | Report on the Implications for European Sites |
| SAC | Special Area of Conservation |
| SM | Scheduled Monument |
| SoCG | Statement of Common Ground |
| SST | Secretary of State for Transport |
| SSSI | Site of Special Scientific Interest |
| SU | Statutory Undertaker |
| SuDS | Sustainable Drainage System |
| TA | Transport Assessment |
| TAAG | A30 Temple to Bodmin Action Group |
| TCPA | Town and Country Planning Act 1990 (as amended) |
| TRSA | Trunk Road Service Area |
| TML | Trago Mills Ltd |
| TWA | Transport and Works Act 1992 |
| USI | Unaccompanied Site Inspection |
| VER | Valued Ecological Receptor |
| WCA | Wildlife and Countryside Act 1981 |
| WR | Written Representation |
| WSI | Written Scheme of Investigation |

**APPENDIX E - ExA's RECOMMENDED DEVELOPMENT
CONSENT ORDER**

2013 No.

INFRASTRUCTURE PLANNING

HIGHWAYS

**The Cornwall Council (A30 Temple to Higher Carblake
Improvement) Order 201[]**

Made - - - - - ***

Coming into force - - - - - ***

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An application has been made to the Secretary of State for Transport , in accordance with the Infrastructure Planning (Applications and Prescribed Forms and Procedures) Regulations 2009(a), for an order under sections 37, 114, 115, 117(4), 120, 122, 131(3), 131(4), ~~132(2), 132(3)~~ and 132(4) of the Planning Act 2008.(b)

Deleted: 121,

(a) S.I. 2009/2264
(b) 2008 c.29.

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as The Cornwall Council (A30 Temple to Higher Carblake Improvement) Order 201[] and comes into force on [].

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(a);

“the 1965 Act” means the Compulsory Purchase Act 1965(b);

“the 1980 Act” means the Highways Act 1980(c);

“the 1990 Act” means the Town and Country Planning Act 1990(d);

“the 1991 Act” means the New Roads and Street Works Act 1991(e);

“the 2008 Act” means the Planning Act 2008;

“authorised development” means the development and associated development described in Schedule 1 (authorised development) and any other development authorised by this Order, which is development within the meaning of section 32 of the 2008 Act;

“the book of reference” means the book of reference certified by the decision-maker as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in the 1980 Act;

-
- (a) 1961 c.33. Section 2(2) was amended by section 193 of, and paragraph 5 of Schedule 33 to, the Local Government, Planning and Land Act 1980 (c.65). There are other amendments to the 1961 Act which are not relevant to this Order.
- (b) 1965 c.56. Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Section 4 was amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c.71). Section 5 was amended by sections 67 and 80 of, and Part 2 of Schedule 18 to, the Planning and Compensation Act 1991 (c.34). Subsection (1) of section 11 and sections 3, 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c.67) and by section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). Section 12 was amended by section 56(2) of, and Part 1 to Schedule 9 to, the Courts Act 1971 (c.23). Section 13 was amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c.15). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c.39). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34) and by section 14 of, and paragraph 12(2) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). There are other amendments to the 1965 Act which are not relevant to this Order.
- (c) 1980 c.66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c.22); sections 1(2), 1(3) and 1(4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1985 (c.51); section 1(2A) was inserted, and section 1(3) was amended, by section 259 (1), (2) and (3) of the Greater London Authority Act 1999 (c.29); sections 1(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 3 6(2) was amended by section 4(1) of, and paragraphs 47(a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c.71), by S.I. 2006/1177, by section 4 of, and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11), by section 64(1) (2) and (3) of the Transport and Works Act (c.42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c.37); section 36(3A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by S.I. 2006/1177; section 3 6(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985 (c.51); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c.29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c.15). There are other amendments to the 1980 Act which are not relevant to this Order.
- (d) 1990 c.8. Section 206(1) was amended by section 192(8) of, and paragraphs 7 and 11 of Schedule 8 to, the Planning Act 2008 (c.29) (see section 24 1(3), (4)(a), (c) of the 2008 Act). There are other amendments to the 1990 Act which are not relevant to this Order.
- (e) 1991 c.22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c.26). Sections 79(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c.1 8).

“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act;

“the decision-maker” has the same meaning as in section 103 of the 2008 Act;

“environmental impact assessment” means the assessment of the environmental impact of the authorised development, the findings of which are recorded in the environmental statement and all other environmental information submitted during the examination;

“the environmental statement” means the environmental statement submitted under regulation 5(2)(a) of the Infrastructure Planning (Applications and Prescribed Forms and Procedure) Regulations 2009 and certified as such by the Secretary of State for the purposes of this Order;

“footpath” and “footway” have the same meaning as in the 1980 Act;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“the land plan” means the plan certified as the land plan by the decision-maker for the purposes of this Order;

“limits of deviation” means the limits of deviation referred to in article 5 (limits of deviation);

“maintain” includes inspect, repair, adjust, alter, remove or reconstruct and any derivative of “maintain” is to be construed accordingly;

“Order land” means the land shown on the land plan which is land or rights to be acquired or used and described in the book of reference;

“the Order limits” means the limits shown on the works plan within which the authorised development may be carried out;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(a);

“local planning authority” means The Cornwall Council;

“the sections” means the sections identified in the definition of “approved plans” contained in requirement 1(1) and certified as the sections by the decision-maker for the purposes of this Order;

“statutory undertaker” means any person falling within section 127(8) of the 2008 Act;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“street plan” means the plan certified as the street plan by the decision-maker for the purposes of this Order;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“undertaker” means the person who has the benefit of this Order in accordance with articles 6 (Benefit of Order) and 7 (Consent to transfer benefit of Order) of this Order;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plan” means the plan identified in the definition of “approved plans” contained in requirement 1(1) and certified as the works plan by the decision-maker for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the air-space above its surface.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development shall be taken to be measured along that work.

(a) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1981 Act which are not relevant to this Order.

(4) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the street plans as the case may be.

(6) References in this Order to numbered works are references to the works as numbered in Schedule 1 (authorised development).

PART 2 PRINCIPAL POWERS

Development consent etc. granted by the Order

3. Subject to the provisions of this Order and to the requirements in Schedule 2 (requirements) attached to this Order the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

Maintenance of authorised development

4. The undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order, provides otherwise.

Limits of deviation

5. In carrying out those works numbered 1-5 (inclusive) in Schedule 1 the undertaker may—

- (a) deviate laterally from the lines or situations of the authorised development shown on the works plan to the extent of the limits of deviation shown on that plan; and
- (b) deviate vertically from the levels shown on the sections to any extent not exceeding 1 metre upwards or downwards.

Benefit of Order

6. Subject to article 7 (consent to transfer benefit of Order), the provisions of this Order shall have effect solely for the benefit of The Cornwall Council.

Consent to transfer benefit of Order

7.—(1) The undertaker may—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), shall include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) shall be subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) The consent of the Secretary of State is required for a transfer or grant under this article, except where the transfer or grant is made to the Secretary of State.

PART 3 STREETS

Power to alter layout etc of streets

8.—(1) The undertaker may for the purposes of the authorised development alter the layout of or carry out any works in the streets specified in column (2) of Schedule 3 (streets subject to alteration of layout) in the manner specified in relation to that street in column (3).

(2) Regardless of the specific powers conferred by paragraph (1) but subject to paragraph (3) the undertaker may, for the purposes of constructing and maintaining the authorised development, alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and, without limitation on the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, footway, cycle track or verge;
- (c) reduce the width or the carriageway in the street; and
- (d) make and maintain passing places or lay-bys.

(3) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(4) The powers conferred by paragraph (2) are not to be exercised without the consent of the street authority; but such consent must not be unreasonably withheld.

(5) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

(6) Paragraphs (3), (4) and (5) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

Street works

9.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus in the street;
- (d) maintain apparatus in the street or change its position; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c) and (d).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) The provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

(4) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

Construction and maintenance of new or altered streets

10.—(1) Subject to paragraph (2) and article 11 (classification of roads), the streets authorised to be constructed, altered or diverted under this Order are to be public highways and are to be maintained by and at the expense of the highway authority.

(2) Where a street which is not and is not intended to be a public highway is constructed, altered, or diverted under this Order, the street (or part of the street as the case may be), when completed to the reasonable satisfaction of the street authority, unless otherwise agreed, is to be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(3) In any action against the undertaker in respect of damage resulting from its failure to maintain a street to which paragraph (2) applies, section 58 of the 1980 Act applies as if that street were a highway maintainable at the public expense.

Classification of roads

11.—(1) From the date on which the undertaker notifies the Secretary of State that the new dual carriageway referred to in work no. 1 of Schedule 1 has been completed and open to through traffic—

- (a) the Secretary of State is to be the highway authority for this road; and
- (b) it is classified as a trunk road for the purposes of any enactment or instrument which refers to highways classified as trunk roads.

(2) From the date on which the undertaker commences the authorised development the section of road denoted D4/1 on the street plan shall—

- (a) cease to be part of the A30 trunk road as if it had ceased to be a trunk road by virtue of an order under section 10(2) of the 1980 Act; and
- (b) be classified as part of the U6131 as if such classification had been made under section 12(3) of the 1980 Act.

Stopping up of streets

12.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up each of the streets specified in columns (1) and (2) of Parts 1, 2, 3 and 4 of Schedule 5 (streets to be stopped up) to the extent specified, by reference to the letters and numbers shown on the works plan, in column (3) of those Parts of that Schedule.

(2) No street specified in columns (1) and (2) of Parts 1 and 2 of Schedule 5 (being a street to be stopped up for which a substitute is to be provided) shall be wholly or partly stopped up under this article unless—

- (a) the new street to be substituted for it, which is specified in column (4) of that Part of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) No street specified in columns (1) and (2) of Parts 3 and 4 of Schedule 5 (being a street to be stopped up for which no substitute is to be provided) shall be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the street to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) the undertaker is in possession of the land; or
- (b) there is no right of access to the land from the street concerned; or
- (c) there is reasonably convenient access to the land otherwise than from the street concerned; or
- (d) the owners and occupiers of the land have agreed to the stopping up.

(5) Where a street has been stopped up under this article—

- (a) all rights of way over or along the street so stopped up shall be extinguished; and
- (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the street as is bounded on both sides by land owned by the undertaker.

(6) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(7) This article is subject to article 31 (apparatus etc. of statutory undertakers).

Temporary prohibition or restriction of use of streets

13.—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily alter, divert, prohibit or restrict the use of any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limitation on the scope of paragraph (1), the undertaker may use any street where the use has been prohibited or restricted under the powers conferred by this article and within the Order limits as a temporary working site.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary alteration, diversion, prohibition or restriction of a street under this article if there would otherwise be no such access.

(4) The undertaker must not temporarily alter, divert, or prohibit or restrict the use of any street, without the consent of the street authority, which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld, except that this paragraph does not apply where the undertaker is the street authority.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) If a street authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (5)(b) that street authority is deemed to have granted consent.

Access to works

14. The undertaker may, for the purposes of the authorised development—

- (a) form and lay out means of access, or improve existing means of access, in the location specified in columns (1) and (2) of Schedule 6 (access to works); and
- (b) with the approval of the local planning authority after consultation with the highway authority (where the highway authority is not the undertaker), form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

Agreements with street authorities

15.—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new street including any structure carrying the street;
- (b) the strengthening, improvement, repair or reconstruction of any street;
- (c) the maintenance of the structure of any bridge or tunnel carrying a street;
- (d) any stopping up, alteration or diversion of a street authorised by this Order; or

- (e) the carrying out in the street of any of the works referred to in article 9(1) (street works).
- (2) Such an agreement may, without prejudice to the generality of paragraph (1)—
 - (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
 - (b) include an agreement between the undertaker and street authority specifying a reasonable time for the completion of the works; and
 - (c) contain such terms as to payment and otherwise as the parties consider appropriate.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

16.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) shall be determined as if it were a dispute under section 106 of the Water Industry Act 1991(a) (right to communicate with public sewers).

(3) The undertaker shall not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but shall not be unreasonably withheld.

- (4) The undertaker shall not make any opening into any public sewer or drain except—
 - (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval shall not be unreasonably withheld; and
 - (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker shall not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The undertaker shall take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England & Wales) Regulations 2010(b).

- (8) In this article—
 - (a) “public sewer or drain” means a sewer or drain which belongs to the Environment Agency, a local authority, or a sewerage undertaker; and
 - (b) other expressions, excluding watercourse, used both in this article and in the Environmental Permitting (England & Wales) Regulations 2010 have the same meaning as in that Act.

Protective work to buildings

17.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits as the undertaker considers necessary or expedient.

(a) 1991 c.56
(b) S.I. 2010/675

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works under this article to a building the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 38 (Arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first opened for use it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance).

(10) Any compensation payable under paragraph (7) or (8) is to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(11) In this article “protective works” in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

Authority to survey and investigate the land

18.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) shall, if so required entering the land, produce written evidence of their authority to do so; and
- (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes shall be made under this article—

- (a) in land located within the highway boundary without the consent of the highway authority; or
- (b) in a private street without the consent of the street authority, but such consent shall not be unreasonably withheld.

(5) The undertaker shall compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, Part 1 (determination of questions of disputed compensation) of the 1961 Act.

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

19. Save for land in respect of which the undertaker may acquire compulsorily existing rights or new rights pursuant to article 21 (Compulsory acquisition of rights) or in respect of which the undertaker may take temporary possession pursuant to article 28 (1)(a)(i) (Temporary use of land for carrying out the authorised development) the undertaker may acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate, or is incidental, to it or is required as replacement land for the special category land referred to in article 30 (special category land).

Time limit for exercise of authority to acquire land compulsorily

20.—(1) After the end of the period of 5 years beginning on the day on which this Order is made—

- (a) no notice to treat shall be served under Part 1 of the 1965 Act; and

(b) no declaration shall be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981(a) as applied by article 24 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 28 (temporary use of land for carrying out the authorised development) shall cease at the end of the period referred to in paragraph (1), save that nothing in this paragraph shall prevent the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights

21.—(1) The undertaker may acquire compulsorily the existing rights and acquire compulsorily the new rights described in the book of reference and shown on the land plans.

(2) As from the date on which a compulsory acquisition notice is served or the date on which any new right is vested in the undertaker, whichever is the later, the land over which any new rights is acquired shall be discharged from all rights, trusts and incidents to which it was previously subject so far as their continuance would be inconsistent with the exercise of that new right.

(3) Subject to section 8 of the 1965 Act, as substituted by article 26 (acquisition of part of certain properties), where the undertaker acquires an existing right over land under paragraph (1), the undertaker shall not be required to acquire a greater interest in that land.

(4) Any person who suffers loss as a result of the extinguishment or suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Private rights

22.—(1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under this Order shall be extinguished—

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right under this Order—

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over land of which the undertaker takes temporary possession under this Order shall be suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(4) Subject to the provisions of this article, all private rights over Order land owned by the undertaker are extinguished on the commencement of any activity authorised by this Order which interferes with or breaches such rights.

(a) 1981 c.66. Sections 2 and 116 were amended by Section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11). There are other amendments to the 1981 Act which are not relevant to this Order.

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(5) Any person who suffers loss by the extinguishment or suspension of any private right under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 31 (statutory undertakers) applies.

(7) Paragraphs (1) to (3) shall have effect subject to—

(a) any notice given by the undertaker before—

- (i) the completion of the acquisition of the land,
- (ii) the undertaker's appropriation of it,
- (iii) the undertaker's entry onto it, or
- (iv) the undertaker's taking temporary possession of it,

that any or all of those paragraphs shall not apply to any right specified in the notice; and

(b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(8) If any such agreement as is referred to in paragraph (7)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it shall be effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) Reference in this article to private rights over land includes reference to any trusts or incidents to which the land is subject.

Restrictions on User

23.—(1) The carrying out or use of development authorised by this Order and the doing of anything else authorised by this Order is authorised for the purpose specified in section 158(2) of the 2008 Act (nuisance: statutory authority), notwithstanding that it involves a breach of a restriction as to user of land arising by virtue of contract.

(2) The undertaker shall pay compensation to any person whose land is injuriously affected by a breach of a restriction as to user of land arising by virtue of contract, authorised by virtue of this Order and the operation of section 158 of the 2008 Act.

(3) Subsection (2) of section 10 of the 1965 Act applies to paragraph (2) by virtue of section 152(5) of the 2008 Act (compensation in case where no right to claim in nuisance).

(4) Any rule or principle applied to the construction of section 10 of the 1965 Act shall be applied to the construction of paragraph (2) (with any necessary modifications).

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

24.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981 shall apply as if this Order were a compulsory purchase order.

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as so applied, shall have effect with the following modifications.

(3) In section 3 (preliminary notices), for subsection (1) there shall be substituted—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order, the acquiring authority shall include the particulars specified in subsection (3) in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and

(b) published in a local newspaper circulating in the area in which the land is situated.

(4) In that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)” and after “given” there shall be inserted “and published”.

(5) In that section, for subsections (5) and (6) there shall be substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or
- (b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”

(6) In section 5 (earliest date for execution of declaration)—

- (a) in subsection (1), after “publication” there shall be inserted “in a local newspaper circulating in the area in which the land is situated”; and
- (b) subsection (2) shall be omitted.

(7) In section 7 (constructive notice to treat), in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” shall be omitted.

(8) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 shall be construed as references to that Act as applied by section 125 of the 2008 Act to the compulsory acquisition of land under this Order.

Acquisition of subsoil or airspace only

25.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of, or airspace over, the land that may be acquired pursuant to article 19 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of, or airspace over, land under paragraph (1), the undertaker shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) shall not prevent article 26 (acquisition of part of certain properties) from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Acquisition of part of certain properties

26.—(1) This article shall apply instead of section 8(1) of the 1965 Act (other provisions as divided land) (as applied by section 125 of the 2008 Act) where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or manufactory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and
- (b) copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the undertaker a counter-notice objecting to the sale of the land subject to the notice to treat which states that the owner is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner shall be required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner shall be required to sell only the land subject to the notice to treat shall, unless the undertaker agrees to take the land subject to the counter-notice, be referred to the tribunal.

(5) If on such a reference the tribunal determines that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner shall be required to sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determines that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat shall be deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determines that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If the undertaker agrees to take the land subject to the counter-notice, or if the tribunal determines that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
- (b) the material detriment is not confined to a part of the land subject to the counter-notice,

the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.

(9) Where, by reason of a determination by the tribunal under this article, a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, in that event, shall pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or manufactory or of land consisting of a house with a park or garden, the undertaker shall pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.

Rights under or over streets

27.—(1) The undertaker may enter on and appropriate so much of the subsoil of, or air-space over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) shall not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation shall not be payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing cost of necessary measures) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for carrying out the authorised development

28.—(1) The undertaker may, in connection with the carrying out of the authorised development

- (a) enter on and take temporary possession of—
 - (i) the land specified in columns (1) and (2) of Schedule 7 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule; and
 - (ii) any other Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981;
- (b) remove any buildings and vegetation from that land referred to in paragraph (1)(a); and
- (c) construct temporary works (including the provision of means of access) and buildings on that land referred to in paragraph (1) (a).

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker shall serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 7; or
- (b) in the case of any land referred to in paragraph 1(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry has been served under section 11 of the 1965 Act or made a declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker shall not be required to replace a building removed under this article.

(5) The undertaker shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of any power conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, shall be determined under Part 1 of the 1961 Act.

(7) Nothing in this article shall affect any liability to pay compensation under section 152 of the 2008 Act (compensation in cases where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i).

(9) Where the undertaker takes possession of land under this article, the undertaker shall not be required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

Temporary use of land for maintaining authorised development

29.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter on and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) shall not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker shall serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, shall be determined under Part 1 of the 1961 Act.

(8) Nothing in this article shall affect any liability to pay compensation under section 152 of the 2008 Act (compensation in cases where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(9) Where the undertaker takes possession of land under this article, the undertaker shall not be required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(11) In this article “the maintenance period”, in relation to any part of the authorised development, means the period of 5 years beginning with the date on which that part of the authorised development is first opened for use.

Special category land

30.—(1) The Secretary of State is satisfied that the requirements of sections 131(3)(a) and (4) and 132(2)(a), (3) and (4) of the 2008 Act have been met, in relation to the special category land.

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(2) The special category land or the rights to be acquired over special category land (as the case may be) shall not vest in the undertaker until the undertaker has acquired the replacement land and local planning authority has certified that a scheme for the provision of the replacement land as common land has been implemented to its satisfaction.

(3) On the requirements of paragraph (2) being satisfied, the replacement land is to vest—

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- (a) in respect of land numbered 04/04, in Rupert Hanbury-Tenison;
- (b) in respect of land numbered 04/17, in Susan Mindy Grace;
- (c) in respect of land numbered 05/04, in Victor Newman; and
- (d) in respect of land numbered 05/07, in Pencarrow Maintenance Trust,

subject to the same rights, trusts and incidents as attached to the special category land; and the special category land shall be discharged from all rights, trusts and incidents to which it was previously subject.

(4) In this article—

“the special category land” means—

- (a) the land numbered 04/09, 04/12, 04/32, 04/35, 04/40, 04/44, 04/65(part) and 05/02 in the book of reference and on the land plans and forming part of common land, which may be acquired compulsorily under this Order; and
- (b) those rights numbered 04/75 and 04/76 in the book of reference and on the land plans and forming part of common land, which may be acquired compulsorily under this Order.

and for which replacement land is to be provided; and

“the replacement land” means the land numbered 04/04, 04/17, 05/04 and 05/07 in the book of reference and on the land plans.

Statutory undertakers

31. The undertaker may —

- (a) acquire compulsorily, or acquire new rights over, the land belonging to statutory undertakers shown on the land plan within the limits of the land to be acquired and described in the book of reference; and
- (b) extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers over or within the Order land.

Apparatus and rights of statutory undertakers in stopped-up streets

32.—(1) Where a street is stopped up under article 12 (stopping up of streets), any statutory utility whose apparatus is under, in, on, along or across the street shall have the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 12, any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker shall—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or

- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).
- (3) Subject to the following provisions of this article, the undertaker shall pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—
 - (a) the execution of the relocation works required in consequence of the stopping up of the street; and
 - (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.
- (4) If in the course of the execution of relocation works under paragraph (2)—
 - (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
 - (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,
 and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (3) shall be reduced by the amount of that excess.
- (5) For the purposes of paragraph (4)—
 - (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
 - (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.
- (6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.
- (7) Paragraphs (3) to (6) shall not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—
 - (a) the allowable costs of the relocation works shall be determined in accordance with section 85 of that Act (sharing of cost of necessary measures) and any regulations for the time being having effect under that section; and
 - (b) the allowable costs shall be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.
- (8) In this article—
 - “apparatus” has the same meaning as in Part 3 of the 1991 Act;
 - “relocation works” means work executed, or apparatus provided, under paragraph (2); and
 - “statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in section 151(1) of the Communications Act 2003.

Recovery of costs of new connections

33.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 32 (statutory undertakers) any person who is the owner or

occupier of premises to which a supply was given from that apparatus shall be entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) shall not apply in the case of the removal of a public sewer but where such a sewer is removed under article 32, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

shall be entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article shall not have effect in relation to apparatus to which article 33 (apparatus and rights of statutory undertakers in stopped-up streets) or Part 3 of the 1991 Act applies.

(4) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003; and

“public utility undertaker” has the same meaning as in the 1980 Act.

PART 6

MISCELLANEOUS AND GENERAL

Operational land for purposes of the 1990 Act

34. Development consent granted by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

Felling or lopping of trees

35.—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised development, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to passengers or other persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker shall do no unnecessary damage to any tree or shrub and shall pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person’s entitlement to compensation under paragraph (2), or as to the amount of compensation, shall be determined under Part 1 of the 1961 Act.

Defence to proceedings in respect of statutory nuisance

36.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(a) (summary proceedings by person aggrieved by statutory nuisance) in relation to a

(a) 1990 c.43.

nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order shall be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or section 65 (noise exceeding registered level), of the Control of Pollution Act 1974; or
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance—
 - (i) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974(a) and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), shall not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

Certification of plans etc

37.—(1) The undertaker shall, as soon as practicable after the making of this Order, submit to the decision-maker copies of—

- (a) the book of reference;
- (b) the land plan;
- (c) the street plan;
- (d) the works plan;
- (e) the sections;
- (f) the environmental statement; and
- (g) the environmental mitigation schedule

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Arbitration

38. Any difference under any provision of this Order, unless otherwise provided for, shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of Institute of Civil Engineers.

Service of notices

39.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post; or

(a) 1974 c.40.

(b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and

(b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

(a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and

(b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) This article shall not be taken to exclude the employment of any method of service not expressly provided for by it.

(6) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Crown land

40.—(1) Subject to paragraph (2), nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee to exercise any right under this Order compulsorily to acquire an interest in land which is Crown land which is for the time being held otherwise than by or on behalf of the Crown without the consent in writing of the appropriate Crown authority.

(2) A consent under paragraphs (1) may be given unconditionally or subject to terms and conditions; and shall be deemed to have been given in writing where it is sent electronically.

Requirements, appeals etc

41. Schedule 8 has effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to the requirements set out in Schedule 2.

Signed by authority of the Secretary of State for Transport

Address
Date

Name
Parliamentary Under Secretary of State
Department of Transport

(a) 1978 c.30.

SCHEDULES

SCHEDULE 1

Articles 2 & 3

AUTHORISED DEVELOPMENT

In the County of Cornwall—

A nationally significant infrastructure development as defined in sections 14 and 22 of the 2008 Act, comprising:

Work No.1

The improvement of 5.15km of permanent highway by dualling 4.5km of the A30 trunk road which is currently single carriageway between Temple and Higher Carblake, to include—

- (a) the widening and realignment of the existing A30 single carriageway plus climbing lane to a two lane dual 2 all purpose carriageway including maintenance lay-bys, hard strips, central reserve and verges;
- (b) the reconfiguration, improvement or adjustment of access to the existing service stations on the eastbound carriageway of the A30 to suit the revised carriageway layout;
- (c) the reconfiguration, improvement or adjustment of the access to Higher Carblake;
- (d) the reconfiguration, diversion or adjustment of existing Public Rights Of Way (no's FP/508/1, FP/508/14, and FP/508/15) which abut the existing A30 trunk road within the length of the scheme to suit the new layout;
- (e) the construction of a sustainable drainage system (SuDS) to accommodate the existing and increased carriageway run-off, to include—
 - (i) traditional rainwater run-off collection (gullies, fin or carrier drains);
 - (ii) construction of three attenuation basins controlled by flow control devices, down stream defenders and connections into existing outfalls at three positions in the vicinity of Higher Carblake, Pounds Conce and Temple Tor;
 - (iii) the alteration and improvement of an existing drainage culvert in the vicinity of Pounds Conce and at Temple Tor;
 - (iv) provision of vehicular and pedestrian access to maintain highway drainage features at each of the three locations;
 - (v) landscaping works;
- (f) diversion and protection of existing public and private utility apparatus, as required to accommodate the proposed works;
- (g) the reconfiguration, improvement, relocation or alteration of private accesses and accesses to common land as required to suit the revised carriageway layout;
- (h) the temporary removal of the grade II listed milestone east of Glenavon (Listing ID 1142395); and
- (i) other drainage works, earth works, pavement works, kerbing and paved areas works, signing and road marking works, hedging works, safety barrier works, fencing works, landscaping works, mitigation works, accommodation works and other works associated with the construction of Work No. 1.

Associated development within the meaning of section 115(2) of the 2008 Act, comprising:

Work No. 2

The construction of a new grade separated junction located at Cardinham Downs to replace the existing at grade crossing, to include—

- (a) the construction of a new overpass bridge structure;
- (b) the construction of associated side roads;
- (c) the reconfiguration (stopping up) of the existing C class (C0109) road from Whitecross to the A30 Trunk Road at its junction with the A30;
- (d) construction of new cattle grids and by-passes;
- (e) the reconfiguration, improvement, relocation or alteration of private accesses and accesses to common land as required to suit the revised carriageway layout;
- (f) diversion and protection of existing public and private utility apparatus, as required to accommodate the proposed works; and
- (g) drainage works, earth works, pavement works, kerbing and paved areas works, signing and road marking works, hedging works, safety barrier works, fencing works, landscaping works, mitigation works, accommodation works and other works associated with the construction of Work No. 2.

Work No.3

The construction of a new grade separated junction located at Preeze Cross to replace the existing at grade crossing, to include—

- (a) the construction of a new overpass bridge structure;
- (b) the reconfiguration of existing or construction of new associated side roads;
- (c) the reconfiguration of the junction for Higher Colvannick;
- (d) the reconfiguration and relocation of the private access for the South West Water reservoir site connecting it onto the new side road network;
- (e) construction of new cattle grids and by-passes;
- (f) the construction of a retaining structure to support the South West Water reservoir in the vicinity of Preeze Cross, facilitating the carriageway widening in this area;
- (g) the reconfiguration, improvement, relocation or alteration of private accesses and accesses to common land as required to suit the revised carriageway layout;
- (h) the reconfiguration, diversion or adjustment of existing Public Rights Of Way (no's FP/503/16 and FP/508/9) which abut and or cross the existing A30 trunk road within the length of the scheme to suit the new layout;
- (i) diversion and protection of existing public and private utility apparatus, as required to accommodate the proposed works; and
- (j) drainage works, earth works, pavement works, kerbing and paved areas works, signing and road marking works, hedging works, safety barrier works, fencing works, landscaping works, mitigation works, accommodation works and other works associated with the construction of Work No. 3.

Work No. 4

The construction of a new grade separated junction located at Temple Tor to replace the existing at grade crossing, to include—

- (a) the construction of a new overpass bridge structure;
- (b) the realignment and construction of associated side roads;
- (c) construction of new cattle grids;
- (d) the reconfiguration, improvement, relocation or alteration of private accesses and accesses to common land as required to suit the revised carriageway layout;

- (e) diversion and protection of existing public and private utility apparatus, as required to accommodate the proposed works; and
- (f) drainage works, earth works, pavement works, kerbing and paved areas works, signing and road marking works, hedging works, safety barrier works, fencing works, landscaping works, mitigation works, accommodation and other works associated with the construction of Work No. 4.

Work No. 5

The reconfiguration and relocation of private accesses to specific properties to redirect these onto the side road network, including—

- (a) for Lynhurst in the vicinity of Preeze Cross; and
- (b) for Greenbarrow in the vicinity of the Temple Tor junction;
- (c) diversion and protection of existing public and private utility apparatus, as required to accommodate the proposed works; and
- (d) drainage works, earth works, pavement works, kerbing and paved areas works, signing and road marking works, hedging works, safety barrier works, fencing works, landscaping works, mitigation works, accommodation works and other works associated with the construction of Work No. 5.

Work No. 6

The construction of accommodation works associated with the replacement land (as defined in paragraph (3) of article 30) including—

- (a) the removal or relocation of existing fencing or hedges or the construction of new fencing or hedges to separate common land from privately owned land or highway as required by the adjustment of common land boundaries and provision of exchange land;
- (b) the construction of two culverts to a water course at the boundary of the Common land exchange land at Hawks Tor to facilitate access to the land by livestock or agricultural vehicles; and
- (c) the construction of a replacement stock corral adjacent to the revised common land boundary between privately owned land and Greenbarrow common;

and in connection with such works further development within the Order limits consisting of—

- (a) ramps, means of access, footpaths and bridleways;
- (b) embankments, abutments, foundations, retaining walls, drainage, wing walls, highway lighting, fencing, hedging and culverts;
- (c) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (d) works to alter the course of, or otherwise interfere with a watercourse other than a navigable watercourse;
- (e) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (f) works for the benefit or protection of land affected by the authorised development;
- (g) works required for the strengthening, improvement, maintenance or reconstruction of any streets; and
- (h) such other works, including contractor's compounds, working sites, storage areas and works of demolition, as may be necessary or expedient for the purpose of or in connection with the construction of the authorised development,

and which fall within the scope of the environmental impact assessment.

SCHEDULE 2 REQUIREMENTS

Article 3

Interpretation

1.—(1) In this Schedule—

“the approved plans” means the plans listed below and such revised or supplementary plans as may be approved pursuant to these requirements—

- (a) the works plan (document reference TRXCP/PA/2.03 version [x] dated [x] sheets [x] to [x]); and
- (b) the long sections and cross sections (document reference TRXCP/PA/2.05 version [x] dated [x] sheets [x] to [x]).

“CEMP” means construction environment management plan

“commencement” means the carrying out of a material operation, as defined in section 155 of the Planning Act 2008 (which explains when development begins), comprised in or carried out for the purposes of the authorised project and the words “commence” and “commenced” shall be construed accordingly

“environmental mitigation schedule” means the document certified as the environmental mitigation schedule in accordance with article 37(1) (certification of plans etc)

“environmental statement” means the document certified as the environmental statement in accordance with article 37(1) (certification of plans, etc.);

“heavy goods vehicle” means a heavy goods vehicle of more than 7.5 tonnes gross vehicle weight;

“LEMP” means the landscape and ecology management plan; and

“the road” means the improved dual carriageway road referred to in Work No.1 of Schedule 1

(2) Where under any of the requirements the approval or agreement of the local planning authority or another person is required—

- (a) the matter which requires approval or agreement must be submitted in writing for such approval or agreement; and
- (b) the approval or agreement must be given in writing.

(3) Where any requirement provides that the authorised project is to be carried out in accordance with details, or a scheme, plan or other document approved or agreed by the local planning authority, the approved or agreed details, scheme, plan or other document shall be taken to include any amendments or revisions subsequently approved or agreed by the local planning authority.

(4) Where any requirement specifies “unless otherwise approved in writing by the local planning authority” such approval shall not be given except in relation to minor or immaterial changes where it has been demonstrated to the satisfaction of the local planning authority that the subject-matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Time limits

2. The authorised development must commence within 5 years of the date on which this Order comes into force.

Commencement

3. Notice of commencement of the authorised development must be given by the undertaker to the local planning authority not later than 7 days after the date on which the authorised development is commenced.

Construction environmental management plan

4.—(1) No authorised development must commence until a CEMP has been submitted to and approved in writing by the local planning authority.

(2) The CEMP must include, as a minimum, the construction related mitigation measures set out in the environmental mitigation schedule and—

- (a) measures to mitigate the effects of control of noise and vibration during construction;
- (b) measures to mitigate the effects of control of dust and air quality during construction;
- (c) measures to mitigate the effects of control of lighting during construction;
- (d) measures to control and manage surface water during construction
- (e) measures to control and manage site waste management;
- (f) measures to control and manage access by construction traffic;
- (g) traffic management;
- (h) measures to mitigate any interruption of access to businesses, including agricultural holdings;
- (i) measures to control and manage the potential effects of contaminants and pollutants;
- (j) measures to mitigate the effects of construction activities on health and safety;
- (k) measures to exclude fish from watercourses;
- (l) measures to mitigate the construction effects on sensitive ecological receptors;
- (m) measures to mitigate the construction effects on archaeology and cultural heritage;
- (n) landscape and visual mitigation;
- (o) measures for the protection of any European or nationally protected species from activities associated with the authorised development;
- (p) repeat surveys to be undertaken to confirm the presence of any European or nationally protected species;
- (q) measures to mitigate the effects of the activities associated with the authorised development on European or nationally protected species and identified in the surveys required by sub-paragraph (o);
- (r) a programme for implementation of the proposed measures required by sub-paragraphs (n), (o) and (p); and
- (s) details of the restoration of the Bodmin Moor North Site of Special Scientific Interest including details of all proposed landscape works.

(3) The construction of the authorised development must be carried out in accordance with the CEMP, unless otherwise approved in writing by the local planning authority.

(4) Where a European or nationally protected species is shown to be present no authorised development is to commence until a scheme of protection and mitigation measures prepared after consultation between the local planning authority and Natural England has been submitted to and approved in writing by the local planning authority and subsequently the authorised development is to be carried out in accordance with the approved scheme.

(5) “European protected species” has the same meaning as in regulations 40 (European protected species of animals) and 44 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2010(a)

Final surface water drainage

5.—(1) No part of the authorised development is to commence until a scheme for surface water drainage has been submitted to and approved in writing by the local planning authority, in consultation with the Environment Agency.

(2) The scheme must include—

- (a) details of the final drainage scheme;
- (b) a construction quality control procedure;
- (c) provision for surface water overland exceedance flow routes;
- (d) plans for the management of surface water from land surrounding the authorised development;
- (e) plans for the future management and maintenance of the surface water drainage system; and
- (f) details of wetland features in the storage ponds.

(3) The approved scheme must be implemented in its entirety unless otherwise agreed in writing by the local planning authority.

Implementation

6.—(1) The authorised development must be carried out in accordance with the Order limits and limits of deviation shown on the approved plans.

(2) The authorised development must also be carried out in accordance with the illustrative engineering detail shown on the approved plans, unless otherwise approved in writing by the local planning authority.

Deleted: indicative

Landscape and ecology management plan

7.—(1) No part of the authorised development is to commence until a written LEMP has been submitted to and approved in writing by the local planning authority, in consultation with Natural England and the Cornwall AONB Unit.

(2) The LEMP must include, as a minimum, the operational mitigation measures set out in the environmental mitigation schedule and—

- (a) details of the landscape and ecological mitigation, and compensation measures to be undertaken;
- (b) details of the management and monitoring of landscape and ecological mitigation, and compensation measures to be undertaken; and

(3) The approved LEMP must be implemented in its entirety unless otherwise agreed in writing by the local planning authority.

Deleted: their

Contaminated land

8.—(1) In the event that contaminated materials are found at any time when carrying out the authorised development which were not previously identified in the environmental statement, it must be reported immediately in writing to the local planning authority and the undertaker must complete a risk assessment of the contamination.

(a) S.I. 2010/490

(2) Where the local planning authority determines that remediation is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose, must be submitted to and approved in writing by the local planning authority.

(3) Remediation must be carried out in accordance with the approved scheme unless otherwise agreed in writing by the local planning authority.

Building and construction materials – highways

9.—(1) No part of the authorised development is to commence until written details of the materials to be used for the surfacing of the new highway have been submitted to and approved in writing by the local planning authority.

(2) The details submitted under sub-paragraph (1) must include provision for the use of low noise road surfacing materials on the highway.

(3) The authorised development must be carried out using the materials approved under sub-paragraph (1), unless otherwise approved in writing by the local planning authority.

Building and construction materials – structures

10.—(1) No part of the authorised development is to commence until written details of the building materials to be used for the external facings of all structures, including bridges, retaining walls and culvert sides and headwalls, have been submitted to and approved in writing by the local planning authority.

(2) The authorised development must be carried out using the materials approved under sub-paragraph (1), unless otherwise approved in writing by the local planning authority.

Soil

11.—(1) All soil must be removed from any part of the Order land that is to be excavated or traversed by heavy goods vehicles, plant or machinery; or where roads, buildings, plant yards or stores are to be constructed on it, and all such soil must be stored on the site for use in the restoration of the site.

(2) No soil is to be sold or otherwise removed from the Order land unless otherwise approved in writing by the local planning authority.

(3) Any approval given under sub-paragraph (2) shall not remove the need to secure any relevant environmental permits under the Environmental Permitting (England and Wales) Regulations 2010(a)

Safeguarding of watercourses and drainage

12.—(1) Provision must be made for the collection, treatment and disposal of all water entering or arising on the Order land during highway construction operations to ensure that there is no discharge of contaminated or polluted drainage to ground or surface waters.

(2) All foul drainage must be discharged to a public sewer or else to a sealed tank, the contents of which must be removed from the Order land in their entirety.

(3) Any chemical, oil or fuel storage container on the Order land must be sited on an impervious surface with bund walls, and the volume of the bunded area must be the equivalent of 110% of the volume of the container and must contain within its curtilage all fill and draw pipes, vents, gauges and sight glasses.

(4) The drainage system of the bund must be sealed with no discharge to any watercourse, land or underground strata.

(a) S.I. 2010/675

(5) No part of the authorised development is to commence until a scheme and programme of pollution control measures has been submitted to and approved in writing by the local planning authority, in consultation with the Environment Agency. The scheme must include measures for sediment removal at all drainage outfalls.

(6) The authorised development must be carried out in accordance with the scheme and programme approved under sub-paragraph (5) unless otherwise approved in writing by the local planning authority.

Protection of controlled waters

13.—(1) No part of the authorised development is to commence until a scheme for the protection of controlled waters, as defined in section 104 of the Water Resources Act 1991^(a) has been submitted to and approved in writing by the local planning authority, in consultation with the Environment Agency.

(2) The approved scheme must be implemented in its entirety unless otherwise agreed in writing by the local planning authority.

Archaeology

14.—(1) No part of the authorised development is to commence until a written scheme of archaeological investigation which must include, as a minimum, the archaeological mitigation measures set out in the environmental mitigation schedule has been submitted to and approved in writing by the local planning authority.

(2) The authorised development must be carried out at all times in accordance with the scheme approved under sub-paragraph (1) unless otherwise agreed in writing by the local planning authority.

(3) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be retained in place and reported to the local planning authority in writing within 3 working days.

(4) No construction operations are to take place within 10 metres of such remains for a period of 14 days from the date of such notification unless otherwise agreed in writing by the local planning authority.

(5) If the local planning authority are of the view that the archaeological remains require further investigation, no construction operations are to take place within 10 metres of the remains until provision has been made for the investigation and recording of the remains in accordance with details first submitted in writing to, and approved in writing by, the local planning authority.

Landscaping and planting scheme

15.—(1) No part of the authorised development is to commence until a detailed landscaping scheme has been submitted in writing to, and approved in writing by, the local planning authority, in consultation with Natural England and Cornwall AONB Unit.

(2) The detailed landscaping scheme shall include details of all proposed landscape works including—

- (a) location, number, species, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) proposed finished ground levels;
- (d) pedestrian footpaths, bridleways and circulation areas;
- (e) details of existing trees to be retained, with measures for their protection during construction works; and

(a) S.I. 1991/57

(f) plant establishment, maintenance and management arrangements.

(3) All landscaping works must be carried out in accordance with the detailed landscaping scheme approved under sub-paragraph (1), unless otherwise approved in writing by the local planning authority.

(4) Any tree or shrub planted as part of the approved detailed landscaping scheme that, within a period of 5 years after planting, is removed, dies or becomes in the opinion of the local planning authority, seriously damaged or diseased must be replaced in the first available planting season with a specimen of the same species as that originally planted, unless otherwise approved in writing by the local planning authority.

(5) All hedges and trees forming part of the boundary of the Order land or situated within it (unless shown to be removed in the environmental statement) must be protected from any damage and maintained throughout the authorised development.

(6) If any hedge or tree protected under sub-paragraph (4) is removed, uprooted, destroyed or dies it must be replaced in the first available planting season and afterwards maintained for a period of 5 years.

(7) All areas of the site left undisturbed, and all soil, soil-making material and overburden mounds must be kept free from invasive and noxious weeds throughout the carrying out of the authorised development.

Safeguarding of listed milestone 1142395

16.—(1) No part of the authorised development is to commence until a written scheme for the protection of the grade II listed milestone 1142395 has been submitted to and approved in writing by the local planning authority in consultation with English Heritage.

(2) The authorised development must be carried out at all times in accordance with the scheme approved under sub-paragraph (1) unless otherwise agreed in writing by the local planning authority.

Post construction monitoring

17.—(1) Before completion of the authorised development a post construction monitoring plan must be submitted to, and agreed in writing by, the local planning authority.

(2) The plan must include monitoring of the effects of the scheme on—

- (a) European and nationally protected species;
- (b) air quality and emissions levels;
- (c) noise levels;
- (d) traffic and economic data; and
- (e) water quality.

(3) Post construction monitoring must be carried out in accordance with the plan approved under sub-paragraph (1) unless otherwise agreed in writing by the local planning authority.

SCHEDULE 3

Article 8

STREETS SUBJECT TO ALTERATION IN LAYOUT

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street subject to alteration in layout</i> | <i>(3)</i> <i>Description of alteration</i> |
|--|---|--|
| In the County of Cornwall— | | |
| Parish of Blisland District of Lanivet & Blisland. | C0109 to Blisland | Alteration to the level of the carriageway to provide access to a property at the existing western junction of the C0109 to Blisland and the northern side of the A30 Trunk Road from a point 7 metres north east of the junction for a distance of 13 metres north-eastwards along the C0109 and access. |
| Parish of Blisland District of Lanivet & Blisland. | C0109 to Blisland | An increase to the width and alteration to the level of the carriageway to provide a turning head from a point 35 metres north east of the existing western junction of the C0109 to Blisland and the northern side of the A30 Trunk Road north-eastwards along the C0109 for a distance of 22 metres. |
| Parish of Blisland District of Lanivet & Blisland. | C0109 to Blisland | An increase to the width and alteration to the level of the carriageway to provide a turning head from a point 411 metres north east of the existing western junction of the C0109 to Blisland and the northern side of the A30 Trunk Road north-eastwards along the C0109 for a distance of 96 metres to form a new side road junction and provide a new cattle grid. |
| Parish of Cardinham District of Lanivet & Blisland. | U6139 to Cardinham | An increase to the width and alteration to the level of the carriageway from a point 37 metres south of the junction of the existing U6139 and the southern side of A30 Trunk Road southwards for a |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street subject to alteration in layout</i> | <i>(3)</i> <i>Description of alteration</i> |
|--|---|--|
| Parish of Blisland District of Lanivet & Blisland. | C0034 to Tresarrett | distance of 57 metres to form a new side road junction. An increase to the width and alteration to the level of the carriageway from a point 13 metres north of the existing junction of the C0034 to Tresarrett and the northern side of the A30 Trunk Road at Preeze Cross for a distance of 173 metres in a northerly direction to form a new side road junction. |
| Parish of Cardinham District of Lanivet & Blisland | C0110 to Millpool | An increase to the width and alteration to the level of the carriageway from a point 19 metres south of the existing junction of the C0110 to Millpool and the southern side of the A30 Trunk Road at Preeze Cross for a distance of 44 metres in a southerly direction along the C0110 to provide a turning head and a new link to the side road network for local traffic movements. |
| Parishes of Blisland & Cardinham District of Lanivet & Blisland | U6139 | An increase to the width and alteration to the level of the carriageway from a point 48 metres south-west of the existing eastern junction of the U6139 and the southern side of the A30 Trunk Road near Pounds Conce for a distance of 317 metres westwards along the U6139 to provide a new link road and junctions for local traffic movements. |
| Parish of Blisland District of Lanivet & Blisland | U6131 to Waterloo | An increase to the width and alteration to the level of the carriageway from a point 14 metres north of the existing junction of the U6131 and the northern side of the A30 Trunk Road for a distance of 64 metres in a northerly direction along the U6131 to join a new side road for local traffic movements. |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street subject to alteration in layout</i> | <i>(3)</i> <i>Description of alteration</i> |
|--|---|---|
| Parish of Blisland District of Lanivet & Blisland | U6139 to Temple | An increase in width and alteration to the level of the carriageway from a point 290 metres east of the existing junction of the U6131 to Temple and the southern side of the A30 Trunk Road at Temple Fisheries Picnic Site for a distance of 24 metres in an easterly direction to provide a new junction with the new private access to the property known as Greenbarrow. |
| Parish of Blisland District of Lanivet & Blisland | C0300 to Bradford | An increase to the width and alteration to the level of the carriageway from a point 80 metres north west of the existing junction of the C0300 for a distance of 93 metres in a north-westerly direction commencing at the new north-western boundary of A30 Trunk Road at Temple Tor junction to provide embankment and approach road to a new bridge across the A30. |
| Parish of Blisland District of Lanivet & Blisland | U6139 to Temple | An increase to the width and alteration to the level of the carriageway from a point 80 metres south east of the existing junction of the U6139 for a distance of 247 metres in a south-easterly direction commencing at the southern boundary of A30 Trunk Road at Temple Tor junction, to provide an embankment and approach road to a new bridge across the A30. |

SCHEDULE 4

Article 9

STREETS SUBJECT TO STREET WORKS

| <i>(1)</i> <i>Location</i> | <i>(2)</i> <i>Street subject to street works</i> |
|---|---|
| In the County of Cornwall— | |
| Parishes of Blisland and Cardinham District of Lanivet and Blisland. | A30 Trunk Road C0109 to Blisland U6139 to Cardinham Public Footpath 508/1 C0034 to Tresarrett C0110 to Millpool U6139 South West of Pounds Conce Public Footpath 508/9 Public Footpath 503/16 Public Footpath 508/14 U6131 to Waterloo Public Footpath 508/15 U6139 to Temple U6131 West of Temple Tor Junction C0300 to Bradford |

SCHEDULE 5

Article 12

STREETS TO BE STOPPED UP

PART 1

STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
|---|--|--|---|
| In the County of Cornwall— | | | |
| Parish of Cardinham District of Lanivet & Blisland. | C0109 to Blisland (Reference S1/1 – Street Plan Sheet No. 1) | From the northern carriageway edge of the A30 Trunk Road at its junction with the existing western junction of the C0109 to Blisland for a distance of 7 metres in a north- easterly direction. | Reference A1 (Street Plan Sheet No.1) |
| Parish of Cardinham District of Lanivet & Blisland. | C0109 to Blisland (Reference S1/2 – Street – Street Plan Sheet No. 1) | From the northern carriageway edge of the A30 Trunk Road, at its junction with the eastern junction of the C0109 to Blisland, in a north-westerly direction for a distance of 11 metres. | Reference A1 (Street Plan Sheet No.1) |
| Parish of Blisland District of Lanivet & Blisland. | C0300 to Bradford (Reference S8/1 – Street Plan Sheet No. 8) | From a point on the northern carriageway edge of the A30 Trunk Road, at existing Temple Tor crossroads junction, for a distance of approximately 79 metres in a north- westerly direction. | Reference A8, B8 & C8. (Street Plan Sheet Nos.8) |
| Parish of Blisland District of Lanivet & Blisland. | U6139 to Temple (Reference S8/2 – Street Plan Sheet No.8) | From a point on the southern carriageway edge of the A30 Trunk Road, at existing Temple Tor crossroads junction, for a distance of approximately 77 | Reference A8, B8 & C8. (Street Plan Sheet Nos.8) |

metres in a south-easterly direction.

PART 2

PRIVATE ACCESSES FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Private Access to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>Private Access to be substituted</i> |
|---|--|---|---|
| In the County of Cornwall— | | | |
| Parish of Cardinham District of Lanivet and Blisland. | Access X2/2 (Street Plan Sheet No.2) | Field access 55 metres east of the eastern access to Darcroft Garage for a distance of 3 metres from the boundary southwards and over the width of the access. | Reference P2/1 (Street Plan Sheet No. 2) |
| Parish of Cardinham District of Lanivet and Blisland. | Access X3/1 (Street Plan Sheet No.3) | Field access 32 metres west of the junction with the C0110 to Millpool from the southern boundary of the A30 Trunk Road southwards for a distance of 3 metres over the width of the access. | Reference P3/3 (Street Plan Sheet No.3) |
| Parish of Blisland District of Lanivet and Blisland. | Access X3/2 (Street Plan Sheet No.3) | Access to the property known as Lyndhurst from the northern boundary of the A30 Trunk Road to a point 3 metres northwards over the width of the access. | Reference P3/5 (Street Plan Sheet No.3) |
| Parish of Cardinham District of Lanivet and Blisland. | Access X3/3 (Street Plan Sheet No.3) | Access track to reservoir and adjacent field, 224 metres east of the existing junction of the C0110 to Millpool, from the southern boundary of the A30 Trunk Road to a point 23 metres south-eastwards over the width of the access. | Reference P3/9 (Street Plan Sheet No.3) |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Private Access to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>Private Access to be substituted</i> |
|---|--|--|---|
| Parish of Cardinham District of Lanivet and Blisland. | Access X3/4 (Street Plan Sheet No.3) | Field access, on the south side of the A30 Trunk Road, from reservoir access track X3/4, to a point 3 metres southwards over the width of the access. | Reference P3/4 (Street Plan Sheet No.3) |
| Parish of Blisland District of Lanivet and Blisland. | Access X3/5 (Street Plan Sheet No.3) | Field access, 85 metres to the east of property known as Lyndhurst, from the northern boundary of the A30 Trunk Road to a point 12 metres northwards over the width of the access. | Reference P3/7 and P3/8 (Street Plan Sheet No.3) |
| Parish of Cardinham District of Lanivet and Blisland. | Access X3/6 (Street Plan Sheet No.3) | Access to two adjacent fields south of the existing western junction of the U6139 and the A30 Trunk Road, from the southern boundary of the U6139 to a point 9m southwards over the width of the access. | Reference P3/10 and P3/11 (Street Plan Sheet No.3) |
| Parish of Cardinham District of Lanivet and Blisland. | Access X4/1 (Street Plan Sheet No.4) | Field access 165 metres east of the existing eastern junction of the U6139 from the southern boundary of the A30 Trunk Road to a point 6 metres southwards over the width of the access. | Reference P4/6, P4/7, P4/8 and P4/9 (Street Plan Sheet No.4) |
| Parish of Cardinham District of Lanivet and Blisland. | Access X4/2 (Street Plan Sheet No.4) | Field access 208 metres east of the existing eastern junction of the U6139 from the existing southern carriageway edge of the A30 Trunk Road to a point 30 metres southwards over the width of the access. | Reference P4/6, P4/7 and P4/11 (Street Plan Sheet No.4) |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Private Access to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>Private Access to be substituted</i> |
|---|---|---|--|
| Parish of Cardinham District of Lanivet and Blisland. | Access X4/3 (Street Plan Sheet No.4) | Field access 303 metres east of the existing eastern junction of the U6139 from the from the existing southern carriageway edge of the A30 Trunk Road to a point 24 metres southwards over the width of the access. | Reference P4/6, P4/7 and P4/11 (Street Plan Sheet No.4) |
| Parish of Blisland District of Lanivet and Blisland. | Access X5/1 (Street Plan Sheet No.5) | Field access 211 metres east of the junction of the U6131 to Waterloo and the A30 Trunk Road for a distance of 3 metres from the boundary north-westwards and over the width of the access. | Reference P4/13 (Street Plan Sheet No.4) |
| Parish of Blisland District of Lanivet and Blisland. | Access X5/2 (Street Plan Sheet No.5) | Field access 242 metres east of the junction of the U6131 to Waterloo and the A30 Trunk Road for a distance of 3 metres from the boundary north-westwards and over the width of the access. | Reference P4/13 (Street Plan Sheet No.4) |
| Parish of Blisland District of Lanivet and Blisland. | Access X5/3 (Street Plan Sheet No.5) | Field access 367 metres east of the junction of the U6131 to Waterloo and the A30 Trunk Road for a distance of 3 metres from the boundary north-westwards and over the width of the access. | Reference P4/13 (Street Plan Sheet No.4) |
| Parishes of Cardinham District of Lanivet & Blisland. | Public Footpath 508/15 (Reference S6/1 – Street Plan Sheet No. 6) | From a point in the southern carriageway edge of the A30 Trunk Road 385 metres west of the junction to Temple Fisheries Picnic Site south- westwards for a distance of | Reference P6/3 (Street Plan Sheet No. 6) |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Private Access to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>Private Access to be substituted</i> |
|--|--|--|---|
| | | approximately 21 metres along Footpath 508/15. | |
| Parish of Cardinham District of Lanivet and Blisland | Access X6/1 (Street Plan Sheet No.6) | Access 375 metres west of the existing junction to Temple Fisheries Picnic Site, from the southern boundary of the A30 Trunk Road to a point 15 metres south-eastwards over the width of the access. | Reference P 6/1 (Street Plan Sheet No.6) |
| Parish of Cardinham District of Lanivet and Blisland | Access X6/2 (Street Plan Sheet No.6) | Access 395 metres west of the existing junction to Temple Fisheries Picnic Site, from the northern boundary of the A30 Trunk Road to a point 3 metres northwards over the width of the access. | Reference P6/2 (Street Plan Sheet No. 6) |
| Parish of Blisland District of Lanivet and Blisland. | Access X7/1 (Street Plan Sheet No.7) | Access to the property known as Greenbarrow from the southern boundary of the A30 Trunk Road to a point 3 metres south-eastwards over the width of the access. | Reference P 7/1 (Street Plan Sheet No.7) |
| Parish of Cardinham District of Lanivet and Blisland | Access X8/1 (Street Plan Sheet No. 8) | Access 242 metres west of existing Temple Tor Junction from the southern boundary of the A30 Trunk Road to a point 7 metres south east over the width of the access. | Reference P8/2 (Street Plan Sheet No. 8) |

PART 3

STREETS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

| <i>(1)</i> | <i>(2)</i> | <i>(3)</i> |
|------------|------------|------------|
|------------|------------|------------|

| <i>Area</i> | <i>Street to be stopped up</i> | <i>Extent of stopping up</i> |
|--|---|--|
| In the County of Cornwall— | | |
| Parishes of Cardinham District of Lanivet & Blisland. | Public Footpath 508/1 (Reference S2/1 – Street Plan Sheet No. 2) | From the southern boundary of the A30 Trunk Road 85 metres to the west of the western access to Darcroft Garage in a southerly direction for a distance of 22 metres. |
| Parishes of Blisland & Cardinham District of Lanivet & Blisland. | Part of the junction of the C0034 to Tresarrett and the northern edge of A30 Trunk Road (Reference S3/1 – Street Plan Sheet No. 3) | On the eastern side of the existing junction of the C0034 to Tresarrett, to the south of the property known as Four Winds at Preeze Cross, from a point 13 metres north of the existing northern carriageway edge of A30 Trunk Road southwards from the C0034 and then eastwards along the A30 for a total distance of 43 metres. |
| Parish of Blisland District of Lanivet & Blisland. | Public Footpath 503/16 (Reference S3/2 – Street Plan Sheet No. 3) | From the northern boundary of the A30 Trunk Road, approximately 375 metres east of the property known as Lyndhurst, in a southerly direction for a distance of 90 metres. |
| Parishes of Cardinham District of Lanivet & Blisland. | Public Footpath 508/14 (Reference S4/1 – Street Plan Sheet No. 4) | From a point in the southern carriageway edge of the A30 Trunk Road 224 metres to the south west of the junction of the U6131 to Waterloo on the northern side of the A30 for a distance of 23 metres in a south westerly direction. |
| Parish of Blisland District of Lanivet & Blisland. | Part of A30 Trunk Road (Reference S6/2 – Street Plan Sheet No. 6) | From a point on the southern boundary of the A30 Trunk Road 84 metres north east of the junction to the Temple Fisheries Picnic Site along the southern boundary of the A30 Trunk Road for a distance of 71 metres. |
| Parish of Blisland District of Lanivet & Blisland. | Unclassified road U6131 (Reference S8/3 – Street Plan Sheet No. 8) | From a point on the northern boundary of the A30 Trunk Road, approximately 195 metres west of the junction with the C0300, in a north- westerly direction along the cul-de sac section of |

unclassified road U6131 for a distance of 32 metres.

PART 4

PRIVATE ACCESS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Private Accesses to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> |
|---|--|---|
| <hr/> In the County of Cornwall— | | |
| Parish of Blisland District of Lanivet & Blisland | Access X1/2 (Street Plan Sheet No. 2) | On the northern boundary of the A30 Trunk Road, 33 metres west of the western access to Penlan Garage, for a distance of 3 metres from the boundary north-westwards and over the width of the access. |
| Parish of Cardinham District of Lanivet & Blisland | Access X2/1 (Street Plan Sheet No. 2) | Access track leading to Higher Carblake (co-existent with public footpath 508/1) from the southern boundary of the A30 Trunk Road southwards for a distance of 31 metres over the width of the track. |
| Parish of Blisland District of Lanivet & Blisland | Access X7/2 | On the northern boundary of the A30 Trunk Road, approximately 47 metres east of existing access to Greenbarrow onto the A30 Trunk Road, for a distance of 3 metres from the boundary northwards and over the width of the access. |

SCHEDULE 6
ACCESS TO AND FROM WORKS

Article 14

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Description of Access</i> |
|---|---|
| In the County of Cornwall— | |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P1/1 (Street Plan Sheet No.1) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P1/2 (Street Plan Sheet No.1) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P1/3 (Street Plan Sheet No.1) |
| Parish of Blisland District of Lanivet and Blisland. | New private means of access. Reference P3/1 (Street Plan Sheet No.3) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P3/2 (Street Plan Sheet No.3) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P3/6 (Street Plan Sheet No.3) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P3/12 (Street Plan Sheet No.3) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P3/13 (Street Plan Sheet No.3) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P3/14 (Street Plan Sheet No.3) |
| Parishes of Blisland & Cardinham District of Lanivet and Blisland. | New private means of access. Reference P3/15 (Street Plan Sheet No.3) |
| Parishes of Blisland District of Lanivet and Blisland. | New private means of access. Reference P4/1 (Street Plan Sheet No.4) |

| | |
|---|---|
| Parishes of Blisland District of Lanivet and Blisland. | New private means of access. Reference P4/2 (Street Plan Sheet No.4) |
| Parishes of Blisland District of Lanivet and Blisland. | New private means of access. Reference P4/3 (Street Plan Sheet No.4) |
| Parishes of Blisland District of Lanivet and Blisland. | New private means of access. Reference P4/4 (Street Plan Sheet No.4) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P4/5 (Street Plan Sheet No.4) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P4/10 (Street Plan Sheet No.4) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P4/12 (Street Plan Sheet No.4) |
| Parish of Blisland District of Lanivet and Blisland. | New private means of access. Reference P7/2 (Street Plan Sheet No.7) |
| Parish of Blisland District of Lanivet and Blisland. | New private means of access. Reference P7/3 (Street Plan Sheet No.7) |
| Parish of Blisland District of Lanivet and Blisland. | New private means of access. Reference P7/4 (Street Plan Sheet No.7) |
| Parish of Blisland District of Lanivet and Blisland. | New private means of access. Reference P8/1 (Street Plan Sheet No.8) |

SCHEDULE 7

Article 28

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Number of land shown on land plans</i> | <i>(3)</i> <i>Purposes for which temporary possession may be taken</i> | <i>(4)</i> <i>Relevant part of the authorised development</i> |
|---------------------------|--|--|--|
| In the County of Cornwall | 01/03, 01/14, 01/15, 01/16, 01/19, 01/20, 01/23, 01/24, 02/01, 02/04, 02/05, 02/11, 02/47, 02/48, 02/51, 02/53, 02/54, 03/04, 03/05, 03/13, 03/14, 04/03, 04/25, 04/26, 04/27, 04/45, 04/73, 05/01 | Temporary working space | Work No. 1 |
| | 02/07, 04/18 | Construction access, material and equipment storage and temporary working space | Work No. 1 |
| | 01/07, 01/09, 01/10, 01/13 | Works/site compound including storage of equipment, materials and soils, grass cultivation areas and temporary working space | Work No. 1 and 2 |
| | 02/34, 02/38 | Works/site compound including storage of equipment, materials and soils, grass cultivation areas and temporary working space | Work No. 1 and 3 |
| | 02/44, 03/01 | Construction access, material and equipment storage and temporary working space | Work No. 1 and 3 |
| | 02/16, 03/09 | Temporary working space | Work No. 1 and 3 |
| | 04/33 | Works/site compound including storage of equipment, materials and soils, grass | Work No. 1 and 4 |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Number of land shown on land plans</i> | <i>(3)</i> <i>Purposes for which temporary possession may be taken</i> | <i>(4)</i> <i>Relevant part of the authorised development</i> |
|---------------------------|--|--|--|
| | | cultivation areas and temporary working space | |
| | 04/39, 04/41, 04/53, 04/68 | Temporary working space | Work No. 1 and 4 |
| | 02/27 | Temporary working space | Work No. 1 and 5 |
| | 02/24, 02/28, 02/33, 02/37 | Works/site compound including storage of equipment, materials and soils, grass cultivation areas and temporary working space | Work No. 1, 3 and 5 |
| | 02/17, 02/18, 02/19, 02/21, 02/23, 02/25, 02/32, 02/36, 02/40, 02/42, 02/43, 03/07 | Temporary working space | Work No. 3 |
| | 04/28 | Works/site compound including storage of equipment, materials and soils, grass cultivation areas, temporary working space and environmental mitigation areas | Work No. 4 |
| | 04/23, 04/30, 04/36, 04/38, 04/46, 04/47, 04/52, 04/54, 04/55, 04/56, 04/58, 04/60, 04/61, 04/62, 04/63, 04/64, 04/67, | Temporary working space | Work No. 4 |
| | 04/08, 04/10, 04/11, 04/13, 04/14, 04/15 | Temporary working space | Work No. 5 |
| | 04/05 | Temporary working space | Work No. 6 |

SCHEDULE 8

Article 41

DISCHARGE OF REQUIREMENTS

Applications made under requirements

1.—(1) Where an application has been made to the local planning authority for any consent, agreement or approval required by a requirement included in Schedule 2 to this Order, the local planning authority must give notice to the undertaker of its decision on the application within a period of 20 business days beginning with—

- (a) the first business day immediately following that on which the application is received by the local planning authority; or
- (b) such longer period as may be agreed by the undertaker and the local planning authority.

(2) Where an application has been made under sub-paragraph (1) the local planning authority may request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.

(3) If the local planning authority considers further information is necessary the local planning authority must, within 5 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(4) If notification is given under sub-paragraph (3) the undertaker must within 5 business days of receipt of the notification either—

- (a) supply the further information requested; or
- (b) provide an explanation as to why such a request for further information is unreasonable or cannot be provided.

(5) If the local planning authority does not give the notification mentioned in sub-paragraph (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior written agreement of the undertaker.

Appeals

2.—(1) The undertaker may appeal if—

- (a) the local planning authority refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions;
- (b) the local planning authority does not give notice of its decision to the undertaker within the time period specified in paragraph 1;
- (c) having received a request for further information under paragraph 1(3) the undertaker considers that either the whole or part of the specified information requested by the local planning authority is not necessary for consideration of the application; or
- (d) having received any further information requested, the local planning authority notifies the undertaker that the relevant information provided is inadequate and requests additional information which the undertaker considers is not necessary for the consideration of the application.

(2) The procedure for appeals is as follows—

- (a) the undertaker must submit to the Secretary of State a copy of the application submitted to the local planning authority and any supporting documents which the undertaker may wish to provide (“the appeal documents”);
- (b) the undertaker must on the same day provide copies of the appeal documents to the local planning authority and the requirement consultee (if applicable);
- (c) as soon as is reasonably practicable after receiving the appeals documents the Secretary of State (or persons appointed by the Secretary of State for this purpose) must appoint a person to determine the appeal (“the appointed person”) and must forthwith notify the

appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person should be sent;

- (d) the local planning authority and the requirement consultee (if applicable) may submit any written representations in respect of the appeal to the appointed person within 10 business days of the date on which the appeal parties are notified of the appointment of the appointed person and must ensure that copies of their written representations are sent to the undertaker on the day on which they are submitted to the appointed person;
- (e) the appeal parties may make any counter-submissions to the appointed person within 10 business days of receipt of written representations pursuant to sub-paragraph (2)(d) above; and
- (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

(3) If the appointed person considers that further information is necessary to enable them to consider the appeal the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information must be submitted.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. Any written representations concerning matters contained in the further information may be submitted to the appointed person and made available to all appeal parties within 10 business days of that date.

Outcome of appeals

3.—(1) On an appeal under paragraph 3, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the local planning authority (whether the appeal relates to that part or not);

and may deal with the application as if it had been made to the appointed person in the first instance.

(2) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed or set by the appointed person under this paragraph.

(3) The appointed person may proceed to a decision even though no written representations have been made within those time limits if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(4) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review within 6 weeks of the date of the decision.

(5) Any approval given by the appointed person pursuant to this Schedule is deemed to be an approval for the purposes of this Order as if it had been given by the local planning authority.

(6) Except where a direction is given pursuant to sub-paragraph (7) requiring the costs of the appointed person to be paid by the local planning authority, the reasonable costs of the appointed person must be met by the undertaker.

(7) On application by the local planning authority or the undertaker, the appointed person may give directions as to costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is made, the appointed person must have regard to the Planning Practice Guidance published by the Department for Communities and Local Government on 6 March 2014 or any circular or guidance which may from time to time replace it.

Interpretation of Schedule 8

4. In this schedule—

“the appeal parties” means the local planning authority, requirements consultee and the undertaker;

“business day” means Monday to Friday excluding bank holidays; and

“requirement consultee” means any body named in a requirement which is the subject of an appeal as a body to be consulted in discharging that requirement.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises The Cornwall Council (referred to in this Order as the undertaker) to improve the A30 Trunk Road by dualling a section of single carriageway between Temple and Higher Carblake, and carry out all associated works. The Order permits the undertaker to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose. The Order also makes provision in connection with the maintenance of the improved highway.

A copy of the Order plans and book of reference mentioned in this Order and certified in accordance with Article 37 (Certification of Plans etc) may be inspected free of charge during working hours at Cornwall Council, County Hall, Treyew Road, Truro, Cornwall, TR1 3AY.

2015 No. 0000

INFRASTRUCTURE PLANNING

**The Cornwall Council (A30 Temple to Higher Carblake
Improvement) Order 2015**

Made - - - - *5th February 2015*

Coming into force - - *26th February 2015*

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An application has been made to the Secretary of State, under section 37 of the Planning Act 2008(a) (“the 2008 Act”) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009(b) for an order granting development consent.

The application was examined by a single appointed person (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(c).

The single appointed person, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 83 of the 2008 Act, has submitted a report to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the single appointed person, has decided to make an Order granting development consent for the development described in the application with modifications which in the opinion of the Secretary of State do not make any substantial change to the proposals comprised in the application.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120 and 122 of, and paragraphs 1 to 3, 10 to 17, 19, 22, 23, 26, 33, 36 and 37 of Part 1 of Schedule 5 to, the 2008 Act, makes the following Order—

(a) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).

(b) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522 and S.I. 2013/755.

(c) S.I. 2010/103, amended by S.I. 2012/635.

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Cornwall Council (A30 Temple to Higher Carblake Improvement) Order 2015 and comes into force on 26th February 2015.

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(a);

“the 1965 Act” means the Compulsory Purchase Act 1965(b);

“the 1980 Act” means the Highways Act 1980(c);

“the 1990 Act” means the Town and Country Planning Act 1990(d);

“the 1991 Act” means the New Roads and Street Works Act 1991(e);

“the 2008 Act” means the Planning Act 2008;

“authorised development” means the development and associated development described in Schedule 1 (authorised development) and any other development authorised by this Order, which is development within the meaning of section 32 (meaning of development) of the 2008 Act;

“the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in the 1980 Act;

“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“environmental impact assessment” means the assessment of the environmental impact of the authorised development, the findings of which are recorded in the environmental statement and all other environmental information submitted during the examination;

“the environmental statement” means the environmental statement submitted under regulation 5(2)(a) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(f) and certified as such by the Secretary of State for the purposes of this Order;

“footpath” and “footway” have the same meaning as in the 1980 Act;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“the land plan” means the plan certified as the land plan by the Secretary of State for the purposes of this Order;

(a) 1961 c. 33.

(b) 1965 c. 56.

(c) 1980 c. 66.

(d) 1990 c. 8.

(e) 1991 c. 22.

(f) S.I. 2009/2264. Regulation 5 was amended by S.I. 2012/635.

“limits of deviation” means the limits of deviation referred to in article 5 (limits of deviation);

“local planning authority” means the Cornwall Council;

“maintain” includes inspect, repair, adjust, alter, remove or reconstruct and any derivative of “maintain” is to be construed accordingly;

“Order land” means the land shown on the land plan which is land or rights to be acquired or used and described in the book of reference;

“the Order limits” means the limits shown on the works plan within which the authorised development may be carried out;

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(a);

“the sections” means the sections identified in the definition of “approved plans” contained in requirement 1(1) (interpretation) and certified as the sections by the Secretary of State for the purposes of this Order;

“the Special Category Replacement Land plans” means the plans certified as the Special Category Replacement Land plans by the Secretary of State for the purposes of this Order;

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8) (statutory undertakers’ land) of the 2008 Act;

“street” means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“street plan” means the plan certified as the street plan by the Secretary of State for the purposes of this Order;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“undertaker” means the person who has the benefit of this Order in accordance with articles 6 (benefit of Order) and 7 (consent to transfer benefit of Order);

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plan” means the plan identified in the definition of “approved plans” contained in requirement 1(1) and certified as the works plan by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the airspace above its surface.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the street plans as the case may be.

(6) References in this Order to numbered works are references to the works as numbered in Schedule 1 (authorised development).

(a) 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

3. Subject to the provisions of this Order and to the requirements in Schedule 2 (requirements) the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

Maintenance of authorised development

4. The undertaker may at any time maintain the authorised development, except to the extent that this Order, or an agreement made under this Order, provides otherwise.

Limits of deviation

5. In carrying out those works numbered 1 to 5 (inclusive) in Schedule 1 (authorised development) the undertaker may—

- (a) deviate laterally from the lines or situations of the authorised development shown on the works plan to the extent of the limits of deviation shown on that plan; and
- (b) deviate vertically from the levels shown on the sections to any extent not exceeding 1 metre upwards or downwards.

Benefit of Order

6. Subject to article 7 (consent to transfer benefit of Order), the provisions of this Order have effect solely for the benefit of the Cornwall Council.

Consent to transfer benefit of Order

7.—(1) The undertaker may—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) The consent of the Secretary of State is required for a transfer or grant under this article, except where the transfer or grant is made to the Secretary of State.

PART 3

STREETS

Power to alter layout etc. of streets

8.—(1) The undertaker may for the purposes of the authorised development alter the layout of or carry out any works in the streets specified in column (2) of Schedule 3 (streets subject to alteration of layout) in the manner described in relation to that street in column (3).

(2) Regardless of the specific powers conferred by paragraph (1) but subject to paragraph (3) the undertaker may, for the purposes of constructing and maintaining the authorised development, alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and, without limitation on the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, footway, cycle track or verge;
- (c) reduce the width of the carriageway in the street; and
- (d) make and maintain passing places or lay-bys.

(3) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(4) The powers conferred by paragraph (2) are not to be exercised without the consent of the street authority; but such consent must not be unreasonably withheld.

(5) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

(6) Paragraphs (3), (4) and (5) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

Street works

9.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus in the street;
- (d) maintain apparatus in the street or change its position; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c) and (d).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) The provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

(4) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

Construction and maintenance of new or altered streets

10.—(1) Subject to paragraph (2), the streets authorised to be constructed, altered or diverted under this Order are to be public highways and are to be maintained by and at the expense of the highway authority.

(2) Where a street which is not and is not intended to be a public highway is constructed, altered, or diverted under this Order, the street (or part of the street as the case may be), when completed to the reasonable satisfaction of the street authority, unless otherwise agreed, is to be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(3) In any action against the undertaker in respect of damage resulting from its failure to maintain a street to which paragraph (2) applies, section 58 (special defence in action against a highway authority for damages for non-repair of highway)(a) of the 1980 Act applies as if that street were a highway maintainable at the public expense.

Classification of roads

11.—(1) From the date on which the undertaker notifies the Secretary of State that the new dual carriageway referred to in Work No. 1 has been completed and open to through traffic—

- (a) the Secretary of State is to be the highway authority for this road; and
- (b) it is classified as a trunk road for the purposes of any enactment or instrument which refers to highways classified as trunk roads.

(2) From the date on which the undertaker commences the authorised development the section of road denoted D4/1 on the street plan—

- (a) ceases to be part of the A30 trunk road as if it had ceased to be a trunk road by virtue of an order under section 10(2) of the 1980 Act; and
- (b) is classified as part of the U6131 as if such classification had been made under section 12(3) (general provision as to principal and classified roads) of the 1980 Act.

Stopping up of streets

12.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up each of the streets specified in columns (1) and (2) of Parts 1, 2, 3 and 4 of Schedule 5 (streets to be stopped up) to the extent specified, by reference to the letters and numbers shown on the works plan, in column (3) of those Parts of that Schedule.

(2) No street specified in columns (1) and (2) of Parts 1 and 2 of Schedule 5 (being a street or private access to be stopped up for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

- (a) the new street to be substituted for it, which is specified in column (4) of those Parts of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) No street specified in columns (1) and (2) of Parts 3 and 4 of Schedule 5 (being a street or private access to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the street to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) the undertaker is in possession of the land; or
- (b) there is no right of access to the land from the street concerned; or

(a) As amended by section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).

- (c) there is reasonably convenient access to the land otherwise than from the street concerned; or
 - (d) the owners and occupiers of the land have agreed to the stopping up.
- (5) Where a street has been stopped up under this article—
- (a) all rights of way over or along the street so stopped up are extinguished; and
 - (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the street as is bounded on both sides by land owned by the undertaker.
- (6) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.
- (7) This article is subject to article 32 (apparatus and rights of statutory undertakers in stopped-up streets).

Temporary prohibition or restriction of use of streets

- 13.—**(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily alter, divert, prohibit or restrict the use of any street and may for any reasonable time—
- (a) divert the traffic from the street; and
 - (b) subject to paragraph (3), prevent all persons from passing along the street.
- (2) Without limitation on the scope of paragraph (1), the undertaker may use any street where the use has been prohibited or restricted under the powers conferred by this article and within the Order limits as a temporary working site.
- (3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary alteration, diversion, prohibition or restriction of a street under this article if there would otherwise be no such access.
- (4) The undertaker must not temporarily alter, divert, or prohibit or restrict the use of any street, without the consent of the street authority, which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld, except that this paragraph does not apply where the undertaker is the street authority.
- (5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.
- (6) If, within 28 days of receiving an application for consent under paragraph (4), a street authority fails to notify the undertaker of its decision that street authority is deemed to have granted consent.

Access to works

- 14.** The undertaker may, for the purposes of the authorised development—
- (a) form and lay out means of access, or improve existing means of access, in the location specified in columns (1) and (2) of Schedule 6 (access to works); and
 - (b) with the approval of the local planning authority after consultation with the highway authority (where the highway authority is not the undertaker), form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

Agreements with street authorities

- 15.—**(1) A street authority and the undertaker may enter into agreements with respect to—
- (a) the construction of any new street including any structure carrying the street;

- (b) the strengthening, improvement, repair or reconstruction of any street;
 - (c) the maintenance of the structure of any bridge or tunnel carrying a street;
 - (d) any stopping up, alteration or diversion of a street authorised by this Order; or
 - (e) the carrying out in the street of any of the works referred to in article 9(1) (street works).
- (2) Such an agreement may, without limitation on the scope of paragraph (1)—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
 - (b) include an agreement between the undertaker and street authority specifying a reasonable time for the completion of the works; and
 - (c) contain such terms as to payment and otherwise as the parties consider appropriate.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

16.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(a).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

- (4) The undertaker must not make any opening into any public sewer or drain except—
- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
 - (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works under this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2010(b).

- (8) In this article—
- (a) “public sewer or drain” means a sewer or drain which belongs to the Environment Agency, a local authority, or a sewerage undertaker; and
 - (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(a) have the same meaning as in that Act.

(a) 1991 c. 56, section 106 was amended by section 35(1) and (8) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(b) S.I. 2010/675, as amended by S.I. 2011/2043 and S.I. 2013/390; there are other amending instruments but none are relevant.

Protective work to buildings

17.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first opened for use.

(3) Subject to paragraph (5), for the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works under this article to a building the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 38 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first opened for use it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 152(b) (compensation in case where no right to claim in nuisance) of the 2008 Act.

(a) 1991 c. 57.

(b) As amended by S.I. 2009/1307.

(10) Any compensation payable under paragraph (7) or (8) is to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(11) In this article “protective works” in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

Authority to survey and investigate the land

18.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days’ notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required before or after entering the land, produce written evidence of their authority to do so; and
- (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes are to be made under this article—

- (a) in land located within the highway boundary without the consent of the highway authority; or
- (b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

19. Except for land in respect of which the undertaker may acquire compulsorily existing rights or new rights under article 21 (compulsory acquisition of rights) or in respect of which the undertaker may take temporary possession under article 28(1)(a)(i) (temporary use of land for carrying out the authorised development) the undertaker may acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate, or is incidental, to it or is

required as replacement land for the special category land referred to in article 30 (special category land).

Time limit for exercise of authority to acquire land compulsorily

20.—(1) After the end of the period of 5 years beginning on the day on which this Order is made—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act; and
- (b) no declaration is to be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981(a) as applied by article 24 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 28 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights

21.—(1) The undertaker may acquire compulsorily the existing rights and acquire compulsorily the new rights described in the book of reference and shown on the land plans.

(2) As from the date on which a compulsory acquisition notice is served or the date on which any new right is vested in the undertaker, whichever is the later, the land over which any new right is acquired is discharged from all rights, trusts and incidents to which it was previously subject so far as their continuance would be inconsistent with the exercise of that new right.

(3) Subject to section 8 (other provisions as to divided land) of the 1965 Act, (or, where the circumstances set out in paragraphs (1)(a) and (1)(b) of article 26 (acquisition of part of certain properties) apply, subject to the provisions of article 26), where the undertaker acquires an existing right over land under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(4) Any person who suffers loss as a result of the extinguishment or suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Private rights

22.—(1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under this Order are extinguished—

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) (powers of entry) of the 1965 Act,

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right under this Order—

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act ,

whichever is the earlier.

(a) 1981 c. 66. Sections 2 and 116 were amended by Section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). There are other amendments to the 1981 Act which are not relevant to this Order.

(3) Subject to the provisions of this article, all private rights over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(4) Subject to the provisions of this article, all private rights over Order land owned by the undertaker are extinguished on the commencement of any activity authorised by this Order which interferes with or breaches such rights.

(5) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 31 (statutory undertakers) applies.

(7) Paragraphs (1) to (3) have effect subject to—

(a) any notice given by the undertaker before—

(i) the completion of the acquisition of the land;

(ii) the undertaker's appropriation of it;

(iii) the undertaker's entry onto it; or

(iv) the undertaker's taking temporary possession of it,

that any or all of those paragraphs do not apply to any right specified in the notice; and

(b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(8) If any such agreement as is referred to in paragraph (7)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) Reference in this article to private rights over land includes reference to any trusts or incidents to which the land is subject.

Restrictions on user

23.—(1) The carrying out or use of development authorised by this Order and the doing of anything else authorised by this Order is authorised for the purpose specified in section 158(2) (nuisance: statutory authority) of the 2008 Act, regardless of whether it involves a breach of a restriction as to user of land arising by virtue of contract.

(2) The undertaker must pay compensation to any person whose land is injuriously affected by a breach of a restriction as to user of land arising by virtue of contract, if that breach is authorised by virtue of this Order and the operation of section 158 of the 2008 Act.

(3) Subsection (2) of section 10 of the 1965 Act applies to paragraph (2) by virtue of section 152(5) (compensation in case where no right to claim in nuisance) of the 2008 Act.

(4) Any rule or principle applied to the construction of section 10 of the 1965 Act is to be applied to the construction of paragraph (2) (with any necessary modifications).

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

24.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(a) applies as if this Order were a compulsory purchase order.

(a) 1981 c. 66.

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as applied by paragraph (1), has effect with the following modifications.

(3) In section 3 (preliminary notices), for subsection (1) substitute—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order, the acquiring authority must include the particulars specified in subsection (3) in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in a local newspaper circulating in the area in which the land is situated.

(4) In that section, in subsection (2), for “(1)(b)” substitute “(1)” and after “given” insert “and published”.

(5) In that section, for subsections (5) and (6) substitute—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or
- (b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(6) In section 5 (earliest date for execution of declaration)—

- (a) in subsection (1), after “publication” insert “in a local newspaper circulating in the area in which the land is situated”; and
- (b) omit subsection (2).

(7) In section 7 (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(8) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 are construed as references to that Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act to the compulsory acquisition of land under this Order.

Acquisition of subsoil or airspace only

25.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of, or airspace over, the land that may be acquired under article 19 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of, or airspace over, land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent article 26 (acquisition of part of certain properties) from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Acquisition of part of certain properties

26.—(1) This article applies instead of section 8(1) of the 1965 Act (other provisions as divided land) (as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act) where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or manufactory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and
- (b) copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the undertaker a counter-notice objecting to the sale of the land subject to the notice to treat which states that the owner is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner must sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner must sell only the land subject to the notice to treat is, unless the undertaker agrees to take the land subject to the counter-notice, to be referred to the tribunal.

(5) If on such a reference the tribunal determines that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner must sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determines that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat is deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determines that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If the undertaker agrees to take the land subject to the counter-notice, or if the tribunal determines that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
- (b) the material detriment is not confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.

(9) Where, by reason of a determination by the tribunal under this article, a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, in that event, must pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or manufactory or of land consisting of a house with a park or garden, the undertaker must pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.

Rights under or over streets

27.—(1) The undertaker may enter on and appropriate so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for carrying out the authorised development

28.—(1) The undertaker may, in connection with the carrying out of the authorised development

- (a) enter on and take temporary possession of—
 - (i) the land specified in columns (1) and (2) of Schedule 7 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule; and
 - (ii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (expectation of declaration) of the Compulsory Purchase (Vesting Declarations) Act 1981;
- (b) remove any buildings and vegetation from that land; and
- (c) construct temporary works (including the provision of means of access) and buildings on that land.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 7; or
- (b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable

satisfaction of the owners of the land; but the undertaker is not required to replace a building removed under this article.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of any power conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 152 (compensation in cases where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

Temporary use of land for maintaining authorised development

29.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter on and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in cases where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) In this article “the maintenance period”, in relation to any part of the authorised development, means the period of 5 years beginning with the date on which that part of the authorised development is first opened for use.

Special category land

30.—(1) The special category land or the rights to be acquired over special category land (as the case may be) are not to vest in the undertaker until the undertaker has acquired the replacement land and the local planning authority has certified that a scheme for the provision of the replacement land as common land has been implemented to its satisfaction.

(2) On the requirements of paragraph (1) being satisfied, the replacement land is to vest—

- (a) in respect of land numbered 04/04, in Rupert Hanbury-Tenison;
- (b) in respect of land numbered 04/17, in Susan Mindy Grace;
- (c) in respect of land numbered 05/04, in Victor Newman; and
- (d) in respect of land numbered 05/07, in Pencarrow Maintenance Trust,

subject to the same rights, trusts and incidents as attached to the special category land; and the special category land is to be discharged from all rights, trusts and incidents to which it was previously subject.

(3) In this article—

“the special category land” means—

- (a) the land numbered 04/09, 04/12, 04/32, 04/35, 04/40, 04/44, 04/65(part) and 05/02 in the book of reference and shown blue on the Special Category Replacement Land plans and forming part of common land, which may be acquired compulsorily under this Order; and
- (b) those rights numbered 04/75 and 04/76 in the book of reference and on the Special Category Replacement Land plans and forming part of common land, which may be acquired compulsorily under this Order.

and for which replacement land is to be provided; and

“the replacement land” means the land numbered 04/04, 04/17, 05/04 and 05/07 in the book of reference and shown green on the Special Category Replacement Land plans.

Statutory undertakers

31. The undertaker may —

- (a) acquire compulsorily, or acquire new rights over, the land belonging to statutory undertakers shown on the land plan within the limits of the land to be acquired and described in the book of reference; and
- (b) extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers over or within the Order land.

Apparatus and rights of statutory undertakers in stopped-up streets

32.—(1) Where a street is stopped up under article 12 (stopping up of streets), any statutory utility whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 12, any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker must—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(3) Subject to the following provisions of this article, the undertaker must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (3) is to be reduced by the amount of that excess.

(5) For the purposes of paragraph (4)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

(7) Paragraphs (3) to (6) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and
- (b) the allowable costs are to be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this article—

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“relocation works” means work executed, or apparatus provided, under paragraph (2); and

“statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in section 151(1) of the Communications Act 2003(a).

Recovery of costs of new connections

33.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 32 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 32, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which article 33 (apparatus and rights of statutory undertakers in stopped-up streets) or Part 3 of the 1991 Act applies.

(4) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003; and

“public utility undertaker” has the same meaning as in the 1980 Act.

PART 6

MISCELLANEOUS AND GENERAL

Operational land for purposes of the 1990 Act

34. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as operational land for the purposes of that Act) of the 1990 Act.

Felling or lopping of trees

35.—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised development, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must not cause unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(a) 2003 c. 21.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

Defence to proceedings in respect of statutory nuisance

36.—(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990(a) in relation to a nuisance falling within paragraph (g) of section 79(1) (noise emitted from premises so as to be prejudicial to health or a nuisance) of that Act no order is to be made, and no fine may be imposed, under section 82(2)(b) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or section 65 (noise exceeding registered level), of the Control of Pollution Act 1974(c); or
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) of the Control of Pollution Act 1974 and section 65(8) of that Act do not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

Certification of plans etc.

37.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the book of reference;
- (b) the land plan;
- (c) the street plan;
- (d) the works plan;
- (e) the sections;
- (f) the Special Category Replacement Land plans;
- (g) the environmental statement; and
- (h) the environmental mitigation schedule (as defined in Requirement 1 of Schedule 2 (requirements))

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Arbitration

38. Any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement,

(a) 1990 c. 43. There are amendments to subsection 82(1) which are not relevant to this Order.
(b) Subsection 82(2) was amended by section 5(1) and (2) of the Noise and Statutory Nuisance Act 1993 (c. 40); there are other amendments to this subsection but none are relevant to this Order.
(c) 1974 c. 40. Section 61 and 65 were amended by section 162 of, and paragraph 15(1), (3) and (4) of Schedule 15 to, the Environmental Act 1990 (c. 43); there are other amendments to sections 61 and 65 but none are relevant to this Order.

to be appointed on the application of either party (after giving notice in writing to the other) by the President of Institute of Civil Engineers.

Service of notices

39.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post; or
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978^(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(a) 1978 c. 30.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Requirements, appeals etc.

40. Schedule 8 (discharge of requirements) has effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to the requirements set out in Schedule 2 (requirements).

Signed by authority of the Secretary of State for Transport

5th February 2015

Stephen Cave
Head of Rail Projects
Department for Transport

SCHEDULES

SCHEDULE 1

Articles 2 & 3

AUTHORISED DEVELOPMENT

In the County of Cornwall—

A nationally significant infrastructure development as defined in sections 14 and 22(a) of the 2008 Act, comprising:

Work No.1

The improvement of 5.15 kilometres of permanent highway by dualling 4.5 kilometres of the A30 trunk road which is currently single carriageway between Temple and Higher Carblake, to include—

- (a) the widening and realignment of the existing A30 single carriageway plus climbing lane to a two lane dual 2 all purpose carriageway including maintenance lay-bys, hard strips, central reserve and verges;
- (b) the reconfiguration, improvement or adjustment of access to the existing service stations on the eastbound carriageway of the A30 to suit the revised carriageway layout;
- (c) the reconfiguration, improvement or adjustment of the access to Higher Carblake;
- (d) the reconfiguration, diversion or adjustment of existing Public Rights Of Way (numbers FP/508/1, FP/508/14, and FP/508/15) which abut the existing A30 trunk road within the length of the scheme to suit the new layout;
- (e) the construction of a sustainable drainage system (“SuDS”) to accommodate the existing and increased carriageway run-off, to include—
 - (i) traditional rainwater run-off collection (gullies, fin or carrier drains);
 - (ii) construction of 3 attenuation basins controlled by flow control devices, down stream defenders and connections into existing outfalls at three positions in the vicinity of Higher Carblake, Pounds Conce and Temple Tor;
 - (iii) the alteration and improvement of an existing drainage culvert in the vicinity of Pounds Conce and at Temple Tor;
 - (iv) provision of vehicular and pedestrian access to maintain highway drainage features at each of the three locations; and
 - (v) landscaping works;
- (f) diversion and protection of existing public and private utility apparatus, as required to accommodate the proposed works;
- (g) the reconfiguration, improvement, relocation or alteration of private accesses and accesses to common land as required to suit the revised carriageway layout;
- (h) the temporary removal of the grade II listed milestone east of Glenavon (Listing ID 1142395); and
- (i) other drainage works, earth works, pavement works, kerbing and paved areas works, signing and road marking works, hedging works, safety barrier works, fencing works, landscaping works, mitigation works, accommodation works and other works associated with the construction of Work No. 1.

(a) Section 22 was substituted by article 3 of S.I. 2013/1883.

Associated development within the meaning of section 115(2) of the 2008 Act, comprising:

Work No. 2

The construction of a new grade separated junction located at Cardinham Downs to replace the existing at grade crossing, to include—

- (a) the construction of a new overpass bridge structure;
- (b) the construction of associated side roads;
- (c) the reconfiguration (stopping up) of the existing C class (C0109) road from Whitecross to the A30 Trunk Road at its junction with the A30;
- (d) construction of new cattle grids and by-passes;
- (e) the reconfiguration, improvement, relocation or alteration of private accesses and accesses to common land as required to suit the revised carriageway layout;
- (f) diversion and protection of existing public and private utility apparatus, as required to accommodate the proposed works; and
- (g) drainage works, earth works, pavement works, kerbing and paved areas works, signing and road marking works, hedging works, safety barrier works, fencing works, landscaping works, mitigation works, accommodation works and other works associated with the construction of Work No. 2.

Work No.3

The construction of a new grade separated junction located at Preeze Cross to replace the existing at grade crossing, to include—

- (a) the construction of a new overpass bridge structure;
- (b) the reconfiguration of existing or construction of new associated side roads;
- (c) the reconfiguration of the junction for Higher Colvannick;
- (d) the reconfiguration and relocation of the private access for the South West Water reservoir site connecting it onto the new side road network;
- (e) construction of new cattle grids and by-passes;
- (f) the construction of a retaining structure to support the South West Water reservoir in the vicinity of Preeze Cross, facilitating the carriageway widening in this area;
- (g) the reconfiguration, improvement, relocation or alteration of private accesses and accesses to common land as required to suit the revised carriageway layout;
- (h) the reconfiguration, diversion or adjustment of existing Public Rights Of Way (numbers FP/503/16 and FP/508/9) which abut and or cross the existing A30 trunk road within the length of the scheme to suit the new layout;
- (i) diversion and protection of existing public and private utility apparatus, as required to accommodate the proposed works; and
- (j) drainage works, earth works, pavement works, kerbing and paved areas works, signing and road marking works, hedging works, safety barrier works, fencing works, landscaping works, mitigation works, accommodation works and other works associated with the construction of Work No. 3.

Work No. 4

The construction of a new grade separated junction located at Temple Tor to replace the existing at grade crossing, to include—

- (a) the construction of a new overpass bridge structure;
- (b) the realignment and construction of associated side roads;
- (c) construction of new cattle grids;

- (d) the reconfiguration, improvement, relocation or alteration of private accesses and accesses to common land as required to suit the revised carriageway layout;
- (e) diversion and protection of existing public and private utility apparatus, as required to accommodate the proposed works; and
- (f) drainage works, earth works, pavement works, kerbing and paved areas works, signing and road marking works, hedging works, safety barrier works, fencing works, landscaping works, mitigation works, accommodation and other works associated with the construction of Work No. 4.

Work No. 5

The reconfiguration and relocation of private accesses to specific properties to redirect these onto the side road network, including—

- (a) for Lynhurst in the vicinity of Preeze Cross; and
- (b) for Greenbarrow in the vicinity of the Temple Tor junction;
- (c) diversion and protection of existing public and private utility apparatus, as required to accommodate the proposed works; and
- (d) drainage works, earth works, pavement works, kerbing and paved areas works, signing and road marking works, hedging works, safety barrier works, fencing works, landscaping works, mitigation works, accommodation works and other works associated with the construction of Work No. 5.

Work No. 6

The construction of accommodation works associated with the replacement land (as defined in paragraph (3) of article 30 (special category land)) including—

- (a) the removal or relocation of existing fencing or hedges or the construction of new fencing or hedges to separate common land from privately owned land or highway as required by the adjustment of common land boundaries and provision of exchange land;
- (b) the construction of two culverts to a watercourse at the boundary of the replacement land at Hawks Tor to facilitate access to the land by livestock or agricultural vehicles; and
- (c) the construction of a replacement stock corral adjacent to the revised common land boundary between privately owned land and Greenbarrow common;

and in connection with such works further development within the Order limits consisting of—

- (a) ramps, means of access, footpaths and bridleways;
- (b) embankments, abutments, foundations, retaining walls, drainage, wing walls, highway lighting, fencing, hedging and culverts;
- (c) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (d) works to alter the course of, or otherwise interfere with a watercourse other than a navigable watercourse;
- (e) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (f) works for the benefit or protection of land affected by the authorised development;
- (g) works required for the strengthening, improvement, maintenance or reconstruction of any streets; and
- (h) such other works, including contractor's compounds, working sites, storage areas and works of demolition, as may be necessary or expedient for the purpose of or in connection with the construction of the authorised development,

and which fall within the scope of the environmental impact assessment.

SCHEDULE 2 REQUIREMENTS

Article 3

Interpretation

1.—(1) In this Schedule—

“the approved plans” means the plans listed below and such revised or supplementary plans as may be approved under these requirements—

- (a) the works plan (document reference TRXCP311/PA/2.03 version 3 dated 3rd July 2014 comprising drawing numbers TRXCP311_PA_2.03_00 Revision A and TRXCP311_PA_2.03_01 Revision B to TRXCP311_PA_2.03_5 Revision B); and
- (b) the long sections and cross sections (document reference TRXCP311/PA/2.05 version 2 dated 3rd July 2014 comprising drawing numbers TRXCP311_PA_2.05_00 Revision A to TRXCP311_PA_2.05_30 Revision A).

“CEMP” means construction environment management plan;

“environmental mitigation schedule” means the document certified as the environmental mitigation schedule in accordance with article 37(1) (certification of plans etc.);

“environmental statement” means the document certified as the environmental statement in accordance with article 37(1) (certification of plans etc.);

“heavy goods vehicle” means a heavy goods vehicle of more than 7.5 tonnes gross vehicle weight;

“LEMP” means the landscape and ecology management plan; and

“the road” means the improved dual carriageway road referred to in Work No.1.

(2) Where under any of the requirements the approval or agreement of the local planning authority or another person is required—

- (a) the matter which requires approval or agreement must be submitted in writing for such approval or agreement; and
- (b) the approval or agreement must be given in writing.

(3) Where any requirement provides that the authorised project is to be carried out in accordance with details, or a scheme, plan or other document approved or agreed by the local planning authority, the approved or agreed details, scheme, plan or other document are to be taken to include any amendments or revisions subsequently approved or agreed by the local planning authority.

(4) Where any requirement specifies “unless otherwise approved by the local planning authority” such approval is not to be given except in relation to minor or immaterial changes where it has been demonstrated to the satisfaction of the local planning authority that the subject-matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Time limits

2. The authorised development must commence within 5 years of the date on which this Order comes into force.

Commencement

3. Notice of commencement of the authorised development must be given by the undertaker to the local planning authority not later than 7 days after the date on which the authorised development is commenced.

Construction environmental management plan

4.—(1) No authorised development must commence until a CEMP has been submitted to and approved by the local planning authority.

(2) The CEMP must include, as a minimum, the construction related mitigation measures set out in the environmental mitigation schedule and—

- (a) measures to mitigate the effects of control of noise and vibration during construction;
- (b) measures to mitigate the effects of control of dust and air quality during construction;
- (c) measures to mitigate the effects of control of lighting during construction;
- (d) measures to control and manage surface water during construction;
- (e) measures to control and manage site waste management;
- (f) measures to control and manage access by construction traffic;
- (g) traffic management;
- (h) measures to mitigate any interruption of access to businesses, including agricultural holdings;
- (i) measures to control and manage the potential effects of contaminants and pollutants;
- (j) measures to mitigate the effects of construction activities on health and safety;
- (k) measures to exclude fish from watercourses;
- (l) measures to mitigate the construction effects on sensitive ecological receptors;
- (m) measures to mitigate the construction effects on archaeology and cultural heritage;
- (n) landscape and visual mitigation;
- (o) measures for the protection of any European or nationally protected species from activities associated with the authorised development;
- (p) repeat surveys to be undertaken to confirm the presence of any European or nationally protected species;
- (q) measures to mitigate the effects of the activities associated with the authorised development on European or nationally protected species and identified in the surveys required by sub-paragraph (p);
- (r) a programme for implementation of the proposed measures required by sub-paragraphs (o), (p) and (q); and
- (s) details of the restoration of the Bodmin Moor North Site of Special Scientific Interest including details of all proposed landscape works.

(3) The construction of the authorised development must be carried out in accordance with the CEMP.

(4) Where a European or nationally protected species is shown to be present no authorised development is to commence until a scheme of protection and mitigation measures prepared after consultation between the local planning authority and Natural England has been submitted to and approved by the local planning authority and subsequently the authorised development is to be carried out in accordance with the approved scheme.

(5) “European protected species” has the same meaning as in regulations 40 (European protected species of animals) and 44 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2010(a).

(a) S.I. 2010/490

Final surface water drainage

5.—(1) No part of the authorised development is to commence until a scheme for surface water drainage has been submitted to and approved by the local planning authority, in consultation with the Environment Agency.

(2) The scheme must include—

- (a) details of the final drainage scheme;
- (b) a construction quality control procedure;
- (c) provision for surface water overland exceedance flow routes;
- (d) plans for the management of surface water from land surrounding the authorised development;
- (e) plans for the future management and maintenance of the surface water drainage system; and
- (f) details of wetland features in the storage ponds.

(3) The approved scheme must be implemented in its entirety.

Implementation

6.—(1) The authorised development must be carried out within the Order limits and limits of deviation shown on the approved plans.

(2) The authorised development must be carried out in accordance with the illustrative engineering detail shown on the approved plans, unless otherwise approved by the local planning authority.

Landscape and ecology management plan

7.—(1) No part of the authorised development is to commence until a written LEMP has been submitted to and approved by the local planning authority, in consultation with Natural England and the Cornwall AONB Unit.

(2) The LEMP must include, as a minimum, the operational mitigation measures set out in the environmental mitigation schedule and—

- (a) details of the landscape and ecological mitigation, and compensation measures to be undertaken; and
- (b) details of the management and monitoring of landscape and ecological mitigation, and compensation measures to be undertaken.

(3) The approved LEMP must be implemented in its entirety.

Contaminated land

8.—(1) In the event that contaminated materials are found at any time when carrying out the authorised development which were not previously identified in the environmental statement, it must be reported immediately in writing to the local planning authority and the undertaker must complete a risk assessment of the contamination.

(2) Where the local planning authority determines that remediation is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose, must be submitted to and approved by the local planning authority.

(3) Remediation must be carried out in accordance with the approved scheme.

Building and construction materials – highways

9.—(1) No part of the authorised development is to commence until written details of the materials to be used for the surfacing of the new highway have been submitted to and approved by the local planning authority.

(2) The details submitted under sub-paragraph (1) must include provision for the use of low noise road surfacing materials on the highway.

(3) The authorised development must be carried out using the materials approved under sub-paragraph (1).

Building and construction materials – structures

10.—(1) No part of the authorised development is to commence until written details of the building materials to be used for the external facings of all structures, including bridges, retaining walls and culvert sides and headwalls, have been submitted to and approved in writing by the local planning authority.

(2) The authorised development must be carried out using the materials approved under sub-paragraph (1).

Soil

11.—(1) All soil must be removed from any part of the Order land that is to be excavated or traversed by heavy goods vehicles, plant or machinery, or where roads, buildings, plant yards or stores are to be constructed on it; and all such soil must be stored on the site for use in the restoration of the site.

(2) No soil is to be sold or otherwise removed from the Order land unless otherwise approved by the local planning authority.

(3) Any approval given under sub-paragraph (2) does not remove the need to secure any relevant environmental permits under the Environmental Permitting (England and Wales) Regulations 2010(a).

Safeguarding of watercourses and drainage

12.—(1) Provision must be made for the collection, treatment and disposal of all water entering or arising on the Order land during highway construction operations to ensure that there is no discharge of contaminated or polluted drainage to ground or surface waters.

(2) All foul drainage must be discharged to a public sewer or else to a sealed tank, the contents of which must be removed from the Order land in their entirety.

(3) Any chemical, oil or fuel storage container on the Order land must be sited on an impervious surface with bund walls, and the volume of the bunded area must be the equivalent of 110% of the volume of the container and must contain within its curtilage all fill and draw pipes, vents, gauges and sight glasses.

(4) The drainage system of the bund must be sealed with no discharge to any watercourse, land or underground strata.

(5) No part of the authorised development is to commence until a scheme and programme of pollution control measures has been submitted to and approved by the local planning authority, in consultation with the Environment Agency. The scheme must include measures for sediment removal at all drainage outfalls.

(6) The authorised development must be carried out in accordance with the scheme and programme approved under sub-paragraph (5).

Protection of controlled waters

13.—(1) No part of the authorised development is to commence until a scheme for the protection of controlled waters, as defined in section 104 of the Water Resources Act 1991(b) has

(a) S.I. 2010/675

(b) S.I. 1991/57

been submitted to and approved by the local planning authority, in consultation with the Environment Agency.

(2) The approved scheme must be implemented in its entirety.

Archaeology

14.—(1) No part of the authorised development is to commence until a written scheme of archaeological investigation which must include, as a minimum, the archaeological mitigation measures set out in the environmental mitigation schedule has been submitted to and approved by the local planning authority.

(2) The authorised development must be carried out at all times in accordance with the scheme approved under sub-paragraph (1).

(3) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be retained in place and reported to the local planning authority in writing within 3 working days.

(4) No construction operations are to take place within 10 metres of such remains for a period of 14 days from the date of such notification unless otherwise agreed by the local planning authority.

(5) If the local planning authority is of the view that the archaeological remains require further investigation, no construction operations are to take place within 10 metres of the remains until provision has been made for the investigation and recording of the remains in accordance with details first submitted in writing to, and approved by, the local planning authority.

Landscaping and planting scheme

15.—(1) No part of the authorised development is to commence until a detailed landscaping scheme has been submitted in writing to, and approved by, the local planning authority, in consultation with Natural England and Cornwall AONB Unit.

(2) The detailed landscaping scheme must include details of all proposed landscape works including—

- (a) location, number, species, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) proposed finished ground levels;
- (d) pedestrian footpaths, bridleways and circulation areas;
- (e) details of existing trees to be retained, with measures for their protection during construction works; and
- (f) plant establishment, maintenance and management arrangements.

(3) All landscaping works must be carried out in accordance with the detailed landscaping scheme approved under sub-paragraph (1).

(4) Any tree or shrub planted as part of the approved detailed landscaping scheme that, within a period of 5 years after planting, is removed, dies or becomes in the opinion of the local planning authority, seriously damaged or diseased must be replaced in the first available planting season with a specimen of the same species as that originally planted, unless the local planning authority gives consent to any variation.

(5) All hedges and trees forming part of the boundary of the Order land or situated within it (unless shown to be removed in the environmental statement) must be protected from any damage and maintained throughout the authorised development.

(6) If any hedge or tree protected under sub-paragraph (5) is removed, uprooted, destroyed or dies it must be replaced in the first available planting season and afterwards maintained for a period of 5 years.

(7) All areas of the site left undisturbed, and all soil, soil-making material and overburden mounds must be kept free from invasive and noxious weeds throughout the carrying out of the authorised development.

Safeguarding of listed milestone 1142395

16.—(1) No part of the authorised development is to commence until a written scheme for the protection of the grade II listed milestone 1142395 has been submitted to and approved by the local planning authority in consultation with English Heritage.

(2) The authorised development must be carried out at all times in accordance with the scheme approved under sub-paragraph (1).

Post construction monitoring

17.—(1) Before completion of the authorised development a post construction monitoring plan must be submitted to, and agreed by, the local planning authority.

(2) The plan must include monitoring of the effects of the scheme on—

- (a) European and nationally protected species;
- (b) air quality and emissions levels;
- (c) noise levels;
- (d) traffic and economic data; and
- (e) water quality.

(3) Post construction monitoring must be carried out in accordance with the plan approved under sub-paragraph (1).

SCHEDULE 3

Article 8

STREETS SUBJECT TO ALTERATION IN LAYOUT

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street subject to alteration in layout</i> | <i>(3)</i> <i>Description of alteration</i> |
|--|---|--|
| In the County of Cornwall— | | |
| Parish of Blisland District of Lanivet & Blisland. | C0109 to Blisland | Alteration to the level of the carriageway to provide access to a property at the existing western junction of the C0109 to Blisland and the northern side of the A30 Trunk Road from a point 7 metres north east of the junction for a distance of 13 metres north-eastwards along the C0109 and access. |
| Parish of Blisland District of Lanivet & Blisland. | C0109 to Blisland | An increase to the width and alteration to the level of the carriageway to provide a turning head from a point 35 metres north east of the existing western junction of the C0109 to Blisland and the northern side of the A30 Trunk Road north-eastwards along the C0109 for a distance of 22 metres. |
| Parish of Blisland District of Lanivet & Blisland. | C0109 to Blisland | An increase to the width and alteration to the level of the carriageway to provide a turning head from a point 411 metres north east of the existing western junction of the C0109 to Blisland and the northern side of the A30 Trunk Road north-eastwards along the C0109 for a distance of 96 metres to form a new side road junction and provide a new cattle grid. |
| Parish of Cardinham District of Lanivet & Blisland. | U6139 to Cardinham | An increase to the width and alteration to the level of the carriageway from a point 37 metres south of the junction of the existing U6139 and the southern side of A30 Trunk Road southwards for a |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street subject to alteration in layout</i> | <i>(3)</i> <i>Description of alteration</i> |
|--|---|--|
| Parish of Blisland District of Lanivet & Blisland. | C0034 to Tresarrett | distance of 57 metres to form a new side road junction. An increase to the width and alteration to the level of the carriageway from a point 13 metres north of the existing junction of the C0034 to Tresarrett and the northern side of the A30 Trunk Road at Preeze Cross for a distance of 173 metres in a northerly direction to form a new side road junction. |
| Parish of Cardinham District of Lanivet & Blisland | C0110 to Millpool | An increase to the width and alteration to the level of the carriageway from a point 19 metres south of the existing junction of the C0110 to Millpool and the southern side of the A30 Trunk Road at Preeze Cross for a distance of 44 metres in a southerly direction along the C0110 to provide a turning head and a new link to the side road network for local traffic movements. |
| Parishes of Blisland & Cardinham District of Lanivet & Blisland | U6139 | An increase to the width and alteration to the level of the carriageway from a point 48 metres south-west of the existing eastern junction of the U6139 and the southern side of the A30 Trunk Road near Pounds Conce for a distance of 317 metres westwards along the U6139 to provide a new link road and junctions for local traffic movements. |
| Parish of Blisland District of Lanivet & Blisland | U6131 to Waterloo | An increase to the width and alteration to the level of the carriageway from a point 14 metres north of the existing junction of the U6131 and the northern side of the A30 Trunk Road for a distance of 64 metres in a northerly direction along the U6131 to join a new side road for local traffic movements. |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street subject to alteration in layout</i> | <i>(3)</i> <i>Description of alteration</i> |
|--|---|---|
| Parish of Blisland District of Lanivet & Blisland | U6139 to Temple | An increase in width and alteration to the level of the carriageway from a point 290 metres east of the existing junction of the U6131 to Temple and the southern side of the A30 Trunk Road at Temple Fisheries Picnic Site for a distance of 24 metres in an easterly direction to provide a new junction with the new private access to the property known as Greenbarrow. |
| Parish of Blisland District of Lanivet & Blisland | C0300 to Bradford | An increase to the width and alteration to the level of the carriageway from a point 80 metres north west of the existing junction of the C0300 for a distance of 93 metres in a north-westerly direction commencing at the new north-western boundary of A30 Trunk Road at Temple Tor junction to provide embankment and approach road to a new bridge across the A30. |
| Parish of Blisland District of Lanivet & Blisland | U6139 to Temple | An increase to the width and alteration to the level of the carriageway from a point 80 metres south east of the existing junction of the U6139 for a distance of 247 metres in a south-easterly direction commencing at the southern boundary of A30 Trunk Road at Temple Tor junction, to provide an embankment and approach road to a new bridge across the A30. |

SCHEDULE 4

Article 9

STREETS SUBJECT TO STREET WORKS

| <i>(1)</i> <i>Location</i> | <i>(2)</i> <i>Street subject to street works</i> |
|---|---|
| In the County of Cornwall— | |
| Parishes of Blisland and Cardinham District of Lanivet and Blisland. | A30 Trunk Road C0109 to Blisland U6139 to Cardinham Public Footpath 508/1 C0034 to Tresarrett C0110 to Millpool U6139 South West of Pounds Conce Public Footpath 508/9 Public Footpath 503/16 Public Footpath 508/14 U6131 to Waterloo Public Footpath 508/15 U6139 to Temple U6131 West of Temple Tor Junction C0300 to Bradford |

SCHEDULE 5

Article 12

STREETS TO BE STOPPED UP

PART 1

STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
|---|--|---|---|
| In the County of Cornwall— | | | |
| Parish of Cardinham District of Lanivet & Blisland. | C0109 to Blisland (Reference S1/1 – Street Plan Sheet No. 1) | From the northern carriageway edge of the A30 Trunk Road at its junction with the existing western junction of the C0109 to Blisland for a distance of 7 metres in a north-easterly direction. | Reference A1 (Street Plan Sheet No.1) |
| Parish of Cardinham District of Lanivet & Blisland. | C0109 to Blisland (Reference S1/2 – Street – Street Plan Sheet No. 1) | From the northern carriageway edge of the A30 Trunk Road, at its junction with the eastern junction of the C0109 to Blisland, in a north-westerly direction for a distance of 11 metres. | Reference A1 (Street Plan Sheet No.1) |
| Parish of Blisland District of Lanivet & Blisland. | C0300 to Bradford (Reference S8/1 – Street Plan Sheet No. 8) | From a point on the northern carriageway edge of the A30 Trunk Road, at existing Temple Tor crossroads junction, for a distance of approximately 79 metres in a north- westerly direction. | Reference A8, B8 & C8. (Street Plan Sheet Nos.8) |
| Parish of Blisland District of Lanivet & Blisland. | U6139 to Temple (Reference S8/2 – Street Plan Sheet No.8) | From a point on the southern carriageway edge of the A30 Trunk Road, at existing Temple Tor crossroads junction, for a distance of approximately 77 | Reference A8, B8 & C8. (Street Plan Sheet Nos.8) |

metres in a south-easterly direction.

PART 2

PRIVATE ACCESSES FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Private Access to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>Private Access to be substituted</i> |
|---|--|---|---|
| In the County of Cornwall— | | | |
| Parish of Cardinham District of Lanivet and Blisland. | Access X2/2 (Street Plan Sheet No.2) | Field access 55 metres east of the eastern access to Darcroft Garage for a distance of 3 metres from the boundary southwards and over the width of the access. | Reference P2/1 (Street Plan Sheet No. 2) |
| Parish of Cardinham District of Lanivet and Blisland. | Access X3/1 (Street Plan Sheet No.3) | Field access 32 metres west of the junction with the C0110 to Millpool from the southern boundary of the A30 Trunk Road southwards for a distance of 3 metres over the width of the access. | Reference P3/3 (Street Plan Sheet No.3) |
| Parish of Blisland District of Lanivet and Blisland. | Access X3/2 (Street Plan Sheet No.3) | Access to the property known as Lyndhurst from the northern boundary of the A30 Trunk Road to a point 3 metres northwards over the width of the access. | Reference P3/5 (Street Plan Sheet No.3) |
| Parish of Cardinham District of Lanivet and Blisland. | Access X3/3 (Street Plan Sheet No.3) | Access track to reservoir and adjacent field, 224 metres east of the existing junction of the C0110 to Millpool, from the southern boundary of the A30 Trunk Road to a point 23 metres south-eastwards over the width of the access. | Reference P3/9 (Street Plan Sheet No.3) |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Private Access to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>Private Access to be substituted</i> |
|---|--|--|--|
| Parish of Cardinham District of Lanivet and Blisland. | Access X3/4 (Street Plan Sheet No.3) | Field access, on the south side of the A30 Trunk Road, from reservoir access track X3/4, to a point 3 metres southwards over the width of the access. | Reference P3/4 (Street Plan Sheet No.3) |
| Parish of Blisland District of Lanivet and Blisland. | Access X3/5 (Street Plan Sheet No.3) | Field access, 85 metres to the east of property known as Lyndhurst, from the northern boundary of the A30 Trunk Road to a point 12 metres northwards over the width of the access. | Reference P3/7 and P3/8 (Street Plan Sheet No.3) |
| Parish of Cardinham District of Lanivet and Blisland. | Access X3/6 (Street Plan Sheet No.3) | Access to two adjacent fields south of the existing western junction of the U6139 and the A30 Trunk Road, from the southern boundary of the U6139 to a point 9m southwards over the width of the access. | Reference P3/10 and P3/11 (Street Plan Sheet No.3) |
| Parish of Cardinham District of Lanivet and Blisland. | Access X4/1 (Street Plan Sheet No.4) | Field access 165 metres east of the existing eastern junction of the U6139 from the southern boundary of the A30 Trunk Road to a point 6 metres southwards over the width of the access. | Reference P4/6, P4/7, P4/8 and P4/9 (Street Plan Sheet No.4) |
| Parish of Cardinham District of Lanivet and Blisland. | Access X4/2 (Street Plan Sheet No.4) | Field access 208 metres east of the existing eastern junction of the U6139 from the existing southern carriageway edge of the A30 Trunk Road to a point 30 metres southwards over the width of the access. | Reference P4/6, P4/7 and P4/11 (Street Plan Sheet No.4) |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Private Access to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>Private Access to be substituted</i> |
|---|---|---|--|
| Parish of Cardinham District of Lanivet and Blisland. | Access X4/3 (Street Plan Sheet No.4) | Field access 303 metres east of the existing eastern junction of the U6139 from the from the existing southern carriageway edge of the A30 Trunk Road to a point 24 metres southwards over the width of the access. | Reference P4/6, P4/7 and P4/11 (Street Plan Sheet No.4) |
| Parish of Blisland District of Lanivet and Blisland. | Access X5/1 (Street Plan Sheet No.5) | Field access 211 metres east of the junction of the U6131 to Waterloo and the A30 Trunk Road for a distance of 3 metres from the boundary north-westwards and over the width of the access. | Reference P4/13 (Street Plan Sheet No.4) |
| Parish of Blisland District of Lanivet and Blisland. | Access X5/2 (Street Plan Sheet No.5) | Field access 242 metres east of the junction of the U6131 to Waterloo and the A30 Trunk Road for a distance of 3 metres from the boundary north-westwards and over the width of the access. | Reference P4/13 (Street Plan Sheet No.4) |
| Parish of Blisland District of Lanivet and Blisland. | Access X5/3 (Street Plan Sheet No.5) | Field access 367 metres east of the junction of the U6131 to Waterloo and the A30 Trunk Road for a distance of 3 metres from the boundary north-westwards and over the width of the access. | Reference P4/13 (Street Plan Sheet No.4) |
| Parishes of Cardinham District of Lanivet & Blisland. | Public Footpath 508/15 (Reference S6/1 – Street Plan Sheet No. 6) | From a point in the southern carriageway edge of the A30 Trunk Road 385 metres west of the junction to Temple Fisheries Picnic Site south- westwards for a distance of | Reference P6/3 (Street Plan Sheet No. 6) |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Private Access to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>Private Access to be substituted</i> |
|--|--|--|---|
| | | approximately 21 metres along Footpath 508/15. | |
| Parish of Cardinham District of Lanivet and Blisland | Access X6/1 (Street Plan Sheet No.6) | Access 375 metres west of the existing junction to Temple Fisheries Picnic Site, from the southern boundary of the A30 Trunk Road to a point 15 metres south-eastwards over the width of the access. | Reference P 6/1 (Street Plan Sheet No.6) |
| Parish of Cardinham District of Lanivet and Blisland | Access X6/2 (Street Plan Sheet No.6) | Access 395 metres west of the existing junction to Temple Fisheries Picnic Site, from the northern boundary of the A30 Trunk Road to a point 3 metres northwards over the width of the access. | Reference P6/2 (Street Plan Sheet No. 6) |
| Parish of Blisland District of Lanivet and Blisland. | Access X7/1 (Street Plan Sheet No.7) | Access to the property known as Greenbarrow from the southern boundary of the A30 Trunk Road to a point 3 metres south-eastwards over the width of the access. | Reference P 7/1 (Street Plan Sheet No.7) |
| Parish of Cardinham District of Lanivet and Blisland | Access X8/1 (Street Plan Sheet No. 8) | Access 242 metres west of existing Temple Tor Junction from the southern boundary of the A30 Trunk Road to a point 7 metres south east over the width of the access. | Reference P8/2 (Street Plan Sheet No. 8) |

PART 3

STREETS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> |
|--|---|--|
| In the County of Cornwall— | | |
| Parishes of Cardinham District of Lanivet & Blisland. | Public Footpath 508/1 (Reference S2/1 – Street Plan Sheet No. 2) | From the southern boundary of the A30 Trunk Road 85 metres to the west of the western access to Darcroft Garage in a southerly direction for a distance of 22 metres. |
| Parishes of Blisland & Cardinham District of Lanivet & Blisland. | Part of the junction of the C0034 to Tresarrett and the northern edge of A30 Trunk Road (Reference S3/1 – Street Plan Sheet No. 3) | On the eastern side of the existing junction of the C0034 to Tresarrett, to the south of the property known as Four Winds at Preeze Cross, from a point 13 metres north of the existing northern carriageway edge of A30 Trunk Road southwards from the C0034 and then eastwards along the A30 for a total distance of 43 metres. |
| Parish of Blisland District of Lanivet & Blisland. | Public Footpath 503/16 (Reference S3/2 – Street Plan Sheet No. 3) | From the northern boundary of the A30 Trunk Road, approximately 375 metres east of the property known as Lyndhurst, in a southerly direction for a distance of 90 metres. |
| Parishes of Cardinham District of Lanivet & Blisland. | Public Footpath 508/14 (Reference S4/1 – Street Plan Sheet No. 4) | From a point in the southern carriageway edge of the A30 Trunk Road 224 metres to the south west of the junction of the U6131 to Waterloo on the northern side of the A30 for a distance of 23 metres in a south westerly direction. |
| Parish of Blisland District of Lanivet & Blisland. | Part of A30 Trunk Road (Reference S6/2 – Street Plan Sheet No. 6) | From a point on the southern boundary of the A30 Trunk Road 84 metres north east of the junction to the Temple Fisheries Picnic Site along the southern boundary of the A30 Trunk Road for a distance of 71 metres. |

| | | |
|---|--|--|
| Parish of Blisland District of Lanivet & Blisland. | Unclassified road U6131 (Reference S8/3 – Street Plan Sheet No. 8) | From a point on the northern boundary of the A30 Trunk Road, approximately 195 metres west of the junction with the C0300, in a north- westerly direction along the cul-de-sac section of unclassified road U6131 for a distance of 32 metres. |
|---|--|--|

PART 4

PRIVATE ACCESS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Private Accesses to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> |
|---|--|---|
| In the County of Cornwall— | | |
| Parish of Blisland District of Lanivet & Blisland | Access X1/2 (Street Plan Sheet No. 2) | On the northern boundary of the A30 Trunk Road, 33 metres west of the western access to Penlan Garage, for a distance of 3 metres from the boundary north-westwards and over the width of the access. |
| Parish of Cardinham District of Lanivet & Blisland | Access X2/1 (Street Plan Sheet No. 2) | Access track leading to Higher Carblake (co-existent with public footpath 508/1) from the southern boundary of the A30 Trunk Road southwards for a distance of 31 metres over the width of the track. |
| Parish of Blisland District of Lanivet & Blisland | Access X7/2 | On the northern boundary of the A30 Trunk Road, approximately 47 metres east of existing access to Greenbarrow onto the A30 Trunk Road, for a distance of 3 metres from the boundary northwards and over the width of the access. |

SCHEDULE 6

Article 14

ACCESS TO AND FROM WORKS

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Description of Access</i> |
|---|---|
| In the County of Cornwall— | |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P1/1 (Street Plan Sheet No.1) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P1/2 (Street Plan Sheet No.1) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P1/3 (Street Plan Sheet No.1) |
| Parish of Blisland District of Lanivet and Blisland. | New private means of access. Reference P3/1 (Street Plan Sheet No.3) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P3/2 (Street Plan Sheet No.3) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P3/6 (Street Plan Sheet No.3) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P3/12 (Street Plan Sheet No.3) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P3/13 (Street Plan Sheet No.3) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P3/14 (Street Plan Sheet No.3) |
| Parishes of Blisland & Cardinham District of Lanivet and Blisland. | New private means of access. Reference P3/15 (Street Plan Sheet No.3) |
| Parishes of Blisland District of Lanivet and Blisland. | New private means of access. Reference P4/1 (Street Plan Sheet No.4) |

| | |
|---|---|
| Parishes of Blisland District of Lanivet and Blisland. | New private means of access. Reference P4/2 (Street Plan Sheet No.4) |
| Parishes of Blisland District of Lanivet and Blisland. | New private means of access. Reference P4/3 (Street Plan Sheet No.4) |
| Parishes of Blisland District of Lanivet and Blisland. | New private means of access. Reference P4/4 (Street Plan Sheet No.4) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P4/5 (Street Plan Sheet No.4) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P4/10 (Street Plan Sheet No.4) |
| Parish of Cardinham District of Lanivet and Blisland. | New private means of access. Reference P4/12 (Street Plan Sheet No.4) |
| Parish of Blisland District of Lanivet and Blisland. | New private means of access. Reference P7/2 (Street Plan Sheet No.7) |
| Parish of Blisland District of Lanivet and Blisland. | New private means of access. Reference P7/3 (Street Plan Sheet No.7) |
| Parish of Blisland District of Lanivet and Blisland. | New private means of access. Reference P7/4 (Street Plan Sheet No.7) |
| Parish of Blisland District of Lanivet and Blisland. | New private means of access. Reference P8/1 (Street Plan Sheet No.8) |

SCHEDULE 7

Article 28

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Number of land shown on land plans</i> | <i>(3)</i> <i>Purposes for which temporary possession may be taken</i> | <i>(4)</i> <i>Relevant part of the authorised development</i> |
|---------------------------|---|--|--|
| In the County of Cornwall | 01/03, 01/14, 01/15, 01/16, 01/19, 01/20, 01/23, 01/24, 02/01, 02/04, 02/05, 02/11, 02/47, 02/48, 02/51, 02/53, 02/54, 03/04, 03/05, 03/13, 03/14, 04/03, 04/25, 04/26, 04/27, 04/45, 04/73, 05/01 | Temporary working space | Work No. 1 |
| | 02/07, 04/18 | Construction access, material and equipment storage and temporary working space | Work No. 1 |
| | 01/07, 01/09, 01/10, 01/13 | Works/site compound including storage of equipment, materials and soils, grass cultivation areas and temporary working space | Work No. 1 and 2 |
| | 02/34, 02/38 | Works/site compound including storage of equipment, materials and soils, grass cultivation areas and temporary working space | Work No. 1 and 3 |
| | 02/44, 03/01 | Construction access, material and equipment storage and temporary working space | Work No. 1 and 3 |
| | 02/16, 03/09 | Temporary working space | Work No. 1 and 3 |
| | 04/33 | Works/site compound including storage of equipment, materials and soils, grass | Work No. 1 and 4 |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Number of land shown on land plans</i> | <i>(3)</i> <i>Purposes for which temporary possession may be taken</i> | <i>(4)</i> <i>Relevant part of the authorised development</i> |
|---------------------------|--|--|--|
| | | cultivation areas and temporary working space | |
| | 04/39, 04/41, 04/53, 04/68 | Temporary working space | Work No. 1 and 4 |
| | 02/27 | Temporary working space | Work No. 1 and 5 |
| | 02/24, 02/28, 02/33, 02/37 | Works/site compound including storage of equipment, materials and soils, grass cultivation areas and temporary working space | Work No. 1, 3 and 5 |
| | 02/17, 02/18, 02/19, 02/21, 02/23, 02/25, 02/32, 02/36, 02/40, 02/42, 02/43, 03/07 | Temporary working space | Work No. 3 |
| | 04/28 | Works/site compound including storage of equipment, materials and soils, grass cultivation areas, temporary working space and environmental mitigation areas | Work No. 4 |
| | 04/23, 04/30, 04/36, 04/38, 04/46, 04/47, 04/52, 04/54, 04/55, 04/56, 04/58, 04/60, 04/61, 04/62, 04/63, 04/64, 04/67, | Temporary working space | Work No. 4 |
| | 04/08, 04/10, 04/11, 04/13, 04/14, 04/15 | Temporary working space | Work No. 5 |
| | 04/05 | Temporary working space | Work No. 6 |

DISCHARGE OF REQUIREMENTS

Applications made under requirements

1.—(1) Where an application has been made to the local planning authority for any consent, agreement or approval required by a requirement included in Schedule 2 (requirements), the local planning authority must give notice to the undertaker of its decision on the application within a period of 20 business days beginning with—

- (a) the first business day immediately following that on which the application is received by the local planning authority; or
- (b) such longer period as may be agreed by the undertaker and the local planning authority.

(2) Where an application has been made under sub-paragraph (1) the local planning authority may request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.

(3) If the local planning authority considers that further information is necessary the local planning authority must, within 5 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(4) If notification is given under sub-paragraph (3) the undertaker must within 5 business days of receipt of the notification either—

- (a) supply the further information requested; or
- (b) provide an explanation as to why such a request for further information is unreasonable or cannot be provided.

(5) If the local planning authority does not give the notification mentioned in sub-paragraph (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior written agreement of the undertaker.

Appeals

2.—(1) The undertaker may appeal if—

- (a) the local planning authority refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions;
- (b) the local planning authority does not give notice of its decision to the undertaker within the time period specified in paragraph 1;
- (c) having received a request for further information under paragraph 1(3) the undertaker considers that either the whole or part of the specified information requested by the local planning authority is not necessary for consideration of the application; or
- (d) having received any further information requested, the local planning authority notifies the undertaker that the relevant information provided is inadequate and requests additional information which the undertaker considers is not necessary for the consideration of the application.

(2) The procedure for appeals is as follows—

- (a) the undertaker must submit to the Secretary of State a copy of the application submitted to the local planning authority and any supporting documents which the undertaker may wish to provide (“the appeal documents”);
- (b) the undertaker must on the same day provide copies of the appeal documents to the local planning authority and the requirement consultee (if applicable);
- (c) as soon as is reasonably practicable after receiving the appeal documents the Secretary of State (or persons appointed by the Secretary of State for this purpose) must appoint a person to determine the appeal (“the appointed person”) and must forthwith notify the

appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person should be sent;

- (d) the local planning authority and the requirement consultee (if applicable) may submit any written representations in respect of the appeal to the appointed person within 10 business days of the date on which the appeal parties are notified of the appointment of the appointed person and must ensure that copies of their written representations are sent to the undertaker on the day on which they are submitted to the appointed person;
- (e) the appeal parties may make any counter-submissions to the appointed person within 10 business days of receipt of written representations under sub-paragraph (2)(d); and
- (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

(3) If the appointed person considers that further information is necessary to enable them to consider the appeal the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information must be submitted.

(4) Any further information required under sub-paragraph (3) must be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. Any written representations concerning matters contained in the further information may be submitted to the appointed person and made available to all appeal parties within 10 business days of that date.

Outcome of appeals

3.—(1) On an appeal under paragraph 2, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the local planning authority (whether the appeal relates to that part or not);

and may deal with the application as if it had been made to the appointed person in the first instance.

(2) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed or set by the appointed person under this paragraph.

(3) The appointed person may proceed to a decision even though no written representations have been made within those time limits if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(4) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review within 6 weeks beginning with the date of the decision.

(5) Any approval given by the appointed person under this Schedule is deemed to be an approval for the purposes of this Order as if it had been given by the local planning authority.

(6) Except where a direction is given under sub-paragraph (7) requiring the costs of the appointed person to be paid by the local planning authority, the reasonable costs of the appointed person must be met by the undertaker.

(7) On application by the local planning authority or the undertaker, the appointed person may give directions as to costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is made, the appointed person must have regard to the Planning Practice Guidance published by the Department for Communities and Local Government on 6th March 2014 or any circular or guidance which may from time to time replace it.

Interpretation of Schedule 8

4. In this schedule—

“the appeal parties” means the local planning authority, requirements consultee and the undertaker;

“business day” means Monday to Friday excluding bank holidays; and

“requirement consultee” means any body named in a requirement which is the subject of an appeal as a body to be consulted in discharging that requirement.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises the Cornwall Council (referred to in this Order as the undertaker) to improve the A30 Trunk Road by dualling a section of single carriageway between Temple and Higher Carblake, and carry out all associated works. The Order permits the undertaker to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose. The Order also makes provision in connection with the maintenance of the improved highway.

A copy of the Order plans and book of reference mentioned in this Order and certified in accordance with Article 37 (certification of plans etc.) may be inspected free of charge during working hours at Cornwall Council, County Hall, Treyew Road, Truro, Cornwall, TR1 3AY.