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Date: 30 March 2022

Dear Mr Dickinson

HIGHWAYS ACT 1980
ACQUISITION OF LAND ACT 1981
ROAD TRAFFIC REGULATION ACT 1984*

THE BUCKINGHAMSHIRE COUNCIL (A4010 SOUTH EAST AYLESBURY LINK ROAD) (CLASSIFIED ROAD) (SIDE ROADS) ORDER 2020

THE BUCKINGHAMSHIRE COUNCIL (A4010 SOUTH EAST AYLESBURY LINK ROAD) COMPULSORY PURCHASE ORDER 2020

SECRETARY OF STATE'S DECISION – SRO AND CPO TO BE CONFIRMED WITH MODIFICATIONS

1. I refer to your Council's application for confirmation of the above-named Orders. The Secretary of State for Transport ("the Secretary of State") has decided to confirm the Side Roads Order (SRO) and Compulsory Purchase Order (CPO) with modifications and this letter constitutes his decision to that effect. A separate decision letter regarding the related Section 19 Certificate will be issued by the Secretary of State for Levelling Up, Housing and Communities.

2. The SRO and CPO will, respectively, authorise:

(i) The Council to improve highways, stop up highways, construct new highways, stop up private means of access to premises and provide new means of access to

premises all on or in the vicinity of the route to the classified road known as the A4010 South East Aylesbury Link Road which the Council is proposing to construct between a point north-west of the junction of Silver Birch Way and the existing Wendover Road (A413) for a distance of 1200 metres in a south-westerly direction to form a junction with Lower Road (B4443) in the Parishes of Stoke Mandeville and Weston Turville in the County of Buckinghamshire.

(ii) The Council to purchase compulsorily the land and new rights over land for the purposes of: (a) the construction of a new highway between a point north-west of the junction of Sycamore Grove and the existing Wendover Road (A413) (b) the construction of roundabout junctions to connect the new highway with Wendover Road (A413), Southern Link Road, Lower Road (B4443) and Stoke Mandeville Relief Road, (c) the construction of other highways and improvement of existing highway in the vicinity of the route of the above mentioned highway in pursuance of the above mentioned SRO, (d) the provision of new means of access to premises in pursuance of the above mentioned SRO (e) the diversion of watercourses and the carrying out of other works on watercourses in connection with the construction and improvement of highways and the provision of new means of access to premises as aforesaid, (f) the use by the acquiring authority in connection with the construction and improvement of highways and the provision of new means of access to premises as aforesaid, (g) the carrying out of drainage works in connection with the construction of the highways, (h) mitigating the adverse effect which the existence or use of the highways proposed to be constructed or improved will have on the surroundings thereof; and (i) giving in exchange for land forming part of open space other land.

MODIFICATIONS

3. The Secretary of State will make the modifications to the SRO as agreed in the Inspector's report at paragraph 196 and to the CPO at 197 and as detailed in the annex to this letter. The annex also includes additional minor, technical modifications to the SRO and the CPO, which have been agreed to by the Council.

CONSIDERATIONS FOR DECISION

4. The application was referred to the Secretary of State for a decision, together with the Section 19 application made to the Secretary of State for Levelling Up, Housing and Communities. Statutory and non-statutory objections remained outstanding to the Orders and to the Section 19 application. It was decided that concurrent Public Local Inquiries should be held for the purposes of hearing those objections. The Inquiries were held on 02 - 11 November 2021 at The Gateway Conference Center Aylesbury, Gatehouse Road, Aylesbury HP19 8FF before Inspector David Wildsmith BSc (Hons) MSc CEng MICE FCIHT MRTPI. A pre-Inquiry meeting, via the Teams platform, was held on 24 August 2021 by Inspector Wildsmith to arrange the timetable for proceedings at the Public Inquiries.

5. The Inspector considered all representations about the Orders during the Inquiries and has since submitted a report to the Secretary of State, a copy of which is enclosed with this letter. The Secretary of State has given careful consideration to the Inspector's report and also to a number of relevant issues, as set out in *Guidance on Compulsory purchase process and The Criche Down Rules* and *The Highways Act 1980*, in reaching his decision on the Orders.

In relation to the SRO, namely that:

- i. where a highway is to be stopped up another reasonably convenient route is available or will be provided before the highway is stopped up;
- ii. where a private means of access to premises is to be stopped up either no access to the premises is reasonably required or another reasonably convenient means of access to the premises is available or will be provided; and
- iii. provision will be made for the preservation of any rights of statutory undertakers in respect of their apparatus.

In relation to the CPO, namely that:

- i. there should be a compelling case in the public interest to acquire all the land and that this should sufficiently justify interfering with the human rights of those with an interest in the land affected;
- ii. the acquiring authority should have a clear idea of how it intends to use the land that it wishes to acquire;
- iii. sufficient resources should be available to complete the compulsory acquisition within the statutory period following confirmation of the Order, and to implement the scheme; and
- iv. there should be a reasonable prospect of the scheme going ahead and it should be unlikely to be blocked by any impediment to implementation.

CONCLUSION

6. The Secretary of State has considered carefully all the objections to, and representations about, the Orders.

7. The Secretary of State agrees with the Inspector's conclusions at paragraphs 322 to 324 that, given the statutory tests and considerations which are relevant to these Orders, as set out at paragraph 5 above, that the Orders can be determined.

8. The Secretary of State notes that provision is being made for statutory undertakers' apparatus and no objections were made from these organisations (paragraph 324). The Secretary of State agrees with the Inspectors conclusions at paragraph 327 that where a highway or a private means of access to premises is to be stopped up, that the modified SRO would provide a reasonably alternative route or another reasonably convenient means of access is provided.

9. The Secretary of State has carefully considered whether the purposes for which the CPO is required sufficiently justify interfering with the human rights of those with an interest in the CPO and is satisfied that they do. In particular, consideration has been given to the provisions of Article 1 of The First Protocol to the European Convention on Human Rights. In this respect, the Secretary of State agrees with the Inspector's conclusions at paragraph 331 and is satisfied that in confirming the CPO a fair balance has been struck between the public interest and interests of the objectors, owners and lessees.

10. The Secretary of State agrees with the Inspectors conclusions at paragraph 332 that the Council has a clear idea of how the land to be acquired would be used and is content that there is a reasonable expectation that the necessary resources will be available to carry out the proposals (paragraph 323). The Secretary of State is satisfied that there are no impediments to the scheme going ahead.

11. The Secretary of State agrees with the Inspector that the modifications are not controversial and should be made to the SRO and CPO (paragraph 196 in respect of the SRO and paragraph 197 in respect of the CPO).

12. Having considered all aspects of the matter the Secretary of State is satisfied that there are no compelling reasons brought forward which would justify not confirming the SRO and CPO. Accordingly, the Secretary of State agrees with the Inspector's recommendations and has decided to confirm 'The Buckinghamshire Council (A4010 South East Aylesbury Link Road) (Classified Road) (Side Roads) Order 2020' and 'The Buckinghamshire Council (A4010 South East Aylesbury Link Road) Compulsory Purchase Order 2020' as modified by him in accordance with paragraph 3 above.

13. In confirming the SRO and CPO the Secretary of State has relied on the information that the Council and others have provided, as contained in the Orders and any related plans, diagrams, statements or correspondence, as being factually correct. Confirmation is given on this basis.

POST INQUIRIES CORRESPONDENCE

14. Following the close of the Inquiries, correspondence was received from Gateley Hamer on behalf of their client Landmatch Limited. They raised concerns regarding the revised CPO plan dated 05 November 2021, which was submitted by the Council as part of the Public Inquiry, specifically relating to plot 7a as the land being compulsory purchased appeared to be greater than is shown on the original CPO plan. The Council have submitted a revised plan dated 15 December 2021 to address these concerns and this was sent to

Gateley Hamer on behalf of their client Landmatch Limited. The plan dated 15 December 2021 is incorporated as part of the confirmed Order.

15. Correspondence was also received from a group of residents Mr M Gibbons, Ms S Maple, Ms B Smith and Mr S Brookes. The letter relates primarily to the section 19 application and so those matters will be considered separately by the Department for Levelling Up, Housing & Communities as part of their decision. Furthermore, the Secretary of State is satisfied that the points raised in relation to land protected by covenant and the choice of route have been addressed by the Inspector and he agrees with his conclusions on those matters.

COMPENSATION

16. Details of compensation arising as a consequence of confirmation of a CPO are a matter for negotiation with the acquiring authority and not the Secretary of State. Accordingly, qualifying persons in relation to the land included in the CPO will need to be approached by the Council about the amount of compensation payable to them in respect of their interests in the land. If the amount cannot be agreed the matter may be referred for determination by the Upper Tribunal (Lands Chamber) under the Lands Tribunal Act 1949 and the Land Compensation Act 1961 and 1973, as amended by the Planning and Compulsory Purchase Act 2004.

AVAILABILITY OF DOCUMENTS

17. A copy of this letter and accompanying annex, together with a copy of the Inspector's report, have been sent to those parties who appeared at the Inquiries, other interested parties and relevant Members of Parliament. Copies will be made available on request to any other persons directly concerned.

18. Please arrange for a copy of the Inspector's report and of this letter, including its annex, to be made available for inspection at <https://www.buckinghamshire.gov.uk/sealr> or copies can be provided by request to hitmailbox@buckinghamshire.gov.uk. Any person entitled to a copy of the Inspector's report may apply to the Secretary of State for Transport, at this address within 6 weeks of the receipt of this letter, to inspect any document, photograph or plan submitted by the Inspector with the Inspector's report.

RIGHT OF CHALLENGE

19. Notice is to be published of confirmation of the Orders. Any person who wishes to question the validity of the confirmed Orders, or any particular provision contained therein, on the grounds that the Secretary of State has exceeded his powers or has not complied with the relevant statutory requirements in making/confirming them may, under the provisions of Schedule 2 to the Highways Act 1980 and section 23 of the Acquisition of Land Act 1981, do so by application to the High Court. Such an application must be made within six weeks of publication of the notice that the Orders have been confirmed. The

High Court cannot entertain an application under Schedule 2 or section 23 before publication of the notice that the Secretary of State has confirmed the Orders.

Yours sincerely

A very faint, handwritten signature, likely of Dave Candlish, is visible in the space between the closing and the typed name. The signature is light and difficult to discern against the white background.

DAVE CANDLISH

Authorised by the Secretary of State for Transport
to sign in that behalf

Report to the Secretaries of State for Transport, and for Levelling Up, Housing and Communities

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI
an Inspector appointed by the Secretaries of State

Date: 5 January 2022

HIGHWAYS ACT 1980

ACQUISITION OF LAND ACT 1981

**THE BUCKINGHAMSHIRE COUNCIL (A4010 SOUTH EAST AYLESBURY
LINK ROAD) (CLASSIFIED ROAD) (SIDE ROADS) ORDER 2020**

**THE BUCKINGHAMSHIRE COUNCIL (A4010 SOUTH EAST AYLESBURY
LINK ROAD) COMPULSORY PURCHASE ORDER 2020**

**APPLICATION FOR A CERTIFICATE UNDER SECTION 19(1)(a) OF THE
ACQUISITION OF LAND ACT 1981**

Dates of Inquiries: 2 to 11 November 2021

File Refs: DPI/P0430/21/9, NATTRAN/SE/HAO/230 & PCU/S19/N0410/3260857

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ACRONYMS AND ABBREVIATIONS USED IN THE REPORT

AQMA	Air Quality Management Area
ATS	Aylesbury Transport Strategy
BNG	Biodiversity Net Gain
Cala	Cala Management Limited
CD	Core Document
CPDA	Crime Prevention Design Advisor
CPO	Compulsory Purchase Order
dB(A)	a unit of sound measurement
DfT	Department for Transport
DMRB	Design Manual for Roads and Bridges
Doc	Document
EIA	Environmental Impact Assessment
ES	Environmental Statement
ha	hectare
HoT	Heads of Terms
HS2	High Speed 2
Juniper	Juniper Investments Limited
km	kilometre
Landmatch	Landmatch Limited
m	metre(s)
MHCLG	Ministry of Housing, Communities and Local Government
MoU	Memorandum of Understanding
PIM	Pre-Inquiry Meeting
PMA	Private Means of Access
POS	Public Open Space
PRoW	Public Right(s) of Way
RSA1	Road Safety Audit 1
S19	Section 19 (of the Acquisition of Land Act 1981)
SCI	Statement of Community Involvement
SEALR	the A4010 South East Aylesbury Link Road
SoC	Statement of Case
SMRR	Stoke Mandeville Relief Road
SPP	Special Parliamentary Procedure
sqm	square metres
SRO	Side Roads Order
SSHCLG	Secretary of State for Housing, Communities and Local Government
SSLUHC	Secretary of State for Levelling Up, Housing and Communities
SST	Secretary of State for Transport
SWALR	the South West Aylesbury Link Road
the Acquiring Authority	Buckinghamshire Council
the Council	Buckinghamshire Council
the NPPF	the National Planning Policy Framework
the Inquiry	the co-joined Inquiries into the SRO, the CPO and the S19 Certificate application
the Scheme	the A4010 South East Aylesbury Link Road
the SLR	the Southern Link Road
the 1981 Act	the Acquisition of Land Act 1981
the 1980 Act	the Highways Act 1980
TVP	Thames Valley Police
UKPN	UK Power Networks
VALP	Vale of Aylesbury Local Plan
WHC	William Harding's Charity
WSG	Walton Street Gyrotory

CASE DETAILS

The Side Roads Order (SRO)

- The SRO is made under Sections 14 and 125 of the Highways Act 1980, and is known as the **Buckinghamshire Council (A4010 South East Aylesbury Link Road) (Classified Road) (Side Roads) Order 2020**.
 - The SRO was made on 11 September 2020.
 - The Buckinghamshire Council (hereafter referred to as 'the Council' or 'the Acquiring Authority') submitted the SRO for confirmation to the Secretary of State for Transport (SST).
 - If confirmed, the SRO would authorise the Council to improve or stop up lengths of highway, construct new highways and stop up and/or provide new private means of access (PMA) to premises, in order to construct the A4010 South East Aylesbury Link Road.

Summary of Recommendation: that the SRO be confirmed with modifications.

The Compulsory Purchase Order (CPO)

- The CPO is made under Sections 239, 240, 246, 250 and 260 of the Highways Act 1980 and Schedule 2 of the Acquisition of Land Act 1981. It is known as the **Buckinghamshire Council (A4010 South East Aylesbury Link Road) Compulsory Purchase Order 2020**.
 - The CPO was made on 11 September 2020.
 - The Council submitted the CPO for confirmation to the SST.
 - If confirmed, the CPO would authorise the Council to compulsorily purchase land and the rights over land in order to construct the A4010 South East Aylesbury Link Road with its associated works and mitigation measures, as provided for by the above-mentioned SRO.

Summary of Recommendation: that the CPO be confirmed with modifications.

The Exchange Land Certificate (S19 Certificate)

- Application for a certificate under Section 19(1)(a) of the Acquisition of Land Act 1981.
 - The application was made to the former Secretary of State for Housing, Communities and Local Government (SSHCLG)– now the Secretary of State for Levelling Up, Housing and Communities (SSLUHC), on 1 October 2020.
 - If issued, the certificate would allow for development to take place on public open space south-east of Patrick Way, in the parish of Stoke Mandeville, in exchange for other land which is not less in area and is equally advantageous to persons, if any, entitled to rights of common or other rights, and to the public, with the exchange land to be vested in the persons in whom the order land was vested, and subject to the like rights, trusts and incidents as attach to the order land. The certificate is required in connection with the **Buckinghamshire Council (A4010 South East Aylesbury Link Road) Compulsory Purchase Order 2020**.

Summary of Recommendation: that the certificate under Section 19(1)(a) of the Acquisition of Land Act 1981 be issued with modifications.

PREAMBLE

1. The A4010 South East Aylesbury Link Road ('the SEALR' or 'the Scheme') is proposed as a dual-carriageway road which would link the A413 Wendover Road to the B4443 Lower Road, to the south of Aylesbury. It was granted full planning permission by the Council on 12 July 2021. Under provisions of the Highways Act 1980 ('the 1980 Act'), the Council is authorised to exercise powers of compulsory purchase and to acquire land or rights over land where it is reasonably necessary for the construction, operation, maintenance or accommodation of a highway proposal.
2. To this end the Council, acting as Acquiring Authority, made a SRO and a CPO ('the Orders') to enable the Scheme to be progressed¹. If confirmed, these Orders would authorise the exercise of powers to enable the compulsory purchase of land and new rights to facilitate the provision of the SEALR. They would also allow alterations to be made to the highways and public rights of way (PRoW) affected by the Scheme. The SRO and CPO were duly advertised, with objections needing to be lodged before 29 October 2020. Objections received are detailed later in this Report.
3. Part of the land required for the SEALR comprises public open space (POS), so the Council also made an application for a Certificate to be issued under Section 19(1)(a) (S19) of the Acquisition of Land Act 1981² ('the 1981 Act'), allowing for an area of land to be given in exchange for this POS without the need for special parliamentary procedure (SPP) to be invoked. The application was made on 1 October 2020, with a revised plan being produced on 27 January 2021³. A number of objections against the issuing of the S19 Certificate were lodged before the end of the formal objection period on 14 May 2021, and these are also detailed later in this Report.
4. Material submitted to support the planning application included a comprehensive Environmental Statement⁴ (ES) and an ES Addendum⁵. Amongst other things these set out the scope of the highway works and their likely impact on local communities and the natural habitat, and provided a full assessment of the effects of the Scheme. I have taken account of this ES and the ES Addendum, along with all other environmental information submitted in connection with the Scheme, including that arising from questioning at the Inquiry, in arriving at my recommendations.
5. I held a Pre-Inquiry Meeting⁶ (PIM) on 24 August 2021 to discuss the administrative arrangements for the Inquiry. Because of the restrictions in place as a result of the Covid-19 pandemic, this PIM was held as a virtual event with the main parties and interested persons making their contributions by means of video appearances, over the internet. Following this event I issued a PIM Summary Note⁷ for distribution to all objectors, setting out the administrative and practical arrangements for the Inquiry. I subsequently opened the Inquiry at the Gateway Conference Centre, Gatehouse Rd, Aylesbury on 2 November 2021. It sat on 7 days and closed on 11 November 2021, with the administration and programming of the Inquiry being dealt with by the independent Programme Officer, Yvonne Parker.

¹ See Core Document (CD) 9.6 and CD9.7

² CD9.19

³ CD9.20

⁴ CD4.1.1 to CD4.1.40

⁵ CD4.2.1 to CD4.2.15

⁶ See Document (Doc) PRE/01

⁷ Doc PRE/02

6. I carried out unaccompanied site visits to the areas affected by the Scheme and other locations around Aylesbury on 20 August 2021, and 11 November 2021⁸ and also undertook an inspection of the route of the Scheme and the surrounding area on 10 November 2021, accompanied by representatives of the Council and some objectors to the Orders and the S19 Certificate application⁹.

Numbers of Objectors and Supporters

7. A total of 9 separate objections to the Orders were lodged by statutory objectors during the formal objection period, with a further 12 made by non-statutory objectors to the Orders and objectors to the S19 Certificate application within the respective statutory objection periods¹⁰. A further, very late non-statutory objection was made after the Inquiry opened, and I allowed this objector to present his case to the Inquiry¹¹. The Council has continued to negotiate with objectors, up to and during the course of the Inquiry, with the result that 6 of the statutory objections have been withdrawn¹², with 1 of the non-statutory objectors also withdrawing after the Inquiry opened¹³. This meant that by the close of the Inquiry there remained 3 statutory and 12 non-statutory objections to the Orders and the S19 Certificate. These are all discussed later in this Report. In addition, a single representation in support of the Scheme was submitted in the form of a simple, one-line email¹⁴.

Scope of this Report

8. This Report contains the gist of the evidence presented and my conclusions and recommendations. Lists of Inquiry appearances and documents are attached. These include details of the submitted Proofs of Evidence and Rebuttal Proofs, which may have been added to or otherwise extended at the Inquiry, either during examination in chief or during cross-examination. Where appropriate, references to CDs and other submitted documents are given in parentheses or footnotes.

THE CASE FOR BUCKINGHAMSHIRE COUNCIL AS ACQUIRING AUTHORITY

The material points are:

Introduction

9. The purpose of the CPO and the associated SRO is to enable the construction of the SEALR, full details of which can be found in the planning application documentation¹⁵, the ES and ES Addendum, together with the evidence presented to the Inquiry by the Council's 8 witnesses¹⁶.
10. In brief, the Scheme would provide a new dual-carriageway link, some 1.2 kilometres (km) in length, between the B4443 Lower Road and the A413 Wendover Road, designed to Design Manual for Roads and Bridges (DMRB) standards for 40mph. New roundabout junctions would be provided at both Lower Road and Wendover Road. These roundabout junctions and their approaches would have

⁸ See Doc BC/ID/16

⁹ See Docs PRE/04, BC/ID/14 and BC/ID/15

¹⁰ See Summary Table at Appendix 7 to this Report – note that I have considered Mr Gibbons to be a separate objector, even though he did not originally object in his own right. Also note that Objectors Nos 4 and 17 are effectively the same – William Harding's Charity

¹¹ Listed as Objector No 22 in Appendix 7 to this Report – Mr Phil Yerby - see Docs YE/ID/01 and YE/ID/02

¹² See Appendix 7 and withdrawal letters in Appendices 4, 5 and 7

¹³ Withdrawal from Mr W J I Russell - see Docs RUS/ID/01, RUS/ID/02 and INSP/ID/03

¹⁴ CD5.23

¹⁵ CD2.1 to CD2.14

¹⁶ Docs BC/1/1 to BC/8/4

street-lighting. The new road would vary in height between about 1.1 metres (m) below ground level (towards the western end) and about 12.9m above ground level, on the western side of a new 3-span bridge, some 80m in length, which would cross the London to Aylesbury railway line.

11. The new road would include a 3m wide shared cycle/footway on its northern side, which would accommodate the realignment of Footpath SMA/3/1 north and south of the proposed alignment (to the west of the railway), together with a new crossing for pedestrians and cyclists by means of a toucan crossing near the Lower Road roundabout. There would also be a 3m wide shared cycle/footway on the southern side of the new road and controlled pedestrian crossings at the A413 and B4443 roundabouts. A 3m high timber acoustic barrier would be provided on the northern side of the road for part of its length, and at the 2 terminal roundabouts.
12. Surface water run-off would drain to 2 new attenuation ponds, to be constructed on either side of the railway line, and there would be new culverts under the SEALR, including box culverts west of the railway line and piped culverts east of the railway. There would also be 3 new agricultural accesses from the new carriageway, along with maintenance accesses to the bridge structure and the attenuation ponds. New landscape planting would be provided alongside the new road carriageway incorporating a range of plant and habitat types, and there would also be an area of replacement open space to the north of the SEALR, to compensate for the POS to be acquired at the eastern end of the Scheme, abutting Wendover Road.
13. The Scheme comprises a longstanding objective of the Council and its predecessor bodies. Notably in this regard, delivery of the SEALR is an important objective of the Aylesbury Transport Strategy¹⁷ ('the ATS'), a key transport document for the Council. The ATS aims to create a primary highway network which will allow traffic to pass around Aylesbury rather than requiring travel through it, by constructing new link roads to connect existing radial roads. The SEALR will comprise one of these new outer link roads which, together, will provide a new connection between the north and south of the County¹⁸.
14. The ATS also identifies the SEALR as an improvement necessary to support and accommodate the planned growth of the town between 2016 and 2033. This growth includes delivery of the development allocation identified as AGT1 in the Vale of Aylesbury Local Plan¹⁹ ('the VALP'), which was adopted in September 2021. Also of relevance are the development allocations identified as AGT4 ('Hampden Fields'), which would be served by the proposed Southern Link Road (SLR); and AGT2, which would be served by a proposed South West Aylesbury Link Road²⁰ (SWALR). The SEALR, the SLR and the SWALR are all identified in Table 17 of VALP Policy T3²¹ ('Supporting local transport schemes') as protected and supported transport schemes. This policy is consistent with the objectives of the National Planning Policy Framework²² (NPPF) in particular paragraphs 104-105 and 110.
15. It is on the basis of this strong policy support that the Council's Strategic Sites Committee followed Officers' recommendation and resolved unanimously that

¹⁷ CD8.14

¹⁸ See plan at Appendix B in Doc BC/3/3

¹⁹ CD8.2

²⁰ See page 343 of CD8.2, and Appendices A & B in Doc BC/3/3

²¹ See page 228 of CD8.2

²² CD7.1

'permission be deferred and delegated to the Director of Planning and Environment to GRANT permission, subject to conditions as considered appropriate by Officers and completion of a Memorandum of Understanding²³ (MoU) regarding the delivery of the transport mitigation'. Subsequently, on 12 July 2021 planning permission was granted in respect of the Scheme²⁴. The SEALR will deliver multiple, substantial public benefits. Most notably these include alleviating the current, chronic traffic congestion in Aylesbury; enabling the planned growth of the town; and addressing traffic impacts resulting from the construction of High Speed 2²⁵ (HS2).

16. The chronology relating to the grant of the planning permission is set out in the Council's planning evidence²⁶, which also confirms the extent to which parties objecting to the SEALR were afforded the opportunity to make representations in respect of it, when the relevant planning application fell to be considered. The Council's Strategic Sites Committee weighed the merits of the Scheme in terms of its benefits and disbenefits – including the impact which it would have on the amenity of residents of the Stoke Grange and Wendover Park housing areas – and considered all the objections submitted in respect of the Scheme, before electing to grant the planning permission, to which no legal challenge was made. As such, it exists as a lawful planning permission.
17. The proposed alignment of HS2 passes to the south-west of Aylesbury and will sever the A4010 Risborough Road, south of Stoke Mandeville. The HS2 proposals therefore include a new link road, referred to as the Stoke Mandeville Relief Road (SMRR), which will divert the A4010 around the west of Stoke Mandeville, connecting with the B4443 Lower Road further north, at the new roundabout junction which would also serve the SEALR²⁷. Traffic modelling has indicated that without the SEALR, the construction of the SMRR will add to congestion at the important Walton Street Gyratory (WSG - the B4443 Stoke Road/A413 Wendover Road/Walton Street junction) within Aylesbury town centre, by increasing traffic flows, queuing and delays. In turn, this is likely to result in worsening air quality issues at this gyratory junction, which is a designated Air Quality Management Area (AQMA).
18. In order to construct the SEALR the CPO seeks to acquire land, interests and new rights over land amounting to some 16.5 hectares (ha), referred to as the Order Land²⁸. At some locations the Order Land covers a wider area than the route corridor for the SEALR as it includes land that is required for construction purposes, drainage, landscaping, flood mitigation and replacement open space.
19. The Order Land, which consists of some 23²⁹ plots, is in a variety of ownerships and comprises predominantly agricultural land consisting of arable fields and unmanaged grassland, lying to the south of Aylesbury. As noted above, the London to Aylesbury railway line bisects the Order Land, providing a major 'green' corridor for wildlife. There is a small watercourse located to the west of the railway line, known as Southcourt Brook and a watercourse in the east near the A413, known as Bedgrove Brook. Public footpaths, including SMA/2/1 and SMA/3/1, cross open farmland in the

²³ CD2.9

²⁴ See CD2.1, CD2.7 and CD2.10

²⁵ HS2: a new high speed railway linking up London, the Midlands and other locations – see CD6.11

²⁶ Doc BC/2/2

²⁷ See paragraphs 4.3.1 and 4.3.2 in Doc BC/3/2, and also the plan at Appendix 3 to CD9.2. Also note that the eastern part of the SMRR – between Lower Road and the proposed South West Aylesbury Link Road - was also referred to as 'SEALR Phase 2' by the Council and some objectors, notably the Pearce Family

²⁸ See Section 4 of CD9.2, the Council's Statement of Case (SoC)

²⁹ The final, modified CPO shows 25 plots – see CD10.2 and CD10.4

vicinity of the Order Land. The Order Land also includes an area of some 1,336³⁰ square metres (sqm) of amenity land at the south-eastern corner of the Wendover Park Estate, consisting of grassland, hedgerows and trees which is required for highway construction and landscaping purposes, and which comprises POS for the purposes of S19 of the 1981 Act.

20. Whilst part of the Order Land is necessarily required for construction and siting of the SEALR, and would be retained in perpetuity, other parts of the Order Land and related rights would be returned or offered back to the owners on completion of the Scheme under the Crichel Down Rules³¹.
21. Some 9 statutory objections³² were submitted to the SST in respect of the Orders, of which a number remain outstanding at the opening of this Inquiry. Notably, however, the objection from Network Rail (Plot 9) – over whose assets the SEALR will pass – has been withdrawn following the Council reaching agreement to protect the former's interests. Agreement has also been reached with all affected statutory undertakers (following conclusion of asset protection agreements). A number of landowners maintain objection to the Order, but extensive negotiations have been undertaken with the relevant parties, and significant progress has been made³³. In this regard, of the 3 major landowning interests:
- The Council has reached agreement with Taylor Wimpey UK Limited and Aylesbury College Corporation – Plots 16, 16a and 16b;
 - The Council has reached agreement with the William Harding's Charity (WHC) and Cala Management Ltd (Cala) – Plots 10, 10a to 10e³⁴;
 - As regards Landmatch Limited (Plots 7 and 7a) – negotiations have progressed such that it has withdrawn 4 of its 6 grounds of objection and offers no evidence in respect of the remaining 2, and indeed chose not to appear at the Inquiry.
22. In this context it should also be noted that none of these objectors – whether the owners of land or those developers who hold options of that land – have at any time objected to the principle of the Scheme. Rather, all of them wish to see the SEALR come forward as all of them recognise that it is delivery of the SEALR which will serve to unlock their opportunity to bring forward residential development pursuant to Policy D-AGT1³⁵ of the recently adopted VALP.
23. There are also non-statutory objectors to the Orders, along with 9 objectors to the S19 Certificate³⁶. Many of these objections are in the nature of objections to the SEALR itself, but as noted above, planning permission has already been granted in respect of the Scheme, with the VALP making express provision for delivery of this infrastructure. The CPO and SRO process, and the S19 Certificate application cannot therefore be seen as an opportunity for parties to re-open matters already addressed, and to have a 'second bite of the planning cherry'.

³⁰ In the CPO as made, this area was some 1,576sqm, but it has been reduced to 1,336sqm as a result of the proposed modifications

³¹ CD7.9 - *Guidance on Compulsory purchase process and The Crichel Down Rules*, published by the former Ministry of Housing, Communities and Local Government (MHCLG) in February 2018 (updated July 2019)

³² See Table at Appendix 7 to this Report – and note that Objection No 4 and Objection No 7 are both essentially on behalf of the William Harding's Charity

³³ See Docs BC/4/1 to BC/4/4, BC/ID/12 and BC/ID/13

³⁴ Note that these Plot numbers relate to the CPO plan as proposed to be modified

³⁵ Page 76 of CD8.2

³⁶ Again, see Appendix 7 to this Report

24. In its response to all objectors, the Council's evidence demonstrates that there exists a compelling case to justify the confirmation of compulsory purchase powers, and that it is appropriate for the SST to confirm the CPO and the SRO, and for the SSLUHC to issue the S19 Certificate as sought. In setting out its evidence the Council has had regard to the Inspector's note issued following the PIM³⁷, and the tests which the Inspector indicated he would have regard to in determining whether or not to recommend confirmation of the Orders and the issuing of the S19 Certificate in his Report. These points are covered in the following paragraphs.

The CPO

Reasonable prospect of Scheme proceeding and absence of impediment

25. Firstly, the Council can confirm that if powers of compulsory purchase are authorised, there would be no impediment to delivery of the SEALR. The Council has secured all relevant funding, as detailed below, and, as has already been stated, planning permission for the SEALR has been granted. Further, the SEALR project team is already engaging in Early Contractor Involvement with a party contracted to deliver the Scheme³⁸. As such, the last requirement as regards delivery of the Scheme is that of land assembly.
26. Subject to the confirmation of the Orders, and the issuing of the S19 Certificate, the Council anticipates that preparatory enabling works for the Scheme could begin in January 2022. Works to divert a 33kV UK Power Networks (UKPN) cable would need to be completed by October 2022, and following the diversion of this cable an existing Thames Water main and other less significant assets would be diverted.
27. The Council intends that the replacement amenity land, or exchange land, would be established prior to works commencing on the existing amenity land to be acquired at the Wendover Park estate, with these works currently expected to commence in June 2022. Construction of the Wendover Road roundabout would follow the completion of all utility diversions, with main construction activities anticipated to commence in August 2023. Construction of the Lower Road roundabout is expected to commence in March 2024, following the completion of works at Wendover Road.
28. Delivery of the SEALR bridge over the railway is currently expected to commence in October 2022. Respective railway possessions for access have been agreed and the main bridge installation is expected to be completed by December 2023. Overall, the Council envisages the SEALR being completed in August 2024, and being operational and open to public in December 2024.
29. On this matter the Council would highlight the fact that there is no suggestion amongst any of the parties objecting to the Orders or the S19 Certificate that the Council could not proceed with delivery of the Scheme, subject to confirmation of the CPO, SRO and the issuing of the S19 Certificate. Rather, all parties recognise that if the Orders are confirmed and the Certificate issued, then construction of the SEALR would proceed. Accordingly, this test, as identified by the Inspector at the PIM, is satisfied.

Resources & Timescale

30. As noted above, the necessary resources to acquire the land for, and to deliver, the Scheme are all in place. The cost of the Scheme is currently assessed at £35.5
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³⁷ Doc PRE/02

³⁸ See Section 8 of Doc BC/1/1

million, including land/property acquisition costs, with this funding being available from a combination of Council funding, local developer contributions, the Department for Transport's (DfT's) Local Growth Fund, and funding from HS2 Ltd³⁹.

31. Local Growth Funding of £1 million has already been allocated to the project as a result of a Strategic Outline Business Case⁴⁰ which was submitted to and approved by the DfT in 2016. A further £12.5 million of Local Growth Funding will follow the Council's submission of a Full Business Case. In addition, £13.8 million is anticipated in Section 106 contributions from local developments, relating to the SEALR. However, as the Council is not expecting to be in receipt of all of this £13.8 million in time for the delivery of the SEALR, the project has secured £11.3 million from the Housing Infrastructure Fund which will be used to forward-fund the project. This will then be repaid through the Section 106 contributions from local developments.
32. Finally, the Council has an assurance from HS2 which obliges HS2 to '*fund the reasonable costs of the tender (as accepted) for the crossing of the Aylesbury to Marylebone railway line, including construction costs, Network Rail possessions costs, bridge agreement costs and fees and charges*'⁴¹. HS2 will also make a contribution towards the construction of the Lower Road roundabout, making a total funding from HS2 of £8.2 million.
33. The budget for the Scheme was approved by the Council's predecessor authorities in January 2020⁴². The agreed budget makes appropriate allocations for land purchase and compensation costs, alongside allocations for construction, Early Contractor Involvement, staff costs, and professional fees for the production of the design, planning application and Full Business Case. The project has additionally budgeted appropriate allocations for risk and optimism bias. All of this funding will be available on a timeframe sufficient to meet the delivery timetable detailed above. No party contests the Council's case in respect of these issues, and it is therefore common ground that this test, as identified at the PIM, is also satisfied.

Clear Purpose

34. The Council has a clear idea of how it intends to use the land it is proposing to acquire, and there is no issue between the Council and those parties maintaining objection to the Orders or the S19 Certificate on this matter. The Order Land is required for delivery of the SEALR - not just the carriageway and its associated structures, such as the railway overbridge and the terminal roundabouts, but also other elements of the Scheme such as landscaping and drainage infrastructure, together with the land required as replacement open space. The total land required is covered by the Scheme design, for which planning permission has been granted. It is therefore entirely clear as to the purpose to which all the land required through the CPO will be put and, again, this test, as identified at the PIM, is also satisfied.

Compelling Case

35. The final test identified at the PIM relates to the requirement that the Council demonstrate a compelling case to justify the authorisation of compulsory purchase powers. The Council is well aware of this requirement, firmly established as it is in both policy and case-law, and maintains robustly that the requirement is met, as

³⁹ See paragraphs 4.10 to 4.15 of CD/1/1

⁴⁰ CD2.11

⁴¹ CD9.9

⁴² See CD1.3, CD1.3.1 and CD1.3.2

detailed in all the Council's submitted evidence⁴³. In summary, the Council highlights the following matters:

- (i) First, there is overwhelming policy support for delivery of the SEALR. The Scheme is consistent with both national policy (as set out in the NPPF) and local policy (in the form of the ATS and the recently adopted VALP). Indeed the VALP expressly provides for and requires the delivery of the SEALR in order to facilitate planned growth of the settlement of Aylesbury. Such comprehensive and express policy support is significant, and contributes substantively to the compelling case in support of the Orders.
- (ii) Second, the Scheme would deliver numerous benefits, such as alleviating congestion, and enabling growth, thereby realising substantive and substantial economic, social and environmental gains.
- (iii) Thirdly, the compulsory acquisition powers contained in the CPO will have limited impacts on the property owners whose interest are to be acquired. In this respect, the vast majority of the Order Land comprises agricultural land, the acquisition of which will have no social and extremely limited commercial impacts. Indeed, the vast majority of the land is owned by parties who are seeking to bring forward residential development on it; development that is, itself, dependant on delivery of the SEALR. In this regard the Council does accept that the CPO as submitted, could have a potential adverse impact on the ability of future development land, owned by the WHC and over which Cala hold an option, to access the public highway. This matter would be resolved, however, by a proposed modification to the CPO as described later. Cala and WHC are content with this proposed modification and, as noted earlier, have withdrawn their objections to the Orders. Accordingly, and having regard to the proposed modification application⁴⁴, the Council maintains that insofar as the proposed powers of compulsory acquisition would interfere with property rights, that interference is proportionate, and is manifestly justified by the public interest served in delivering the SEALR.

36. It is on that basis, and in the light of these considerations, that the Council maintains that there is indeed a compelling case in support of the compulsory acquisition. Accordingly the fourth test as identified at the PIM is also satisfied.

The SRO

37. The Inspector identified at the PIM that he wished to be satisfied of 2 matters in this regard, which can be paraphrased as (i) that no highway would be stopped up until a reasonably convenient alternative had been made available; and (ii) that no PMA would be stopped up until a reasonably convenient alternative had been provided. The Council's evidence, primarily that put forward by Mr Tester⁴⁵ (Highways and Transport) and Mr Welborn⁴⁶ (Engineering), show clearly that both of these criteria would be satisfied by the Scheme.

⁴³ See Docs BC/1/1 to BC/8/4

⁴⁴ See CD10.1 to CD10.4

⁴⁵ Docs BC/3/1 to BC/3/3

⁴⁶ Docs BC/8/1 to BC/8/4

38. In summary, whilst sections of both Lower Road and Wendover Road would be stopped up by the SRO, the closure would not occur until after replacement carriageway has been provided. In addition, Footpath SMA/3/1, which would be crossed by the SEALR, would be diverted westwards along the southern side of the SEALR; would cross the new road by means of a proposed pedestrian crossing; would then travel eastwards on the northern side of the SEALR, before heading northwards alongside field boundaries, to re-join the alignment of the existing footpath just south of Stoke Mandeville Hospital.
39. Furthermore, although the SRO as originally made would have replaced the Pearce Family's⁴⁷ existing agricultural access on the western side of Lower Road with a new agricultural access at a similar location on the slightly re-aligned Lower Road, following negotiations with this objector the Council has agreed to provide a further agricultural access off the new roundabout at Lower Road to improve access to that landowner's retained land. This would be achieved by a proposed modification to the SRO, as detailed later.
40. In light of these points the Council maintains that the SRO tests, as identified at the PIM, would be satisfied.

The Section 19 Certificate Application

41. As made, the CPO provides for the compulsory acquisition of some 1,576sqm of POS⁴⁸, located in the eastern corner of the amenity land which serves the Stoke Grange and Wendover Park developments. This area of land to be acquired is required for the purposes of delivering the SEALR terminal roundabout on the Wendover Road, and for associated landscaping. The relevant legislative provision is Section 19(1)(a) of the 1981 Act which provides as follows:
- (1) In so far as a compulsory purchase order authorises the purchase of any land forming part of a common, open space or fuel or field garden allotment, the order shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—*
- (a) that there has been or will be given in exchange for such land, other land, not being less in area and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attach to the land purchased.*
42. In the event that the CPO were subject to SPP, it would likely introduce delays which could prove a significant obstacle to delivery of the SEALR. Mindful of the potential delays the Council has incorporated, as part of the Scheme, the provision of replacement open space for the purpose of Section 19(1)(a) of the 1981 Act. It is the Council's firm view that having regard to the anticipated re-provision of open space the statutory requirement is met, in that land which is 'not less in area' and 'equally advantageous' would be provided in exchange for the CPO amenity land to be acquired, such that a Certificate should be granted and the CPO should not be subject to SPP. The replacement open space comprises Plot 10c and neither WHC as

⁴⁷ Objector No 15 – Antony Pearce, Timothy Pearce and Janet Pearce: for ease, referred to hereafter as 'the Pearce Family'

⁴⁸ But note that this area would be reduced to some 1,336sqm by the proposed modifications

owner, nor Cala as the option holder of the land, object to the S19 Certificate application.

43. As the replacement open space is some 3½ times⁴⁹ the extent of the amenity land to be acquired, there is no dispute that the statutory requirement as to 'size' or 'quantum' is satisfied. The dispute is as to the qualitative requirement – that is, whether the replacement open space would be 'equally advantageous'. There are a number of parties who object to the S19 Certificate application on this basis.
44. However, the Council maintains that these objections are not well-founded. The detail of its case is set out in its evidence, in particular in the proofs of Mrs Kitchen⁵⁰ (Planning), Mr Rooney⁵¹ (Landscape) and Mr Evans⁵² (Noise Impact). Matters of detail are covered later in this Report, when the Council's response to individual objectors is set out. It is, however, helpful to make 2 points at this stage.
45. Firstly, in undertaking the qualitative evaluation it is important to have regard to the particular character of the amenity land proposed to be acquired - as opposed to the amenity land in general serving the Wendover Park and Stoke Grange housing areas. The Council is not seeking to compulsorily acquire the whole of this amenity land – which extends to some 14,476sqm – but instead, only a 'wedge' of some 1,336sqm at the eastern extremity of that area. As such it is the character and use of that wedge which falls to be weighed against the replacement open space.
46. The amenity land to be acquired lies immediately adjacent to Wendover Road, with all the traffic noise and emissions associated with that road. Further, when considering the uses to which the amenity land in general is said to be put, it has to be borne in mind that the extent of trees and shrubs on the amenity land to be acquired serves to restrict its use and limit the surveillance available in respect of it.
47. The second point which the Council makes is that there appears to be some confusion about the nature of the proposed replacement open space - where it is, and what it will be comprised of. As such it is important to clarify the following matters:
 - (i) The replacement open space does not comprise or include – as some objectors appear to have understood – the embankment to the new carriageway. On the contrary, as is clear from Mr Rooney's evidence⁵³, the embankment would sit to the south of the replacement open space, separated from it by post and rail fencing and a further area of grassland.
 - (ii) The replacement open space would not be exchanged for the amenity land to be acquired whilst in its existing condition. There would be significant planting, seeding and landscaping so that the area would comprise a substantial amenity resource when the exchange is undertaken.

⁴⁹ In its opening statement the Council referred to the proposed replacement land being 3½ times the size of the POS to be acquired. Following the reduction in size of Plot 11, through the proposed modifications, the replacement land would be over 4 times the size of the land to be acquired

⁵⁰ Docs BC/2/1 to BC/2/5

⁵¹ Docs BC/7/1 to BC/7/3

⁵² Docs BC/5/1 to BC/5/4

⁵³ See in particular the plans at Figures 8 and 9 in the Doc BC/7/3

- (iii) The replacement open space would not be remote from the amenity land to be acquired. To be clear, it would be less than 2½ minutes' walk from the area to be acquired, and would be contiguous with the wider area of amenity land serving the Wendover Park and Stoke Grange housing estates at this general location. Indeed, the replacement open space would make the overall amenity land some 20% larger as a consequence.
- (iv) The replacement open space would not be plagued by traffic noise from the new carriageway, comparing unfavourably with the amenity land to be acquired. On the contrary, as demonstrated by the submitted evidence, the traffic noise experienced on the replacement open space would be materially less than that affecting the amenity land to be acquired⁵⁴.
- (v) Finally, and contrary to the fears expressed by some objectors to the S19 Certificate, the replacement open space would not comprise a 'muddy, poorly drained area', afflicted by water run-off from the new carriageway and embankment. On the contrary, as detailed in the submitted evidence, care has been taken to ensure that the Scheme as a whole would be properly and effectively drained.

48. It is in this context, when the parameters of the comparative exercise have been clarified, that the debate as to whether the replacement open space would be 'equally advantageous' can properly be conducted. The Council asserts robustly that its evidence shows that the replacement open space would comprise wholly suitable 'compensation' for the loss of POS, being superior to, and therefore more than 'equally advantageous', when compared to the amenity land to be acquired. On this basis the Council contends that the statutory requirement is satisfied, and the S19 Certificate should be issued.

Summary

49. The public benefits of the SEALR have, in effect, been tested and accepted through the planning system, by way of the grant of planning permission for the Scheme, and the Council can show readily that there is nothing to prevent delivery of the Scheme once the required land has been assembled. As a result there is no likely impediment to the Scheme in relation to any outstanding planning matters.
50. In considering whether to make the Orders, and the extent of the interests to be comprised in the CPO, the Council has given due regard to the rights of owners of interests in the Order Land under the Human Rights Act 1998 (including the rights contained in Article 8 and Article 1 of the First Protocol⁵⁵). In essence, the Council considers that the Orders, if confirmed would strike an appropriate balance between the rights of the individual and the wider public interest. It is satisfied that any interference would be lawful, necessary, and proportionate. Similarly, in deciding to make the Orders, the Council has paid due regard to its Public Sector Equality Duty under the Equality Act 2010⁵⁶.

⁵⁴ See Doc BC/ID/10 and Figure 4 in Doc BC/5/2

⁵⁵ See Section 12 of CD9.2

⁵⁶ Paragraph 3.32 of CD9.2

51. The Scheme would accord with the relevant tests and requirements set out in the 1980 Act⁵⁷, the 1981 Act⁵⁸ and in the former MHCLG Guidance on Compulsory purchase process and the Crichel Down Rules⁵⁹, and there is a compelling case for the Scheme being in the public interest. In view of these points, and the others detailed above, the CPO and the SRO should be confirmed, subject to the modifications set out later in this Report, and the S19 Certificate should be issued.

THE CASES FOR THE OBJECTORS

52. As noted above, 6 of the 9 statutory objectors have reached agreement with the Council and have withdrawn their objections, and 1 of the non-statutory objectors has also withdrawn. A total of 6 objectors (1 statutory and 5 non-statutory) appeared at the Inquiry to present their objections, with the remaining objectors electing to rely on their written submissions.
53. In the case of the non-statutory objectors and those objecting to the S19 Certificate, several of the points raised are objections to the SEALR itself, and many of these objectors raise the same or essentially very similar points. Indeed Mr Gibbons submitted a proof of evidence in his own name, but also appeared at the Inquiry as one of the people representing the Residents' Group.
54. Furthermore, although Mr Bradley submitted evidence as an individual, he made it clear that he also has the support of a number of other households from Wendover Park, and that for the last 2 years, he has been an active member of a community group which submitted an objection to the CPO. As such, many of the points he covers in his proof of evidence appear to be identical to matters raised by the Residents' Group in its original objection. In some ways this is not surprising as the Appendix to Mr Bradley's proof is, in essence, largely the same document which formed the Residents' Group's original objection. In view of these points, and to avoid unnecessary repetition, I have considered the evidence from Mr Bradley, the Residents' Group, and Mr Gibbons together, in the summaries which follow.
55. All unwithdrawn objections are summarised below, with the cases of those objectors who appeared at the Inquiry being considered first. In this regard I start with the only statutory objector who elected to be represented at the Inquiry.

Statutory objectors

Antony, Timothy & Janet Pearce (the Pearce Family)⁶⁰ (Objector No 15)

56. The Pearce Family are freehold owners of CPO Plots 2 and 2a which lie to the west of Lower Road. Plot 2 is permanently required as it would form part of the realigned B4443, north and south of the proposed Lower Road roundabout. New rights are required over Plot 2a, which is required for construction purposes. Following completion of the Scheme the rights would be released and the land offered back to the landowners. The objectors were represented at the Inquiry by Mr Edward Briggs.
57. The Pearce Family do not object to the overriding need for the SEALR Scheme, but rather to the specific inclusion and design of the roundabout on Lower Road and the lack of access provision, with the current design placing unreasonable limitations on the future use of their land. The Family's original objections were to both the CPO

⁵⁷ CD6.6

⁵⁸ CD6.1

⁵⁹ CD7.9

⁶⁰ See Docs PEARCE/1/1 to PEARCE/1/3, and PEARCE/ID/01

and the SRO, and maintained that the proposals would sever the Family's farmland and provide no access to Lower Road. This would have significant consequences for the Family's farming business, and would severely restrict the future use of the Family's land, compromising and preventing alternative uses for this land, and restricting the Family's ability to complete satisfactory negotiations with HS2, who currently plan to acquire this same land for Phase 1 of the HS2 construction.

58. As originally proposed, the SRO would have replaced the Pearce Family's existing agricultural access onto Lower Road with a similar agricultural access onto the slightly realigned Lower Road, at broadly the same location. This would, however, have been a shared access with a third party, and so as a result of further discussions the SRO was modified to provide an additional agricultural access directly onto the south-western quadrant of the proposed Lower Road roundabout. Correspondence sent to the Family from Simon Mole of Carter Jonas (the company dealing with all property matters for the SEALR on behalf of the Council), stated that this access from the roundabout would be provided as part of the Phase 2 Link Road works⁶¹. This matter was, however, clarified in Mr Mole's rebuttal evidence to this Inquiry⁶², in which he confirmed that this access onto the roundabout would be part of SEALR Phase 1 – ie, the scheme before the Inquiry, not part of a later Phase 2.
59. Notwithstanding the above points, it is the Family's contention that this arrangement would still result in an inferior situation to that which would exist in a 'no-Scheme' world. This is because the Pearce Family land currently benefits from a long road frontage to Lower Road, some 180m in length, with good sightlines, which also includes an established double-gated field access. New junctions with Lower Road have recently been provided in order to access land just to the north⁶³ (which was partly owned by the Pearce Family), and this supports the Family's view that in a 'no-Scheme' scenario a new access, to the appropriate highway standards, could be constructed on Lower Road to the north of the existing agricultural access to serve the Pearce Family land, albeit with some straightening of the existing hedge line.
60. This is important as the recently adopted VALP offers the potential for alternative uses for the Pearce Family's land at this location, and also adjoining land. In isolation, the current SEALR proposals prevent such alternative use and do not offer a solution or an acceptable replacement of the existing access which would facilitate such future use. The agricultural access proposed by the Council from the new roundabout is inadequate for the Pearce Family's future needs.
61. On this point Mr Briggs acknowledged that he is a chartered surveyor and not a highways engineer, but stated that he has significant experience in delivering development projects, particularly on rural land where access is critical, and that he has a good general understanding of minimum highway and access requirements. It is with these points in mind that he maintains, on the Pearce Family's behalf, that the access arrangements currently being offered by the Council would be inferior to the current situation, and not superior as claimed by the Council.
62. The SRO plan discussed at the round table session held as part of this Inquiry shows SEALR Phase 2/the SMRR as a single-carriageway road, whereas the Council has indicated it would be a dual-carriageway. The Pearce Family is concerned that

⁶¹ See Appendix 2 in Doc PEARCE/1/3. Note also that Phase 2 of the Link Road as referred to here, is also elsewhere referred to as the SMRR (or at least the north-eastern section of the SMRR)

⁶² Paragraph 3.5 of Doc BC/4/4

⁶³ See Doc PEARCE/ID/01

incorrect information is being put before the Inquiry as to the construction standard of a future Phase 2 of SEALR. As the Council and HS2 have yet to conclude an agreement in respect of SEALR Phase 2, the extension of the SEALR cannot be relied upon within this Inquiry process. The road construction currently proposed by HS2 for the SMRR would not deliver the aims of the VALP, as no secondary roundabout would be delivered and the first section of the road running south from Lower Road would be single-carriageway and not dualled, which is the Council's preferred option.

63. With no definite proposal from the Council, and no assurance in place that Phase 2 of the SEALR will be delivered to address the connections between the proposed Lower Road roundabout and any further works as envisaged in the VALP plan, the Council is wrong to proceed with promoting land-take for the Lower Road roundabout design. The proposals in respect of this roundabout need to be reviewed and redesigned in order to keep the existing frontage and access onto Lower Road, with its potential for improvement to access the Pearce Family's land. As things currently stand the Pearce Family must maintain its objection to the current SEALR proposals. The Orders should therefore not be confirmed.

Non-Statutory objectors

Mr C Potts⁶⁴ (Objector No 1)

64. Mr Potts is a local resident who lives within the Wendover Park housing area and who appeared at the Inquiry as a private individual. His objection to the CPO and the Section 19 Certificate application is essentially four-fold:
65. *1) The exchange land would not be equally advantageous to the public.* The land being taken forms part of a single large open flat area of land that can be seen by the residents of Wendover Park, and can be used in its entirety for sport and recreational activities like children playing, football, dog walking etc. Matters such as trees, noise, dust, the preservation of land, and pollution are key factors when assessing land on a like for like basis. Ecology and noise are critical aspects of any area intended for recreational activities. Children can't climb trees if there aren't any suitable; you can't practice football wearing studded boots if the surface isn't grass; and you can't count plants and insects for school projects if there aren't any.
66. Mr McGowan, for the Council, acknowledged that the SMRR would be likely to result in worsening air quality at the WSG AQMA, due to high traffic levels and emissions related to idling vehicle engines and queueing⁶⁵. This pollution would effectively be transferred to the SEALR. As the replacement amenity land would be directly adjacent to the SEALR, it would have a higher pollution level than the S19 land to be acquired. The Council made no comparison of the proposed replacement land against the existing S19 land to be acquired in terms of pollution, so it is not proven that the replacement land would be equally advantageous in this regard.
67. The evidence of Mr Simmons for the Council shows that the Biodiversity Net Gain (BNG) 2.0 ecology rating has been applied to the entire SEALR site, including the S19 area. However, the BNG criteria used for analysis is outdated - the current BNG 3.0 rating should be used. In addition, as the ecology of the land to be acquired has not been directly compared to the ecology of the replacement land, it cannot be proved that the replacement land is equally advantageous in terms of ecology.

⁶⁴ See CD5.1, CD5.1.2 and Docs POTTS/1/1, POTTS/1/2 and POTTS/ID/01 to POTTS/ID/06

⁶⁵ Paragraphs 3.14 and 3.15 of Doc BC/1/1

Moreover, the Council's evidence clearly states, multiple times, that the replacement land would be larger than the land to be acquired. But during cross-examination, Mr Simmons accepted that Rule 5 of the ecology analysis clearly states that '*It is not the area of habitat created that determines whether ecological equivalence or better has been achieved but the net change in biodiversity units*⁶⁶.'

68. On the subject of noise, it was clear from questioning of the Council's witness Mr Evans, that the simulations are not verified, validated or correlated to the real world. They use assumed models upon models (Road Traffic predictions and Noise predictions) both of which are unverified on site. This could introduce a cumulative error into the numbers.
69. It was also clear that although Mr Evans stated that the presence of trees and hedgerows around the amenity land to be acquired had not been taken into account in the noise assessments, trees and hedgerows have been shown to reduce noise⁶⁷. As the S19 amenity land to be acquired does have trees and hedgerows, this aspect should have been included – without it the simulation is a concept not reality. Furthermore, the assessments do not include the noise from trains on the railway line. This train noise would be quite loud and unobscured on the exchange land.
70. Overall, in view of the above points, the simulations have too many unknown and unverified factors to be able to say, for certain, that the proposed replacement public amenity space would experience lower noise levels than the existing S19 amenity space to be acquired. In this regard the requirement for the replacement land to be as good or better than the existing land has not been proven. Although the Council has tried to say that the replacement land would be quieter, it does not have evidence that shows this.
71. In summary the Council has a first order simplified road traffic noise model of the 2 areas, but this does not include train noise, and does not model the noise from cars when accelerating. Nor does it include the dampening effect caused by trees and vegetation, and it does not account for traffic model inaccuracies. Finally, there has been no on-site validation done to test the modelling accuracy.
72. The land being given as replacement public amenity space is narrow⁶⁸. This would make it less suitable than the land to be acquired for recreational activities like frisbee (more than 2 people). The replacement land would also be inclined – it would slope down to the railway, and would not be flat like the current S19 land to be acquired. This can be seen clearly in figures 7-11a of the ES Chapter 7 'Landscape and visual effects'⁶⁹. Moreover, as the replacement land would be at the bottom of the embankment, and inclined, this would cause the water retention to increase from the existing area making it muddier for longer and so of less use than the existing flat area adjacent to a drainage ditch. The Council has failed to prove that the land would be 'less muddy but certainly no worse', as it claims. Whilst the catchment area is the same, the Council has failed to account for water run-off from the embankment in heavy rain.
73. The current S19 public amenity land to be acquired is part of the continuous open space in Wendover Park, whereas the Council has described the replacement open

⁶⁶ Page 20 of Doc BC/6/3

⁶⁷ See page 3 of Doc POTTS/ID/01

⁶⁸ See Doc POTTS/1/2

⁶⁹ CD4.1.8

space as being 'contiguous' – in other words, it would be adjacent, connected, abutting, or neighbouring to existing open space. Moreover, although the Council maintains that the replacement open space would just be a 2½ minute walk away from the existing POS to be acquired, it is unclear what walking speed has been used to provide this estimate. The replacement amenity land would also be obscured by trees, and Mr Evans stated that whilst trees and bushes have little effect with respect to noise, people perceive a noise reduction if they cannot see the noise source. Combined with the lack of ability to overlook the replacement public amenity land from the remaining Wendover Park amenity land by local residents, this would make it a less suitable place for children to play in than the existing S19 area.

74. Furthermore, the replacement amenity land was not assessed by the Crime Prevention Design Advisor (CPDA) as amenity land when she wrote her consultation response on the planning application⁷⁰. The risk of anti-social behaviour in this area would likely be higher than the existing open S19 area, but at best is an unknown quantity as no reply was received back to the Council's further consultation request. Because of this, the replacement land cannot be shown to be equally advantageous.
75. The final point is that the replacement land would be on the side of a very high bridge, on the side of a dual-carriageway, next to a train line and is therefore not like for like when compared to the existing Wendover Park green space.
76. 2) Amenity land would be taken from the Wendover Park community and given to the Stoke Grange community. The Council has referred to the open space to be acquired as being from the Stoke Grange community, but this is NOT accurate. The Stoke Grange and Wendover Park housing developments were quite separate. Wendover Park includes everything from Charles Close to Wendover Road, as can be seen on the original planning application drawing on the Council's planning web site⁷¹. In contrast, Stoke Grange includes everything from Diane Close to the railway line. A close examination of the planning application drawing shows a dotted line can be seen on the drawing separating the 2 developments. Mrs Kitchen, for the Council, stated clearly that the Stoke Grange Phase 2 and Wendover Park Phase 2 developments were submitted and approved as a single planning document.
77. 3) The S19 Certificate is only required because this particular alignment has been chosen for the SEALR. Having regard to comments made by the Council's Mr Welborn, on the currently approved positioning of the Wendover Road roundabout, it is clear that the Council could have chosen to compulsorily purchase the County Farm Cottages on Wendover Road, as opposed to a part of the Wendover Park open space. Moreover, a culvert could have been used to deal with Bedgrove Brook, and the Council could have chosen to work with UKPN to produce a different solution to relocate the existing 3kV and 11kV cables. Finally, the Council could have chosen an offset alignment for the Wendover Road roundabout – similar to that already proposed for the Lower Road roundabout, to avoid taking any of the Wendover Park open space. If the Council had adopted this approach to the design of the SEALR, this land acquisition and the S19 Certificate would not be needed at all.
78. 4) The acquisition of the land would cause the closure of a public right of way. As a result of the S19 Certificate application, the footpath out of the estate would be closed, denying access to the Wendover Road cycle path. Initially submitted plans

⁷⁰ See pages 37 & 38 of Doc JB/1/2

⁷¹ Reproduced at Doc POTT/1/2

included no response to compensate for this. However, during the course of the Inquiry, the Council has submitted a new drawing, redefining the S19 land to be acquired⁷². This plan appears to indicate that the existing footpath - denoted as item 12 - would remain. If this is indeed the case, then this would satisfactorily address this aspect of the objection.

79. *Summary.* Notwithstanding this latter point, the Council's proposal has failed to meet the necessary criteria, and the S19 Certificate should therefore not be issued.

Mr Bradley⁷³ (Objector No 8), the Residents' Group⁷⁴ (Objector No 13) and Mr Gibbons⁷⁵ (Objector No 13A)

80. As noted above, these objectors all raised broadly similar points, so their objections have been grouped together for ease. Mr Bradley is a local resident who lives within the Wendover Park housing area, and states that he uses the existing POS at least 5 days a week for recreational purposes. He had lodged objections to both the CPO and the S19 Certificate. The objection from the Residents' Group was submitted on behalf of a large number of local residents from the Wendover Park and Stoke Grange developments, and elsewhere, and was accompanied by a petition with some 196 signatures. It was presented by local residents Mr Gibbons, Mrs Smith and Mrs Maple, with both Mr Gibbons and Mrs Smith appearing at the Inquiry. Mr Gibbons also presented an objection on his own behalf. The following paragraphs summarise the main points these objectors put forward.
81. For a S19 Certificate application to be successful, the land offered in exchange has to be not less in area than the land to be acquired, and equally advantageous to the public. In particular, where the open space is used for public recreation – as here – the exchange land must be 'equally advantageous' for the purposes of public recreation. Other purported advantages are not material⁷⁶.
82. Whilst it is accepted that the replacement land would be not less in area than the POS to be acquired, there are several reasons why it would not be equally advantageous to the public. Firstly, the current POS is a wide, level expanse of grass and trees surrounded by established hedgerows and residents' homes. The design and layout provide a well-integrated open parkland in full view of the surrounding houses, thereby providing a readily accessible and convenient amenity for all users; a safe and secure area for children's' play, deterring any anti-social behaviour.
83. The currently proposed land acquisition would have serious and irreversible adverse impacts on the residential areas closest to and most directly affected by the proposed road and ancillary works. These include the implications of the scheme on the protected POS in terms of the physical encroachment of the roadworks into these areas, their proximity to residential properties, and by compromising the function and recreational value of the POS to the local community. The loss of the existing POS would also have a serious detrimental impact on the usability and amenity value of the remainder of the open space.
84. The likely effects on the local residents were previously highlighted by the Council's own landscape architect who commented, in his consultation response regarding the

⁷² Doc BC/ID/11

⁷³ CD5.8, Doc JB/1/1 to JB/1/3, and JB/ID/01 to JB/ID/03

⁷⁴ CD5.13, CD5.13.1 and Docs RES/1/1 and RES/ID/01 to RES/ID/03

⁷⁵ Doc GIBBS/1/1

⁷⁶ Greenwich LBC v Secretary of State for the Environment [1993] Env. L.R. 344 (See Doc BC/ID/19.2)

SEALR scheme, *'In my opinion the proposed development will result in significant adverse residual landscape and visual effects to both the receiving landscape and to visual receptors (including users of Public Rights of Ways, areas of Public Open Space and residents) along the southern edge of Aylesbury that lies to the north of the application site as well as to other similar receptors to the north east, south east, south west and south of the application site'*⁷⁷. This underlines the crucial importance of retaining all of the existing POS and its established tree/hedgerow screening, in order to lessen the serious impact highlighted by local objectors.

85. The area of POS amenity land which the Council is seeking to acquire was laid out and formally adopted as part of the Wendover Park development. Condition 3 of the planning permission for that development (ref: AV/1036/85)⁷⁸ stated that once agreed in writing with the Local Planning Authority, the public open spaces created by that permission *'shall be retained as such thereafter as a permanent ancillary of the development'*. The reason given was *'to ensure that adequate and suitable areas of public open space are provided as integral parts of the development...'*
86. Many residents who live on Wendover Park were aware of the possibility that a new road could be constructed in the fields to the south of the large hedgerow which forms the southerly border of the POS. But these purchasers were assured that the POS was protected by covenant and conditions set out in the planning application approval document for the Wendover Park and Stoke Grange developments, as detailed above. As already noted, Condition 3 of this document states that the POS, once agreed, should remain permanent. This document forms part of the deeds on these properties and was the residents' guarantee that any new road and its associated services would only have a limited effect on their homes.
87. The presence and protected status of the POS have been important factors in residents' decisions to purchase homes in this locality. The POS is widely used in its entirety by local residents and provides a highly valued amenity for exercise, children's play, dog walking, community events and general socialising. It also provides a most attractive outlook⁷⁹. As it is surrounded by very mature trees and hedgerows, it provides a very effective screen to the very busy Wendover Road. It is very easily accessed by the local residents and its benefits are enjoyed by many people other than the local residents.
88. In contrast the proposed replacement area is a narrow corridor of land, enclosed between a protected hedgerow and the bank supporting the proposed road, which would range in height between 3.5m and 9.5m as the road proceeds towards the new proposed railway bridge. It would therefore be in an unsuitable location, much closer and exposed to the proposed dual carriageway and associated railway bridge than any part of the existing open space. It would also be more difficult to access for the less mobile members of the public and wheelchair users, than is the case with the land to be acquired. Residents remain very concerned that trees and hedgerows, which currently form a valuable screen, would be removed.
89. Furthermore, the replacement land is furthest away from the dwellings most affected by the land take and would have no direct access for the residents of Wendover Park as it will be outside of the Wendover Park development. It would not benefit the residents as it would be completely unsuitable for residents and children

⁷⁷ See pages 10 to 12 of RES/ID/01

⁷⁸ See pages 21-25 of Doc JB/1/2

⁷⁹ See photographs on pages 27-28 and 35-36 in Doc JB/1/2

to use for play, exercise, socialising, dog walking etc due to its proximity to the proposed dual-carriageway and associated bridge. It would be much closer and more exposed to the new road than any part of the existing POS and would therefore be subject to increased exposure to vehicle fumes, a subsequent decrease in air quality, and high volumes of traffic noise.

90. In addition, as the replacement land lies behind a hedgerow, and slopes away several metres at certain points, it would be a hidden space, remote, and insecure as a play area and liable to attract undesirable behaviour. This potential has already been addressed by the CPDA for the Thames Valley Police (TVP) who commented, in her consultation response on the SEALR, *'culverts under the road should be appropriately secured to prevent access to an area that lacks surveillance, light and legitimate activity to safeguard them from crime and anti-social behaviour'*⁸⁰. Residents consider that the same concerns should apply to the replacement POS.
91. Mr Bradley states that when he first moved to Aylesbury he lived in Jane Close, which is part of the Stoke Grange development. Part of the planning approval for that area included an area of POS, and while any member of the public can use this space it was vested to the residents of Stoke Grange. He further stated that when he subsequently moved to Charles Close, situated in Wendover Park, he lost his vested rights in Stoke Grange and received new vested rights in Wendover Park, where there was an area of POS situated to the south of Patrick Way and west of the Wendover Road. The planning approval and pages from the land record for both properties confirm that there are 2 separate identities in the Land registry records and 2 planning applications approved on different dates⁸¹. It is wrong to consider Wendover Park and Stoke Grange as one development.
92. Information provided in the SEALR planning application indicated that some 450sqm of POS would be required⁸², so the CPO figure of some 1,550sqm is misleading. Discrepancies in the size of the piece of POS being taken has caused confusion, as the public comments were based solely on the dimensions quoted in the planning application. No satisfactory explanation as to why this CPO figure is so different to that given in the planning application has ever been given. Although it has been said that this amount of land is required for planting, residents cannot understand why replanting would be required if the land was not acquired in the first place.
93. The Council's letter making the S19 Certificate application relies on the fact that the replacement land is not currently POS as justification for it being 'equally advantageous'. But this matter should not be taken into account because the Government's CPO Guidance⁸³ makes clear that it is a prerequisite that exchange land is not currently public open space. This therefore cannot be a benefit of the replacement land.
94. With regards to the CPO, it has not been demonstrated that an alternative design for the SEALR is not possible, revising the road's location, alignment and junction design to overcome objections to the Scheme and avoiding the need for any incursion into the POS and the need for this land to be included in the CPO. These

⁸⁰ See pages 37-38 of JB/1/2

⁸¹ Doc JB/1/3

⁸² See pages 29 & 30 of Doc RES/ID/01

⁸³ See paragraph 241 of CD7.9: Guidance on compulsory purchase powers and the Crichel Down rules

alternatives include a single-carriageway road, traffic lights, and routing the new road through the adjacent fields⁸⁴.

95. *Conclusion*. For all the above reasons the proposed replacement POS would fail to meet the requirements of S19. It would not be 'equally advantageous' as the existing POS facility, and would fall well short of the advantages and overall public amenity value of the existing POS. It is therefore strongly contended that the S19 Certificate should not be issued and the CPO should not be confirmed as sought.

Mr P Yerby⁸⁵ (Objector No 22)

96. Mr Yerby has been a resident of Aylesbury for 50 years, and was the Councillor for Stoke Mandeville and Elm Farm Ward (which includes both Stoke Grange and Wendover Park estates) between approximately 2006 and 2011. Between 2011 and 2016 he was the Councillor for the abutting ward of Aston Clinton Ward. He was also the Cabinet Member for Resources between 2011 and 2015. He currently is a local business owner. He did not submit any objections within the formal objection periods, and did not request to speak until the third day of the Inquiry, after the Council had completed its case and after other objectors had spoken. After he outlined which topics he would wish to speak on, and undertook not to introduce any additional documents at this late stage, I allowed him to speak on the afternoon of the sixth day. The points he put forward are summarised below.
97. *Stoke Grange and Wendover Park*. Wendover Park and Stoke Grange are 2 separate areas which have been treated as such by Councillors, with separate issues. The area of POS subject to the CPO is clearly in Wendover Park, whilst the land to be offered in exchange is in Stoke Grange and does not adjoin the Wendover Park open space. The Wendover Park and Stoke Grange amenity areas abut one another, but they are not a continuous single space.
98. *Existing established public use of the exchange land, and access to the exchange land*. The exchange land is already extensively used by the public, with this use going back to before the development of Wendover Park or Stoke Grange. Access points into the land through the existing hedgerow are shown on plans in the Council's evidence⁸⁶, and if this land was not in continuous use by residents these gaps would not be present. There are no signs indicating that this land is private, or that the landowner disapproves of or discourages the use of this land by the public. The public have clearly established use over this land, as there are informal footpaths both around the proposed exchange land and also across it.
99. This exchange land would therefore be in breach of Crichel Down Rules⁸⁷ as it would not be giving the public any more accessible land than it currently has use of, whilst reducing existing POS. Furthermore, the current amenity land is well accessible to the elderly and to wheelchair users directly from the end of Patrick Way, whereas the proposed replacement land - although used extensively by able bodied walkers - could not be reasonably accessed by the elderly or wheelchair users.
100. *Safety*. Clear evidence from the TVP⁸⁸ and the Road Safety Audit stage One⁸⁹ (RSA1) shows that speeding on the SEALR will be a very real issue. The recommended

⁸⁴ See Doc JB/ID/01

⁸⁵ CD5.22, Doc YE/ID/01 and YE/ID/02

⁸⁶ See page 5 of Doc BC/2/4

⁸⁷ See paragraph 12 of Doc JB/1/1

⁸⁸ See page 37 of Doc JB/1/2

⁸⁹ CD2.4.3

solution was to amend the horizontal alignment of the SEALR to help reduce vehicle speeds, but the Council chose not to implement this recommendation⁹⁰, arguing that the design '*has responded to the potential for high vehicle speeds as much as possible within the constraints of the project*'. This puts the cart before the horse, and clearly puts safety at risk. TVP also recommended that speed enforcement layby(s) be implemented. Whilst this would have been an enforcement measure and not a mitigation measure, this has not been implemented either. Moreover, other safety mitigation measures suggested in the RSA1 have been rejected or not confirmed. An unmitigated speeding road is not in the public interest and there are currently no effective measures before the Inquiry to enforce those speed limits.

101. Noise issues. The Council's noise assessments are based on modelled data, not actual measurements, using the speed limits of the adjacent roads, namely Wendover Road and the SEALR. Whilst this would be acceptable in normal circumstances, there would be acknowledged speed issues with the SEALR, 'other than at tidal rush hour'⁹¹. In these circumstances there is nothing before the Inquiry to show the impact of increased speed on the noise levels generated either within the modelled 18 hour period or, more importantly outside it.
102. The comparisons between Figures 3⁹² and 4 of Mr Evans' proof, which purport to show that the exchange land would be quieter, contain a number of inconsistencies. Firstly, the assumed SEALR opening year is 2021, and is therefore out of date; secondly, one set of data includes Hampden Fields and one does not; thirdly, both TVP and the RSA1 indicate that speeds on the SEALR will be higher than assumed in the models; and fourthly, the existing mitigation of 35-40 year old mature trees has not been considered, whereas the 3m barrier has been. These points all indicate that the noise impact has not been adequately assessed.
103. Landscape Character vs a Valued Landscape. The replacement land may be of equivalent landscape character to the land to be acquired, but this does not mean that it is of an 'equally advantageous' value to residents. In addition to the points already put forward by residents, it should be noted that the mature trees play a fundamental part in the setting of the amenity land, which enhances the residents' enjoyment of this land. In addition, the existing vegetation on the POS to be acquired provides a very dense, mature and visually pleasing natural barrier to the traffic on the adjacent road, whereas the 3-4 m high trees proposed for the new screening will take years to mature and residents will have to endure the visual outlook onto an unnatural man/woman-made barrier.
104. The 5 activities which residents say take place on the land to be acquired - dog walking, children's play, community events, exercise and socialising - are all theoretically possible on the proposed exchange land, but the current 24-hour access and useability of the existing land would be seriously curtailed with the exchange land. In particular, there would be both a real and perceived security issue with the exchange land which would be dark, and would therefore not be used for significant parts of the year, whereas for the existing land there is some security from the ambient lighting from Patrick Way.

⁹⁰ See page 1/9 in Appendix D within CD2.4.3

⁹¹ See page 37 of Doc JB/1/2

⁹² Doc BC/ID/10 is a revised version of Mr Evan's Figure 3, which shows predicted noise contours without the SEALR, and without the Hampden Fields development and the SLR

105. Aylesbury Transport Strategy. The Council relies on the ATS, but there are insufficient origin and destination studies to reliably support the theory that there is a significant need to bypass Aylesbury, or for cross-town commuting. Moreover, the ATS analysis has been done on the basis that the full ring road will be in place around the town, but this is not the case as there are no plans to deliver key links of the ATS as shown at Appendix B of Document BC/3/3, and there is very limited evidence to suggest that a 'partial' ring road will work. The VALP Inspector's comments on this are extremely concerning⁹³. He says:

'My conclusions are that, although the justification for the proposals has been arrived at somewhat late in the day, and perhaps through a process of post-rationalisation, nevertheless, the evidence shows that in general, although unlikely to solve all of Aylesbury's problems, the schemes are justified and so, sound.' (emphasis added)

106. Some of the problems it will not solve are those claimed by the Council at this Inquiry as benefits for the SEALR.

107. The SEALR scheme. The Council's evidence states that the SEALR has 2 main objectives - to deal with existing congestion, and address and accommodate the impact of HS2 construction traffic and infrastructure proposals (the SMRR). It is accepted that the SEALR would solve some junction issues, particularly at Station Road in Stoke Mandeville. However, Mr Tester's evidence shows that the crucially important WSG was not assessed for the 2018 Base Year; and that despite the WSG being an AQMA there have been no comprehensive traffic surveys at the gyratory since 2014 and the junction model has not been calibrated, meaning the results of the modelling cannot be relied upon. Moreover, the reduction in congestion forecast to be achieved by SEALR is modest at best and certainly not enough to claim it would 'deal' with existing congestion at this junction. Therefore, one of the supposed reasons for building the SEALR is not supported by the evidence presented.

108. Furthermore, the forecast reduction in flow at the WSG in 2024 is 5% to 7% in the peak hours, but the Air Quality Chapter of the ES⁹⁴ demonstrates that this reduction in flow would be at the expense of significantly increased flows (by over 6,000 vehicles per day) on the section of the A413 Wendover Road immediately north of SEALR. In addition, flows on Wendover Way and Camborne Avenue/Bedgrove are forecast to increase by 1,000-3,000 vehicles per day in 2021. To prevent such increases it is highly likely that mitigation measures would be required, but nothing is proposed and no evidence is before this Inquiry to indicate what would happen in key residential areas very close to SEALR. The effect of traffic mitigation would be that traffic would be directed back through the WSG, such that there would be no net reduction in traffic at the gyratory due to SEALR. Therefore, a primary objective of SEALR will not be achieved, and the evidence fails to demonstrate the true impacts of the scheme.

109. Compelling need for CPO elements. CPO Plots 16a and 16b do not play any role in the delivery of the SEALR scheme and as such there is no compelling reason for them to be part of the CPO.

110. Covenant. Finally, the POS to be acquired is subject to covenants ranging from 50 to 80 years, commencing around 1985-7. The public will expect those covenants to be

⁹³ See paragraph 4.2.7 of Doc BC/3/2

⁹⁴ See Figure 5.2 in CD4.1.6

honoured, but that would be very difficult to achieve with the currently proposed CPO and the SEALR scheme.

111. Summary. The points set out above highlight the problems which would be created by the SEALR, that should be of direct relevance to the test of whether the Scheme is 'overwhelmingly in the public interest' and therefore justifies a CPO. In relation to the S19 Certificate application, the above points have highlighted a number of ways in which the exchange land would not be 'equally advantageous'.
112. He does not agree with the VALP strategy or conclusions, particularly regarding the plan for a partial ring road around Aylesbury. The ATS as assessed is not being delivered and the strategy now being advanced has not been assessed by anything other than a single model run put before VALP late in the day. Regardless, AGT1 has been allocated through approved policy but that is in no way approval of the SEALR itself.

Matters raised by objectors in written representations

113. Landmatch Limited ('Landmatch') (Objector No 10)⁹⁵. This statutory objector is the freehold owner of land to the east of Lower Road, comprising Plots 7 and 7a. It initially objected to the CPO on 6 grounds, but has subsequently stated that a number of factors have changed, such that several of the original concerns have now been addressed. This means that the objector currently only has 2 areas of concern, namely:
- Its view that the Council had not exhausted negotiations, such that the use of compulsory purchase powers is premature. Of particular concern is access to the northern parcel of land, which is to be retained by the objector; and
 - The land designated as required to deliver the SEALR is excessive and has not been designed to have the minimum impact on the adjoining development land it is purported to support (through VALP policy D-AGT1).
114. Landmatch did not object to the principle of the Scheme, but the fact that it has not appeared at the Inquiry should not be taken as an indication that it accepts the position put forward by the Council in its opening statement, where it stated that Landmatch positively supports the Scheme on the basis that the residential development on the Landmatch land is dependent on the SEALR. For the avoidance of doubt this is not Landmatch's position and it does not agree with this statement. Furthermore, Landmatch's silence in respect of the highways evidence should not be taken as an acceptance that it accepts the evidence before the Inquiry on highways matters. Until this evidence was submitted to the Inquiry, Landmatch had been denied access to this data and has only recently been able to review it in full.
115. Dialogue between the Council and the objector's advisors has continued since the objection letter was submitted, but the main barriers to reaching an agreement have been that the Council has not been forthcoming in negotiating a purchase; and has sought to defer assessment of compensation against the wishes of the objector and against government guidance. Despite discussions taking place with the Council's SEALR team since the summer of 2018, the objector maintains that genuine engagement from the Council on the compulsory purchase has only been recently entered into, with the response from the Council being slow and limited.

⁹⁵ CD5.10, Doc PRE/04 and Doc LM/ID/01

116. On 8 October 2021 the objector received an offer from the Council and, for the first time, a high-level explanation regarding its stance on compulsory purchase compensation. This was followed by a useful meeting on 12 October 2021 between the parties, where a potential way forward was agreed. Heads of Terms (HoT) for an agreement were, however, not received from the Council until late in the evening on 2 November 2021. These draft terms represent a positive step forward and would limit the impact of the Scheme on the retained land. However, until such time as negotiations have been exhausted, and an agreement has been completed, it cannot be said that the impact on retained land has been minimised to the full extent.
117. In these circumstances the use of compulsory purchase powers in relation to the Landmatch land cannot be seen 'as a last resort'. The objector therefore encourages the Inspector to direct the Council to seek an agreement before a decision on the use of compulsory purchase powers is made. Until such time as an agreement has been concluded the objector wishes to maintain its objection.
118. Finally, the above points of objection should not carry any less weight because Landmatch has not attended the Inquiry.
119. Juniper Investments Limited ('Juniper') (Objector No 14)⁹⁶. This statutory objector is the freehold owner of Plot 8, which lies just to the west of the London to Aylesbury railway line. The objector supports the construction of the SEALR, but wants amendments to the CPO to minimise the impact on this plot, which falls within the general extent of Site AGT1 ('South Aylesbury'), as allocated in the VALP. Juniper accepts that part of Plot 8 would be needed to construct the SEALR and related embankments, to construct a bridge across the railway. No objection is raised to this necessary acquisition, subject to appropriate compensation being agreed.
120. Juniper is of the view, however, that additional land within Plot 8, not needed for construction purposes, should not be compulsorily acquired but should remain part of the AGT1 allocation, and contribute towards the 50% Green Infrastructure associated with this South Aylesbury development. Further, if the southern part of Plot 8 is required for a site compound, then Juniper is content to enter into commercial negotiations with the Council for part of this plot to be made available for a temporary period for this purpose. There is no obvious and pressing need for any land to be compulsorily acquired for use as a site compound.
121. To seek to progress matters there had been a constructive meeting between the objector and the Council on 12 October 2021, which gave both sides optimism that an agreement might be reached. Moreover, subsequent meetings have been held with Mr Mole, the Council's negotiator, and it was agreed that the Council would submit an unconditional offer for the land by 1 November 2021. However, this offer did not materialise and, as a result, Juniper no longer appears close to agreement on either the terms or the price of the proposed purchase.
122. Accordingly, Juniper maintains its objection to the CPO and seeks an amendment to the Order to remove any land which is not directly required for the SEALR itself and any associated embankments.
123. R Rotulo (Objector No 2)⁹⁷. This non-statutory objector is a resident of Patrick Way, Aylesbury who questions where the money will come from to build this road, and

⁹⁶ CD5.14 and Doc JU/ID/01

⁹⁷ CD5.2

strongly opposes the building of this raised dual-carriageway very close to homes and green spaces. He further maintains that if the road needs to be built, it should be single-carriageway, and should be moved further along the Wendover Road, to take it further away from residential areas; and that the SEALR should be scrapped, and instead the Council should concentrate on creating jobs for our towns.

124. Felice and Jane Iannone (Objector Nos 5 and 7)⁹⁸. These non-statutory objectors to the CPO live at Wendover Road and submitted identical objections, raising the following points:

- The objectors' property shares an access with 2 other properties, and accesses the Wendover Road by means of a slip-road which runs to the north and south of the shared access, providing a safe entrance onto this very busy road. But the current plans show this slip-road being removed and becoming part of the main highway, albeit being 'hatched' over. This would mean that the ability to move off the road, slow down and enter the properties safely would be significantly reduced. Also, the main flow of traffic would be stopped each time a vehicle entered the shared access, which is a great safety concern and would increase the risk of accidents;
- The slip-road to the south of the shared access would be used as part of the widened main carriageway on the approach to the proposed roundabout. This means that the slip-road would not be available when turning right out of the shared access; and a wider highway would need to be crossed when making this manoeuvre. These points would increase the risk of accident, and significantly reduce the safety of using the shared access;
- Removal of the slip-road means that the southbound carriageway would be closer to the objectors' property, thereby causing more noise, vibration and disturbance.

125. Nigel Smith and Val Knight (Objector No 18)⁹⁹. These non-statutory objectors are Aylesbury residents who submitted a very general joint objection which makes no direct reference to the Orders or the S19 Certificate application, but simply appears to be an objection to the SEALR. It raises the following points:

- The SEALR will bulldoze its way through the fragile oasis to the south of Aylesbury which is home to an abundance of animals, birds and insects, and will have seismic impact on the local fauna & flora;
- The SEALR scheme should be stopped as it will have ongoing consequences.

126. Mr Gary Maple (Objector No 19)¹⁰⁰. This non-statutory objector to the S19 Certificate is a local resident from Wendover Park, who makes very similar points to those raised by local residents who spoke at the Inquiry. In summary his concerns are:

- the open green space adjacent to Patrick Way is covered by Condition 3 of planning permission AV/1036/85, which clearly states that the POS areas shall be retained as such thereafter as a permanent ancillary of the development. This POS is situated in the Wendover Park phase 2 area and

⁹⁸ CD5.5 and CD5.7

⁹⁹ CD5.18

¹⁰⁰ CD5.19

is idyllic and safe, as it has housing and street lighting around it and is used widely by the local residents and community;

- In contrast, the proposed exchange land is positioned in Stoke Grange and would not be as easily accessible to the residents. It is a long thin piece of land that will run along the side of a dual-carriageway and bridge that will be 7m higher than a house and run down to the railway line, hidden from the houses, leaving this space open to anti-social behaviour and drug dealing. No parent would want their children to play along the side of an unlit dual-carriageway or encounter anti-social behaviour and the land would become a health risk to young and old from toxic fumes that would be emitted from the road. As a result this new piece of land would not be used, but would just become a problem for the police.
- For all the above reasons the exchange land would definitely not be equally advantageous to the residents.

127. Mr C R Wells (Objector No 21)¹⁰¹. This non-statutory objector to the S19 Certificate did not provide a home address, but states that he normally walks the existing amenity land 4-5 times a week. He makes similar points to those raised by the local residents who spoke at the Inquiry. In summary his concerns are:

- The exchange land will be adjacent to a new, very busy, raised (up to 9m above ground level), dual-carriageway and without the benefit of the existing mature hedge with trees as between the current amenity land and the proposed dual-carriageway;
- The existing mature hedge with trees has an average height of about 6m and is over 30 years old. Without such an existing hedge for screening (sound/sight/pollution) the objector would be unlikely to use the proposed new amenity area;
- It is assumed that the existing mature hedge with trees will be removed to make a contiguous grass sward between the existing and proposed new community land, if only for mowing machine access. In such circumstances the objector would not even continue to use some of the existing amenity land. This would, in effect, lead to a reduction in use/suitability of even more local amenity land;
- For these reasons the exchange land would be considerably less advantageous than the existing amenity land to be acquired.

128. Julie Willis (Objector No 20)¹⁰². This non-statutory objection was submitted under the reference of the S19 Certificate application, but with a heading 'Closure of Marsh Lane to cyclists'. As such, its content does not appear to relate to land or matters covered by this Certificate. It makes the following points:

- As a cyclist who does not own a car, the loss of this traffic-calmed cycle route will force the objector onto a main road to get to Stoke Mandeville for the foreseeable future. This should not have been allowed to happen in times of environmental awareness and the need to increase cycling;
- The Council should put the consideration and safety of cyclists first, and should be promoting cycling, not discouraging it by putting lives at risk.

¹⁰¹ CD5.21

¹⁰² CD5.20

THE RESPONSE OF THE COUNCIL

129. The Council responded to the unwithdrawn objections both in writing and by cross-examination of those objectors who chose to present their cases at the Inquiry. These responses can be found in Appendix 1 to the Council's SoC¹⁰³; in the Council's various rebuttal statements issued just before, and during the Inquiry¹⁰⁴; the main evidence from its 8 witnesses¹⁰⁵; and specific documents submitted during the Inquiry¹⁰⁶. The gist of these responses is set out below. Responses to objections to the SRO are dealt with first (with some of these also covering objections to the CPO). Then objections to the CPO are dealt with, and finally, objections to the S19 Certificate application.

Side Roads Order

130. The Council's evidence provided by Mr Tester and Mr Welborn has demonstrated that both of the SRO tests identified by the Inspector at the PIM would be satisfied by the Scheme. In particular, whilst sections of both Lower Road and Wendover Road would be stopped up by the SRO, the closure would not take place until after replacement carriageway has been provided. Furthermore, CPO Plot 7a is specifically required to allow an alternative route for Footpath SMA/3/1 to be made available before the existing PRoW would need to be stopped-up by the SEALR. Other objections to the SRO were lodged by the Pearce Family and by Felice and Jane Iannone, as detailed below.

131. The Pearce Family (Objector No 15). As part of the Scheme, the Pearce Family's existing agricultural access onto Lower Road would be stopped up, but a replacement access would be provided onto the western terminal roundabout to ensure continuing access to their retained land. Notwithstanding these points, the Pearce Family's objections to both the SRO and the CPO were essentially grounded in 2 issues, the first being that the replacement access, proposed to be located in the southern quadrant of the Lower Road roundabout, would be provided only as part of SEALR 'Phase 2', as opposed to the Scheme at Inquiry. This matter is easily addressed, as the Council's evidence makes it clear that the replacement access would be provided as part of the Scheme itself, as opposed to any 'Phase 2'¹⁰⁷.

132. The second issue related to the nature of the proposed replacement access. Mr Briggs, representing the Pearce Family, referred to the fact that although the Family's retained land was currently in agricultural use, they aspire to bring forward residential development on this land. He argued that the proposed replacement access would not be sufficient to serve such residential development, whereas the long frontage onto the Lower Road, which the Family currently own, could be utilised to enable the existing access to serve that development. The Council does not accept the position as stated by Mr Briggs.

133. Firstly, it is clearly the case that the existing access is an agricultural access, serving agricultural land. It is therefore entirely appropriate that the replacement access should comprise an agricultural access. The Council's highways witness, Mr Tester, confirmed that the replacement access would be suitable to serve agricultural traffic.

¹⁰³ CD9.2

¹⁰⁴ Docs BC/2/4, BC/4/4, BC/5/4 and BC/8/4

¹⁰⁵ Docs BC/1/1 to BC/8/3

¹⁰⁶ Docs BC/ID/03-05, BC/ID/09, BC/ID/10, BC/ID/13, BC/ID/17 and BC/ID/18

¹⁰⁷ See paragraph 3.5 in Doc BC/4/4

134. Second, the judgement which Mr Briggs purports to make about the comparative potential of the existing/replacement accesses to serve any future residential development of the Pearce Family's retained land is unsound. In this regard it should be noted that Mr Briggs is not a highways engineer and has no relevant highways qualifications, nor is he a member of any relevant professional highways institution. Rather, he is an agricultural valuer and chartered surveyor.
135. With these points in mind, it should further be noted that Mr Briggs' proof of evidence speaks expressly about the Pearce Family's current '*...ability to improve the existing access*'¹⁰⁸, but this existing access would not be capable of improvement to serve a residential development as it is positioned immediately adjacent to another, existing access serving Lower Road Farm¹⁰⁹. Mr Briggs acknowledged this point, but went on to argue that rather than improving the existing access, it would be open to the Family to provide a wholly new access, further to the north.
136. However, when it was put to him that to move the access further north would bring it closer to the existing bend in the carriageway, thus reducing the visibility splays, his simple answer was that the highway would need to be realigned. But as he had prepared no plans depicting any such access or highway realignment, he could not provide any meaningful detail as to what this access would comprise, or how a satisfactory access could be achieved. The necessary comparison, therefore is between a new access proposed by the Council in the context of the SEALR, and depicted on plans before the Inquiry¹¹⁰; and another new, non-specified access to the north suggested by Mr Briggs, which was not shown on any plan.
137. Mr Tester's view, as an experienced highway engineer, was that as the proposed replacement access would provide direct access onto a high capacity junction (namely the western terminal roundabout), it would rank better in the junction hierarchy than a simple access junction onto a 40mph road, as proposed by Mr Briggs. It would therefore be a 'better starting point' to serve any future residential development than an access straight on to Lower Road.
138. The fact remains that if the Pearce Family are ultimately to bring forward residential development on their retained land, they will need to negotiate with the highways authority and agree a suitable access arrangement. On the basis of the material before the Inquiry, and in particular the evidence of Mr Tester, the Council maintains that in terms of any 'starting point' for future access to land for residential purposes, the replacement access offered by the Council is superior. In any event, the position is very definitely that a 'reasonably convenient means of access' would be provided, such that the requirements for making a SRO are satisfied.
139. A further strand of the argument put forward by Mr Briggs was that the presence of the western terminal roundabout was unnecessary and somehow 'incompatible' with HS2's proposals for the SMRR¹¹¹. However, Mr Briggs could not point to any alternative solution, save his suggestion that Phase 2 of SEALR should be included in the current scheme. The simple fact is that the Scheme before the Inquiry does not include any SEALR 'Phase 2'/SMRR, but that even if it did, some form of junction with Lower Road would still be required. Mr Welborn's unchallenged evidence for the

¹⁰⁸ See Paragraph 1.1 of Doc PEARCE/1/2

¹⁰⁹ See photograph at Appendix 5 in Doc PEARCE/1/3

¹¹⁰ See CD3.2.3

¹¹¹ See Section 6 of Doc PEARCE/1/2

Council confirms that the proposed western terminal roundabout is both necessary and compatible with the development which HS2 will bring forward.

140. It is accepted that the SRO plan as currently drafted shows the westwards extension of SEALR (Phase 2 of SEALR/SMRR) as a single-carriageway, but this is simply because that is what is included in the HS2 Act. The Council has made it clear that its intention and wish is for this section to be dual-carriageway, and it anticipates soon making an application to upgrade this proposed section of road. In these circumstances Mr Briggs' point on this matter should not carry weight.
141. For all the above reasons, and as the Pearce Family's existing agricultural access onto Lower Road would not be stopped up until after a replacement access has been provided, the Inspector and SST are respectfully invited to reject the objections of the Pearce Family to both the SRO and CPO.
142. Felice Iannone and Jane Iannone (Objector Nos 5 & 7). These objectors submitted identical letters of objection in respect of both the CPO and SRO, raising concerns about noise and safety issues relating to their driveway/access arising out of the Scheme as approved in the SEALR planning permission. Given the concerns raised appear to relate to both the CPO and SRO, they are dealt with together, in the context of the SRO.
143. The Council responded to the Iannone's objections by way of letter dated 9 June 2021¹¹², which made the following points:
- The Scheme had been subject to further detailed design work since planning permission for the SEALR was granted;
 - There would not be 3 lanes of traffic in front of the access road to their property;
 - The southbound footway is to be widened to a total width of 3m;
 - 'Keep Clear' markings would be introduced in front of the access road to their property; and
 - The revised proposals had been considered by an Independent Road Safety Audit that did not raise any concerns.
144. The Council has not received any further communication from these objectors, but for the avoidance of doubt, the Council considers that its correspondence addresses the objectors' concerns. Any residual concern relating to traffic noise impacts on the amenity of the Iannone's property would have been considered in the context of the overall Scheme, by the Committee determining the SEALR planning application.
145. It is therefore submitted that the SRO and CPO should be confirmed, notwithstanding the fact that the Iannone's have not withdrawn their objections.

Compulsory Purchase Order

146. Turning to the CPO, the Council's position is firmly to the effect that all 4 of the tests identified by the Inspector are met¹¹³, and are not repeated again here. Rather, the Council simply sets out its response to the remaining statutory objectors to the CPO in the following paragraphs (accepting that the objections from the Pearce Family and Felice and Jane Iannone have already been dealt with, above).

¹¹² Doc BC/ID/17

¹¹³ See paragraphs 14-26 of Doc BC/ID/06

147. Landmatch (Objector No 10). As has been noted previously, this objector had originally objected to the CPO on 6 grounds, but withdrew 4 of them prior to the opening of the Inquiry¹¹⁴. The first of the remaining grounds of objection is an assertion that the Council had not exhausted negotiations, and thus the use of compulsory purchase powers was premature. The Council does not accept this assertion. The Schedule¹¹⁵ to Mr Mole's evidence illustrates that the Council has been fully engaged and proactive in negotiations with Landmatch and its agents. In its letter of 15 October 2021 Mr Dewey, for the objector, accepted that negotiations had been 'productive', with the parties 'working collaboratively towards an agreement'. The Council therefore maintains that its efforts have not been 'slow and limited' as Mr Dewey suggests. HoT seeking acquisition of the Landmatch plot were issued in February 2020, with revised terms subsequently issued in May 2021, October 2021 and November 2021. All of these HoT included financial offers to acquire the land in question.
148. The Council has offered to acquire the relevant Rule 2 interests at a value which it considers fair. Insofar as Landmatch suggests that it might be entitled to compensation under other potential heads of claim, the Council does not accept that entitlement, and accordingly has made no offer of compensation in that regard. As indicated in the CPO guidance¹¹⁶, the Council is required to take reasonable steps to acquire all of the land and rights included in the CPO by agreement. The evidence of Mr Mole¹¹⁷ shows that the Council has manifestly satisfied this requirement.
149. The second point on which Landmatch maintains its objection is as regards land-take, which is said to be excessive. However, Landmatch has not provided any explanation or substantiation of this assertion in any of its correspondence with the Council, or in its original objection. In particular, the Inquiry has not been told which land Landmatch asserts is not truly required to deliver the Scheme, let alone why this is the case. Mr Welborn's unchallenged evidence confirmed that all of the Landmatch land is required for the Scheme, such that the land-take is not excessive. This objection is therefore wholly without merit. In view of all the above points, these objections should not be upheld.
150. Juniper (Objector No 14). In its original objection¹¹⁸, Juniper did not object to the land-take necessary for the construction of the SEALR itself, but did raise 2 grounds of objection. The first was that the land-take should be restricted to that necessary for construction of the SEALR, so that no other land should be acquired for any other purpose. The Juniper land is Plot 8 and the Council's evidence¹¹⁹ put forward by Mr Simmons comprehensively sets out the basis on which the identified land-take of this whole plot is required on ecological grounds. The land will provide a vital north/south corridor for habitat linkage, notably for bats and barn owls, and this function caused the County Ecologist, in providing comments and advice in response to the Scoping Report for the Environmental Impact Assessment (EIA), to describe the habitats within and adjacent to the railway corridor as being of high value¹²⁰.

¹¹⁴ Doc PRE/04

¹¹⁵ Doc BC/ID/12

¹¹⁶ Page 6 of CD7.9

¹¹⁷ Docs BC/4/1 to BC/4/3, and Doc BC/ID/12

¹¹⁸ CD5.14

¹¹⁹ Docs BC/6/1 to BC/6/3

¹²⁰ See CD9.14 and paragraphs 4.8-4.12 of Doc BC/6/2

151. None of Mr Simmons' evidence was subject to cross-examination or questioning in this regard, and Juniper themselves neither submitted evidence nor elected to attend the Inquiry. There is therefore no contrary evidence before the Inquiry to gainsay the Council's view that the compulsory acquisition of Plot 8 is justified due to the ecological role which it will fulfil. That role is supported by national policy in the NPPF, local policy in the form of the VALP, and is also consistent with emerging legislation in the form of the pending Environment Act.
152. The second strand of objection is that the Council had not exhausted negotiations, and thus the use of compulsory purchase powers is premature. The Council maintains, with respect, that this ground of objection strains credulity. Evidence from Mr Mole¹²¹ clearly shows that the Council has been making every effort to negotiate with Juniper for a considerable period, but has received no response. It is only in recent weeks that an agent for Juniper (as opposed to a planning consultant) has even been instructed. It is therefore wholly unjustified for Juniper to contend that the Council has been in some way remiss in seeking to acquire Plot 8 by agreement.
153. Assertions made in Juniper's letter to the Inquiry dated 10 November 2021¹²², that the Council has fallen short in terms of its efforts to negotiate, are robustly denied. The simple fact is that the parties are in dispute as to value. The Council made an unconditional offer for purchase on 4 November 2021, and a response to that offer is outstanding. In the event that a value cannot be agreed, the matter may be referred to the Upper Tribunal (Lands Chamber) for resolution. In view of all the above points, these objections should not be upheld.
154. Julie Willis (Objector No 20). Ms Willis emailed, apparently in objection to the CPO, on 7 May 2021. Her complaint relates to the closure of Marsh Lane, which lies to the west of Lower Road, at Stoke Mandeville, some distance away from the route of the SEALR, and unaffected by it. As such, the Scheme does not require the closure of Mash Lane (either by way of the CPO or by way of the SRO), so any such closure is unrelated to the Scheme, and is not before this Inquiry. This cannot therefore count as a valid objection to the CPO, the SRO or the S19 Certificate application.
155. Nigel Smith and Val Knight (Objector No 18). These individuals objected by way of letter dated 24 April 2021, but it is unclear to what they are objecting. The objection reads as though it is to the planning application, but the Council has treated it as an objection to the CPO. The point raised by Mr Smith and Ms Knight relates to ecology, and it appears to be asserted that the Scheme would result in ecological harm. To the extent that is what is asserted, the Council rejects that proposition. Mr Simmons' evidence demonstrates clearly and unequivocally that far from having an adverse ecological impact, the Scheme will instead result in a BNG of some 18% in terms of habitat units, and about 15% in terms of hedgerow units¹²³. This assessment has been undertaken in accordance with best practice, and is conclusive. This objection should therefore not carry weight against the CPO.
156. R Rotulo (Objector No 2). This objection was lodged against the CPO by email dated 26 September 2020. It suggests that the SEALR should be built from the existing roundabout further south along the Wendover Road, away from residential areas. However, Mr Welborn's written and oral evidence explained the reasoning for the

¹²¹ Docs BC/4/1 to BC/4/3, and Doc BC/ID/12

¹²² Doc JU/ID/01

¹²³ See Table 1 at Paragraph 3.21 of Doc BC/6/2

chosen design of the SEALR, and the basis for its current alignment. With regards to any junction with the Wendover Road, the SEALR could not be set further to the south of residential properties and still meet the proposed junction with the SLR, to the east. In any event the SLR would still require a junction with Wendover Road at this location, even if the SEALR were to join the existing roundabout further south.

157. The proposed SEALR roundabout on Wendover Road could not be moved southwards without causing other impacts, such as the need to acquire residential dwellings – potentially compulsorily. Compulsorily acquiring residential properties would be a serious matter which the Council would always seek to avoid. Further impacts would be the need to divert the Bedgrove Brook and its culvert under Wendover Road; and easement problems in relation to the underground high voltage cable diversion.
158. The objector's query as to why the road would need to be a dual-carriageway is answered by the traffic modelling, which shows that the SEALR is expected to accommodate 2,500-3,000 vehicles in each peak hour, and 36,400 2-way vehicle movements in a day¹²⁴. These flows would exceed the capacity of a single-carriageway road if the development planned in the VALP was to come forward as anticipated. The Council must construct the SEALR with sufficient resilience to accommodate the traffic generated by that development, and so it is necessary to construct the SEALR to dual-carriageway standard from the outset. With regard to the objector's query as to where the money will come from to fund the SEALR, the position is set out comprehensively in the unchallenged evidence of Mr McGowan¹²⁵. None of these points should carry any weight against the CPO.
159. Mr Yerby (Objector No 22). Mr Yerby, a former councillor, did not submit an objection to the CPO, the SRO or the S19 Certificate application during the respective formal objection periods. However, at the end of day 3 of the Inquiry, following the conclusion of the Council's case, he indicated that he wished to object to the CPO and the S19 Certificate application. On the afternoon of day 6 of the Inquiry he submitted a written document setting out the various grounds on which he maintained objection¹²⁶. None of the matters which he raised were substantiated by any technical analysis. Further, none of them had been put by Mr Yerby to the various (8) witnesses who had been called to give evidence by the Council.
160. Mr Yerby raised technical objections in respect of noise and highways matters, and also expressed views in respect of planning policy issues. In his proof of evidence he invited that he be cross-examined as an expert witness. However, in cross-examination he conceded that he had no planning, acoustic or highways qualifications, and that he was not a member of any professional body relating to any of those disciplines. He further conceded that he was not, in fact, an expert witness. Insofar as Mr Yerby's points relate to the CPO, they are dealt with in the following paragraphs. Matters he raised in relation to the S19 Certificate application are dealt with later in this Council response.
161. Firstly, Mr Yerby disputes the benefits that the Scheme will deliver in terms of helping to alleviate congestion, on account of the fact that he contests Mr Tester's modelling. He is not a highways engineer himself, and has adduced no technical evidence to support his contention. In this regard, however, it should be noted that the strategic traffic model which underpins the Scheme has been assured and

¹²⁴ Paragraph 5.22 of CD2.7

¹²⁵ Doc BC/1/1

¹²⁶ Doc YE/ID/01

approved by the DfT. Thus Mr Yerby sets himself up in opposition not only to Mr Tester, but also DfT itself. His position is not a credible one.

162. Secondly, Mr Yerby contests the need for the SEALR to deliver allocation AGT1 in the VALP. Again, he puts forward no technical evidence to support his view, and in adopting his position he sets himself in opposition to others, aside from Mr Tester. This time it is the Inspector who held the examination in respect of the VALP, and who concluded that the requirement for the SEALR was both 'sound and justified'. Mr Yerby confirmed in cross-examination that he disagreed with the VALP Inspector, notwithstanding he accepted that the Inspector's finding in respect of the SEALR was based on updated County-wide modelling, and the contributions of multiple highways experts participating in the examination. Again, his position is not credible, and his objections should not carry any weight against the CPO.
163. Mr Potts, Mr Bradley & Mr Gibbons (Objector Nos 1, 8 & 13A). These 3 parties have objected to the S19 Certificate application, at which the bulk of their evidence is directed. However, they have also raised the issue of 'alternatives' to the SEALR. This matter does not go to the merits of the S19 Certificate application, which is concerned purely with the comparative exercise of weighing the respective merits of the CPO amenity land to be acquired, and the proposed replacement land. These points must therefore comprise objections to the CPO itself.
164. In response to these points the Council maintains that Mr Welborn comprehensively explained why the Scheme has been designed as it has, and why the SEALR is in its current form. The objectors, though talking in general terms about alternatives, have not provided a substantive case in support of any alternative design, but simply point to some preliminary options that were previously considered by the Council and discounted¹²⁷. They have not demonstrated that any such alternative would be superior to the SEALR¹²⁸. Further, and significantly, it is not suggested by the objectors that any alternative design would not also require compulsory purchase powers. Ultimately the position is that planning permission has been granted for the SEALR, and has not been challenged. There is no evidential basis on which the Inspector or the SST should decline to confirm the CPO on the basis of alternatives, and this point should therefore not carry weight against the CPO.

Section 19 Certificate Application

165. To enable construction of the Scheme's Wendover Road roundabout, the CPO provides for the compulsory acquisition of some 1,336sqm¹²⁹ of POS, located in the eastern corner of the amenity land which serves the Stoke Grange and Wendover Park developments. Notwithstanding that local residents have sought to emphasise that the Stoke Grange and Wendover Park areas comprise separate 'estates', it is evident, 'on the ground', that the area of amenity land serving these developments comprises a single, continuous area of POS stretching across the southern end of the housing developments. Indeed, Mrs Kitchen confirmed that this POS was laid out pursuant to a single planning permission which related to development of phases in

¹²⁷ See Doc JB/ID/01

¹²⁸ This is the relevant test, as noted (by way of example) by the Inspector reporting in respect of the Oxfordshire County Council (A4095 Witney: Cogges Link Road Classified Road Compulsory Purchase Order 2010, and associated application pursuant to Section 19 of the 1981 Act. See Paragraph 7.3 of Doc BC/ID/19.1

¹²⁹ In the CPO as made, this area was some 1,576sqm, including a long 'spike' of land running along the southern boundary of Plot 11. The Council explained at the Inquiry that the inclusion of this spike was the result of a drafting error, and that it had been wrongly included in Plot 11. This spike has been removed in the proposed modifications, and the extent of POS to be acquired has, accordingly, been reduced to 1,336sqm

both developments. Walking east to west (or west to east) the experience is of passing through a single area; at no point is there any built form which serves to 'interrupt' the space.

166. S19 is not concerned with general matters of amenity such as, for example, the impacts which a particular scheme of development may have on land which is retained as open space, and which is not compulsorily acquired. Nor, indeed, on the amenity of residential properties fronting onto that space. Such 'Scheme impacts on amenity' are not relevant to the compulsory acquisition context of S19 and will, in any event, have been considered in the context of the determination of the planning application in respect of the Scheme.
167. The necessary assessment which needs to be undertaken in the context of this S19 Certificate application is a comparative exercise as between the amenity land to be compulsorily acquired, and the proposed replacement land. The relevant considerations are whether the replacement land is, firstly, not less in area than the land to be acquired; and secondly, whether it would be 'equally advantageous' to the public in terms of the recreational amenity that it would provide.
168. As regards the first of these tests, it is common ground between all parties that it is met. The land to be acquired comprises some 1,336sqm whereas the replacement land, at 5,472sqm, is over 4 times larger in extent.
169. In terms of the second test, the comparison to be undertaken is between the replacement land and the area of amenity land to be acquired - not between the replacement land and the POS more generally. It is also important to note that what is at issue is the role which the amenity land to be acquired fulfils as a recreational amenity space to those who use it. This is distinct from matters such as the private views which certain residential properties may enjoy over the land in question.
170. In terms of how this comparison is to be effected, guidance is provided by the decision of Hutchison J in *London Borough of Greenwich v Secretary of State for the Environment* [1993] Env LR 344¹³⁰. In that case the High Court considered the relevant legislative provisions, and established a number of broad principles, including the following:
- First, where replacement open space is provided it does not need to 'replicate' the character of the land compulsorily acquired. Indeed, if an area of woodland were to be acquired from an area well supplied with woodland but deficient in terms of playing fields, it would be open to replace the lost woodland with playing fields, if the relevant Secretary of State felt that such provision would be equally or more advantageous¹³¹. In other words, replacement land does not need to be a mirror image of the land acquired.
 - Second, notwithstanding that the judgement as to whether replacement space is equally advantageous is undertaken by reference to how matters stand at the date of exchange, the relevant Secretary of State can have regard to how the replacement space will 'evolve' thereafter. By way of example the judge posited a situation where if 2 playing fields were acquired, with the replacement land comprising an area on which there existed only 1 playing field at the date of exchange, but on which 2 further

¹³⁰ See Doc BC/ID/19.2

¹³¹ Page 370 of Doc BC/ID/19.2

pitches would be provided within 12 months of that date, it would be open to take that later provision into account and conclude that the replacement was equally advantageous¹³².

171. Dealing first with the character of the amenity land to be acquired, this comprises a 'wedge' at the eastern end of the overall POS, broadly triangular in shape, measuring some 67m north to south, and an average east to west dimension of some 30m. It sits immediately adjacent to the A413 Wendover Road, which S19 objectors describe as 'a very busy road'¹³³. It has more vegetation than some other parts of the POS, with a number of substantial trees and bushes. This vegetation has the effect of limiting the extent to which it can be used for the activities which local people claim are carried out on the POS, namely exercise, children's play, dog walking, community events and general socialising¹³⁴. The vegetation also limits the extent to which the land is subject to 'natural surveillance'.
172. In comparison, the proposed replacement land measures some 20m wide, and extends for about 300m along the southern edge of the existing POS. Mr Rooney's evidence¹³⁵ shows that this area will be bounded by a post and rail fence, within which there will be a band of shrub planting, with the bulk of the area being laid out as amenity grassland with swathes of species rich grassland/wildflower meadow planting. There will also be significant tree planting. To the south of the replacement land there will be a stretch of open grassland, lying between it and the embankment, which will be planted as woodland. During the 5-year 'establishment period' the contractor will monitor the progress of all the planting, and any trees and shrubs that do not thrive will be replaced with further specimens. On conclusion of that period, once the planting has taken hold, the whole area will be subject to ongoing maintenance by the Council. All planting will have taken place prior to exchange, and the area will be available for use by the public before the CPO amenity land is 'lost'.
173. The various grounds of objection raised in opposition to the S19 Certificate fall within a number of headings, to which the Council's responses are set out below.
174. Accessibility¹³⁶. The first, and perhaps most strongly pursued line of objection, relates to 'access'. Objectors maintain that the CPO amenity land to be acquired serves Wendover Park, whereas the replacement land would serve the Stoke Grange Estate. This point is not accepted by the Council. The reality is that the POS in this area presents as a single 'whole', serving the entirety of the residential area - both Stoke Grange and Wendover Park.
175. The replacement land will be located less than 3 minutes' walk from the land to be acquired, and residents of Wendover Park will be able to walk directly from one area to the other, without having to leave the POS (or indeed 'their' area of that POS). A new access point to the replacement land will be created to facilitate this. On no reasonable view can it be said that the replacement land will not be accessible. Indeed, in cross-examination, Mr Bradley accepted that having regard to the provision of this new access point, the replacement land would indeed be 'accessible'. Moreover, the Council considers that there is no material difference in

¹³² Page 371 of Doc BC/ID/19.2

¹³³ For example, see paragraph 7 of Doc JB/1/1

¹³⁴ Again, for example, see paragraph 7 of Doc JB/1/1

¹³⁵ In particular, Figures 8 & 9 of Doc BC/7/3

¹³⁶ Raised by Mr Bradley, Mr Gibbons, Mrs Smith, Mr Potts, Mr Yerby, Mr Maple

the ease with which less mobile people and wheelchair users would access the replacement land, compared to accessing the land to be replaced. In each case, access would require moving off a hard-standing path, then onto the grassed POS.

176. Crime and Anti-Social Behaviour¹³⁷. The concerns voiced by local residents in this regard were all grounded in the response of Ms Haley, the CPDA consulted by the Council in respect of the planning application for the Scheme. That response did not relate to the replacement land, but instead to the culverts proposed as part of the Scheme. Further, the consultation response did not assert that criminal activity would result from the design, but instead only that it might result in the event that the culverts were sufficiently large to admit access.
177. As Mr Welborn explained, the Southcourt Brook Culvert will be 1.8m high, and on that basis it has been determined that it should be equipped with metal anti-personnel gates. These will be locked, and will preclude access. The other culvert would be nowhere near the replacement land¹³⁸ and only 1.2m in height. A risk analysis has been undertaken and has confirmed that there is no justification for installing anti-personnel gates on it. Thus the point on crime/anti-social behaviour goes away entirely.
178. Although Mr Potts suggested that the absence of a response from the CPDA in the context of a second consultation should be concerning, it is not surprising that when a consultant response has already been sent, no further response was considered necessary. Mr Potts appears to assume that if a response had been given, it would be negative. But as there was no second response, this cannot be known. As it stands there is nothing in this matter for the S19 objectors to rely on.
179. Noise¹³⁹. Concerns were expressed by local residents that the replacement land will not serve as POS as it will be unduly afflicted by traffic noise. This point was comprehensively addressed by Mr Evans, who explained, by reference to noise modelling work he has undertaken, that the replacement land will in fact be significantly less afflicted by road traffic noise than is the CPO amenity land to be acquired¹⁴⁰. The noise levels experienced on the land to be acquired range between 60-70 dB LA₁₀, 18hr. In contrast, the levels which will be experienced on the replacement land would be lower, at between 51-56 dB LA₁₀, 18hr.
180. The reason for this difference is due, in large part, to the fact that whereas the vegetation on the eastern boundary of the land to be acquired does not act as an effective barrier to traffic noise, the 3m high specifically designed acoustic barrier to be installed to the north of the SEALR carriageway certainly will, and to a significant extent. Although Mr Potts made reference to a pamphlet published by the Arboricultural Advisory and Information Service¹⁴¹, this did not take matters further, since the most it could do was to suggest that where there is vegetation some 30m deep, it might effectively reduce traffic noise¹⁴². There is nothing of the kind on the eastern flank of the land to be acquired. Rather there is a hedgerow with a small number of trees and, as such, the analysis of Mr Evans is entirely sound.

¹³⁷ Raised by Mr Bradley, Mr Gibbons, Mrs Smith, Mr Potts, Mr Yerby, Mr Maple

¹³⁸ See Doc BC/ID/09

¹³⁹ Raised by Mr Bradley, Mr Gibbons, Mrs Smith, Mr Potts, Mr Wells, Mr Yerby

¹⁴⁰ See Doc BC/ID/10 (an amended Figure 3) and Figure 4 in Doc BC/5/2

¹⁴¹ Doc POTTS/ID/01: - 'Trees in focus - Trees & Shrubs for noise control'

¹⁴² See reference in Doc POTTS/ID/01 to Huddart (1990), which study is also cited in DMRB

181. With regard to Mr Potts' argument that the replacement land would suffer from noise from the railway line, Mr Evans acknowledged that there will be occasional increases in noise levels on the exchange land as trains pass by to the west (approximately 4 per hour). But as well as only being intermittent in nature, rail noise as trains approach from the south will be significantly reduced, for users of the replacement land, by the SEALR embankment and the 3m acoustic barrier. Finally on the topic of noise, Mr Yerby advanced the proposition that the Council accepts excessive speed on SEALR, and therefore excessive noise. For the avoidance of doubt, the Council does not accept this proposition. For all the above points, the issue of noise is not one that weighs against the S19 Certificate application.
182. Drainage¹⁴³. Some objectors raised concerns about the drainage of the replacement land, asserting that it will be muddy and wet. However, Mr Welborn explained how the carriageway itself will drain into gullies and the attenuation ponds, such that there will not be any run-off from impermeable areas. He also confirmed that water falling onto the embankments would, to a material extent, be absorbed into the embankment and by the 'drainage layer' (comprising gravel or similar) incorporated at the base of its construction. There would therefore be no additional water directed to the replacement land by reason of the Scheme and, as such, there is no evidence to the effect that the replacement land will be 'muddy' and 'wet' as asserted.
183. Attractiveness¹⁴⁴. This is an issue of somewhat peripheral relevance, since the matter to be considered is whether or not the replacement land will be of equal advantage to local people (and indeed the wider public) in terms of the recreational amenity it offers, as opposed to the 'appearance' of the 2 areas. That said, the Council recognises that to some degree the issue of a recreation area's appearance can have a bearing on its utility. But in responding in respect of this issue, the Council points to the proximity of the wedge of amenity land to be acquired to the busy Wendover Road, the utilitarian nature of the grassland, and its 'enclosed' feel. It is submitted that the replacement land with its swathes of species rich grassland, interspersed with the amenity grassland, would be a suitably attractive replacement.
184. Pollution¹⁴⁵. Some objectors raised the issue of 'pollution', but only in a general way, with no detail as to how the issue bears on the S19 Certificate application, and no technical evidence submitted in support of it. In responding, the Council notes that the amenity land to be acquired is immediately adjacent to what residents describe as a 'very busy road', with only a relatively narrow band of porous vegetation separating the area from the carriageway. The replacement land will be set away from the SEALR behind a solid 3m high acoustic barrier. There is no evidential basis on which to conclude that the replacement land would be less advantageous than the amenity land to be acquired, by reason of pollution.
185. Shadow¹⁴⁶. In the course of his cross-examination of Mr Rooney, Mr Bradley asserted that the replacement land will be 'in shadow', by reason of the SEALR embankment. There is, however, no firm evidence before the Inquiry in respect of this issue, and Mr Bradley acknowledged that he had not previously raised this matter either in his objection to the S19 Certificate application, or in his evidence to the Inquiry. Had the Council been notified of this point in advance, it could have

¹⁴³ Raised by Mr Gibbons, Mr Potts

¹⁴⁴ Raised by Mr Wells, Mrs Smith/local residents

¹⁴⁵ Raised by Mr Wells, Mr Maple. Mr Potts also referred to this issue in oral evidence, his written evidence which raised this issue related to his 'residence'

¹⁴⁶ Raised by Mr Bradley

arranged for a comparison of sunlighting to be undertaken as between the land to be acquired and the replacement land. But in the absence of that evidence the Council can do no more than point to the fact that the replacement land will be far more 'open' and better lit in terms of sunlight than is the land to be acquired. In this regard it should, of course, be noted, that the amenity land to be acquired has tall hedgerows on its southern and eastern boundaries, and contains a number of tall trees, such that it is, itself, a shady area.

186. Ecology¹⁴⁷. The issue of ecology was raised by a single objector to the S19 Certificate application, Mr Potts, who cross-examined Mr Simmons at some length. Mr Simmons' evidence, however, had not been prepared in the context of the S19 Certificate application, but instead had been prepared in support of the CPO, and in particular in support of the case for acquisition of Plot 8. This is important to note, because the assessment to be undertaken in respect of the S19 application is not to consider the relative advantages of the amenity land to be acquired and the replacement land in every respect, but only in respect of those matters that are connected with public recreation. In this regard, as Hutchison J noted in Greenwich:
- 'The [amenity land to be acquired] may be advantageous for reasons unconnected with public recreation and such advantages are irrelevant. The same considerations apply so far as the [replacement] land is concerned. ... it is important to distinguish between recreation on the one hand and ecological interests on the other, and to recognise that the assessment of equal advantage is not the assessment of equal ecological advantage but an assessment in terms of public recreation'¹⁴⁸.
187. Notably in this regard, none of the objections to the S19 Certificate application contended that the ecology of the amenity land to be acquired contributed to its 'recreational value'. In particular, Mr Potts did not raise this issue. Thus it can be fairly said that the issue of ecology does not bear on the S19 Certificate application, which is concerned with the extent to which the replacement land is 'equally advantageous' in recreational terms. For completeness however, the Council has already noted that the Scheme will lead to a BNG of more than 18% in terms of habitat units, and more than 15% in terms of hedgerow units.
188. In his written questions to Mr Simmons¹⁴⁹, Mr Potts queried the basis on which the BNG calculation had been undertaken. Mr Simmons responded to that question¹⁵⁰, confirming that the BNG calculation submitted in support of the SEALR planning application utilised the Biodiversity Metric 2.0 methodology¹⁵¹, which was the Natural England endorsed BNG methodology at the time of that submission.
189. Shape¹⁵². The final discrete point raised was that the proposed replacement land will be too 'narrow'. The Council does not accept this point, and maintains that it is artificial for S19 objectors to speak of the replacement land as though it will comprise a 'separate', 'stand-alone' area. It will not. It will be an extension to the retained POS, adding some 20m in width, and 20% in area to the existing POS. The fact that the hedge on the northern boundary of the replacement land will be retained does not alter the position. There will be multiple (5) openings, spread

¹⁴⁷ Raised by Mr Potts

¹⁴⁸ At page 371 of Doc BC/ID/19.2

¹⁴⁹ Doc POTTS/ID/05

¹⁵⁰ Doc BC/ID/18

¹⁵¹ Appendix A of Doc BC/6/3/1

¹⁵² Raised by Mr Bradley, Mr Gibbons, Mrs Smith, Mr Potts, Mr Maple

evenly along the length of hedgerow, which will ensure that the replacement land 'binds' to the existing POS in both physical and visual terms. This means that the replacement land will not be a 'narrow' open space, but will present as a substantial addition to the existing POS.

190. Recreation¹⁵³. The key question is, will the proposed replacement land be 'equally advantageous' for members of the public as the amenity land to be acquired. At the heart of this issue, are the activities to which the land to be acquired is said to be put, namely exercise, dog-walking, children's play, community events and general socialising. Whilst this is ultimately a subjective judgement, the Council respectfully submits that on any reasonable view, the space that will be created on the replacement land will be manifestly superior to the land to be acquired in terms of its ability to accommodate these types of recreation.
191. Mr Bradley and Mr Gibbons did point to the fact that the mature vegetation on the land to be acquired represents a particular advantage for children's play. In this regard the Council maintains that the replacement land, with the swathes of wildflower meadow planting, and the sequence of openings in the retained hedgerow, will provide equivalent – albeit different – opportunities for children's play. It should be noted that in cross-examination, Mr Bradley accepted that the replacement land would be 'equal' to the land to be acquired for the purposes of the identified recreational activities. Although he subsequently expressed a wish to 'retract' his answer, this does not alter the fact that he said it¹⁵⁴.
192. Mr Gibbons did not accept the same proposition, and purports to disagree with the concession made by Mr Bradley. However it was evident that what primarily concerns Mr Gibbons, and those such as Mrs Smith who support his case, is the effect which the Scheme will have on the area of the amenity land to be retained as open space, and the amenity of nearby residential properties. Whilst those concerns are wholly understandable, they are not relevant to the S19 Certificate application, which, as noted above, is concerned with a very specific statutory question, namely, 'is the replacement land not less in area than, and equally advantageous when compared to, the land to be acquired'. Questions relating to impacts on amenity, whether in respect of the bulk of the amenity land retained as open space, or in respect of residential properties, were considered in the context of the determination of the planning application submitted in respect of the Scheme.
193. In light of all the above points, it is the Council's case that the statutory tests, in respect of Section 19(1)(a) of the 1981 Act, are satisfied.
194. Other Issues. There are 3 further issues which do not bear on the S19 Certificate application, but which were raised in that context and so are dealt with here, by way of completeness.
- First, Mr Yerby contends that the replacement land cannot serve for the purposes of Section 19(1)(a) of the 1981 Act, because it is already used widely as open space. But none of the objectors to the S19 Certificate application who live local to the replacement land assert that it is used in the manner that Mr Yerby asserts. He repeated this assertion in his closing submissions¹⁵⁵, and Mr Bradley also appeared to be asserting that this land

¹⁵³ Raised by Mr Bradley, Mr Gibbons, Mrs Smith, Mr Wells, Mr Maple and Mr Yerby

¹⁵⁴ See Docs JB/ID/02 and INSP/ID/02

¹⁵⁵ Doc YE/ID/02

is, indeed, already POS¹⁵⁶. However, to the extent there has, at any time, been any use of this replacement land for recreation, Mr Yerby was unable to indicate what right there might be to carry on such use. He accepted that it is not dedicated as open space, and that it is not registered as a town or village green. All he could do was assert that there 'may be such rights'. This is simply an unintelligible argument, which it is difficult for the Council to engage with it. The simple fact is that there is no right to use the replacement land as open space - but when the Scheme is implemented, there will be. This is an important distinction.

- Second, local residents¹⁵⁷ have pointed to the planning condition which provides for the retention of the amenity land as POS. But Mrs Kitchen explained that it is lawful for a planning permission to be granted which has the effect of amending an earlier planning permission. That has happened in this case. The existence of the planning condition is no bar to delivery of the Scheme, or to the issuing of the S19 Certificate.
- Third, local residents¹⁵⁸ have also referred to the existence of a covenant. It is correct that covenants do exist – indeed they are included in Schedule 2 to the CPO. However, there is no covenant which serves to preclude the use of the Order Land for the purposes which the Council proposes, as the residents allege. No such covenant was put before the Inquiry because, put simply, none exists.

Modifications proposed to the Orders

195. As a result of further examination of the Orders, and consideration of matters raised by both DfT and objectors, the Council is proposing a number of minor modifications to the SRO and the CPO.

196. For the SRO, some of the proposed modifications are simply relatively minor changes to dimensions, whilst others are put forward to address the objections made by the Pearce Family. All of the proposed modifications are explained in detail in CD10.8, with the modified SRO to be found at CD10.6 and the modified SRO Plan at CD10.7. The proposed modifications are summarised below:

- in the first entry under 'Highways to be stopped up' in Schedule 1 beginning 'Lower Road (B4443)....' the deletion of the figure of '190m' to be replaced by '310m';
- in the third entry under 'Private means of access to be stopped up' in Schedule 1 beginning 'Wendover Road (A413)....' the deletion of the figure of '160m' to be replaced by '167m';
- in the first entry under 'Private means of access to be stopped up' in Schedule 2 beginning 'Wendover Road (A413)....' the deletion of the figure of '160m' to be replaced by '167m';
- the inclusion of a new access referenced as number '4' in the section 'Reference number of new accesses' in Schedule 1 of the Order;
- a modification to the Order Map to include a new PMA labelled '4' to be constructed and accessing off the new Lower Road roundabout.

¹⁵⁶ Doc JB/ID/03

¹⁵⁷ Mr Bradley, Mr Gibbons, Mrs Smith

¹⁵⁸ Mr Bradley, Mr Gibbons and Mr Yerby

197. For the CPO, a number of modifications to various plots are proposed. These are set out in detail in CD10.1, and brief details, and the reasons for the proposed modifications, are summarised below:

- Plot 5; the insertion of a number of 'Qualifying Persons' in Plot 5 of Table 1 of the Schedule to the Order, to address an earlier omission in this regard;
- Plot 6; the deletion of those persons currently shown as 'the Owners' in Table 1 of the Schedule to the Order, to be replaced with the name and address of the Council as the Owner;
- Plots 7, 7a, 8 and 14; deletion of the words 'except interests owned by the Acquiring Authority' in Table 1 of the Schedule to the Order;
- Plots 10, 10a, 10b and 10c; in response to and having had due regard to objections raised to the Order by the WHC and by Cala, a number of modifications in respect of Plots 10, 10a, 10b and 10c, including the creation of 2 new Plots 10d and 10e, by sub-division of existing Plots. (*Note - no additional land is being sought to be included in the Order by way of these requested modifications. The new Plots 10d and 10e comprise land that is all currently within Plots 10 and 10b*);
- Plot 11; in response to, and having had due regard to objections raised to the S19 Certificate application, a modification to the extent of the land as contained in Plot 11 as set out in Table 1 of the Schedule to the Order, and as shown delineated and coloured pink on the Order Map, to reflect a reduction in the extent of the land within this Plot to be purchased compulsorily;
- Plot 15; the insertion of additional persons as 'Qualifying Persons' in Plot 15 of Table 1 of the Schedule to the Order, to address an earlier omission in this regard;
- Plots 11, 12, 13 and 15 in Table 1; Plot 12 in Table 2; and the Table headed 'General Entries'; various modifications to delete reference to 'Aylesbury Vale District Council', to reflect the fact that from 1 April 2020, Buckinghamshire Council became the sole principal local authority for this administrative area.

198. The modified CPO can be found at CD10.3 and the modified CPO Plan is at CD10.4.

Concluding Remarks

199. The Council's case in respect of the SRO, the CPO and the S19 Certificate application is robust. In respect of all 3 matters, it has demonstrated sound justification. On this basis the SST is respectfully requested to determine that both the SRO and the CPO should be confirmed, as proposed to be modified; and the SSLUHC is respectfully requested to determine that the S19 Certificate be issued.

Inspector's conclusions begin on the next page

INSPECTOR'S CONCLUSIONS

200. Bearing in mind the submissions and representations I have reported, I have reached the following conclusions, with references in superscript brackets [] relating to earlier paragraphs in this Report, where appropriate.

Structure of Conclusions

201. These conclusions first set out the tests which need to be satisfied if the SRO and the CPO – jointly referred to hereafter as 'the Orders' - are to be confirmed, and if the Exchange Land Certificate applied for under Section 19(1)(a) of the 1981 Act is to be issued. They then briefly examine the policy context for the SEALR before moving on to consider matters raised by both statutory and non-statutory objectors.
202. Some of the points raised, particularly by the non-statutory objectors and the objectors to the S19 Certificate, relate to the principle and development of the Scheme, and the justification for the chosen route and design. Such objections are of limited, direct relevance to the Orders as the Scheme was granted planning permission by the Council in July 2021, with no formal challenge having been made to this permission^[1,15,16]. Furthermore, these objections do not go to the heart of the matters to be considered if the S19 Certificate is to be issued. Nevertheless, to ensure a thorough assessment, and in the interests of natural justice, I have considered and appraised these objections in reaching my conclusions.
203. After dealing with these general points of objection, I consider the matters raised specifically against the Orders, before turning to consider the objections raised against the S19 Certificate. I then deal with the remaining other matters, before reviewing the proposed modifications to the SRO and the CPO put forward by the Council. Finally, my conclusions are drawn together into recommendations on each of the Orders, and the S19 Certificate.
204. I have taken account of the ES and the ES Addendum^[4] published by the Council as part of the planning application process, together with all other environmental information submitted in connection with the Scheme, in arriving at my recommendations.

The Statutory Tests against which the Orders and the S19 Certificate application need to be assessed

205. The SRO is made under Sections 14 and 125 of the Highways Act 1980. Subject to confirmation by the SST, it would authorise the Council to stop up any highway or PMA and provide any improved or replacement highway, footpath, PMA or new means of access to premises adjoining or adjacent to a highway, in association with the Scheme.
206. It is a requirement that provision be made for the preservation of any rights of statutory undertakers in respect of their apparatus^[21]. No stopping up order shall be confirmed unless either another reasonably convenient route is available or will be provided before the highway is stopped up. Furthermore, the stopping up of a PMA shall only be authorised if the SST is satisfied that no access to the land or premises is reasonably required, or that another reasonably convenient means of access to the land or premises is available or will be provided.
207. The CPO is made under Sections 239, 240, 246, 250 and 260 of the 1980 Act and Schedule 2 of the 1981 Act. For this Order to be confirmed the land affected must be required for the construction or improvement of, or the carrying out of works to, a highway maintainable at public expense, or for the provision of buildings or

facilities to be used in connection with the construction or maintenance of a highway maintainable at public expense. The powers extend to the acquisition of land to mitigate any adverse effect the existence of a highway would have on the surroundings of that highway. The powers also extend to the acquisition of rights over land.

208. The CPO would authorise the acquisition of land and rights for the construction of the SEALR and its associated junctions and for the construction and improvement of highways in pursuance of the SRO. It would also authorise the acquisition of land to enable mitigation measures to be implemented as an integral part of the Scheme.
209. In addition to the tests detailed above, the Government's guidance on compulsory purchase explains that for land and interests to be included in a CPO there must be a compelling case for acquisition in the public interest; the purpose of acquisition should justify interfering with the human rights of those with an interest in the land affected; the Acquiring Authority should have a clear idea of how it intends to use the land it is proposing to acquire, and should show that all the necessary resources are likely to be available to achieve the scheme purpose within a reasonable time-scale; and the Acquiring Authority should be able to show that there is a reasonable prospect of the scheme going ahead, and that it is unlikely to be blocked by any physical or legal impediments to implementation.
210. The guidance also explains that the Minister confirming the Order has to be able to take a balanced view between the intentions of the Acquiring Authority and the concerns of those with an interest in the land that it is proposing to acquire compulsorily and the wider public interest. These matters are all explored later in these conclusions.
211. Some of the land required for the Scheme comprises POS, and the purchase of such land is subject to SPP unless the SSLUHC is satisfied that certain criteria apply. As set out in S19(1)(a) of the 1981 Act, these include that that there has been or will be given in exchange for such land, other land, not being less in area and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attach to the land purchased. In this section of the 1981 Act 'open space' is defined as any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground. To address this matter the CPO would also authorise the acquisition of exchange land to compensate for the POS needed for the Scheme.

Policy context

212. The evidence before the Inquiry shows that the SEALR comprises a longstanding objective of the Council and its predecessor bodies. In particular, delivery of the Scheme is an important objective of the ATS. This was commissioned in 2016 by Buckinghamshire County Council – a predecessor authority of the Council – in order to produce a transport strategy for Aylesbury which would support and accommodate future planned growth in the context of what was, at that time, the emerging VALP^[13,14]. One of the aims of the ATS is the creation of a series of new, outer link roads around Aylesbury, connecting existing radial roads and allowing traffic to pass around the town, rather than requiring it to travel through it^[13]. The SEALR would comprise one of these new outer link roads.

213. The VALP was adopted in September 2021, and is now the operative Local Plan which will manage and direct growth in the Aylesbury Vale area for the period up to 2033^[14,35]. The Foreword to the VALP explains that its proposals include the development of Aylesbury as a Garden Town, which will provide sustainable growth in a way that works within Aylesbury's rural setting. This growth includes delivery of the development allocation identified as AGT1 – referred to as South Aylesbury – and covered by Policy D-AGT1. This policy explains that, amongst other things, the AGT1 area is allocated for the delivery of 1,000 dwellings and the SEALR (A413 to B4443 Lower Road) ^[22].
214. Importantly, the site specific requirements include:
- c. Safeguarding the land required for the delivery of a dual carriageway distributor road (the SEALR) between B4443 Lower Road and A413 Wendover Road to cross the railway line, with sufficient land for associated works including but not limited to earthworks, drainage and structures; and*
 - d. Provision of new access points into the development parcels from the B4443 Lower Road and A413 Wendover Road. Access from the South East Aylesbury Link Road (SEALR) will not be supported unless it can be demonstrated that this would leave parcels of land inaccessible and incapable of development.'*
215. The SEALR is also identified in VALP Policy T3 as a protected and supported transport scheme^[14]. It is on the basis of this strong policy support that planning permission was granted for the Scheme on 12 July 2021^[15].
216. In addition, the Council explained that the Scheme would help to combat what it describes as chronic traffic congestion within Aylesbury; and would also address traffic impacts expected to result from the construction of HS2, which will pass to the south-west of Aylesbury^[17]. HS2 will result in the need to construct the A4010 SMRR, which will bypass Stoke Mandeville on its western side, and will join the B4443 Lower Road, south of Aylesbury. Traffic modelling assessments have shown that on its own the SMRR would increase traffic flows on Lower Road and that this, in turn, would increase flows at the WSG (the B4443 Stoke Road/A413 Wendover Road/Walton Street junction) within Aylesbury town centre^[17].
217. This important junction lies within a designated AQMA and is already subject to congestion, with increased traffic flows considered likely to result in worsening air quality issues. The SEALR, which would have its western terminal junction with Lower Road at the same location as the SMRR, would help to divert some of this additional traffic away from the WSG, thereby easing congestion and air quality issues at this junction^[17].
218. I note from the submitted evidence that parties objecting to the SEALR were afforded the opportunity to make representations in respect of it, when the planning application was considered^[16]. It was made apparent at the Inquiry that Mr Yerby had been one of those who spoke at the Strategic Sites Committee meeting, in opposition to the SEALR. The Council's Strategic Sites Committee weighed the merits of the Scheme in terms of its benefits and disbenefits – including the impact which it would have on the amenity of residents of the Stoke Grange and Wendover Park estates – and considered all the objections submitted in respect of the Scheme, before electing to grant the planning permission. No legal challenge was made, and it therefore exists as a lawful planning permission^[16].

General objections relating to the principle and design of the Scheme

219. A number of points raised by objectors fall under this general heading, covering such matters as the need for the scheme; the consideration of alternative solutions; and detailed design matters^[77,94,123,125,163,164]. In addition, Mr Yerby also raised some complaints and criticisms of the ATS and the VALP, arguing that these points go towards demonstrating that the SEALR cannot be considered to be in the public interest, and that the CPO should therefore not be confirmed^[100,105-108]. The Council responded to all of the above points, and I have considered these responses alongside the objections, in coming to the following conclusions.
220. Dealing first with Mr Yerby's general concerns, he argues that the Council is wrong to rely on the ATS as he maintains that its conclusions are based on insufficient origin-destination data^[105]. He is also critical of the fact that the ATS analysis has been undertaken on the basis that the full ring road will be in place around the town, whereas he argues that this will not be the case, as there are no plans to deliver some key elements. He goes on to argue that there is very limited evidence to suggest that a 'partial ring road' will work, and in this regard he contends that the comments made by the VALP Inspector are 'extremely concerning'^[105].
221. To support this view Mr Yerby provides a partial quote from paragraph 303 of the VALP Inspector's Report to the Council, in which he highlights the phrase 'unlikely to solve all of Aylesbury's problems'. He states that 'some of the problems it will not solve are those claimed by the Council at this Inquiry' – although it is unclear what Mr Yerby means by 'it' in this statement. Importantly, and notwithstanding the phrase Mr Yerby has chosen to emphasise, the Inspector's sentence finishes by stating that 'the schemes are justified and so, sound'^[105].
222. Looking at the whole of the VALP Inspector's paragraph 303¹⁵⁹, it is clear to me that what the Inspector was referring to was 'a comprehensive list of all the highway link roads around Aylesbury' – which to my mind has to include the SEALR, mentioned elsewhere in his Report. Moreover, the Inspector states that the reasons for these various highway road links – that he found to be 'justified and so, sound' – were to deal with high volumes of through traffic in the town centre, congestion along radial routes, high volumes of HGVs particularly affecting AQMAs and to provide an opportunity for the reallocation of town centre space to pedestrians, cyclists and bus priorities.
223. Mr Yerby appears to be setting himself against the findings of the VALP Inspector, but he provides no meaningful and testable evidence to support his case. In these circumstances I have to favour the conclusions of the VALP Inspector that the schemes so considered - which included the SEALR – were both justified and sound. I therefore give very little weight to Mr Yerby's objections in this regard.
224. Mr Yerby also raises objections to the SEALR itself, arguing that it would only result in modest reductions in peak hour flows at the WSG in 2024, but that these reductions would be at the expense of significantly increased flows on sections of the A413 Wendover Road, Wendover Way and Camborne Avenue/Bedgrove^[108]. He further argues that it is highly likely that mitigation measures would be required to prevent such increases, but states that nothing is proposed, and that no evidence is before this Inquiry to indicate what would happen in key residential areas very close to the SEALR. He states that this traffic mitigation would direct traffic back through

¹⁵⁹ In CD8.2

the WSG, such that the SEALR would result in no net reduction in traffic at the gyratory. Accordingly he argues that a primary objective of SEALR would not be achieved, and that the evidence fails to demonstrate the true impacts of the scheme^[108].

225. However, I have had regard to the fact that whilst Mr Yerby contests Mr Tester's modelling, he is not a highways engineer and has submitted no technical evidence to support his contentions. In addition, I note that the specific aims of the MoU are to ensure that appropriate mitigation for the SEALR is implemented on the highways network^[15]. Moreover, I note that the strategic traffic model which underpins the Scheme has been assured and approved by the DfT^[107], such that Mr Yerby not only disputes Mr Tester's evidence, but also appears to question the competence and reliability of the DfT^[161]. In the absence of any firm evidence to support his contentions, I give these parts of his objection very little weight.
226. Mr Yerby raised a further objection to the Scheme itself, arguing that speeding on the SEALR would be a very real issue. To support this view he drew attention to comments from the traffic management department of the TVP, reported in the consultation response to the SEALR from the TVP's CPDA, and to the RSA1^[100]. However, on the first of these matters, and notwithstanding Mr Yerby's assertions to the contrary, the Transport Assessment Addendum clearly states that to assist with safety and speed, space adjacent to the agricultural access has been made available for Police enforcement vehicles, as requested by the TVP. This was clearly stated in Appendix B to the Officers' Report to Committee concerning the SEALR¹⁶⁰.
227. On RSA1 Mr Yerby states that the Council's decision not to implement the recommended solution (which was to amend the horizontal alignment), because of 'constraints of the project', clearly puts safety at risk. However, the Design Organisation's response also makes it clear that not only has the road been curved as far south as possible, but that further speed restriction has been introduced through the vertical alignment. It also explains that as the SEALR forms part of the Aylesbury Orbital Route Strategy, it has been designed to tie into the SMRR at the western end and the SLR at the eastern end^[100]. As Mr Yerby is critical of the ATS and this Orbital Route Strategy, his objection in this regard is understandable.
228. However, no firm evidence has been placed before me to suggest that this overall strategy, and the link road proposals within it, are in some way flawed. Indeed, the strategy and the link road proposals – including the SEALR – have been expressly endorsed as justified and sound by the VALP Inspector, as noted above^[105]. In any case, both the CPDA response and the RSA1 were placed before members of the Strategic Sites Committee in the Officers' Report, and were therefore considered in the overall assessment exercise which members would have undertaken before deciding to grant planning permission^[15,16]. On this point, I note that Mr Yerby spoke at this Strategic Sites Committee meeting, but it is clear that his objections held no sway with Committee Members. Overall, for reasons outlined above, I do not consider that the matters raised by Mr Yerby provide any sound reasons to count against confirmation of the Orders.
229. A number of objectors argued that the SEALR and its Wendover Road roundabout could be moved further south, away from residential properties and avoiding the need to acquire any of the POS^[77,94]; that the SEALR could be constructed as a

¹⁶⁰ CD2.7 – Appendix B: Highway Officer Consultation Response. Also see paragraph 2.54 on page 14 of CD4.2.7

single-carriageway, rather than being dualled^[123]; that the Wendover Road junction could have been designed as a traffic signal junction, rather than a roundabout^[94]; and that the SEALR Scheme should simply not be pursued^{161[123,125]}. However, no detailed or technical evidence was submitted by these objectors to support these views.

230. In contrast, the engineering and traffic modelling evidence put forward by the Council clearly indicates that whilst a number of alternatives for the route alignment, junction design and standard of road were considered, the option put forward in the planning application was considered, on balance, to be the best proposal, taking account of all competing issues. In this regard I have noted that moving the Wendover Road roundabout to the south would quite likely have resulted in the need to compulsorily acquire residential properties – something which the Council indicated it would seek to avoid wherever possible. It is also the case – again - that these points were brought to the attention of Members of the Strategic Sites Committee, in the Officers' Report, which specifically made reference to the fact that alternatives, including alternative route options, were examined in the ES and the ES Addendum, with this latter document providing details on how the final option was chosen¹⁶².
231. With these points in mind I am satisfied that all such matters were correctly assessed and examined by the decision-making Committee of the Council. There is no firm evidence before me to cause me to question the decision made. I therefore consider that these objections should not carry weight against the CPO.
232. Mr Yerby also maintained that CPO Plots 16a and 16b do not play any role in the delivery of the SEALR scheme and as such there is no compelling reason for them to be part of the CPO^[109]. However, Mr Mole's evidence clearly states that these plots are needed for construction purposes, and that following the completion of the Scheme the land will be offered back to the landowner. I do not consider this to be a problem, especially as the Council has reached agreement with the landowner and option holder in respect of these plots^[21]. As such, I give this part of Mr Yerby's objection very little weight.
233. A number of detailed design points, mainly concerning the southbound approach to the proposed Wendover Road roundabout, but also expressing concerns about future traffic noise, were raised by Felice and Jane Iannone^[124]. These objectors live on Wendover Road, to the north of the proposed roundabout, and the Scheme as initially designed would have changed the highway arrangement outside their property.
234. These concerns were, however, responded to by the Council in a letter dated 9 June 2021, which explained that the Scheme had been subject to further detailed design work since planning permission for the SEALR was granted, with these revised proposals having been considered by an Independent Road Safety Audit that did not raise any concerns in respect of them^[142,143]. The Iannones did not appear at the Inquiry to provide any further update on their objections, and no further correspondence had been received by the Council on these matters. Whilst it is not possible to say for certain whether or not the revised design has fully addressed the

¹⁶¹ Objectors raising one or more of these points were Mr Potts (Objector No 1), R Rotulo (Objector No 2); Mr Bradley, (Objector No 8), the Residents Group (Objector No 13), Mr Gibbons (Objector No 13A), and Nigel Smith & Val Knight (Objector No 18)

¹⁶² See Appendix E to CD2.7

objectors' concerns, I see no reason to doubt the Council's assertion that this is, indeed, the case.

235. Further, I share the Council's view that any concerns relating to the impact of traffic noise on the living conditions of those residing at Wendover Road properties, would have been considered in the context of the overall Scheme, by the Strategic Sites Committee which determined the SEALR planning application^[144]. As such, I do not consider that these objections to the Orders should carry weight.
236. A final, general objection, is that made by Julie Willis, although it is unclear in what way or ways Ms Willis thinks the SEALR bears on her particular area of concern, which is the closure of Marsh Lane to cyclists. I note that in her emailed objection, she uses the reference given to the S19 Certificate application. Ms Willis states that she is a cyclist who does not own a car, and that the loss of Marsh Lane as a traffic-calmed cycle route will force her onto a main road to get to Stoke Mandeville. She further states that this should not have been allowed to happen in times of environmental awareness and the need to increase cycling, and maintains that the Council should be putting the consideration and safety of cyclists first, and should be promoting cycling and not discouraging it^[128,154].
237. Ms Willis did not attend the Inquiry, and did not submit any further correspondence, so it is not possible to glean any further details about her objection. As far as I am aware, Marsh Lane heads south-westwards, away from Stoke Mandeville, leaving Lower Road well to the south of the proposed western SEALR roundabout. It does not appear in any way to be affected by the SEALR. I do note, however, that the SEALR itself is proposed to have 3m wide shared cycleway/footways on both its northern and southern sides, together with a new crossing for pedestrians and cyclists by means of a toucan crossing near the Lower Road roundabout^[11]. Far from discouraging cycling, it seems that these proposed measures demonstrate that the Council has had due regard to the needs of cyclists in its design of the Scheme.
238. In the absence of any further information on this objection, I consider that Ms Willis' concerns should not count against the Orders, or the S19 Certificate application.
239. Further, specific objections to the design of the SEALR are made by the Pearce Family, but as this objection is more wide ranging, and specific to both the CPO and the SRO, I have considered these design matters within my overall conclusion on the Pearce Family's objection, below.

Objections from those directly affected by the CPO and/or the SRO

The Pearce Family

240. The Pearce Family have made it clear that they do not object to the principle of the SEALR – for which they consider there to be an overriding need - but rather, they object to the specific inclusion and design of the roundabout at Lower Road, and what they consider to be the lack of access provision. The Family argue that the current design places unreasonable limitations on the future use of their land^[56,57].
241. As things currently stand, there is a gated agricultural access to the Pearce Family's land on the western side of Lower Road, more or less opposite Nos 18 and 20. It provides access directly into a field, and sits immediately to the north of another private, gated access which serves a driveway to Hall End Farm. As originally made, the SRO sought to replace these 2 PMAs with a new, shared PMA at a broadly similar location, but on the realigned Lower Road on the northbound approach to the SEALR roundabout. This meant that the Pearce Family would lose their independent access

onto the public highway, so the Council proposed a further access to the Family's land, directly off the south-western quadrant of the proposed Lower Road roundabout^[58,131].

242. The Family had, initially, wrongly been told that this access would be provided as part of a SEALR Phase 2/SMRR project, but it was clarified at the Inquiry that this PMA would, indeed, be provided as part of the current SEALR proposals^[58,131]. Whilst this would clearly replace the existing agricultural access on a more or less 'like for like' basis, the Pearce Family is maintaining an objection to the Orders on the grounds that the SRO, as proposed, would leave them in an inferior position to that which exists currently, whereby the Family-owned land has a long frontage to Lower Road, to the north of the existing access, from where they maintain that a new access could be constructed to provide access to possible future residential development on their retained land^[59,60,132].
243. On this point the initial position taken by Mr Briggs, representing the Family, was that in a 'no-Scheme' scenario it would be possible for the existing access on Lower Road to be improved to serve a possible future residential development on the Family's retained land, but he modified this position at the Inquiry and instead argued that a new access could be created somewhere along the Family's land frontage^[135]. To support this view he pointed to the recent construction of priority junctions a little further north on Lower Road at Brubeck Road and Beethoven Drive, serving new residential development^[59]. In this regard Mr Briggs acknowledged that an existing bend in Lower Road would have an adverse impact on visibility for drivers, but his view was that there is sufficient land within the Family's ownership to straighten the road to provide adequate visibility^[59,132].
244. In view of these points Mr Briggs argued that the Scheme '*needs to be redesigned to facilitate continued existing access, and also maintain existing road frontage*'^[63,135-137]. Unfortunately he submitted no further details or any plans of what sort of redesign he was envisaging, and when pressed on this point at the Inquiry he was unable to give any rational explanation as to what form of junction should be created on Lower Road in place of the proposed roundabout, as part of the SEALR. He simply commented that as he was not a highways engineer, and had had no discussions with the Council as local highway authority, he was unable to comment about possible solutions that may or may not work.
245. Put simply, the Pearce Family's view, as expressed by Mr Briggs, is that the current Inquiry is premature, as Phase 1 and Phase 2 should have been considered together, to assist in giving some certainty as to how proposed housing allocations in this area to the west of Lower Road – including on land owned by the Family – would be accessed. In particular, the Family is concerned that there would be no 'second roundabout' to the west of Lower Road, and that the SMRR or Phase 2 of SEALR would only be a single-carriageway. Both of these points would, in the Family's view, create difficulties in accessing its land in this area for possible future residential purposes^[57,60,62,63].
246. The fact remains, however, that the SEALR scheme under consideration at this Inquiry does have planning permission as a stand-alone scheme, although all the submitted evidence indicates that in due course it would be part of a larger, orbital route around the town, with links to both the east and the west – the SLR and the SMRR/SEALR Phase 2 respectively. Furthermore, I note that the AGT2 development allocation in the VALP, which lies along part of the south-western side of the town and appears to include the Pearce Family's land referred to by Mr Briggs, would be

served by the SWALR, which would link to the SMRR/SEALR Phase 2^[14]. The SEALR Phase 2 is specifically listed in Policy T3 of the VALP as the dualling of the link between the SWALR and Lower Road, with a note that it would be delivered by HS2 and the Council, with further funding from developer contributions^[14].

247. With these points in mind, there is no firm evidence before me to suggest that any of the aforementioned schemes will not come forward as planned. In particular, the SMRR is a commitment of HS2, and the Council plainly indicated at the Inquiry that it intends to seek an upgrade to the link immediately to the west of Lower Road – whether this be described as part of the SMRR or a SEALR Phase 2 – to dual-carriageway, as just referred to in VALP Policy T3^[140]. Having regard to the above points, there is no suggestion that any of the AGT2 allocation would be expected to take access directly from Lower Road. Accordingly, it seems to me that the Pearce Family's concerns about future access to their retained land, for residential purposes, would not be compromised by the current SEALR scheme at Inquiry.
248. In summary, for reasons detailed above, I conclude that the proposed PMA off the Lower Road roundabout would be a perfectly acceptable replacement for the existing agricultural access, which would be lost as part of the Scheme. I accept that it is unclear how this access would maintain access to the Family's land to the north of the SMRR/SEALR Phase 2 – once that link road is constructed - but I do not consider that is something which needs to be explored further in the context of the current SEALR scheme. It will be open of course, for the Pearce Family to enter into further discussions with the Council regarding continued access to this northern portion of land, as and when proposals for SEALR Phase 2 are progressed. But for the Scheme which currently has planning permission, the proposed replacement PMA would, in my assessment, provide adequate access to all of the Pearce Family's land.
249. In any case, although I do not consider it directly relevant to the matters just discussed, I have no reason to doubt the evidence of Mr Tester, an experienced highway engineer, that a proposed access, directly onto a 'high capacity' roundabout junction, would form a better 'starting point' for a junction to serve future development, than would a simple priority junction onto Lower Road^[137,138].
250. Drawing all the above points together, it is my conclusion that the objections from the Pearce Family to the SRO and the CPO are not sufficient to prevent the Orders from being confirmed.

Landmatch Limited ('Landmatch')

251. Landmatch did not attend the Inquiry, but chose to pursue its objection to the CPO through written representations. It does not object to the principle of the Scheme, but raised 6 detailed grounds of objection in its original letter, withdrawing 4 of them prior to the opening of the Inquiry^[21,113]. The first of the remaining grounds of objection, set out in a letter submitted to the Inquiry dated 4 November 2021, asserts that the Council has not exhausted negotiations with Landmatch, and that the proposed use of compulsory purchase powers is therefore premature^[113-118].
252. The Council does not accept this assertion and has put forward evidence in the form of an updated Schedule, to be read alongside Mr Mole's submitted evidence^[147]. This shows that the Council has been engaging with Landmatch since October 2017, with the Council further stating that HoT seeking acquisition of the Landmatch land were issued in February 2020, with revised terms subsequently issued in May 2021, October 2021 and November 2021. The Council states that all of these HoTs included financial offers to acquire the land in question^[147].

253. This updated schedule records that as at 3 November 2021, both sides had put significant effort into reaching a comprehensive agreement. In the Council's view the latest HoT addressed all remaining concerns, such that it remained hopeful that an agreement could be reached. However, by the close of the Inquiry, this had not proved to be the case. The Council has explained that it has offered to acquire the relevant Rule 2 interests at a value which it considers fair. I understand that Landmatch suggests that it might be entitled to compensation under other potential heads of claim, although no detail of this has been placed before me. The Council's position is that it does not accept any such entitlement, and accordingly has made no offer of compensation in that regard^[148].
254. I have been provided with very little detailed information from Landmatch to be able to understand and verify the substance of its objection which, in the correspondence I have seen, only appears to deal with matters in very general and non-specific terms. In these circumstances, and having regard to the evidence before me, I find nothing to call into serious doubt the Council's claim that it has taken reasonable steps to acquire all of the land and rights included in the CPO by agreement^[148]. Because of this, I give this aspect of Landmatch's objection very little weight.
255. The second point on which Landmatch maintains its objection is that the land designated as required to deliver the scheme is excessive, and has not been designed to have the minimum impact on the adjoining development land it is purported to support, via VALP Policy D-AGT1^[113]. However, the Council maintains that Landmatch has not provided any explanation or substantiation of this assertion in any of its correspondence, or in its original objection^[149].
256. In terms of the Landmatch land proposed to be acquired, this comprises Plots 7 and 7a. Plot 7 is stated to be required for highway, landscaping and ecological preservation purposes and would be used to construct the dual-carriageway SEALR with an adjacent cycle path. An existing public footpath would also be realigned through this section. Land south of the carriageway would also feature woodland, whilst land north of the carriageway would feature open grassland, shrubs, trees and an attenuation pond. Areas of existing rough grassland at the eastern end of the boundary would be retained for ecological compensation. Plot 7a would be required for the purposes of setting out a new PRoW to replace the section of Footpath SMA/3/1 which would need to be stopped-up to construct the SEALR.
257. In the various pieces of correspondence from Landmatch which have been placed before the Inquiry I have seen no further elaboration on this objection, with the point made in the 15 October 2021 letter being a simple word-for-word repeat of the original objection^[113]. I acknowledge Landmatch's comment that it does not accept the Council's highways evidence^[114], but it has put forward no contrary highways evidence of its own, and in these circumstances it is not possible to give any weight to Landmatch's position in this regard.
258. In summary, it remains unclear to me what the substance of this objection is, and in what ways and to what extent Landmatch asserts that the land-take would be excessive. Set against this general assertion, I have the unchallenged evidence of Mr Welborn that all of the Landmatch land is, indeed, required for the Scheme, such that the land-take would not be excessive^[149]. For these reasons I find the Council's position on this matter to be more persuasive, and because of this I consider that this part of the Landmatch objection should also be given very little weight.

259. Overall, in light of all the above points, I conclude that the Landmatch objections should not serve to prevent the confirmation of the Orders.

Juniper Investments Limited ('Juniper')

260. Juniper, the freehold owner of Plot 8, raises 2 grounds of objection which more or less mirror those put forward by Landmatch. These are, firstly, that the Council has fallen short in terms of its efforts to negotiate, as detailed in Juniper's letter to the Inquiry dated 10 November 2021; and secondly, that the land to be acquired should be restricted to that necessary for construction of the SEALR, with no other land to be acquired for any other purpose^[119-122].
261. On the first of these grounds, the objector's assertions are robustly denied by the Council, and with reference again to the updated Schedule submitted in support of Mr Mole's evidence, I consider that the Council's stance on this matter seems more credible. The Schedule shows that the Council began its negotiations back in July 2016 and have continued, albeit on a somewhat intermittent basis, to just before the opening of the Inquiry^[152]. I note the objector's comment, that the Council had agreed to submit an unconditional offer for the Juniper land by 1 November 2021, but that this offer was never received. I also note that in its latest communication – the letter of 10 November 2021 – the advisors acting for Juniper¹⁶³ state that since their last meeting with Mr Mole, the offer they were expecting never materialised^[121].
262. However, these comments seem somewhat at odds with the Council's version of events, which is that it made an unconditional offer for purchase on 4 November 2021, and a response to that offer from Juniper is outstanding. On the basis of the evidence before me, it appears likely that the parties are simply in dispute as to value. Having regard to this point, and being mindful of the extensive list of meetings and contacts set out in the aforementioned Schedule, I see no good reason to doubt the Council's comment that it has taken reasonable steps to acquire all of the land and rights included in the CPO by agreement^[152,153]. Because of this, I give this aspect of Juniper's objection very little weight.
263. On the second ground of objection, I have had regard to Juniper's contention that the additional land within Plot 8, not needed for SEALR construction purposes, should not be compulsorily acquired but should remain part of the AGT1 allocation, and contribute towards the 50% Green Infrastructure associated with this South Aylesbury development^[120]. However, Mr Simmons' evidence for the Council makes it quite clear that this whole plot is required on ecological grounds as the land would provide a vital north/south corridor for habitat linkage, notably for bats and barn owls. If this land is not secured at this stage, it is my view that the linkages just described could not be guaranteed^[150].
264. Moreover, although the southern part of Plot 8 is indicated as being required for a site compound during the construction phase, the Council's landscape evidence, presented by Mr Rooney, explains that this piece of land would serve landscaping and ecological purposes post-construction. The evidence shows that this land is intended to contain linear belts of trees and shrubs, species rich grassland and woodland, thereby assisting with the provision of the essential and high value habitat linkage corridor described above^[150]. With these points in mind I consider there to be every justification for the Council seeking to acquire the whole of Plot 8,

¹⁶³ Sworders – see Doc JU/ID/01

and for the reasons set out above I conclude that these objections should not carry weight against the confirmation of the Orders.

Objections lodged against the S19 Certificate application

265. Objections to the issuing of the S19 Certificate were made by Mr Potts, Mr Bradley, the Residents' Group, Mr Gibbons, Mr Maple, Mr Wells and Mr Yerby. Whilst those objectors who appeared at the Inquiry had tried to limit any overlap of subject area in their objections, some repetition still arose, and the same or similar points were also raised by those who relied on written objections. In responding to these objections the Council dealt with them on a topic basis, and I consider that to be a convenient and efficient way of addressing the various matters raised. I have therefore adopted the same approach in these conclusions.
266. In so doing, I have had the relevant tests in mind – namely that the land offered in exchange for the POS to be acquired should be not less in area, and should be equally advantageous to the public. The first test is clearly satisfied. As proposed to be modified, the total POS to be acquired, comprising CPO Plots 11, 12 and 13, amounts to some 1,336sqm, whereas the land offered in exchange – Plot 10c – comprises some 5,472sqm^[168].
267. With regard to the need for the land offered in exchange to be equally advantageous to the land to be acquired, it is clear from S19 of the 1981 Act that in this case the assessment has to be undertaken having regard to the suitability of the land to be used for the purposes of public recreation^[81,167,169]. Not all of the objections focussed directly on this aspect of the replacement land, with its ability to cater for recreation only being a peripheral matter with some of the topics raised. Nevertheless, in the interests of fairness and rigour, I have considered all matters raised. In doing so, I have also had regard to the guidance offered by the Greenwich judgement referred to by Mr Bradley, and submitted along with the Council's closing submissions^[170,186].
268. Location and accessibility. I deal first with the location of the proposed replacement land, which was an important matter to most of the S19 objectors, who claimed that the land to be acquired sits within and relates to the Wendover Park development, whereas the replacement land would be within the Stoke Grange housing area. The objectors made and considered there to be a clear distinction between these 2 areas, and argued that Condition 3 of a 1985 planning permission has the effect of making the POS a permanent feature of the area, which should not be lost^[85,86,126]. Objectors also maintained that whilst the land to be acquired is part of the 'continuous' area of POS, the replacement land would be separated from the existing POS and would, more properly, have to be described as being 'contiguous' with the existing POS^[73,97,127].
269. In my assessment there are several points to make here. Firstly, it is quite in order for a later planning permission to seek to alter some terms of an earlier permission. Any such changes have to be properly and carefully assessed, but there is nothing untoward in the planning permission for the SEALR seeking to amend this overall area of POS, provided that the correct procedures are followed, and that appropriate replacement land is offered in exchange.
270. Secondly, the 1985 planning permission referred to was seeking approval for '*Residential development comprising 151 dwellings, land at Stoke Grange Phase 2A and Wendover Park Phase 2*'. No plans or drawings relating to this planning application were placed before the Inquiry, but it is clear from the development description that Condition 3 relates to some parts of both the Wendover Park

development and the Stoke Grange development^[76,165]. Furthermore, whilst some extracts of this planning permission were submitted, only a partial quote of the reason for the imposition of Condition 3 was included or highlighted in some of the objector's proofs of evidence^[85]. This partial quote omitted the phrase '... to serve the present and previous phases'. My reading of this condition, and the reason why it was imposed, leads me to the clear view that the POS areas were intended to be available to the new housing developments in that area, as a whole.

271. This is certainly how this overall area of POS to the south of the existing housing reads, on the ground. Whilst I acknowledge that the POS narrows in the Charles Close to Diane Close area, and that there may be a few more trees and shrubs in that area, it is quite possible to walk across the whole of this POS from east to west or vice versa, and indeed at the time of my accompanied and unaccompanied site visits I saw people doing just this. There is clearly no restriction on the use of any parts of this overall POS and, as such, it can be used not only by all residents of the housing area to the north – whether they consider themselves to live in Stoke Grange or Wendover Park – but also by people who live elsewhere. I have noted Mr Bradley's reference to the 'vested rights' he claims to have in the Wendover Park area, but no firm evidence was submitted to demonstrate that any such 'vested rights' – if they exist – are enforceable to any meaningful extent, and prohibit him, or others, from using any of this overall area of POS for recreational purposes^[91].
272. I consider it appropriate at this point to make reference to the issue of covenants relating to the land to be acquired, as these were mentioned by several of the objectors^[86,110]. Such covenants certainly do exist. As pointed out by the Council, they are included in Schedule 2 to the CPO. However, as explained by Mrs Kitchen, covenants are private matters and not material planning considerations. As such the existence of covenants relating to the land had no bearing on the grant of planning permission for the SEALR. Moreover, the Council's view is that there is no covenant which serves to preclude the use of the Order Land for the purposes which the Council proposes, as the residents allege. No such covenant was put before the Inquiry, and the Council states that this is because none exists^[194]. As no firm, contrary evidence on this matter has been put before me, I am not persuaded that the existence of covenants should weigh against the issuing of the S19 Certificate.
273. In terms of the accessibility of the proposed area of replacement land, the Council's evidence shows that at its eastern end it would be within the area described by the S19 objectors as 'Wendover Park', and no more than about a 3 minute walk away from the land to be acquired^[47,175]. Although Mr Potts's comment that the time taken is dependent on the walking speed assumed^[73] is quite correct, I consider that an estimate of under 3 minutes is quite reasonable for a distance of what appears to me to be around 200m, from the POS to be acquired, to the proposed gap in the hedgerow at the eastern end of the replacement land.
274. It is perhaps stating the obvious, but whilst the replacement land would be further away than the land to be acquired for some residents, it would be closer for others. Clearly the retention of the existing hedgerow on the northern side of the replacement land would serve to separate it from the existing POS to the north to some extent, and in that regard I can understand why some objectors argue that the replacement land should be seen as contiguous with the existing open space rather than a continuous part of it^[73,97].
275. But it is also the case that there are already a number of well-used gaps in this hedgerow (although not all were passable at the time of my accompanied site visit),

and a new gap would be created at the eastern end, as just mentioned. All existing gaps would be made navigable if the exchange were to go ahead, and in these circumstances I see no reason why the proposed area of exchange land should not be considered accessible to all local residents^[98,175].

276. Some concern was expressed that wheelchair users and less-mobile people would have more difficulty using the replacement land than the land proposed to be acquired^[88,99]. However, no firm evidence was placed before me to suggest that the 'wedge' of land to be acquired, which has significant vegetation around its eastern and southern boundaries and is well treed is, in fact, frequented by wheelchair users and less-mobile people. To the extent that it is so used, I share the Council's view that these users would have to move off a hard-surfaced path and onto the grassed POS, and the same would apply in the case of the proposed replacement land^[175]. With these points in mind, I see no good reason why such users would not be able to avail themselves of the replacement land.
277. A further point on accessibility is that several of the S19 objectors appeared to hold the view that the existing footpath link from Patrick Way to Wendover Road would be closed off as a result of the Scheme and the proposed S19 Certificate process^[78]. However, the Council explained at the Inquiry that although the existing footpath would have to be closed on a temporary basis, to allow for necessary construction activities, there is no long-term intention to close off this footpath. Indeed, it can be seen as remaining in the Scheme General Arrangement drawings, and also in the Landscape Proposal included in Mr Rooney's evidence^[44].
278. Having regard to all of these matters, I am not persuaded that the replacement land would be any less advantageous for recreational purposes than the land to be acquired, in terms of its location and its general accessibility.
279. **Attractiveness.** The existing POS is spoken of by objectors as providing a most attractive outlook^[87,103], purported to be demonstrated in a number of submitted photographs. However, as these photographs do not solely show the wedge of land to be acquired, it is unclear whether this description relates to the wider POS of which the area to be acquired is a part, or just the land to be acquired. But regardless of this point, and in common with the Council, I accept that the appearance of an area used for public recreation can have a bearing on its utility^[183].
280. To some extent, however, it is unclear how much use is made of this corner of the existing POS, which I have already noted has significant vegetation along its southern and eastern edges, and contains large trees, thereby reducing the 'usable' area somewhat. I was told that this area is used by children who make 'dens' within the trees and vegetation, but whilst not disputing this point, it does strike me that this would tend to render these children less easily seen from the nearby houses – a criticism which was levelled against the proposed replacement land.
281. There is no doubt that the proposed replacement land would be of a different appearance to the land to be acquired, but this, in itself, is not a valid reason to weigh against this replacement land. Land offered in exchange does not have to be a 'like for like replacement' of the existing land, as is made plain in the Greenwich judgement referred to above^[170]. In this case the replacement land would be bounded by existing hedgerows to its north and would contain amenity grassland, species rich grassland, and individual trees, as well as a band of shrubs along its southern boundary^[172]. In these circumstances I see no good reason why the replacement land should not also be of a pleasing and attractive outlook, and

therefore do not consider that anyone using this land for recreational purposes would find it any less advantageous in this regard.

282. Shape. A complaint of several objectors was that the replacement land would be narrow, thereby making it less suitable than the land to be acquired for some recreational activities^[72,88,126]. For example, Mr Potts referred to playing frisbee, involving more than 2 people^[72] – although at some 20m wide, and around 300m long, I see no good reason why such activities could not take place on the replacement land. Mr Potts also points out that the replacement land would slope down to the railway, and would not be flat like the land to be acquired is^[72], but I have already made it clear that there is no requirement for exchange land to be a like for like replacement of the land to be lost.
283. Moreover, it is the case that some of the existing POS in this area, particularly at its western end, in the vicinity of Dalesford Road, Edward Close and Jane Close, is noticeably narrower than the proposed replacement land. By adding additional land as new POS in this area, with a width of up to 20m, as mentioned above, the overall extent, shape and therefore usability of the POS towards this western end would be significantly improved. Indeed the Council has indicated that the exchange land would result in an overall increase in the area of POS of some 20%^[47,189]. Because of these points I am not persuaded that the size and configuration of the proposed replacement land provide any good reason why it should not be considered equally advantageous to users.
284. Crime and Anti-Social Behaviour. Concerns in this regard seem to have been prompted by comments made by Ms Haley, the CPDA consulted by the Council in respect of the planning application for the Scheme^[74,90]. However, there is no dispute that in referring to possible crime and anti-social behaviour, Ms Haley was referring specifically to the culverts which are proposed to pass underneath the SEALR. Some of the S19 objectors contend that the same concerns should apply to the replacement POS, but no firm evidence has been placed before me to justify such views^[176].
285. With regards to the culverts themselves, Ms Haley's comments have been taken on board in the final SEALR scheme design. I understand that the Southcourt Brook Culvert, which would lie to the west of the railway line and fairly close to it, would be 1.8m high, and would therefore be equipped with metal anti-personnel gates, which would be locked to preclude access^[177]. The only other culvert of any size, 'Culvert A', would be sited well away from the replacement land, closer to Lower Road. This culvert would be just 1.2m in height, and a risk analysis has confirmed that there is no justification for installing anti-personnel gates on it^[177]. The Council maintains that these courses of action would satisfactorily address the concerns of the CPDA, and I see no good reason to take a contrary view.
286. The S19 objectors maintain that as the replacement land lies behind a hedgerow, and slopes away several metres at certain points, it would be a hidden space, remote, and insecure as a play area and therefore liable to attract undesirable behaviour^[90,126]. In addition, Mr Yerby argues that this replacement land would be dark, and therefore not used for significant parts of the year^[104]. In contrast, the objectors refer to the current POS as a wide, level expanse of grass and trees surrounded by established hedgerows and resident's homes. They go on to contend that the design and layout of the existing POS provides a well-integrated open parkland in full view of the surrounding houses, thereby providing a readily accessible and convenient amenity for all users, a safe and secure area for children's

play, and deterring any anti-social behaviour. Mr Yerby also argues that the existing land benefits from the ambient lighting from Patrick Way^[82,87,104].

287. However, I do not consider this to be a fair and accurate comparison. In the first place, notwithstanding the relatively open nature of large parts of the existing POS to the south of Patrick Way and Diane Walk, the actual land to be acquired does not have these characteristics, but is a relatively small wedge of land, at the extreme eastern corner of this overall area, itself well vegetated and containing some large trees. I consider it unlikely that this wedge of land would benefit much from the street lighting in Patrick Way and, as already noted, anyone choosing to visit this eastern corner would not necessarily be in full view of occupiers of nearby houses. Moreover, this wedge of land seems to me to be further away from the houses in Patrick Way, than the replacement land would be from some of the properties in Edward Close and Jane Close.
288. In addition, as the gaps in the hedge alongside the replacement land clearly show that there is, already, some informal use of the land to the south of the existing POS, the potential for undesirable or anti-social behaviour in this area presumably already exists. But none was highlighted in the submitted evidence, and I see no good reason why making this area more open and attractive and thereby potentially significantly increasing its use, as proposed through the SEALR landscaping scheme, should lead to an increased potential for crime and anti-social behaviour. No firm evidence has been submitted to show that this would be a likely consequence of the Scheme, and I do not consider it appropriate to use the CPDA's comments in this way.
289. I note that Mr Potts was critical of the fact that no further response was received from the CPDA following a second consultation on the Scheme^[74], but in my experience it is not unusual for a consultee to not respond to additional consultations if they consider there to have been no meaningful changes to the scheme since they first responded. It is clearly not possible to say whether that was the case here, but I am not persuaded that anything significant can be concluded from the absence of a further response. Overall, for reasons set out above, I do not consider that this matter should weigh against the proposed replacement land.
290. Noise. Some objectors, notably Mr Potts^[68-71,73] and Mr Yerby^[101,102], maintained that the proposed exchange land would not be suitable as replacement POS as it would be unduly afflicted by traffic noise. Mr Potts, in particular, was critical of the noise modelling that had been undertaken for the Scheme, arguing that the noise simulations had not been verified, validated or correlated to the real world, and that as they simply use predictions of traffic flow and noise, which have not been verified on site, this could result in the introduction of cumulative errors^[68]. However, whilst Mr Potts indicated that he has a BEng(Hons) Degree in Electrical and Electronic Engineering, and some 30 years' experience in Signal Integrity and Radiated Emissions simulations and their verification and correlation validation, he is not a highways engineer or an acoustics engineer, and did not profess to have any direct experience of the calculation of road traffic noise.
291. In contrast, Mr Evans, for the Council, not only has advanced qualifications in acoustics and Corporate Membership of the Institute of Acoustics, but also has over 22 years' experience in Acoustics Consultancy, during which time he states that his primary focus has been on highways projects for both local authorities and National Highways (formerly Highways England) ^[44,179]. He was responsible for the overall technical delivery of the noise and vibration assessment for the ES and subsequent

ES Addendum, which he states was based upon the methodology detailed in the DMRB, taking into account national and local policy. In light of these points, I consider it both reasonable and appropriate to place more weight on Mr Evans' evidence than that of Mr Potts.

292. Mr Evans explained that the replacement land would, in fact, be significantly less afflicted by road traffic noise than is the current case with the POS land to be acquired. The reason for this is due, in large part, to the fact that whilst the 3m high specifically-designed acoustic barrier proposed to be installed to the north of the SEALR carriageway would effectively reduce noise levels, the vegetation on the eastern boundary of the land to be acquired does not serve as an effective barrier to traffic noise^[179]. Mr Potts sought to dispute this point, by making reference to a pamphlet published by the Arboricultural Advisory and Information Service^[69,180], but as this refers to the need for a dense belt of vegetation of some 15-30m wide – which does not exist around the land to be acquired – I consider Mr Evans' analysis on this matter to be sound.
293. I acknowledge that the replacement land would be closer to the railway line than is the existing POS to be acquired, and in this regard noise from the railway line would clearly be more noticeable on the replacement land^[69]. But these occurrences would be relatively infrequent at about 4 trains per hour, with the rail noise from trains approaching from the south being significantly reduced, for users of the replacement land, by the SEALR embankment and the 3m acoustic barrier^[181].
294. Mr Yerby is also critical of the noise assessments, and in particular the information shown in Figure 3 (revised) and Figure 4 from Mr Evans' proof of evidence, which look at noise contours/levels on the land to be acquired, and on the replacement land^[102]. Mr Yerby's comment that the assumed opening year of 2021 for the SEALR is out of date is self-evidently correct. But as the object of this exercise is to compare noise levels on these 2 separate areas of land, I am not persuaded that this incorrect opening date invalidates the comparison. The second area of concern is that whilst the revised Figure 3 (without SEALR) assumes that the SLR and the Hampden Fields development have not gone ahead, Figure 4 (with the SEALR), assumes that the SLR and Hampden Fields have been implemented.
295. Although Mr Yerby argued that these comparisons should have been undertaken on the same basis, I am satisfied that having been undertaken in the manner just described, the comparisons represent a robust case which, in effect, shows the 'worst' scenario for noise at the replacement land, and the 'best' scenario for noise at the existing POS to be acquired. Mr Yerby also argues that actual traffic speed on the SEALR will exceed the assumed speeds^[100-102], although this has not been quantified, and I note that the Council does not accept the proposition that there would be excessive speed on the SEALR and that this, in turn, would result in excessive noise levels on the adjacent land^[181]. Importantly, however, Figure 4 – the 'with SEALR' option – clearly shows that on a 'like for like' comparison, noise levels at the replacement land would be appreciably lower than those on the land to be acquired, irrespective of the actual traffic speeds assumed.
296. For all the reasons set out above, I conclude that the issue of noise should not weigh against the issuing of the S19 Certificate.
297. Pollution. Mr Wells made a very general comment about pollution making it unlikely that he would use the replacement land, whilst Mr Maple referred to toxic fumes that would be emitted from the SEALR, although no firm evidence was submitted on this

matter. The Residents' Group spoke of exposure to vehicle fumes and a decrease in air quality^[89], but these comments were not substantiated with any meaningful data. In addition, Mr Potts asserted that construction of the SEALR would effectively attract pollution from the WSG AQMA, meaning that the replacement POS adjacent to the SEALR would experience a higher level of pollution than the POS to be acquired^[66]. This matter was, however not put to any of the Council witnesses for comment, and was not justified or quantified in any meaningful way by Mr Potts.

298. In any case, I note that Air Quality is the subject of Chapter 5 of the ES¹⁶⁴, with an overview of this topic given in the ES Non-Technical Summary¹⁶⁵. This states that:

'Once operational, the Proposed Scheme will not significantly increase the emissions of nitrogen dioxide, particulate matter and carbon dioxide and will in some locations lower the emissions by decreasing the average journey distance of vehicles. In particular, there is likely to be a significant beneficial effect on the Stoke Road Air Quality Management Area, once the Southern Link Road and Eastern Link Road (south) are both in operation, due to the overall reduction in nitrogen dioxide emissions from traffic.'

299. It is also the case that the POS to be acquired lies very close to what residents describe as a 'very busy road'^[87,124,171], with only a relatively narrow band of porous vegetation separating the area from the carriageway. In contrast, the proposed replacement land would be set away from the SEALR behind a solid 3m high barrier. In these circumstances I share the Council's view that there is no evidential basis on which to conclude that the replacement land would be less advantageous than the amenity land to be acquired, by reason of pollution, and that this matter should therefore not weigh against the proposed replacement land.

300. Drainage. Objections were raised on the grounds that the proposed replacement land would be sloping and located at the bottom of the SEALR embankment, such that water run-off from the embankment in heavy rain would result in water retention which would make this area muddier for longer, and so of less use than the land to be acquired, which is flat and located adjacent to a drainage ditch^[47,72,182]. However, as these comments and assertions were not made by drainage engineers or highway engineers, and were not supported by any verifiable evidence, I give them very little weight, when considered alongside the evidence from the Council's engineering witness, Mr Welborn.

301. Mr Welborn explained that the SEALR carriageway itself would drain into gullies and attenuation ponds, meaning that there would not be any run-off from impermeable areas. He further explained that rain falling onto the embankments would, to a material extent, be absorbed into the embankment and by the 'drainage layer' of gravel or similar, which would be incorporated into the base of the embankment^[182]. This means that there would be no additional water directed to the replacement land by reason of the Scheme and, as such, there is no evidence to demonstrate that the proposed replacement land would be 'muddy' and 'wet' as asserted. This is therefore not a matter that should weigh against the proposed replacement land.

302. Shadow. At the Inquiry, during his questioning of Mr Rooney on the topic of landscaping, Mr Bradley asserted, for the first time, that the replacement land would be 'in shadow', as a result of the presence of the SEALR embankment^[185]. There is,

¹⁶⁴ CD4.1.6

¹⁶⁵ Pages 9 and 10 of CD4.1.1

however, no firm evidence before the Inquiry in respect of this issue, largely because it had not been raised in advance. However, in response to this assertion the Council has pointed out that the replacement land would be far more 'open' and better lit, in terms of sunlight, than is the land to be acquired. I share that view, and accordingly do not consider that this matter should carry weight against the replacement land.

303. Ecology. Mr Potts explained that he considered ecology to be a critical aspect of any area intended for recreational activities^[67]. By way of example he stated that children can't climb trees if there aren't any suitable; that you can't practice football wearing studded boots if the surface isn't grass; and that you can't count plants and insects for school projects if there aren't any^[65]. But whilst these statements may be correct, in themselves, I am not persuaded that they accurately reflect a comparison between the land to be acquired and the proposed replacement land – and more importantly, whether they are of direct relevance to the S19 Certificate issue.
304. I have already noted that the evidence provided by Mr Rooney indicates that the area of proposed exchange land would be bounded by existing hedgerows to its north and would contain amenity grassland, species rich grassland, and individual trees, as well as a band of shrubs along its southern boundary^[172]. Whilst I acknowledge that it may well be several years before any of the newly planted trees would lend themselves to being climbed, the simple fact is that the activities referred to by Mr Potts could, indeed be also carried out on the replacement land.
305. However, I have also already noted, above, that the assessment to be carried out in the context of S19 is not whether any replacement land would have all the characteristics and features of the land to be acquired on a 'like for like' basis - but rather, whether it would be equally advantageous for the purposes of public recreation. For reasons already given I consider that insofar as ecological interests go to this point, the replacement land would be equally advantageous as the existing wedge of POS.
306. So, whilst Mr Potts sought to demonstrate that the Council's ecological assessment was flawed, in that it had used the BNG 2.0 rating rather than the more recent BNG 3.0 rating; and that the ecology of the land to be acquired has not been directly compared to the ecology of the replacement land^[67], these matters do not go to the heart of the assessment that needs to be undertaken in the S19 Certificate context. In any case, the assessment method and the Biodiversity Metric used by Mr Simmons was the methodology endorsed by Natural England at the time of its submission^[155,187,188].
307. On this point I note that the Council's evidence to this Inquiry on ecology was prepared primarily to deal with the specific objection from Juniper, in the context of Plot 8, and was not intended to be used to make a comparison between the POS land to be acquired and the proposed replacement land^[186]. That is understandable, as neither in their initial objections, nor in their proofs of evidence to this Inquiry, did any of the S19 objectors make any significant point about ecology. Although not objecting to the S19 Certificate application, it is relevant at this point to note that the general objection to the CPO submitted by Nigel Smith and Val Knight did touch on ecology, in that it argued that the SEALR would 'have a seismic impact on the local fauna and flora'^[125].
308. However, the Council's evidence demonstrates that this would not be the case, and that far from having an adverse ecological impact, the Scheme would, instead result

in a BNG of some 18% in terms of habitat units, and about 15% in terms of hedgerow units^[155]. There is no authoritative evidence to counter these claims, and I see no reason to doubt them. Overall, for the reasons detailed above, I conclude that these matters should not weigh against the replacement land.

309. Existing use of the replacement land. Mr Yerby asserted that the replacement land is already used widely as open space, and therefore cannot serve for the purposes of S19 of the 1981 Act^[98,99]. However, this point was not made by any of the local residents who gave evidence at the Inquiry, and Mr Yerby produced no firm evidence to support his claim. Mr Bradley did touch on this point in his proof of evidence, and also in his closing statement, but I did not understand him to be saying that the replacement land is already considered to be POS. Rather, I took his position on this matter to be that the Council could claim no 'credit' for the fact that the replacement land was not currently POS – as it is a prerequisite that exchange land cannot already be POS^[93]. In cross-examination, Mr Bradley was taken specifically to this point by Mr Booth, and at no time did Mr Bradley assert that the replacement land is already considered to be POS.
310. I do accept that there is currently some informal use of some parts of the replacement land – the fact that well-used gaps exist in the adjacent hedgerow and informal paths exist around the edge of the field confirms this. But no evidence has been placed before me to suggest or claim that this use is authorised. However, as the Council rightly points out, if the Scheme is implemented, and the S19 Certificate issued, then there would be the right to use this land as POS^[194].
311. Recreation. As has already been noted, the key matter to be considered for this S19 Certificate application is whether the proposed replacement land would be 'equally advantageous' for the purposes of public recreation, as the POS amenity land to be acquired. The objectors have listed various activities which they say take place on the existing POS, including exercise, dog-walking, children's play, community events and general socialising^[65,87,89,104]. In support of this, photographs have been submitted showing community events taking place on the wider POS, and at my accompanied and unaccompanied site visits I saw people exercising and walking dogs on this wider POS area. I have no reason to doubt that the POS as a whole is well-used and valued by residents of the Wendover Park and Stoke Grange housing areas.
312. However, in several parts of the evidence from the local residents it is the whole of the existing POS that is being described, and not the smaller wedge of land proposed to be acquired and exchanged through the S19 Certificate application. For example, I do not consider that the land to be acquired can be described as 'open parkland'^[82], and I consider it debateable as to whether the entirety of the area to be acquired could genuinely be described as being in full view of the surrounding houses, as is suggested in the evidence from the Residents' Group, and others^[82].
313. The Residents' Group also maintains that the S19 acquisition would result in a serious and irreversible adverse impact on the usability and amenity value of the remainder of the open space, and on the residential areas closest to and most directly affected by their proximity to the proposed road and ancillary works. They say that these concerns include the implications of the Scheme on the currently protected POS, both in terms of the physical encroachment of the road works into these areas and their proximity to residential properties^[83]. However, these points seem to me to amount to a continued objection to the SEALR scheme, and are not specifically related to the question of whether or not the replacement land would be

equally advantageous to the area of land to be acquired. As is abundantly clear, the SEALR has the benefit of planning permission, so general comments and objections such as detailed above are not matters to be resolved through this Inquiry.

314. On a somewhat similar matter, I note that the evidence from the Residents' Group drew attention to comments from the Council's landscape architect, given as part of the consultation on the SEALR planning application, which they say underlines the crucial importance of retaining all of the existing POS and its established tree/hedgerow screening^[84]. However, landscape concerns were only one of the many matters which members of the Strategic Sites Committee had to weigh and balance, when considering the SEALR planning application. Although undoubtedly disappointing to local residents, the fact remains that on balance the Strategic Sites Committee elected to approve the proposal and, as noted above, planning permission was duly granted, notwithstanding that it was accepted that some adverse impacts would arise. This matter has, therefore already been assessed in the overall planning balance, and has been found to be acceptable.
315. It is clearly the case that if the S19 Certificate were to be issued this eastern 'wedge' of land would be lost from the wider POS area – but I saw at my accompanied site visit that an appreciable amount of this area to be acquired contains vegetation, especially along the southern and eastern boundaries, and therefore cannot realistically be used for the recreational activities listed above – with the possible exception of children's play. On balance, it seems to me that if the S19 Certificate was issued, a significant area of flat and open POS would still remain in the area to the south of Patrick Way, perfectly capable of accommodating the recreational activities described above.
316. On a matter of detail, I note that some of the S19 objectors maintained that the planning application had indicated that some 450sqm of POS would be required for the Scheme, but that this fell well short of the subsequent CPO figure of around 1,550sqm. The Residents' Group stated that this had been misleading, and had caused confusion, as the public comments had been based solely on the dimensions quoted in the planning application. The Residents' Group queried why this large increase in land-take is required to achieve the development of the SEALR, and why the figure is so different from the planning application. They say that they have never received a satisfactory official answer to this query^[92].
317. However, it seems to me that the objectors have possibly misunderstood some of the submitted information. As I see it, the reference to 450sqm comes from the Statement of Community Involvement¹⁶⁶ (SCI) for the SEALR, extracts of which were included in Mr Bradley's Appendix, and in the original objection from the Residents' Group^[54]. In response to questions about how much public green space would be taken for the Wendover Road roundabout the SCI states that the design proposal includes the removal of the existing vegetation on the north-western boundary of the Wendover Road junction accounting for an area of 450sqm. I believe it likely that this is the figure referred to by objectors.
318. However, the response goes on to say that an area of 900sqm of public green space will be re-landscaped to include the proposed drainage scheme and new landscape buffer planting¹⁶⁷. I consider that this is referring to a further part of the land to be

¹⁶⁶ CD2.6/CD4.1.44

¹⁶⁷ Pages 30 & 31 of Doc JB/1/2

acquired, but not needed for the actual construction of the roundabout. Rather this is the area which would 'wrap around' the new roundabout, and would be landscaped as described by Mr Rooney^[44]. Taken together, these areas give a total of 1,350sqm of public green space needed for the Scheme - very close to the figure of 1,336sqm now detailed in the modified CPO for Plots 11, 12 and 13^[19,45,165]. In other words, the amount of POS to be acquired was some 1,350sqm at the time of the SCI – not the 450sqm believed by the objectors.

319. But even if I am wrong regarding my understanding of these figures, I do not consider that it goes to the heart of this matter. The Officers' Report to the Strategic Sites Committee on the SEALR explained quite clearly that about 1,550sqm of POS would be lost to provide the new roundabout at Wendover Road and associated landscaping and ecological mitigation. As such Committee members were well aware of the extent of POS to be lost, at the time they resolved to grant planning permission for the Scheme.

320. Modifications as a result of the changes to Plot 11. The Council made no specific request for the S19 Certificate to be issued in modified form, to address the minor changes to the configuration and size of Plot 11 discussed above^[165]. However, having reflected on this matter since the close of the Inquiry, and having revisited the letters relating to the S19 Certificate application¹⁶⁸, I consider it prudent for me to suggest that if the S19 Certificate is to be issued, then it should be in a slightly modified form, to reflect the slight change of configuration and size of the open space to be acquired. In summary, the changes which would be required are:

- The size of open space to be acquired should be changed from 1,576.23sqm to 1,336.40sqm. This revised figure reflects the areas of Plots 11, 12 and 13 as detailed in the final modified CPO;
- The plan accompanying the S19 Certificate application, currently to be found in CD9.20, needs to be modified to remove the 'spike' of land which extends westwards along the southern boundary of Plot 11. This should then accord with the size and configuration of Plot 11 as shown on the final, modified CPO Plan at CD10.4^[165].

Summary

321. Drawing all the above points together, it is my clear conclusion that the proposed replacement land would be not less in area, and would be equally advantageous as the land to be acquired, in terms of its ability to cater for and accommodate the sort of recreational activities outlined by the objectors. As such I further conclude that the statutory tests, in respect of Section 19(1)(a) of the 1981 Act, are satisfied.

Other Matters

322. I turn now to other matters which need to be established before the Orders can be confirmed, as detailed earlier in these conclusions. I am satisfied that the Council has properly considered its obligations with regard to human rights legislation, and that in discharging these obligations it has sought to strike a balance between the rights of the individual and the interests of the public^[35,50]. In light of the significant public benefit which would arise to the Aylesbury area, with the successful implementation of the ATS and the furtherance of the implementation of the VALP, it is my view that the Orders would not constitute an unlawful interference with

¹⁶⁸ CD9.20

individual property rights. I conclude that any residual interference with human rights would be necessary in order to achieve the Scheme and, having regard to the Scheme benefits, would be proportionate.

323. As previously noted, the Scheme has the benefit of planning permission, and the Council states that the necessary resources to acquire the land for, and to deliver, the Scheme are all in place. The cost of the Scheme is currently assessed at £35.5 million, including land/property acquisition costs, with this funding being available from a combination of Council funding, local developer contributions, the DfT's Local Growth Fund, and funding from HS2 Ltd^[25,30-35].
324. I understand that a number of planning conditions attached to the SEALR planning permission still need to be discharged^[15], and there are measures covered by the MoU which need to be implemented^[15], mainly to secure the necessary, agreed mitigation, but there is nothing to suggest that these matters cannot be undertaken satisfactorily. In addition, there are no outstanding objections from any statutory undertakers^[21]. The Scheme is therefore in an advanced state of readiness and there is no evidence to suggest that it is likely to be blocked by any impediment to implementation.

Conclusion on the Side Roads Order

325. The Council asks for the SRO to be confirmed in modified form, to cover a small number of proposed modifications discussed at the Inquiry. These are set out in CD10.8, and are summarised below:
- in the first entry under 'Highways to be stopped up' in Schedule 1 beginning 'Lower Road (B4443)....' the deletion of the figure of '190m' to be replaced by '310m';
 - in the third entry under 'Private means of access to be stopped up' in Schedule 1 beginning 'Wendover Road (A413)....' the deletion of the figure of '160m' to be replaced by '167m';
 - in the first entry under 'Private means of access to be stopped up' in Schedule 2 beginning 'Wendover Road (A413)....' the deletion of the figure of '160m' to be replaced by '167m';
 - the inclusion of a new access referenced as number '4' in the section 'Reference number of new accesses' in Schedule 1 of the Order;
 - a modification to the Order Map to include a new private means of access labelled '4' to be constructed and accessing off the new Lower Road roundabout.
326. Having had regard to the descriptions of these proposed modifications and the explanations as to why they are considered necessary, I share the Council's view that they all relate to relatively minor matters which would not affect the extent or scale of the proposals. Because of this I do not consider that any of the modifications would materially alter anyone's understanding of the Order and I therefore consider that no further formal consultation on these modifications is necessary. The final versions of the SRO, Schedules and Site Plan, are contained in CD10.6 and CD10.7.
327. I consider that all the above modifications to the SRO are necessary to address specific objections, and for clarity and accuracy. I further consider that they can all be made in accordance with paragraph 8 of Schedule 1 to the Highways Act 1980.

With regard to the statutory criteria to be satisfied, I am mindful that there are no objections to the Scheme or the Orders from Statutory Undertakers^[21]. Moreover, where a highway or PMA is to be stopped up, I am satisfied that a reasonably convenient alternative route or access would be provided, as described in the Schedules and Site Plan of the SRO.

328. I conclude that the SRO should be confirmed with the modifications detailed in paragraph 325 above.

Conclusions on the Compulsory Purchase Order

329. The Council asks for the CPO to be confirmed in modified form, to cover a number of proposed modifications discussed at the Inquiry and as detailed in CD10.1. These modifications are put forward to address various matters, ranging from initial omissions of references to 'Qualifying Persons', to changes to Plots to address successful negotiations with objectors. They are summarised below:

- Plot 5; the insertion of a number of 'Qualifying Persons' in Plot 5 of Table 1 of the Schedule to the Order, to address an earlier omission in this regard;
- Plot 6; the deletion of those persons currently shown as 'the Owners' in Table 1 of the Schedule to the Order, to be replaced with the name and address of the Council as the Owner;
- Plots 7, 7a, 8 and 14; deletion of the words 'except interests owned by the Acquiring Authority' in Table 1 of the Schedule to the Order;
- Plots 10, 10a, 10b and 10c; in response to and having had due regard to objections raised to the Order by the WHC and by Cala, a number of modifications in respect of Plots 10, 10a, 10b and 10c, including the creation of 2 new Plots 10d and 10e, by sub-division of existing Plots. (*Note - no additional land is being sought to be included in the Order by way of these requested modifications. The new Plots 10d and 10e comprise land that is all currently within Plots 10 and 10b*);
- Plot 11; in response to, and having had due regard to objections raised to the S19 Certificate application, a modification to the extent of the land as contained in Plot 11 as set out in Table 1 of the Schedule to the Order, and as shown delineated and coloured pink on the Order Map, to reflect a reduction in the extent of the land within this Plot to be purchased compulsorily;
- Plot 15; the insertion of additional persons as 'Qualifying Persons' in Plot 15 of Table 1 of the Schedule to the Order, to address an earlier omission in this regard;
- Plots 11, 12, 13 and 15 in Table 1; Plot 12 in Table 2; and the Table headed 'General Entries'; various modifications to delete reference to 'Aylesbury Vale District Council', to reflect the fact that from 1 April 2020, Buckinghamshire Council became the sole principal local authority for this administrative area.

330. None of these proposed modifications would affect the extent or scale of the proposals. Moreover, I am satisfied that none of the modifications would materially alter anyone's understanding of the Order, and that no further formal consultation is therefore necessary on these modifications. They could therefore be made in

accordance with paragraph 8 of Schedule 1 to the Highways Act 1980 and paragraphs 4 and 5 of Schedule 1 to the Acquisition of Land Act 1981. The final versions of the CPO, Schedule and CPO Plan are contained in CD10.3 and CD10.4.

331. At paragraph 322 I conclude that the purposes for which the CPO is being promoted justifies interfering with the human rights of those with an interest in the land affected, and that any residual interference with human rights is proportionate and necessary to achieve the Scheme.
332. In my assessment, all the land proposed to be acquired is necessary for the Scheme to proceed and there is no firm evidence before me to suggest that this land is not the minimum necessary for the Scheme to be constructed. I am satisfied that the Council has a clear idea of how the land to be acquired would be used^[34]. In paragraph 323 I note that the necessary resources are available for the Scheme to be implemented within a reasonable timescale.
333. I conclude that the CPO should be confirmed with the modifications detailed in paragraph 329 above.

Conclusions on the S19 Certificate Application

334. Having already concluded that the Scheme is acceptable and that the CPO should be confirmed, it follows that I find no objection to the proposals for the provision of exchange land to replace the POS south-east of Patrick Way, in the parish of Stoke Mandeville, land required for the Scheme.
335. As noted above, the Council made no specific request for the S19 Certificate to be issued in modified form, to address the minor changes to the configuration and size of Plot 11 discussed at the Inquiry. However, these changes do affect both the Plan which accompanied the S19 Certificate application, and also the size of the open space land to be acquired. I therefore conclude that the S19 Exchange Land Certificate should be modified as detailed below:
- The size of open space to be acquired should be changed from 1,576.23sqm to 1,336.40sqm. This revised figure reflects the areas of Plots 11, 12 and 13 as detailed in the final modified CPO;
 - The plan accompanying the S19 Certificate application, currently to be found in CD9.20, needs to be modified to remove the 'spike' of land which extends westwards along the southern boundary of Plot 11. This should then accord with the size and configuration of Plot 11 as shown on the final, modified CPO Plan at CD10.4.
336. An application to issue a Certificate to this effect has been prepared in accordance with Section 19(1)(a) of the Acquisition of Land Act 1981, and I conclude that it should be issued with the modifications detailed in paragraph 335 above.

RECOMMENDATIONS

337. I recommend that the **Buckinghamshire Council (A4010 South East Aylesbury Link Road) (Classified Road) (Side Roads) Order 2020** should be modified as indicated in paragraph 325 above, and that the Order so modified should be confirmed.
338. I recommend that the **Buckinghamshire Council (A4010 South East Aylesbury Link Road) Compulsory Purchase Order 2020** should be modified as indicated in paragraph 329 above, and that the Order so modified should be confirmed.

339. I recommend that the **Exchange Land Certificate** under Section 19(1)(a) of the Acquisition of Land Act 1981, relating to public open space south-east of Patrick Way, in the parish of Stoke Mandeville, and other land situated to the south-west, south and south-east of Charles Close, in the parish of Stoke Mandeville, should be modified as indicated in paragraph 335 above, and that the Certificate so modified should be issued.

David Wildsmith

INSPECTOR

APPENDIX 1 – APPEARANCES

FOR BUCKINGHAMSHIRE COUNCIL AS ACQUIRING AUTHORITY:	
Mr Alexander Booth QC	instructed by Patricia Evans, Solicitor to Buckinghamshire Council (BC)
He called:	
Mr Ian McGowan BSc MCIHT	Head of Highways Infrastructure Projects, BC
Mr Del Tester IEng FIHE MCIHT	Managing Director, Origin Transport Consultants Ltd
Mrs Susan Kitchen BSc(Hons) DipTP MRTPI	Consultant Planner, BC
Mr Jason Evans BSc(Hons) MSc MIOA	Regional Director, AECOM Ltd
Mr John Simmons BSc(Hons)	Technical Director, AECOM Ltd
Mr John Rooney BSc(Hons) MICE	Technical Director, AECOM Ltd
Mr Phil Welborn MRICS	Associate Director, AECOM Ltd
Mr Simon Mole BSc PGDip MRICS	Partner, Infrastructures Team, Carter Jonas

OBJECTORS TO THE ORDERS:	
Mr Edward Henry Stephen Briggs FRICS FAAV	On behalf of Mr Antony Pearce, Mr Timothy Pearce and Mrs Janet Pearce (The Pearce Family – Objector No 15)
Mr Christopher Potts BEng(Hons)	Local resident (Objector No 1)
Mr Jerry Bradley	Local resident (Objector No 8)
Mr Melvyn Gibbons & Mrs Barbara Smith	Representing local residents (Objector No 13). <i>[Note: Mr Gibbons also presented evidence on his own behalf, as a local resident. I have given him the Objector No 13A]</i>
Mr Phil Yerby	Local resident and former Ward Councillor (Objector No 22)

APPENDIX 2 – CORE DOCUMENTS

Buckinghamshire Council key decisions	
CD1.1	November 2017 Cabinet decision
CD1.1.1	November 2017 Cabinet decision appendices
CD1.2	December 2019 Cabinet decision
CD1.2.1	Cabinet Appendix C – Scheme design
CD1.3	January 2020 Shadow Executive report
CD1.3.1	Appendix B – Bucks CC Cabinet decision
CD1.3.2	Appendix C – EQIA

Planning application documentation	
CD2.1	Planning application CC/0015/20 and appendices
CD2.2	SEALR application covering form
CD2.3	Design and Access Statement
CD2.4	Planning Statement
CD2.4(A)	Transport Assessment
CD2.4.1	Transport Assessment Appendix A-B
CD2.4.2	Transport Assessment Appendix C
CD2.4.3	Transport Assessment Appendix D
CD2.4.4	Transport Assessment Appendix E
CD2.4.5	Transport Assessment Appendix F
CD2.4.6	Transport Assessment Appendix G-H
CD2.4.7	Transport Assessment Appendix I1
CD2.4.8	Transport Assessment Appendix I2
CD2.4.9	Transport Assessment Appendix I3
CD2.4.10	Transport Assessment Appendix I4
CD2.4.11	Transport Assessment Appendix J
CD2.5	Biodiversity Net Gain Assessment
CD2.6	Statement of Community Involvement
CD2.7	Officer Report to Committee and Corrigendum February 2021
CD2.8	<i>Not used</i>
CD2.9	Memorandum of Understanding July 2021
CD2.10	Planning Permission Decision Notice July 2021
CD2.11	Strategic Outline Business Case
CD2.12	SEALR Project webpage
CD2.13	CC/0015/20 Post Committee Report
CD2.14	IAN 135/10 Landscape and Visual Impact Assessment
SEALR Application Drawings	
CD3.1.1	Sheet Layout Overview - Drg No 60535364-ACM-00-XX- SKE-CE-0001 Rev C
CD3.1.2	General Arrangement - Drg No 60535364-ACM-00-XX-SKE-CE-0100 Rev C
CD3.1.3	General Arrangement - Drg No 60535364-ACM-00-XX- SKE-CE-0101 Rev C
CD3.1.4	General Arrangement - Drg No 60535364-ACM-00-XX-SKE-CE-0102 Rev C
CD3.1.5	General Arrangement - Drg No 60535364-ACM-00-XX- SKE-CE-0103 Rev C
CD3.1.6	General Arrangement - Drg No 60535364-ACM-00-XX-SKE-CE-0104 Rev C
CD3.1.7	Topographic Survey - Drg No 60535364-ACM-00-XX- SKE-CE-0105 Rev A
CD3.1.8	Topographic Survey - Drg No 60535364-ACM-00-XX-SKE-CE-0106 Rev A
CD3.1.9	Topographic Survey - Drg No 60535364-ACM-00-XX- SKE-CE-0107 Rev A
CD3.1.10	Topographic Survey - Drg No 60535364-ACM-00-XX-SKE-CE-0108 Rev A
CD3.1.11	Topographic Survey - Drg No 60535364-ACM-00-XX- SKE-CE-0109 Rev A
CD3.1.12	Existing Utilities - Drg No 60535364-ACM-00-XX-SKE-CE-0110 Rev A
CD3.1.13	Existing Utilities - Drg No 60535364-ACM-00-XX-SKE-CE- 0111 Rev A
CD3.1.14	Existing Utilities - Drg No 60535364-ACM-00-XX-SKE-CE-0112 Rev A
CD3.1.15	Existing Utilities - Drg No 60535364-ACM-00-XX-SKE-CE- 0113 Rev A
CD3.1.16	Existing Utilities - Drg No 60535364-ACM-00-XX-SKE-CE-0114 Rev A
CD3.1.17	Swept Paths - Drg No 60535364-ACM-00-XX-SKE-CE- 0115 Rev A
CD3.1.18	Swept Paths - Drg No 60535364-ACM-00-XX-SKE-CE-0116 Rev A

CD3.1.19	Swept Paths - Drg No 60535364-ACM-00-XX-SKE-CE-0117 Rev A
CD3.1.20	Swept Paths - Drg No 60535364-ACM-00-XX-SKE-CE-0118 Rev A
CD3.1.21	Swept Paths - Drg No 60535364-ACM-00-XX-SKE-CE- 0119 Rev A
CD3.1.22	Roundabout Geometries - Drg No 60535364-ACM-00-XX-SKE-CE-0120 Rev A
CD3.1.23	Roundabout Geometries - Drg No 60535364-ACM-00- XX-SKE-CE-0121 Rev A
CD3.1.24	Roundabout Geometries - Drg No 60535364-ACM-00-XX-SKE-CE-0122 Rev A
CD3.1.25	Roundabout Geometries - Drg No 60535364-ACM-00- XX-SKE-CE-0123 Rev A
CD3.1.26	Proposed Utility Diversions - Drg No 60535364-ACM-00-XX-SKE-CE-0124 Rev A
CD3.1.27	Proposed Utility Diversions - Drg No 60535364-ACM-00- XX-SKE-CE-0125 Rev A
CD3.1.28	Proposed Utility Diversions - Drg No 60535364-ACM-00-XX-SKE-CE-0126 Rev A
CD3.1.29	Proposed Utility Diversions - Drg No 60535364-ACM-00-XX-SKE-CE-0127 Rev A
CD3.1.30	Proposed Utility Diversions - Drg No 60535364-ACM-00-XX-SKE-CE-0128 Rev A
CD3.1.31	Long-section - Drg No 60535364-ACM-00-XX-SKE-CE- 0130 Rev A
CD3.1.32	Cross-sections - Drg No 60535364-ACM-00-XX-SKE-CE-0140 Rev A
CD3.1.33	Site Clearance - Drg No 60535364-ACM-00-XX-SKE-CE- 0200 Rev A
CD3.1.34	Site Clearance - Drg No 60535364-ACM-00-XX-SKE-CE-0201 Rev A
CD3.1.35	Site Clearance - Drg No 60535364-ACM-00-XX-SKE-CE- 0202 Rev A
CD3.1.36	Site Clearance - Drg No 60535364-ACM-00-XX-SKE-CE-0203 Rev A
CD3.1.37	Site Clearance - Drg No 60535364-ACM-00-XX-SKE-CE- 0204 Rev A
CD3.1.38	Drainage - Drg No 60535364-ACM-00-XX-SKE-CE-0500 Rev C
CD3.1.39	Drainage - Drg No 60535364-ACM-00-XX-SKE-CE-0501 Rev C
CD3.1.40	Drainage - Drg No 60535364-ACM-00-XX-SKE-CE-0502 Rev C
CD3.1.41	Drainage - Drg No 60535364-ACM-00-XX-SKE-CE-0503 Rev C
CD3.1.42	Drainage - Drg No 60535364-ACM-00-XX-SKE-CE-0504 Rev C
CD3.1.43	Signing and Lining - Drg No 60535364-ACM-00-XX-SKE- CE-1200 Rev A
CD3.1.44	Signing and Lining - Drg No 60535364-ACM-00-XX-SKE-CE-1201 Rev A
CD3.1.45	Signing and Lining - Drg No 60535364-ACM-00-XX-SKE- CE-1202 Rev A
CD3.1.46	Signing and Lining - Drg No 60535364-ACM-00-XX-SKE-CE-1203 Rev A
CD3.1.47	Signing and Lining - Drg No 60535364-ACM-00-XX-SKE- CE-1204 Rev A
CD3.1.48	Lighting Layout - Drg No 60535364-ACM-00-XX-SKE-CE-1300 Rev B
CD3.1.49	Lighting Layout - Drg No 60535364-ACM-00-XX-SKE-CE- 1301 Rev B
CD3.1.50	Lighting Layout - Drg No 60535364-ACM-00-XX-SKE-CE-1302 Rev B
CD3.1.51	Lighting Layout - Drg No 60535364-ACM-00-XX-SKE-CE- 1303 Rev B
CD3.1.52	Lighting Layout - Drg No 60535364-ACM-00-XX-SKE-CE-1304 Rev B
CD3.1.53	Armillary Sphere - Drg No 60535364-M001-101-DWG-001 Rev A
CD3.1.54	Bridge Structure - Drg No 60535364-M001-101-DWG-100 Rev 2
CD3.1.55	Bridge Structure - Drg No 60535364-M001-101-DWG-101 Rev 2
CD3.1.56	Bridge Structure - Drg No 60535364-M001-101-DWG-102 Rev 2
CD3.1.57	Bridge Structure - Drg No 60535364-M001-101-DWG-103 Rev 2
CD3.1.58	Bridge Structure - Drg No 60535364-M001-101-DWG-104 Rev 2

CD3.1.59	Landscape Proposals - Drg No 60535364-DET-LSC-001 Rev P02
CD3.1.60	Landscape Proposals - Drg No 60535364-DET-LSC-002 Rev P02
CD3.1.61	Landscape Proposals - Drg No 60535364-DET-LSC-003 Rev P02
CD3.1.62	Landscape Proposals - Drg No 60535364-DET-LSC-004 Rev P02
CD3.1.63	Landscape Proposals - Drg No 60535364-DET-LSC-005 Rev P02
CD3.1.64	Landscape Proposals - Drg No 60535364-DET-LSC-006 Rev P02
CD3.1.65	Construction Traffic Routing - Drg No 60535364-ACM- 00-XX-SKE-CE-2001
December 2020 Submission Planning Drawings	
CD3.2.1	Sheet Layout Overview - Drg No 60535364-ACM-00-XX- SKE-CE-0001 Rev C
CD3.2.2	General Arrangement - Drg No 60535364-ACM-00-XX-SKE-CE-0100 Rev C
CD3.2.3	General Arrangement - Drg No 60535364-ACM-00-XX- SKE-CE-0101 Rev C
CD3.2.4	General Arrangement - Drg No 60535364-ACM-00-XX-SKE-CE-0102 Rev C
CD3.2.5	General Arrangement - Drg No 60535364-ACM-00-XX- SKE-CE-0103 Rev C
CD3.2.6	General Arrangement - Drg No 60535364-ACM-00-XX-SKE-CE-0104 Rev C
CD3.2.7	Topographic Survey - Drg No 60535364-ACM-00-XX- SKE-CE-0105 Rev A
CD3.2.8	Topographic Survey - Drg No 60535364-ACM-00-XX-SKE-CE-0106 Rev A
CD3.2.9	Topographic Survey - Drg No 60535364-ACM-00-XX- SKE-CE-0107 Rev A
CD3.2.10	Topographic Survey - Drg No 60535364-ACM-00-XX-SKE-CE-0108 Rev A
CD3.2.11	Topographic Survey - Drg No 60535364-ACM-00-XX- SKE-CE-0109 Rev A
CD3.2.12	Existing Utilities - Drg No 60535364-ACM-00-XX-SKE-CE-0110 Rev A
CD3.2.13	Existing Utilities - Drg No 60535364-ACM-00-XX-SKE-CE- 0111 Rev A
CD3.2.14	Existing Utilities - Drg No 60535364-ACM-00-XX-SKE-CE-0112 Rev A
CD3.2.15	Existing Utilities - Drg No 60535364-ACM-00-XX-SKE-CE- 0113 Rev A
CD3.2.16	Existing Utilities - Drg No 60535364-ACM-00-XX-SKE-CE-0114 Rev A
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CD3.2.18	Swept Paths - Drg No 60535364-ACM-00-XX-SKE-CE-0116 Rev A
CD3.2.19	Swept Paths - Drg No 60535364-ACM-00-XX-SKE-CE- 0117 Rev A
CD3.2.20	Swept Paths - Drg No 60535364-ACM-00-XX-SKE-CE-0118 Rev A
CD3.2.21	Swept Paths - Drg No 60535364-ACM-00-XX-SKE-CE- 0119 Rev A
CD3.2.22	Roundabout Geometries - Drg No 60535364-ACM-00-XX-SKE-CE-0120 Rev A
CD3.2.23	Roundabout Geometries - Drg No 60535364-ACM-00- XX-SKE-CE-0121 Rev A
CD3.2.24	Roundabout Geometries - Drg No 60535364-ACM-00-XX-SKE-CE-0122 Rev A
CD3.2.25	Roundabout Geometries - Drg No 60535364-ACM-00- XX-SKE-CE-0123 Rev A
CD3.2.26	Proposed Utility Diversions - Drg No 60535364-ACM-00-XX-SKE-CE-0124 Rev A
CD3.2.27	Proposed Utility Diversions - Drg No 60535364-ACM-00- XX-SKE-CE-0125 Rev A
CD3.2.28	Proposed Utility Diversions - Drg No 60535364-ACM-00-XX-SKE-CE-0126 Rev A
CD3.2.29	Proposed Utility Diversions - Drg No 60535364-ACM-00- XX-SKE-CE-0127 Rev A

Environmental Statement, Volume 1: March 2020	
CD4.1.1	ES Non-Technical Summary
CD4.1.2	Chapter 1 Introduction
CD4.1.3	Chapter 2 The Proposed Scheme
CD4.1.4	Chapter 3: Alternatives
CD4.1.5	Chapter 4: EIA Methodology
CD4.1.6	Chapter 5: Air Quality
CD4.1.7	Chapter 6: Cultural Heritage
CD4.1.8	Chapter 7: Landscape and Visual Effects
CD4.1.9	Chapter 8: Ecology and Nature Conservation
CD4.1.10	Chapter 9: Geology and Soils
CD4.1.11	Chapter 10: Materials
CD4.1.12	Chapter 11: Noise and Vibration
CD4.1.13	Chapter 12: People and Communities
CD4.1.14	Chapter 13: Road Drainage and Water Environment
CD4.1.15	Chapter 14: Effect Interactions
CD4.1.16	Chapter 15: Summary of Environmental Effects
Environmental Statement, Volume 2: December 2020	
CD4.1.17	Appendix 2A: Outline EMP
CD4.1.18	Appendix 2B: Lighting Assessment
CD4.1.19	Appendix 2C: Landscape and Ecological Management Plan
CD4.1.20	Appendix 3A: Environmental and community considerations for each route option
CD4.1.21	Appendix 4A: Cumulative Developments
CD4.1.22	Appendix 5A: Air Quality Modelling
CD4.1.23	Appendix 6A: Cultural Heritage Desk-Based Assessment and Geophysical Survey
CD4.1.24	Appendix 6B: Written Scheme of Investigation
CD4.1.25	Appendix 7A: Arboricultural Impact Assessment
CD4.1.26	Appendix 8A: Preliminary Ecological Appraisal Report
CD4.1.27	Appendix 8B: Phase 2 Botanical Survey Report
CD4.1.28	Appendix 8C: Assessment of suitability to support roosting bats
CD4.1.29	Appendix 8D: Bat Survey Report
CD4.1.30	Appendix 8E: Wintering Bird Survey Report
CD4.1.31	Appendix 8F: Breeding Bird Survey Report
CD4.1.32	Appendix 8G: Barn Owl Survey Report
CD4.1.33	Appendix 9A: Preliminary Sources Study
CD4.1.34	Appendix 9B: Ground Investigation Report
CD4.1.35	Appendix 11A: Baseline Noise Survey
CD4.1.36	Appendix 11B: Noise Modelling Parameters
CD4.1.37	Appendix 11C: Affected Links
CD4.1.38	Appendix 11D: Noise Summary Tables Without Mitigation
CD4.1.39	Appendix 12A: Aylesbury Transport Model Junction Modelling Analysis
CD4.1.40	Appendix 13A: Flood Risk Assessment
March 2020 Planning Application Supporting Documents	
CD4.1.41	Biodiversity Net Gain Assessment
CD4.1.42	Design and Access Statement
CD4.1.43	Planning Statement

CD4.1.44	Statement of Community Involvement (duplicate of CD2.6)
CD4.1.45	Transport Assessment (Main Volume)
CD4.1.46	Transport Assessment Appendices A-B
CD4.1.47	Transport Assessment Appendix C
CD4.1.48	Transport Assessment Appendix D
CD4.1.49	Transport Assessment Appendix E
CD4.1.50	Transport Assessment Appendix F
CD4.1.51	Transport Assessment Appendix G-H
CD4.1.52	Transport Assessment Appendix I
CD4.1.53	Transport Assessment Appendix J
CD4.1.54	Application Boundary - Drg No 60535364-ACM-00-XX- SKE-CE-0002 RevA
CD4.1.55	Location Plan - Drg No 60535364-ACM-00-XX-SKE-CE-0003 Rev A
December 2020 ES Addendum	
CD4.2.1	ES Addendum
CD4.2.2	Appendix A Options Feasibility Report
CD4.2.3	Appendix B Heritage Note
CD4.2.4	Appendix C Ecology Reports
CD4.2.5	Appendix D1 Landscape and Ecological Management Plan
CD4.2.6	Appendix D2 Landscape Figures
CD4.2.7	Appendix E Transport Assessment Addendum
CD4.2.8	Appendix F Noise Appendices
CD4.2.9	Appendix G Outline Environmental Management Plan
December 2020 Submission Supporting Documents	
CD4.2.10	Planning Statement Addendum
CD4.2.11	Statement on Crime Prevention
CD4.2.12	Schedule of Consultation Responses
CD4.2.13	Archaeological Written Scheme of Investigation
CD4.2.14	Flood Risk Assessment
CD4.2.15	Drainage Strategy
Objections and representations of Support	
CD5.1	Objections lodged by Chris Potts (Obj No 1) (CD5.1 & CD5.1.1 combined)
CD5.1.2	Email submitted by Chris Potts (Obj No 1) May 2021
CD5.2	Objection lodged by Mr Rotulo (Obj No 2)
CD5.3	Objection lodged by Network Rail (Obj No 3) – withdrawn
CD5.3.1	Covering letter from Network Rail
CD5.4	Objection lodged by William Harding’s Charity (Obj No 4)
CD5.5	Objection lodged by Mr Iannone (Obj No 5)
CD5.6	Objection lodged by Buckinghamshire College Group (Obj No 6) (CD5.6 & CD5.6.1 combined)
CD5.7	Objection lodged by Ms Iannone (Obj No 7)
CD5.8	Objection lodged by Mr Bradley (Obj No 8)
CD5.9	Fairfield Limited (Obj No 9) - withdrawn
CD5.10	Objection lodged by Landmatch Limited (Obj No 10)
CD5.11	Objection lodged by Cala Management Limited (Obj No 11) CD5.11 & CD5.11.1 combined
CD5.12	Objection lodged by Mr Russell (Obj No 12)
CD5.13	Objection lodged by Residents (Obj No 13)
CD5.13.1	Covering letter with the Objection lodged by Residents (Obj No 13)

CD5.14	Objection lodged by Juniper Investments Limited (Obj No 14)
CD5.15	Objections lodged by The Pearce Family (Obj No 15) (CD5.15 & CD5.15.1 combined)
CD5.16	Objection lodged by Taylor Wimpey UK Limited (Obj No 16)
CD5.16.1	Objection lodged by Taylor Wimpey UK Limited (Obj No 16) - Plan
CD5.17	Objection lodged by Official Custodian for Charities on behalf of William Harding's Charity (Obj No 17)
CD5.18	Objection lodged by Nigel Smith & Val Knight (Obj No 18)
CD5.19	Objection lodged by Gary Maple
CD5.20	Objection lodged by Julie Willis
CD5.21	Objection lodged by Chris Wells
CD5.22	Objection lodged by Mr Yerby
CD5.23	Representation of support lodged by Steve Tinnelley
Legislation	
CD6.1	Acquisition of Land Act 1981
CD6.2	Compulsory Purchase Act 1965
CD6.3	Compulsory Purchase (Inquiry Procedure) Rules 2007
CD6.4	Equality Act 2010
CD6.5	European Convention on Human Rights – Council of Europe 1953
CD6.6	Highways Act 1980
CD6.7	Highways (Inquiries Procedure) Rules 1994
CD6.8	Human Rights Act 1998
CD6.9	The Traffic Signs Regulations and General Directions 2016
CD6.10	Wildlife and Countryside Act 1981
CD6.11	High Speed Rail (London – West Midlands) Act 2017
National policy and guidance	
CD7.1	National Planning Policy Framework
CD7.2	DMRB CD 377
CD7.3	Traffic Signs Regulations and General Directions (TSRGD)
CD7.4	Traffic Signs Manual
CD7.5	<i>Not used</i>
CD7.6	<i>Not used</i>
CD7.7	European Landscape Convention
CD7.8	Planning Practice Guidance – Open space, sports and recreation facilities, public rights of way and local green space
CD7.9	The Ministry of Housing, Communities & Local Government Guidance on Compulsory Purchase Process and the Crichel Down Rules issued in February 2018 (updated July 2019)
CD7.10	<i>Not used</i>
CD7.11	DMRB CG 501 - Design of highway drainage systems
CD7.12	Highways Agency (2011), Design Manual for Roads and Bridges Volume 11, Section 3, Part 7, HD 213/11 Revision 1 Noise and Vibration.
CD7.13	Department for Environment, Food & Rural Affairs (2010), Noise Policy Statement for England (NPSE).
CD7.14	Department for Transport (Welsh Office) (1988). Calculation of Road Traffic Noise, Her Majesty's Stationery Office (HMSO)
CD7.15	The Noise Insulation Regulations (1975), Statutory Instrument No. 1763 (as amended 1988).
CD7.16	World Health Organisation (WHO) Guidelines for Community Noise

CD7.17	World Health Organisation (2009) Night Noise Guidelines for Europe
CD7.18	MHCLG (2014 and subsequent updates) Planning Policy Guidance (PPG).
CD7.18.1	MHCLG (2014 and subsequent updates) Planning Policy Guidance (PPG). Noise
CD7.19	Appendix 8 of the Highways Authority Product Approval Scheme (HAPAS) guidelines document for the assessment and certification of thin surfaces for highways
CD7.20	Environment Bill Policy Paper
Local policy and guidance	
CD8.1	Aylesbury Vale District Local Plan 2004 (AVDLP) – now superseded
CD8.2	Vale of Aylesbury Local Plan 2021 (VALP)
CD8.3	Weston Turville Neighbourhood Plan (WTNP) policies
CD8.4	ED 238 Response to VALP Inspector 9 March 2020
CD8.5	Strategic Landscape and Visual Capacity study VALP supporting document
CD8.6	Construction Routes Modelling – Buckinghamshire Highway Network – December 2014
CD8.7	Planning Inspectorate Report to Buckinghamshire Council - August 2021
CD8.8	Aylesbury Local Plan – January 1991
CD8.9	Buckinghamshire County Structure Plan 1991-2011
CD8.10	Buckinghamshire Local Transport Plan 2001-2006
CD8.11	<i>Not used</i>
CD8.12	Buckinghamshire Local Transport Plan 2006/7 to 2009/10 – Part One
CD8.12.1	Buckinghamshire Local Transport Plan 2006/7 to 2009/10 – Part Two
CD8.12.2	Buckinghamshire Local Transport Plan 2006/7 to 2009/10 – Part Three
CD8.12.3	Buckinghamshire Local Transport Plan 2006/7 to 2009/10 – Appendices
CD8.13	Buckinghamshire Local Transport Plan 4 March 2016-2036
CD8.14	Aylesbury Transport Strategy (2017)
CD8.15	Buckinghamshire Council’s Street Lighting Specification Rev.7
CD8.15.1	Buckinghamshire Council’s Street Lighting Specification Rev.7 – SD1300
CD8.15.2	Buckinghamshire Council’s Street Lighting Specification Rev.7 – SD1400
CD8.16	Buckinghamshire Green Infrastructure Strategy – 2009
CD8.17	Buckinghamshire Council online Public Rights of Way Map
CD8.18	Aylesbury Vale Green Infrastructure Strategy 2011-2026
CD8.19	Assessment of Open Space, Sports and Recreation Needs for Aylesbury Vale, Final Report March 2017
CD8.20	Aylesbury Garden Town Masterplan, July 2020
CD8.21	Aylesbury Vale Landscape Character Assessment, 2008
CD8.22	Buckinghamshire Biodiversity Accounting Supplementary Planning Document – Consultation Version March 2020
CD8.23	Aylesbury Garden Town Masterplan (July 2020)
Other Documents	
CD9.1	Statement of Reasons
CD9.2	Statement of Case
CD9.3	Assessment of Alternatives and Options Feasibility Report
CD9.4	CPO Plans
CD9.5	SRO Plans
CD9.6	The CPO
CD9.7	The SRO
CD9.8	<i>Not used</i>

CD9.9	List of Assurances (1-19) from House of Commons re HS2
CD9.10	Planning permission AV/1036/85
CD9.11	Abbott, P.G. and Nelson, P.M. (2002). Converting the UK traffic noise index LA10,18h to EU noise indices for noise mapping. Transport Research Laboratory, Crowthorne
CD9.12	Muirhead M (2018) Road Surface Corrections for Use With CRTN, Proceedings of the Institute of Acoustics Vol. 40 Pt. 1 pp400-408.
CD9.13	Request for EIA Scoping Opinion
CD9.14	EIA Scoping Opinion
CD9.15	Biodiversity Net Gain Assessment (October 2021)
CD9.16	Appendix B Road Restraint Risk Assessment Process
CD9.17	Appendix C Stage 2 Road Safety Audit
CD9.18	Appendix D 60535364/TN001 Rev. 1
CD9.19	Sharpe Pritchard's letter to MHCLG dated 1 October 2020 & Open Space Plan
CD9.20	Sharpe Pritchard's letter to MHCLG dated 27 January 2021 & Revised Open Space Plan
CD9.21	SRO Plan Revision G
CD9.21.1	The SRO
CD9.22	Assessment Query Letter from DfT dated 2 March 2021
CD9.23	Letter to DfT from Sharpe Pritchard dated 26 April responding to letter from DfT dated 2 March 2021
CD9.24	SRO Plan – Revision H
CD9.25	Modifications to SRO & CPO
Final Modifications	
CD10.1	Explanatory note setting out Requests for Modification of CPO to which the tracked change version of the CPO and new CPO plan are to be attached as Appendices
CD10.2	Tracked change CPO
CD10.3	Clean Version of modified CPO
CD10.4	Modified CPO Plan
CD10.5	Tracked change SRO
CD10.6	Clean version of modified SRO
CD10.7	Modified SRO Plan
CD10.8	Explanatory Note for SRO

APPENDIX 3 – PROOFS OF EVIDENCE & REBUTTAL PROOFS

Buckinghamshire Council As Acquiring Authority	
BC/1/1	Proof of Evidence by Ian McGowan – Overview of the Scheme
BC/2/1	Summary Proof of Evidence by Susan Kitchen - Planning
BC/2/2	Proof of Evidence by Susan Kitchen - Planning
BC/2/3	<i>Not used</i>
BC/2/4	Rebuttal Proof of Evidence by Susan Kitchen – Planning. (response to Cala Management Limited & Mr Bradley)
BC/2/5	Appendices to Rebuttal Proof of Evidence by Susan Kitchen on behalf of The Buckinghamshire Council – Planning
BC/3/1	Summary Proof of Evidence by Del Tester – Highways & Transport
BC/3/2	Proof of Evidence by Del Tester - Highways & Transport

BC/3/3	Appendices to the Proof of Evidence by Del Tester - Highways & Transport
BC/4/1	Summary Proof of Evidence by Simon Mole - Negotiations
BC/4/2	Proof of Evidence by Simon Mole - Negotiations
BC/4/3	Appendices to the Proof of Evidence by Simon Mole - Negotiations
BC/4/4	Rebuttal Proof of Evidence by Simon Mole - Negotiations (response to The Pearce Family)
BC/5/1	Summary Proof of Evidence by Jason Evans - Noise Impact
BC/5/2	Proof of Evidence by Jason Evans - Noise Impact
BC/5/3	<i>Not used</i>
BC/5/4	Rebuttal Proof of Evidence by Jason Evans - Noise Impact (response to Cala Management Limited)
BC/6/1	Summary Proof of Evidence by John Simmons - Ecology
BC/6/2	Proof of Evidence by John Simmons - Ecology
BC/6/3	Appendices to the Proof of Evidence by John Simmons - Ecology
BC/7/1	Summary Proof of Evidence by Jon Rooney - Landscape
BC/7/2	Proof of Evidence by Jon Rooney - Landscape
BC/7/3	Appendices to the Proof of Evidence by Jon Rooney - Landscape
BC/8/1	Summary Proof of Evidence by Philip Welborn - Engineering
BC/8/2	Proof of Evidence by Philip Welborn - Engineering
BC/8/3	Appendices to the Proof of Evidence by Philip Welborn - Engineering
BC/8/4	Rebuttal Proof of Evidence by Philip Welborn - Engineering (response to Cala Management Limited)
STATUTORY OBJECTORS	
The Pearce Family (Objector No 15)	
PEARCE/1/1	Summary Proof of Evidence of Edward H.S Briggs
PEARCE/1/1	Proof of Evidence of Edward H.S Briggs
PEARCE/1/3	Appendices to the Proof of Evidence of Edward H.S Briggs
NON-STATUTORY OBJECTORS AND OBJECTORS TO THE S19 APPLICATION	
Mr Bradley (Objector No 8)	
JB/1/1	Proof of Evidence
JB/1/2	Appendices to the Proof of Evidence
JB/1/3	Rebuttal Proof of Evidence (response to Jon Rooney)
Mr Potts (Objector No 1)	
POTTS/1/1	Proof of Evidence by Mr. C Potts (S19)
POTTS/1/2	Appendices to the Proof of Evidence by Mr. C Potts
Residents' Group (Objector No 13)	
RES/1/1	Proof of Evidence
Mr Gibbons (Objector No 13A)	
GIBBS/1/1	Proof of Evidence

APPENDIX 4 – DOCUMENTS SUBMITTED BEFORE THE INQUIRY OPENED

PRE/01	Pre-Inquiry Meeting (PIM) Agenda
PRE/02	PIM Notes from the Inspector (INSP/1)
PRE/03	Letter from Aylesbury College Corporation dated 11 October advising that Taylor Wimpey were representing them.
PRE/04	Letter from Gateley Hamer dated 15 October regarding Landmatch objection

PRE/05	Letter to DfT dated 25 October 2021 withdrawing objection by Network Rail
PRE/06	Letter to Rail Sponsorship Division dated 25 October 2021 advising on the withdrawal of objection by Network Rail
PRE/07	Site Visit Plan – first version
PRE/08	Letter to DfT dated 10 December 2020 withdrawing objection by Fairfield (Elsenham) Limited

APPENDIX 5 – DOCUMENTS SUBMITTED DURING THE INQUIRY

Submitted by Buckinghamshire Council	
BC/ID/01	Letter of withdrawal from Taylor Wimpey UK Limited
BC/ID/02	Letter of withdrawal from Cala Management Limited
BC/ID/03	Updated CPO Plan
BC/ID/04	Modifications Explanatory Note
BC/ID/05	Updated Revised Order (CPO)
BC/ID/06	Opening submissions by BC
BC/ID/07	Letter of withdrawal from William Holdings Charity
BC/ID/08	Email withdrawal from Aylesbury College Corporation
BC/ID/09	The Culvert Plan
BC/ID/10	Errata – Mr Evans evidence – Update – Fig 3
BC/ID/11	Scheme overlay on CPO Open Space Plots
BC/ID/12	Updated Appendix 3 to Mr Mole’s evidence – ‘Status of Negotiations with Landowners as at 3/11/21’
BC/ID/13	Updated Table 1 of Mr Mole’s evidence
BC/ID/14	Site visit Route
BC/ID/15	Site visit Route – emails from Ralph Stapleton with clarification
BC/ID/16	Plan showing areas of Public Open Space in other developments in Aylesbury, referred to in Mrs Kitchen’s evidence - for Inspector’s unaccompanied site visits.
BC/ID/17	Response to Felice & Jane Iannone – dated 9 June 2021
BC/ID/18	Email from Council to Mr Potts with responses to his further questions to Mr Simmons
BC/ID/19	Closing submissions on behalf of BC
BC/ID/19.1	Decision letter 14 June 2012 from DfT and associated Inspector’s Report, dated 31 January 2012
BC/ID/19.2	Greenwich LBC v Secretary of State for the Environment [1993] Env. L.R. 344 (1993)
Submitted by Mr Potts (Objector No 1)	
POTTS/ID/01	Arboricultural Practice Note 6 – ‘Trees in focus – Trees & Shrubs for noise control’
POTTS/ID/02	‘Issues experienced during Week 1 of the Inquiry’, under cover of email dated 7/11/21
POTTS/ID/03	Extract from planning permission AV/1036/85, under cover of email dated 7/11/21
POTTS/ID/04	Updated Statement of Evidence, submitted 9/11/21
POTTS/ID/05	Further questions from Mr Potts to Mr Simmons, submitted by email dated 9/11/21
POTTS/ID/06	Closing submissions on behalf of Mr Potts

Submitted by Mr Bradley (Objector No 8)	
JB/ID/01	Supplementary text and maps regarding alternative alignments for the SEALR, and a Covenant
JB/ID/02	Mr Bradley's email requesting to retract some of his evidence
JB/ID/03	Closing submissions on behalf of Mr Bradley
Submitted by Landmatch Limited (Objector No 10)	
LM/ID/01	Letter from Gateley Hammer dated 4 November on behalf of Landmatch Limited – received on 5/11/21
Submitted by Mr Russell (Objector No 12)	
RUS/ID/01	Mr Russell's withdrawal email dated 3/11/21
RUS/ID/02	Further email from Mr Russell dated 11/11/21, confirming withdrawal of his objection
Submitted by the Residents' Group (Objector No 13)	
RES/ID/01	No electronic version available (but see CD5.13 which contains essentially the same information, in unpaginated form)
RES/ID/02	Mrs Smith's email dated 9/11/21 requesting to retract some evidence on behalf of the residents
RES/ID/03	Closing submissions on behalf of the Residents
Submitted by Juniper Investments Limited (Objector No 14)	
JU/ID/01	Letter submitted on behalf of Juniper Investments Limited, dated 10/11/21
Submitted by the Pearce Family (Objector No 15)	
PEARCE/ID/01	Plan submitted by Mr Briggs
Submitted by Mr Yerby (Objector No 22)	
YE/ID/01	Submission on behalf of Mr Yerby
YE/ID/02	Closing submission on behalf of Mr Yerby

APPENDIX 6 – INSPECTOR'S DOCUMENTS

INSP/ID/01	Email thread between Mr Potts & Inspector via the Programme Officer
INSP/ID/02	Email thread between Mr Bradley & Inspector via the Programme Officer
INSP/ID/03	Email from Inspector, dated 15/11/21, clarifying some matters relating to Mr Russell's second withdrawal email

APPENDIX 7 – SUMMARY TABLE OF ALL OBJECTORS

Obj No	Name	Stat or Non-Stat	Against	Withdrawn	Appeared at Inquiry
1	Christopher Potts	NS	CPO & S19	N	Y
2	R Rotulo	NS	CPO	N	N
3	Network Rail	S	CPO	Y	N
4	William Harding's Charity	S	CPO	Y	N
5	Felice Iannone	NS	CPO & SRO	N	N
6	Aylesbury College Corporation	S	CPO	Y	N
7	Jane Iannone	NS	CPO	N	N
8	Jerry Bradley	NS	CPO & S19	N	Y

9	Fairfield (Elsenham) Limited	S	CPO	Y	N
10	Landmatch Limited	S	CPO	N	N
11	Cala Management Limited	S	CPO	Y	N
12	W J I Russell <i>(Note: Mr Russell appeared at the Inquiry on Days 1 and 2, and questioned some Council witnesses, but then withdrew his objection)</i>	NS	CPO & S19	Y	Y
13	Residents' Group (represented by Melvyn Gibbons, Barbara Smith & Sheridan Maple)	NS	CPO & S19	N	Y
13A	Melvyn Gibbons <i>(didn't originally object in his own right, but submitted a Proof of Evidence as an individual)</i>	NS	CPO & S19	N	Y
14	Juniper Investments Limited	S	CPO	N	N
15	Antony, Timothy & Janet Pearce (the Pearce Family)	S	CPO & SRO	N	Y
16	Taylor Wimpey UK Limited	S	CPO	Y	N
17	Official Custodian for Charities, on behalf of William Harding's Charity <i>(in effect, the same objector as No 4)</i>	S	CPO	Y	N
18	Nigel Smith & Val Knight	NS	CPO	N	N
19	Gary Maple	NS	S19	N	N
20	Julie Willis	NS	S19	N	N
21	Chris Wells	NS	S19	N	N
22	Phil Yerby	NS	CPO & S19	N	Y

MODIFICATIONS – ANNEX A

THE BUCKINGHAMSHIRE COUNCIL (A4010 SOUTH EAST AYLESBURY LINK ROAD) (CLASSIFIED ROAD) (SIDE ROADS) ORDER 2020

THE BUCKINGHAMSHIRE COUNCIL (A4010 SOUTH EAST AYLESBURY LINK ROAD) COMPULSORY PURCHASE ORDER 2020

Side Roads Order	
Location of Entry	Nature of modification
Schedule 1 Highways to be stopped up	In the first entry beginning 'Lower Road (B4443)...' the deletion of the figure of '190m' to be replaced by '310m';
Schedule 1. Private means of access to be stopped up'	In the third entry beginning 'Wendover Road (A413)...' the deletion of the figure of '160m' to be replaced by '167m';
Schedule 1 Private means of access to be stopped up	The inclusion of a new access referenced as number '4' in the section 'Reference number of new accesses' in Schedule 1 of the Order;
Schedule 2 Private means of access to be stopped up	In the first entry beginning 'Wendover Road (A413)...' the deletion of the figure of '160m' to be replaced by '167m';
Revised plan submitted 60535364-ACM-00-XX-SKE-CE-5105 Issue/Revision G	A modification to the Order Map to include a new PMA labelled '4' to be constructed and accessing off the new Lower Road roundabout.- revised plan 60535364-ACM-00-XX-SKE-CE-5105 Issue/Revision G to replace plan 60535364-ACM-00-XX-SKE-CE-5105 Issue/Revision D.

Compulsory Purchase Order	
Location of Entry	Nature of modification
Table 1 Plot 5;	The insertion of the following as “Qualifying Persons” <i>“The Owner 18 Lower Road, Aylesbury HP22 5XB (in respect of subsoil up to centreline of the highway)”</i> <i>“The Lessee 18 Lower Road, Aylesbury HP22 5XB (in respect of subsoil up to centreline of the highway)”</i> <i>“The Tenant 18 Lower Road, Aylesbury HP22 5XB (in respect of subsoil up to centreline of the highway)”</i> <i>“The Occupier 18 Lower Road, Aylesbury HP22 5XB (in respect of subsoil up to centreline of the highway)”</i>
Plot 6	Deletion of those persons currently shown as ‘the Owners’ and “Occupiers” in Table 1 of the Schedule to the Order, and the “Owners” to be replaced with the name and address of the Council.
Plots 7, 7a, 8 and 14	Deletion of the words ‘except interests owned by the Acquiring Authority’

Compulsory Purchase Order	
Location of Entry	Nature of modification
Plots 10, 10a, 10b and 10c	<p>In response to and having had due regard to objections raised to the Order by the WHC and by Cala, a number of modifications in respect of Plots 10, 10a, 10b and 10c, including the creation of 2 new Plots 10d and 10e, by sub-division of existing Plots. <i>(Note - no additional land is being sought to be included in the Order by way of these requested modifications. The new Plots 10d and 10e comprise land that is all currently within Plots 10 and 10b);</i></p> <p>Plot 10 All interests and rights in land comprising 50529.62 square metres of agricultural land amended to 41009.62 square metres of agricultural land.</p> <p>Plot 10a Acquisition of new rights over land comprising 2330.52 square metres of agricultural land.... amended to 2234.87 square metres of agricultural land.</p> <p>Plot 10b Plot description deleted and amended to The right for access to and working space to construct and retain a site compound for the storage of materials during and for the construction of the highway and thereafter construct and retain a flood storage area and the right to carry out works to, maintain and inspect the flood storage area over 6426.03 square metres of agricultural land situated to the south west, south and south east of Charles Close in the parish of Stoke Mandeville.</p>

Compulsory Purchase Order	
Location of Entry	Nature of modification
Plot 10d	<p>A modification to Table 1 of the Schedule to the Order to insert a new Plot 10d setting out the following rights to be purchased compulsorily:</p> <p><i>“The right for access to and working space to construct a temporary access road, during and for the construction of the highway over 4219.58 square metres of agricultural land situated to the southwest, south and south east of Charles Close in the parish of Stoke Mandeville to enable the construction of the scheme”.</i></p>
Plot 10e	<p>A modification to Table 1 of the Schedule to the Order to insert a new Plot 10e setting out the following rights to be purchased compulsorily:</p> <p><i>“The right for access to and working space to construct a temporary access road, a site compound for the storage of materials during and for the construction of the highway over 2680.38 square metres of agricultural land situated to the southwest, south and south east of Charles Close in the parish of Stoke Mandeville to enable the construction of the scheme”.</i></p>
Plot 11	<p>In response to, and having had due regard to objections raised to the S19 Certificate application, a modification to the extent of the land as contained in Plot 11 as set out in Table 1 of the Schedule to the Order to reflect a reduction in the extent of the land within this Plot to be purchased compulsorily. The deletion of the figure 1453.91 square metres to be purchased compulsorily to be replaced with the figure of 1214.08 square metres.</p> <ul style="list-style-type: none"> •

Compulsory Purchase Order	
Location of Entry	Nature of modification
Plot 15	<p>The insertion of additional persons as ‘Qualifying Persons’ in Plot 15 of Table 1 of the Schedule to the Order, to address an earlier omission in this regard;</p> <p><i>“Neil Macpherson 272 Wendover Road, Aylesbury HP21 9PD (in respect of subsoil up to centreline of the highway)”</i></p> <p><i>“Mary Bremner Macpherson 272 Wendover Road, Aylesbury HP21 9PD (in respect of subsoil up to centreline of the highway)”</i></p>
Plots 11, 12, 13 and 15 in Table 1; Plot 12 in Table 2; and the Table headed ‘General Entries’	<p>Various modifications to delete reference to ‘Aylesbury Vale District Council’, to reflect the fact that from 1 April 2020, Buckinghamshire Council became the sole principal local authority for this administrative area.</p> <p>Plot 11 – Columns (3a) and (3d) – Buckinghamshire Council is already mentioned in these columns as having the same interest as Aylesbury Vale District Council</p> <p>Plot 12 – Column (3d) Buckinghamshire Council is already mentioned in these columns as having the same interest as Aylesbury Vale District Council</p> <p>Plot 13 – Columns (3a) and (3d) Buckinghamshire Council is already mentioned in these columns as having the same interest as Aylesbury Vale District Council</p> <p>Plot 15 – Column 3(a) Buckinghamshire Council is already mentioned in these columns as having the same interest as Aylesbury Vale District Council</p> <p style="text-align: center;">•</p>
<p>Table 2 The addition of:</p> <p>Plot 10c Plot 10d Plot 10e</p>	<p>Insert new Plots 10d & 10e recording the interest of Cala Management Limited as the beneficiary of a Unilateral Notice in respect of these Plots.</p>

Compulsory Purchase Order	
Location of Entry	Nature of modification
Plot 12	The reference to Aylesbury Vale District Council has been replaced with a reference to Buckinghamshire Council.
Table headed SPECIAL CATEGORIES TO WHICH SECTIONS 17(2), 18 OR 19 Plot 11	The deletion of the figure 1453.91 square metres to be purchased compulsorily to be replaced with the figure of 1214.08 square metres. •
Table headed GENERAL ENTRIES	The reference to Aylesbury Vale District Council has been deleted as Buckinghamshire Council is already mentioned in this table.
Revised plan submitted J0008485-20-01f dated 15 December 2021	Modifications to the Order Map to include the modifications to Plot 11, Plots, 10, 10a, 10b, and the addition of Plots 10d and 10e and also to correct printing errors regarding Plot 7a.