

**Transport and Works Act 1992:
Proposed Network Rail (East West Rail
Bicester to Bedford Improvements
Order)**

Proof of Evidence of Heather Pugh in
Relation to Planning Matters
156/2/1

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1.0 INTRODUCTION

The Witness

- 1.1 My name is Heather Pugh. I am a chartered town planner with a Masters' Degree in Town and Country Planning (1993) from the University of Nottingham and I have been a full Member of the Royal Town Planning Institute since 1995. I am a Partner at David Lock Associates (DLA), consultants in Town Planning and Urban Design, with a particular specialism in strategic planning and the promotion, design and delivery of large scale new settlements and sustainable urban extensions.
- 1.2 David Lock Associates is a Member of the Institute of Environmental Management and Assessment (IEMA). This is an organisation established to promote best practice in environmental management, auditing and assessment. IEMA has awarded DLA its EIA Quality Mark in recognition of DLA's commitment to excellence in its Environmental Impact Assessment (EIA) activities and its undertaking to have those activities reviewed annually by IEMA.
- 1.3 The evidence which I have prepared and provided for this appeal in this proof of evidence has been prepared and is given in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my true and professional opinions.

Scope of Evidence

- 1.4 The scope of my evidence is in relation to the planning issues arising as a result of the Transport and Works Act Order proposals for the East West Rail Bicester to Bedford improvements. Evidence has also been prepared in relation to technical matters as follows:
- i. Flooding and engineering matters are addressed by Ms Amy Hensler of PBA;
 - ii. Ecological matters are addressed by Dr Jim Fairclough of BSG;
 - iii. Agricultural and estate management issues are addressed by Mr Neil Perrins of Bidwells;
 - iv. Matters relating to consultation and engagement are addressed by Ms Pippa Cheetham of Varsity Town Planning.
- 1.5 In setting out my evidence, I seek to relate it closely to the relevant elements of the submitted evidence to date, specifically the Draft Order (Core Document (CD)) (NR02), Consultation Report (NR12), Deposited plans and Sections and Rights of Way Plans (NR14), Planning Drawings – part 1 (NR15), Planning Drawings – part 2 (NR15) and Environmental Statement (NR16).
- 1.6 This proof of evidence is submitted on behalf of O&H Q6 Limited and O&H Q7 Limited (the Representor) (O&H) in support of its objections against the Transport and Works Act Order proposals for the East West Rail Bicester to Bedford improvements (the Order).

The Representor: O&H Q6 Limited and O&H Q7 Limited (O&H)

- 1.7 O&H is a strategic land company promoting and delivering residential, commercial and mixed-use development throughout the UK. O&H has a considerable track record in delivering high quality and sustainable large scale new communities, taking on the role of master developer, bringing together all aspects of the development process to contribute to the social and economic growth of local communities.
- 1.8 One example of such scheme is the Hamptons and Great Haddon in Peterborough, which together have consent for 13,000 new dwellings, 4,500 of which are now built and occupied. The Hamptons is regarded as a national exemplar in terms of delivering large scale development, related physical and community infrastructure, and a governance structure which has ensured the effective long-term management of green infrastructure and community assets for the benefit of local communities.
- 1.9 O&H also has a track record of delivering new communities within those parts of the Oxford to Cambridge Arc directly served by East West Rail, most notably within the Marston Vale between MK and Bedford. Examples of these developments include the following:
- i. Marston Park- Located in Central Bedfordshire to the west of Millbrook rail station, this site was granted planning permission in April 2014 for a mixed use development of approximately 480 homes. The scheme is now nearing completion;
 - ii. Stewartby Park – On the border of Central Bedfordshire and Bedford Borough to the east of Stewartby station, this site was granted planning permission in 2009 and a Design Guide approved in April 2012. The anticipated completion of the development is around 2021. The planning application comprises of 730 dwellings, a school expansion site and over 12,000 sq.m of employment floorspace.
- 1.10 In respect of the TWAO proposals, O&H has three principal areas of interest:
- i. Land to the immediate south of the East West Rail line **west of Bletchley**; a brownfield site which has a partially implemented permission for a change of use for open storage, erection of four modular buildings for ancillary officer use, ground re-contouring, boundary treatment and landscape (13/02052/APP) approved on 12 December 2013 (see Appendix 1).
 - ii. Land to the north and south of the East West Rail line **west of Woburn Sands** station, part of a draft allocation for 3,000 new homes (known as SE MK) in the Submission Version of Plan:MK (the local plan for Milton Keynes to 2031) (NR39) which was subject to Examination in summer 2018; and
 - iii. Land to the immediate northwest of the East West Rail line in the **Marston Vale** between Ridgmont and Millbrook Stations, subject of an outline planning

application validated by Central Bedfordshire Council in May 2018 for up to 5,000 new homes, up to 30ha of employment land, social, retail and leisure uses, education provision, ecology areas and supporting infrastructure.

2.0 OVERVIEW OF THE EVIDENCE

- 2.1 This proof of evidence addresses matters relating to the scope, approach and assessment process of Network Rail's (NR) EIA; and the impact of the NR scheme proposals on the design and effective delivery of planned, allocated and consented development projects along or adjacent to the route of East West Rail (EWR).
- 2.2 My proof of evidence demonstrates that NR's EIA:
- i. has not been prepared in accordance with Regulation 14(2) (Schedule 4) of the Infrastructure Planning (EIA) Regulations 2017 (see Appendix 2);
 - ii. has not proactively assessed local conditions;
- and on this basis, cannot be considered robust.
- 2.3 My proof of evidence concludes that there is not a compelling case in the public interest for the proposed compulsory purchase because:
- i. NR has not appropriately assessed the environmental conditions of the local area and as such has not fully considered the potential for significant environmental effects of the proposals; and
 - ii. In respect of strategic landholdings and development allocations, NR's scheme proposals as currently designed and drafted, risk prejudicing the effective delivery of planned, allocated and consented development projects.
- 2.4 As such, it is requested that the Transport and Works Act Order as it is currently drafted be refused.

3.0 PLANNING POLICY CONTEXT

- 3.1 The relevant planning policy context is set out in the *National Planning Policy Framework* (NPPF) (July 2018) (NR29), the *Central Bedfordshire Pre-submission Local Plan 2015 – 2035* (January 2018) (NR84), and *Plan: MK* (Proposed Submission October 2017) (NR39).

NPPF

- 3.2 Paragraph 38 of the NPPF stipulates that decision-makers at every level should seek to approve applications for sustainable development wherever possible. At a broad level sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 3.3 Paragraph 102(d) states:

“the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains;”

Adopted Development Plan Policy

- 3.4 The adopted Development Plans for both Central Bedfordshire Council (CBC) and Milton Keynes Council (MKC) pre-date the EWR proposal and as such are not referenced here in any capacity.

Emerging Development Plans

- 3.5 Due to the age of their respective Development Plans both CBC and MKC are in the process of developing new plans.

The Central Bedfordshire Pre-submission Local Plan 2015 – 2035 January 2018 (CBC LP)

- 3.6 The Central Bedfordshire Local Plan (CBLP) (NR84) was submitted to the planning inspectorate on 30 April 2018. Hearing sessions have not yet commenced. In respect of EWR, the CBC LP makes reference to the further connectivity that this piece of strategic infrastructure will deliver. Paragraph 2.2.1 states:

“... East West Rail will also deliver further connectivity with a committed upgrade to Ridgmont station and the potential new station north of Sandy. This excellent access brings potential for business and housing growth but also pressure on infrastructure and a high outflow of residents for employment and services.”

- 3.7 The importance that EWR has already had in shaping spatial options - and will have in unlocking strategic growth opportunities - is embedded as a key part of the Spatial Strategy for the District (see para 5.4), which states that the local plan seeks to:

- *“Deliver around 39,350 new homes through new villages, moderate extensions to existing towns and villages in line with the provision of new infrastructure and to meet identified housing need close to key transport corridors (East-west, A1/East Coast Mainline and M1/Thameslink); and*
- *Identify and deliver spatial options and strategic opportunities that could provide for longer term economic and housing growth across the corridor including through a Partial Plan Review. This growth will support, and must be supported by, new strategic infrastructure particularly the Oxford – Cambridge Expressway, A1 improvements and new rail stations/transport interchanges along the East West Rail route”.*

3.8 Paragraph 5.5.2 of the CB LP acknowledges that the Council has already undertaken a number of studies to help prepare for possible future growth and states that:

“... in other cases, such as the East West Rail new line to Cambridge, further decisions on routeing, timing and commitment, as well as wider investment and delivery support are required before firm allocations can be made.”

3.9 Paragraph 7.9.3 of the CB LP recognises that identified land for future strategic infrastructure delivery may enable development but also sterilise land:

“The identified land are as respond (sic) to proposals for future strategic infrastructure delivery; namely the realignment of the A1 or significant improvements through Central Bedfordshire, East West Rail, the Expressway and the expansion of Luton Airport. In each case these are either expected to enable development or in other cases they may mean that development is not feasible in a location due to the sterilisation of the land by the route of the infrastructure. All locations however based on initial technical assessment have potential for future development.”

3.10 Importantly, paragraph 7.9.4 of the CB LP warns that development which would prejudice later comprehensive development will be discouraged:

“... Development which would prejudice later comprehensive development will be discouraged, though temporary developments which may assist in ensuring that the land is properly looked after may be acceptable. In addition valuable landscape and wildlife features and existing access for recreation should be protected and enhanced as appropriate.”

3.11 With specific reference to O&H's land at Marston Vale, local plan acknowledgement of the East West Rail proposal and its interaction with the Marston Valley site allocation is provided through draft local plan Policy SA2(12):

“The development will provide supporting transport infrastructure to mitigate the impact of traffic associated with the development, including commensurate financial contributions

towards a deliverable scheme for improvements at J13 of the M1 and the Marsh Leys roundabout, to mitigate the impacts of development. The development shall deliver viable and efficient public transport routes through the development that link with key destinations including East West Rail at Ridgmont Train Station and employment areas."

Plan:MK Proposed Submission October 2017 (Plan:MK)

3.12 *Plan:MK* (NR39) has completed its examination; hearing sessions took place during July 2018 and MKC has recently consulted on the *Schedule of Main Modifications* (between 31 October and 12 December 2018) (see Appendix 3). MKC is currently considering the responses to this consultation period and the plan is expected to be adopted during the first half of 2019.

3.13 Paragraph 8.48 of *Plan:MK* outlines the aim of the EWR proposal:

"The East West Rail project aims to provide a link between Reading, Didcot, Oxford, Bicester, Aylesbury, Milton Keynes, Bedford, Cambridge, Norwich and Ipswich. Phase 2 of East West Rail, Bicester - Aylesbury - Milton Keynes, is planned for an earliest opening of services by 2024. Route options for the Expressway and East West Rail are still being investigated, and subject to forthcoming information. Any line for the expressway will need to be included as a safeguarded line in Plan:MK as it progresses."

3.14 In relation to the South East Milton Keynes Urban Extension, paragraph 5.24 of *Plan:MK* (as amended in the *Proposed Modifications* March 2018) states:

"Because the Council wishes to encourage economic growth, prosperity and job creation within the Oxford – Cambridge arc, it will work with developers and relevant infrastructure providers to determine the timing and phasing of this housing delivery over the plan period, taking into account the ongoing infrastructure planning being undertaken by other agencies in respect of East West Rail and the Oxford to Cambridge Expressway proposals.

Due to the close relationship between this development area [SEMK] and the East-West Rail line, the Council will work with the town/parish councils of Woburn Sands, Wavendon and Bow Brickhill and developers and infrastructure providers to prepare a development framework which maximises the opportunities for sustainable travel. The principal vehicular access to the site should be sought via an extended H10 Grid Road that is delivered ahead of occupation of new housing within the site. A comprehensive transport strategy shall be established through the Development Framework process to ensure that appropriate access to and from site, and connectivity of the southern areas of the site to the city, is achieved in line with other policies within the plan and the aims and objectives of the Council's Mobility Strategy. This will set out what other strategic and local highway connections should be provided and how these will be delivered, including between the A421, H10, A5, V10 and V11".

- 3.15 The South East Milton Keynes Urban Extension policy itself (SD13, as amended by MM15 of the *Proposed Modifications* Oct 2018) states:

“A. Land is allocated at South East Milton Keynes – as shown on the Key Diagram and Policies Map – for a comprehensive residential-led mixed use development of approximately 3,000 dwellings to meet the needs of Milton Keynes up to 2031 and beyond. If the chosen corridor for the Oxford Cambridge Expressway (OCE) maintains the possibility that the OCE could be routed through the site, then planning permission for housing and associated uses will not be permitted until 2019/20, once the detailed alignment of the Cambridge-Milton Keynes-Oxford Expressway OCE is known.

B. In addition to the requirements set out in other policies within this plan, including policies INF1, SD1, SD11 and SD12, development of the site will be required to [inter alia]:

2. Ensure development is well connected and integrated with the established MK grid squares to its north and west adjacent grid squares, public transport services and the strategic and local highway grid network in line with the Council’s Mobility Strategy. Provision of grade separated crossings of the railway should be provided or retained as appropriate to ensure connectivity of the southern areas of the site with the remainder of the site and the city to the north in line with policies CT1-CT3 and CT5. The number, location and purpose of any such crossings will be set out within the Development Framework.

C. The development will be brought forward in line with all relevant policies in Plan:MK, particularly Policy SD1, SD11, SD12, NE1-6 and INF1. A comprehensive development framework for the site will be prepared in accordance with policies SD1, SD11, SD12.”

- 3.16 Elsewhere in Plan MK support is given to the Council’s desire to develop quality and capacity in public transport, including ensuring that new development and new/enhanced public transport infrastructure are well designed and integrated (para 8.42), stating that the Council will be:

- *“Working in partnership with transport providers and other stakeholders to bring forward improvements to public transport infrastructure and services in Milton Keynes and support the development of an East West Rail link and Oxford to Cambridge Expressway;*
- *Maximising opportunities for sustainable travel patterns by locating development close to public transport nodes and routes;*
- *Ensuring that development proposals will be expected to provide, or contribute to the provision of new and/or improved public transport infrastructure where the predicted number and timing of additional trips will create demand not met by existing services and facilities;*
- *Ensuring proposals to improve or provide new public transport infrastructure facilities will be **acceptable in terms of impact on the environment, and being***

designed to be safe, convenient, attractive and accessible for use.(my emphasis).

- 3.17 Further policy support for working collaboratively and proactively to deliver integrated development and infrastructure is provided in Policy CT7 (Freight), where it is stated that:

*"... Planning permission will not be granted for development that would prejudice the implementation of national infrastructure projects including East West Rail and Oxford to Cambridge Expressway. **The Council will continue to work with transport providers and stakeholders to minimise impacts and maximise the potential benefits from the proposal** (my emphasis)."*

Planning Permissions and Applications

- 3.18 The following planning applications are of relevance to this proof of evidence:
- i. Bletchley Estate - Planning Permission for employment use (13/02052/APP) was approved by Aylesbury Vale District Council on 12 December 2013;
 - ii. Marston Valley - An Outline Planning Application was submitted to Central Bedfordshire Council and validated on 25 May 2018 (reference number CB/18/01969/OUT) for up to 5,000 dwellings and a minimum of 40 hectares of employment land.

Consultation with EWR/NR

- 3.19 Discussions with the East West Rail Consortium and latterly NR have been held since the advent of the EWR proposals in 2013. Since this time, a significant number of meetings have been held between O&H and EWR Consortium/NR in respect of its landholdings affected by the proposals (many of which for the local planning authorities were also present).
- 3.20 Despite extensive dialogue between the parties regarding alternative design and mitigation solutions proposed by O&H through formal consultation representations that would overcome its objections, NR has made no change to the scheme design or mitigation proposals in respect of O&H's landholdings. Limited to 'site by site' discussions, there has been no recognition by NR that joint discussions with the local planning authority(ies) and O&H as strategic landholder could unlock 'joint mitigation' solutions which would remove both local authority and landowner objections.
- 3.21 Further details on the consultation with EWR and NR are outlined in the Proof of Evidence of Ms Pippa Cheetham (on behalf of O&H) in relation to the lack of meaningful public engagement and negotiation leading up to the submission of the Transport and Works Act Order for the East West Rail Bicester to Bedford Improvements.

4.0 THE CASE FOR STRATEGIC GROWTH

Government's Growth Ambitions

- 4.1 The current Conservative Government was elected in 2017 with a manifesto pledge to meet the 2015 commitment to deliver 1 million homes by the end of 2020 and to 'deliver half a million more by the end of 2022' (see Appendix 4).
- 4.2 The Government's growth ambitions were further elaborated in the autumn budget 2017 which set an ambition to "to put England on track to deliver 300,000 new homes a year" following the proposed reforms in the Housing White Paper (February 2017) (see Appendix 5).
- 4.3 The Government also has strong growth ambitions in relation to transport with a number of ongoing and proposed strategic transport proposals affecting this part of the UK, including HS2, Crossrail and the Oxford to Cambridge Expressway.

The Oxford to Cambridge Arc

- 4.4 The Oxford to Cambridge Arc stretches around 130 miles from Cambridgeshire, via Bedford and the south east midlands, to Oxfordshire. The Arc is best summarised as an alignment of highly successful, fast growing and productive towns and cities, each with a highly skilled labour force and with global strengths in knowledge-led business sectors.
- 4.5 The Arc is not currently served by high-quality east-west transport, a factor which has led to the strengthening of support for the EWR proposal, one of the key components of unlocking the Arc's economic potential.
- 4.6 The economic potential of the Arc has recently gained momentum through the work of the Government's National Infrastructure Commission (NIC). The Government put out a call for evidence on the Cambridge-Milton Keynes-Oxford 'growth corridor' in 2016 seeking evidence as to why this economic potential was not being realised to its full extent. An interim report on the findings from this call for evidence *Cambridge – Milton Keynes – Oxford Corridor: Interim Report* (November 2016) (see Appendix 6) found that across the corridor there is lack of housing and connectivity, and that this presents a fundamental risk to the future success of the area.

Importance of strategic planned infrastructure within the Arc

- 4.7 To co-ordinate the delivery of housing and infrastructure, the 2016 Interim NIC report recommended that an integrated strategic plan covering housing, infrastructure and employment should be prepared by local authorities, Local Enterprise Partnerships, government departments and national delivery agencies. The final NIC report in 2017 *Partnering for Prosperity: A new deal for the Cambridge-Milton Keynes-Oxford Arc* (NR44)

recommended local planning authorities and transport authorities to work together to prepare joint or integrated statutory spatial plans by April 2020.

- 4.8 NIC's central finding was that rates of house building must double if the Arc is to achieve its economic potential. The commitment to the funding of strategic infrastructure through the Arc including EWR and the Expressway is predicated on the assumption that the purpose of such infrastructure unlocks the delivery of all growth including new homes.
- 4.9 Indeed, the NIC states in the introductory paragraphs of its final report (NR44) that *"East West Rail and the Oxford-Cambridge Expressway provide a once-in-a-generation opportunity to unlock land for new settlements. Local and national government must work together, with developers and investors, to align the delivery of infrastructure and major new settlements – including the first new towns to be built in over a generation"* (p3).
- 4.10 Furthermore, in its final report, the NIC recommends that:

*"By improving these connections, new east-west road and rail connections have the potential to increase the labour market catchment areas for the arc's key towns and cities, opening up new opportunities for collaboration and job growth. **But the true value of these schemes rests in their potential to open up new sites for development, improving the supply of accessible, developable land and supporting the delivery of new homes at affordable prices for all workers.** To ensure east-west infrastructure plays a full role in tackling the arc's housing crisis it is vital that new infrastructure be delivered at pace, **and aligned to the development of major new and expanded settlements – including the first new towns to be built in over a generation. It should be future proofed to ensure it can support continued transformational levels of growth across the arc into the longer term.**"* (my emphasis) (p28)

- 4.11 The government published its formal Response to the NIC recommendations in October 2018 (NR108). In respect of the recommendation for a single co-ordinated delivery programme for infrastructure and growth, page 6 of the report states that *"the government endorses the commission's recommendation to create a **single co-ordinated delivery programme for progressing work on East West Rail, the Expressway and the potential for new and expanded settlements, with cross-government ministerial commitment and oversight. In spring 2018, the government established a cross-Whitehall Programme to take an integrated approach to the planning and delivery of infrastructure, homes and business growth in the Arc. The programme is supporting work to progress at pace on East West Rail, the Expressway and other infrastructure. This cross-departmental working in support of the high ambitions for growth in the Oxford-Cambridge Arc will set a benchmark for aligning housing and transport policy decisions and ensuring a co-ordinated cross-Government approach"***. (my emphasis).

- 4.12 Therefore, whilst the progression of NR's track and platform improvements for the EWR project is an important component of this planned infrastructure, the economic case and government support for the infrastructure is only realised if it unlocks the growth and development potential of the Arc. Therefore, for NR to implement infrastructure improvements which further segregate communities, sterilise allocated development adjacent to rail lines and stations, and do not improve accessibility (both local and strategic) to the improved public transport services which are to be provided by the EWR Company is counter-intuitive to say the least, and contrary to the aims and objectives of strategic policy.
- 4.13 If the case is proven through the TWAO process that NR's rail improvements make it more costly for local authorities and landowners to deliver associated growth than would otherwise have been the case, then the proposal is directly at odds with the NIC recommendations and government's endorsements thereof, and its support for the scheme will be at risk.
- 4.14 As it stands, it is my view that aspects of the NR scheme design and mitigation proposals prejudice rather than unlock the delivery of development, and therefore act counter to its fundamental purpose of helping to realise the Arc's economic potential. In these circumstances, there cannot be a compelling case for the scheme.

5.0 CONSIDERATION OF ALTERNATIVES – GENERAL COMMENTARY

- 5.1 The following sections of my proof addresses specific objections to the order in respect of site specific design and mitigation proposals, where the co-ordinated and integrated approach to delivery of growth and infrastructure considered necessary by O&H and set out in local plan policy is not achieved through the current TWAO proposals.
- 5.2 Firstly, however, I make a general point about the NR approach to the EIA in relation to the consideration of alternatives. This applies to each of the site specific O&H objections but is also relevant to the consideration of the EIA process as a whole.
- 5.3 Part 11 of the *Schedule 1 to the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006* (NR18) requires that an Environmental Statement must include *“an outline of the main alternatives studied by the applicant and an indication of the main reasons for the applicant’s choice, taking into account the environmental effects”*.
- 5.4 Chapter 3 of the Environmental Statement (NR16) indicates that NR has given consideration to the following topics in relation to its assessment of alternatives to the Proposed Development:
- the ‘do nothing’ alternative – a consideration of the effects if the Project is not delivered;
 - high level strategic alternatives to the Project – a consideration of the non-rail options to transport improvement in the region;
 - strategic rail alternatives – aspects of the Project where more discrete alternatives were considered, the main choices, and reasons why these have or have not been selected in relation to environmental considerations; and
 - sustainable design process – the process to identify design alternatives to avoid or reduce impacts upon the environment and communities.
- 5.5 O&H retains concerns in relation to the extent of NR’s consideration of reasonable alternatives to the use of its land for a range of purposes and the approach to reporting this consideration as part of the EIA. O&H has consistently raised such issues at various stages of consultation. The extent to which these representations have been considered by NR in its selection of the design of the Proposed Development is not clear.
- 5.6 Given that NR has made no move to amend the submitted scheme to respond to these concerns and that such a consideration is not reported in the Environmental Statement, it is my view that NR has not given full consideration to available reasonable alternatives to avoid the identified effects on O&H’s land and its future development proposals.

Sustainability Options Assessment Tool (SOAT)

- 5.7 This spreadsheet-based assessment tool is used in NR's EIA process to generate outputs which provide designers with an indication of the relative sustainability of each alternative whilst also highlighting design measures that could either reduce adverse sustainability impacts or enhance lifecycle performance.
- 5.8 The outcome of the SOAT assessment referenced within Chapter 3 of the Environmental Statement has not been clearly presented as part of the EIA. However, NR relies upon this assessment as part of its consideration of alternatives and the '*sustainable design process*' component. The SOAT tool forms part of NR's approach to the consideration of the feasibility stage of the design and to provide an indication of the performance of alternatives. As this work has not been published, neither we nor NR are able to demonstrate the extent to which the concerns highlighted by O&H within its representations have been considered.
- 5.9 Specifically, in relation to ecology, it is noted that the relevant chapters of the project wide assessment and route specific assessment do not present a further consideration of alternatives to the selected mitigation measures. This is relevant for the consideration of ecological matters, detailed evidence for which is provided in the Proof of Evidence of Dr Fairclough (ecology).

Site Specific Scheme Objections

- 5.10 The following section of my Proof addresses the site-specific objections to the TWAO as they relate to each of O&H's landholdings along the western Section of EWR.
- 5.11 For each site, I address firstly the inadequacies of the EIA process, and then the limitations of the scheme design against wider development/growth objectives. If appropriate, I then set out or cross reference what improvements O&H consider should be made in order for its objection to be lifted.

6.0 FORMER BLETCHLEY BRICKWORKS

Network Rail Plan references (see Appendix 7):

- OXD/6 Newton Road Existing Plan 133735_2B-EWR-OXD-XXXXXX-DR-T-018095
- OXD06 Newton Road Existing General Arrangement 133735_2B-EWR-OXD-XXXXXX-DR-T-000240
- OXD/6 Newton Road Proposed Plan 133735_2B-EWR-OXD-XXXXXX-DR-T-018096
- OXD/6 Newton Road Proposed Plan, Elevation and Section 133735_2B-EWR-OXD-XXXXXX-DR-T-018097
- OXD/5 Cattle Arch Existing Plan 133735_2B-EWR-OXD-XXXXXX-DR-T-018100
- OXD/5 Cattle Arch Proposed Plan 133735_2B-EWR-OXD-XXXXXX-DR-T-018101
- OXD/5 Cattle Arch Proposed Plan, Elevation and Section Plan 133735_2B-EWR-OXD-XXXXXX-DR-T-018102
- OXD/4 Cattle Arch Selborne Avenue Existing Plan 133735_2B-EWR-OXD-XXXXXX-DR-T-018105
- OXD04 Cattle Arch Existing General Arrangement 133735_2B-EWR-OXD-XXXXXX-DR-T-000160
- OXD/4 Cattle Arch Selborne Avenue Proposed Plan 133735_2B-EWR-OXD-XXXXXX-DR-T-018106

Background

- 6.1 O&H has landholdings at the former Bletchley Brickworks south of Milton Keynes. The majority of this brownfield site is allocated for employment use in the adopted Aylesbury Vale local plan (January 2004) (NR35). The land was subject to planning permission to redevelop the land for open storage, erection of four modular buildings for ancillary officer use, ground re-contouring, boundary treatment and landscape (13/02051/APP) approved on 12 December 2013 (see Appendix 1).
- 6.2 This permission has been partially implemented, with the development access having been constructed and boundary treatment works commenced as part of the permitted works.
- 6.3 O&H have existing agricultural tenants on land to the east of the former Bletchley Brickworks who access their land through the brickworks site.

Network Rail EWR Scheme Proposals

- 6.4 Network Rail propose to acquire part of the site currently in agricultural use on a permanent basis for a work site access and environmental mitigation works (including a Compensatory Flood Storage Area (CFSA), and further land on a temporary basis for a work compound.
- 6.5 O&H's landholdings at Bletchley Brickworks are subject to agricultural tenancies and are currently in agricultural use. NR has not justified the extent of land which is proposed to be acquired on a permanent basis and has not reported the extent of reasonable alternatives

considered. Detailed consideration of the impact upon the existing agricultural use of O&H's land at Bletchley Brickworks is provided within the evidence of Mr Perrins.

- 6.6 O&H's detailed objections in relation to the justification for the extent of land required for the delivery of the proposed CFSA is detailed within the Proof of Evidence of Ms Hensler. O&H question if the extent of land which will be required on a permanent basis reflects the relative floodplain volume which may be lost. O&H also question if it is necessary for the land to be acquired on a permanent basis and how the CFSA will be accessed and maintained.
- 6.7 O&H has strongly objected to the NR proposal its current form, considering that a more comprehensive solution can be established which has greater benefits and better meets NR's needs in this location. O&H has engaged with NR personnel to agree a preferred approach but although discussions are ongoing no such undertaking has been secured to date.
- 6.8 Two plans provided at Appendix are enclosed which show O&H's alternative proposal for the use of land at the former Bletchley Brickworks – OHP006-003 (B6 Compound Proposals) and OHP006-003 (B6 Compound Proposals (AERIAL EXTRACT)) (see Appendix 9). These plans show that the area proposed by NR as a temporary construction compound (black dashed line) is not entirely within O&H land ownership (blue line). Whilst O&H consider that the proposed land required for the compound is disproportionate to the works anticipated, a larger area is available within O&H land (grey fill area) which would allow for a temporary construction compound to be delivered. Configuring an appropriate construction compound within this area would also better respond to existing site constraints and characteristics and would also maintain direct access to the railway line. This approach would avoid a requirement for third party land.
- 6.9 NR's proposals at the former Bletchley Brickworks are likely to require the provision of new services and utilities to the site. We understand that the Strategic Compound (B6) will be a large, main compound from which construction and main project management is undertaken consisting of a main office space, main canteen areas, main welfare facilities and processing and storage of site materials. Where local utility services are available, NR will provide mains connection (electricity, water, and drainage). Therefore, we expect NR to install electricity, potable water, and drainage supplies at its expense. O&H have the following comments and requests in relation to the appropriate specification of new services and utilities that are installed at the Brickworks site:
- Electricity – estimated peak demand of 200kW load
 - Potable Water – estimated demand of 4.01m³/day; daily peak demand of 0.56 litres/sec
 - Foul Sewer – estimated discharge of 4.01m³/day; peak demand of 0.56 litres/sec
- 6.10 O&H expect Network Rail to install metered points at the site entrance for the utility supplies that will be left in situ when Network Rail leave the compound. O&H assume that Network Rail would not decommission the utility connections when vacated the compound, or at least

would discuss further with O&H as landowner. However, I understand that this has not been confirmed in the documentation.

- 6.11 In its representations, O&H has consistently requested that consideration is given to its alternative approach to NR's land requirements at the former Bletchley Brickworks. This could be secured through negotiation outside of the TWA process. To date, no response from NR has yet been forthcoming and therefore the objection stands.

TWAO Grounds for Objection (Planning):

Inadequacy of EIA Assessment Process

- 6.12 The EIA prepared in relation to the Draft Order is inadequate as it fails to consider and assess the impact of NR's proposal on O&H's landholdings and development commitments.
- 6.13 O&H does not consider that the cumulative assessment undertaken by NR in the EIA is robust in that it fails to consider the cumulative impact of a number of proposed development sites, including O&H's extant planning permission on the former Bletchley Brickworks site. The methodology adopted by NR for its assessment of cumulative effects is not consistent with the guidance set out within Planning Inspectorate's *Advice note seventeen: Cumulative effects assessment relevant to nationally significant infrastructure projects* (December 2015) (see Appendix 8).
- 6.14 NR's definition of a Reasonably Foreseeable Future Project (RFFP) is outlined in Environmental Statement (NR16) Volume 2i, Chapter 15, Paragraph 15.4.11 which states:
- "RFFPs are projects that are known to the planning system or already in the consenting process or under construction at the same time as EWR. The definition applied to this Project is other projects that fall into one of the following categories:*
- *Major planning applications within 500m of the line. This encompasses planning applications for 10 or more dwellings, planning applications incorporating commercial/recreational floorspace over 1,000 sqm, or a site exceeding 1 ha*
 - *Planning applications adjacent or within 250m of the line that have been granted planning permission or are pending determination since 01/07/2014, reflecting the 3-year period within which granted developments must commence works (at the point at which the RFFP long list was first produced)*
 - *Proposals registered with the Planning Inspectorate as forthcoming applications for Development Consent Orders. Professional judgement has been used to determine which are of relevance to the Project in the context of possible cumulative impacts, using proximity to the Project as a key consideration*
 - *Registered Transport and Works Act Order applications near to the Project*
 - *Development Plan projects such as site allocations and transport initiatives scheduled for development prior to 2024 (future operational baseline) that are within 500 m of the line, subject to desk-based validation of sufficient evidence available*

relating to the projects to allow a meaningful cumulative impact assessment for the Project."

- 6.15 This permission is not included in the list of Reasonably Foreseeable Future Projects Shortlist (ES Vol 3 Appendix 15.1). No reason is given for this omission.
- 6.16 Any impact of the scheme design and mitigation on this development project has therefore not been assessed by NR or reported in the environmental assessment (Appendix 15.2 of the ES Vol 3 does not include any entry for this site).
- 6.17 I therefore conclude that the EIA cannot have fully considered the potential for significant environmental effects of all of the projects where such effects are likely, as required by *Regulation 14(2) (Schedule 4) of the Infrastructure Planning (EIA) Regulations 2017* (see Appendix 2). On this basis, the conclusions of the EIA both in relation to the environmental effects assessed and appropriate mitigation identified, are not considered a robust or sound basis upon which to judge the environmental impact of the scheme on the surrounding area.

7.0 WOBURN ESTATE

Network Rail Plan references (see Appendix 10):

- Woodleys Farm New Bridge Existing Plan 133735_2D-EWR-BBM-XXXXXX-DR-T-016075
- Woodleys Farm New Bridge Proposed Plan 133735_2D-EWR-BBM-XXXXXX-DR-T-016076
- Woodleys Farm New Bridge Proposed Plan, Section and Elevation 133735_2D-EWR-BBM-XXXXXX-DR-T-016077

Background

- 7.1 O&H has strategic landholdings west of Woburn Sands in Milton Keynes Borough, known as the Woburn Estate. O&H is currently engaged in realising the strategic development potential of this land through the statutory planning process.
- 7.2 The development plan for Milton Keynes to 2031 ("Plan:MK") (NR39) is well advanced and land north and south of the Bletchley to Bedford line at South East Milton Keynes is proposed for a strategic urban extension ("South East Milton Keynes", policy SD13), as part of the Council's requirement to allocate than 20,000 new homes for Milton Keynes over the plan period.
- 7.3 The delivery of infrastructure at or before new homes is a key part of ensuring that new development is sustainable and acceptable locally, and this is set out in both general and site-specific policies for the site (see section 3 above). To this end, O&H has been actively engaged with Project Sponsors at NR and Milton Keynes Council to discuss opportunities for delivering jointly-planned rail and road improvements in this location which will not only avoid the provision of abortive infrastructure works as part of the TWAO, but could deliver a joint infrastructure solution which is capable of addressing the current capacity problems arising from the conflict between rail and road movements at level crossings which exist in the area (some of which have already been identified as constraints as part of the EWR works but for which no mitigation has been included as part of the TWAO).
- 7.4 The land is currently farmed, and O&H has existing agricultural tenants on land both north and south of the railway who access their land via the at grade level crossing at Woodley's Crossing.

Network Rail Scheme Proposals

- 7.5 NR's proposals for this land include the replacement of the current at-grade farm track crossing with an 'occupation (or 'accommodation') overbridge spanning the railway along the existing alignment of the farm crossing, in order to allow farm vehicles to continue to have north-south access across the railway for those farming the land but also to function

as a diversion of the Fisherman's Path public footpath crossing which is to be extinguished (this crossing currently sits at the eastern extent of the O&H landholding).

- 7.6 Associated with the new bridge crossing, land is to be acquired for earthworks and landscape mitigation, new permanent footpaths north and south of the railway on O&H land and a permanent compensatory flood storage area to the north of the railway.
- 7.7 It is understood that NR propose to acquire part of the site on a permanent basis to construct an 'occupation' (or accommodation) overbridge crossing works themselves and for a worksite, flood mitigation and for environmental mitigation works (including the CFSA). Further land is required on a temporary basis for a worksite and environmental mitigation/reinstatement.
- 7.8 It should also be noted that west of the land owned by O&H, NR proposes the Bow Brickhill at-grade bridleway crossing (known as the Pony Crossing) to be upgraded and remain open (133735_2D-EWR-BBM-XXXXXX-DR-T-016076).

Details of objection and suggested alternative proposal

- 7.9 O&H has strongly objected to the NR proposal for Woodley's Crossing in each round of formal consultation and in regular meetings with NR, considering that an alternative solution can be established which:
- iii. has greater long term accessibility benefits whilst better meeting NR's needs in this location;
 - iv. addresses the failure of NR to mitigate impact at the Woburn Sands level crossing which results from the additional 'down time' of the crossing barriers;
 - v. is not in conflict with Milton Keynes Council's local plan policy requirements in respect of infrastructure not prejudicing long-term development objectives for an allocated site; and
 - vi. retains effective access and general operational requirements for existing tenants throughout the EWR construction period and beyond.
- 7.10 NR has not dismissed the alternative proposal, which also has the support of Milton Keynes Council insofar as it does not prejudice the strategic development potential of the allocated land. However no agreement to an alternative arrangement which would remove O&H and the Council's objection has been secured. Further details on this point are set out in the Proof of Evidence of Ms Cheetham.
- 7.11 Details of each aspect of the objection (together with proposed amendments/ suggested solutions) are set out below.

TWAO Grounds for Objection (Planning)

i. Inadequacy of EIA Cumulative Assessment Process

- 7.12 I do not consider that the cumulative assessment undertaken by NR in the EIA is robust, in that it fails to consider the cumulative impact of a number of proposed development sites, including the allocation of the O&H Woburn Estate for strategic development in Plan:MK (policy SD13).
- 7.13 The Woburn Estate forms part of a site allocated for strategic development of approximately 3,000 dwellings which was allocated in the proposed submission Plan:MK dated October 2017, a significant period in advance of NR fixing the RFFP short-list. It is unclear why the Woburn Estate is not included on NR's RFFP short-list given that it is a Development Plan project scheduled for development prior to 2024 and sits within 500m of the line.
- 7.14 Milton Keynes Council's (MKC) housing trajectory published in April 2018 (see Appendix 11) and submitted as part of the Local Plan examination demonstrates that SEMK is to begin development prior to 2024 and contribute to MKC's housing supply as early as 2022/23. Whilst it is recognised that the housing trajectory was published after NR fixed the RFFP short list, it is further evidence that NR made an incorrect judgment to exclude the site from the cumulative effects assessment.
- 7.15 Furthermore, it is noted that the adjacent strategic employment allocation (an area known as South Caldecotte) - also allocated in the submission version of Plan:MK for the first time - is included on NR plans as a 'Development Plan and Policy Allocation to Feb 2018' and has been considered in terms of its potentially significant cumulative effect (see ES Chapter 15 Figure 15.2 (133735_RW-EWR-XX-XX-DR-LE-011260) (NR16). The South Caldecotte allocation lies immediately to the west of the SEMK allocation) but no reason is given for this discrepancy, nor the omission of one of the largest development site allocations in Plan:MK from the list of RFFPs.
- 7.16 Any impact of the scheme's design and mitigation on the SEMK strategic development project has therefore not been assessed by NR or reported in the environmental assessment (Appendix 15.2 or corresponding Figure 15.2 of the ES Vol 3 does not include any entry for the SEMK site) (see Appendix 12).
- 7.17 Its exclusion from the cumulative effects assessment further demonstrates an inconsistent application of NR's own EIA methodology and calls into question the validity of the EIA process. It is my view that the omission of SEMK from the cumulative effects of the EIA is a significant oversight by NR to proactively assess local conditions, given that there is a reasonably foreseeable prospect of the development coming forward and the land acquisition and mitigation proposed by NR having a significant adverse impact on the site.

- 7.18 I therefore conclude that the EIA does not fully consider the potential for significant environmental effects of all of the projects where such effects are likely, as required by *Regulation 14(2) (Schedule 4) of the Infrastructure Planning (EIA) Regulations 2017* (see Appendix 2). On this basis, the conclusions of the EIA both in relation to the environmental effects assessed and mitigation identified, are not considered a robust or sound basis upon which to judge the environmental impact of the scheme on the surrounding area.
- ii. *Failure of the EIA to Assess of Mitigate the Impact of Additional Barrier 'Down Time' on the Effective Operation of Woburn Sands Level Crossing*
- 7.19 At present, the level crossing at the centre of Woburn Sands is a constraint on road traffic movements and does not represent a particularly effective crossing for pedestrians and cyclists. O&H understand that the current round of East West Rail improvements will result in an additional train service per hour (exacerbating the current situation for road users in terms of 'barrier down time').
- 7.20 It is noted that despite the identification of the Woburn Sands Newport Road level crossing as an existing bottleneck for road traffic in the previous rounds of NR consultation on Phase 2, the current proposals for EWR still do not include any significant improvements to this crossing. Furthermore, it is understood that the replacement grade-separated pedestrian crossing east of the existing Woburn Sands level crossing (which was to replace the existing at grade crossing east of Woburn Sands) has been removed from the TWAO proposals, putting more pressure and additional conflict between vehicles and pedestrians/cyclists at the Woburn Sands level crossing¹.
- 7.21 Whilst it is recognised that the current round of TWA works are limited to that needed for the short term EWR improvements (to 2024) it is understood that works to the Newport Road crossing to reduce road congestion with increased 'barrier down' times are likely to be required as part of the further planned upgrade to EWR to be delivered by NR in the period 2024-2029.
- 7.22 In addition, any development in south east Milton Keynes (some of which is already consented but not yet built, plus the allocated urban extension) will put additional pressure on this road crossing during the period in which the EWR scheme is being implemented, resulting in increased safety concerns with cars 'jumping' the barriers to avoid delays. I consider that this impact has not been adequately assessed in the EIA, nor any mitigation proposed.
- 7.23 I note that elsewhere along the EWR Western Section, alternative road bridge crossings have been provided to address issues of severance and delay at existing level crossings (for example, at Lidlington), despite the level of road traffic impact being significantly less than

¹ Also, previous NR consultation proposals showed 'yellow box' markings proposed for right turning traffic at the Woburn Sands level crossing, although this does not appear to be carried forward into the current TWAO proposals

at Woburn Sands. It is considered that the failure of the EIA to assess, record and acknowledge the impact on Woburn Sands level crossing (and in the local environment more generally) - and failure to propose effective mitigate to overcome this impact - is a significant omission; does not reflect a consistent or robust approach to the EIA process; and does not meet the requirements of EIA *Regulation 14(2) (Schedule 4)* of the *Infrastructure Planning (EIA) Regulations 2017* (see Appendix 2).

Potential Mitigation Solution

- 7.24 O&H's suggested alternative proposals for the Woodley's Farm Crossing shown on plan ref: OHP008-023 (see Appendix 13) would enable a co-ordinated infrastructure solution to mitigate impact at Woburn Sands as well as Woodley's Crossing (the former being understood to be required in order for the current and future phases of EWR to be properly mitigated and acceptable locally) which did not prejudice longer term development of an allocated development site.
- 7.25 The alternative mitigation solution could be delivered in two stages. The first stage – the '**Potential Revised Core Scheme**' shown on attached plan GMK001-031-A (see Appendix 4) – is simply a re-positioned Woodley's overbridge structure approx. 130m to the east of the NR proposed location on an alignment which could be incorporated into part of a new public road linking Bow Brickhill Road with Newport Road (the road to be constructed as part of the allocated development site), with a widened bridge structure (increasing the width from the 9.7m currently proposed to between 13 and 14m to enable an adoptable standard of road to be accommodated). This has the following advantages:
- i. The implementation of the new crossing is not tied to any phasing of built development in this location (so the infrastructure works can be carried out in advance of development) but would avoid the need for a re-design of the bridge, demolition and re-build, or future 'double-provision' of crossings (all of which would result in significantly increased costs);
 - ii. The structure would be of a suitable standard to be capable of future adoption by the Council as a public road as part of the wider road network;
 - iii. Unlike the NR proposal, the alternative proposal would allow the existing Woodleys farm crossing and access to be uninterrupted throughout the construction period (the current proposal is an 'on-line' solution meaning that for the period of overbridge construction other access arrangements would have to be secured by NR). Repositioning the overbridge a small distance to the east would allow the existing farm crossing to be retained during construction 'offline' so that the existing farm crossing could continue to be used during construction and then transfer seamlessly to the new bridge once complete;

- iv. The alternative alignment shown would also provide a benefit for NR in that it affects one rather than two landowners (and therefore would reduce the CPO costs and administrative burden of the TWA for NR).
- 7.26 The second stage of works (the Potential Enhanced Scheme (see Appendix 13) would allow the future construction of a new highway between Bow Brickhill Road through the SE MK development area, using the 'Potential Revised Core Scheme' bridge crossing of the railway to be accessed by vehicles, pedestrians and cyclists as a safe grade-separated alternative crossing to the existing level crossing at Woburn Sands. This is a comparable scale of mitigation solution to that provided at Lidlington (where the scale of impact is arguably less in terms of numbers of people and vehicles), and would enable a significant reduction of through traffic through Woburn Sands level crossing once the new highway was open to traffic.
- 7.27 For context, plan refs: GMK001-030-A and GMK001-031-A attached at Appendix 13 show the relationship between Woodley's crossing and the part it could play in longer term integrated road and rail improvements which are currently being explored as part of wider growth proposals for this part of Milton Keynes (this is set out more fully in para 7.31 below).
- 7.28 In summary, if the O&H Potential Revised Core Scheme was implemented as part of the Western Section Phase 2 works, this would deliver the required Phase 2 improvements but would also:
- a. take full account of the traffic and environmental impact on the Woburn Sands level crossing and provide a crossing capable of mitigating this impact;
 - b. allows O&H's operational requirements for its land – predominantly through agricultural tenancies – to be protected, safeguarded and maintained through the period of the construction of the planned NR works;
 - c. enable an offline solution to be constructed which reduces the number of landholdings subject to CPO;
 - d. facilitate the necessary works to mitigate the Woburn Sands rail and road capacity constraints which are needed for the subsequent stage of EWR (futureproofing the rail network in a cost-efficient manner)
 - e. not prejudice a long term and co-ordinated road and rail solution, thereby not conflicting with the EWR objective of unlocking strategic growth for this part of the rail network.
- iii. *Prejudicing the effective implementation of an allocated/consented /planned development project*
- 7.29 One of the justifications for the SEMK development allocation is that this site is able to benefit from access to the existing Woburn Sands station - a station selected for retention

under the EWR proposals as part of the consolidation of stations along the route (with Bow Brickhill and Aspley Guise stations set to close).

- 7.30 The station platforms at Woburn Sands are to be extended westwards under the current EWR project proposals (presumably to accommodate greater capacity trains). However, Woburn Sands station currently has no on-site parking and routes to the station are congested at peak times.
- 7.31 In the context of the site's allocation for development, discussions have been ongoing between O&H, EWR Consortium and MK Council since 2015. One of the principal advantages of the Woburn Estate being allocated for strategic development is that it offers the opportunity for land to be reserved or used to improve access to and facilities at Woburn Sands station to serve the existing and planned local communities, building on the improvements planned as part of this TWOA in terms of platform extensions to provide dedicated parking and highway access off the new road crossing as well as local access via the town, retaining a station which continues to serve Woburn Sands effectively and benefitting existing and new residents of the area. This could be delivered on land wholly within NR and O&H control.
- 7.32 In addition, good urban design and development planning practice suggests that development placed adjacent and well-related to stations maximises the opportunity to shift travel mode from car to public transport. Hence, the master planning of the SEMK development site (ongoing since 2015) seeks to maximise the amount of development in close proximity to the existing/improved station so that it becomes as easy as possible to walk between residential development and the station.
- 7.33 In contrast, the NR proposal for the permanent acquisition of land for compensatory flood storage (presumably to mitigate the loss of floodplain through the earthworks required for the occupation overbridge) earmarks an area of the allocated development site at one of the most accessible points to the new station, and where one might otherwise expect higher density development with direct access to the station, or indeed, new station-related facilities. Plan OHP008/024 provided at Appendix 14 shows an overlay of the NR proposals for the Woodley's crossing on O&H's emerging/early Conceptual Development Framework. No reasoning is set out for why this piece of land has been selected and no evidence is provided as to its appropriateness for the use in question. Further evidence on this point is provided in the Proof of Evidence of Ms Hensler.
- 7.34 Even if land is not required or reserved for station-related development as part of the approved master plan/planning consent for the urban extension, the NR proposed flood attenuation area does not fall within that part of the site proposed for surface water attenuation associated with built development of the urban extension (this would occur along the line of the existing brook). The current NR proposal will therefore result in sterilising

otherwise suitable development land and prejudice the ability of the allocated site to deliver the quantum of development it has been allocated for.

- 7.35 As stated in the last round of representations, O&H together with Milton Keynes Council are keen to explore an alternative mitigation solution with the NR team which will not unacceptably sterilise development land. However, to date I do not believe this has been offered by NR's drainage/EIA team.

8.0 MARSTON VALE

Network Rail Plan references (see Appendix 15):

- BBM/8A Marston Road Level Crossing Replacement Existing Plan 133735_2D-EWR-BBM-XXXXXX-DR-T-016064
- BBM/8A Marston Road Level Crossing Replacement Proposed Plan 133735_2D-EWR-BBM-XXXXXX-DR-T-016065
- BBM/8A Marston Road Level Crossing Replacement Proposed Plan, Section and Elevation 133735_2D-EWR-BBM-XXXXXX-DR-T-016066
- Kempston Hardwick/ Manor Road Level Crossing Bridge Replacement Existing Plan 133735_2D-EWR-BBM-XXXXXX-DR-T-016088
- Kempston Hardwick/ Manor Road Level Crossing Bridge Replacement Proposed Plan 133735_2D-EWR-BBM-XXXXXX-DR-T-016089
- Kempston Hardwick/ Manor Road Level Crossing Bridge Replacement Proposed Plan, Section and Elevation 133735_2D-EWR-BBM-XXXXXX-DR-T-016087

Background

- 8.1 O&H has strategic landholdings (c.4000 acres) between Brogborough, Lidlington and Marston Moretaine (east of the M1, south of the A421), hereinafter referred to as 'Marston Valley'. The land is predominantly in agricultural production (under agricultural tenancy agreements), with lakes being the secondary land use, together with small pockets of woodland, amenity areas and sports clubs. Much of the land is currently farmed by O&H's agricultural tenants.
- 8.2 Following an extensive period of land promotion lasting almost 20 years, Marston Valley was allocated as a site for strategic development in CBC's pre-submission Local Plan (January 2018) (NR84).
- 8.3 Shortly thereafter, an outline application for up to 5,000 new homes, up to 30ha of employment land, social, retail and leisure uses, education provision, ecology areas and supporting infrastructure was submitted to and validated by Central Bedfordshire (25 May 2018: CBC Ref – CB/18/01969/OUT). Part of the land included within the planning application is proposed to be acquired by NR in the Draft Order.
- 8.4 O&H has emerging development proposals within the Kempston Hardwick landholding (on land known as CP Farm) for an education campus to support wider strategic growth between Bedford and Milton Keynes.

Network Rail Scheme Proposals

- 8.5 NR propose a number of schemes within or on land adjacent to the O&H landholding:

- a. acquisition of part of the Marston Valley site on a permanent basis for a work site and access for construction vehicles and to undertake environmental mitigation works;
- b. the permanent acquisition of rights to maintain the work site and acquisition of further land on a temporary basis to construct a new footpath;
- c. the replacement of the existing Marston Road Level Crossing with an overbridge;
- d. the closure of the existing Pilling Farm South Level Crossing and extinguishing of Footpath FP1 where this currently runs across the crossing, diverting the footpath via the Station Road Crossing entering O&H's land at the northern edge of Lidlington and crossing eastwards to meet its current onwards alignment;
- e. permanent acquisition of O&H land for Ecological Mitigation Sites [D3, D4] and for CFSA [plot 1255; part of Plot 1300];
- f. temporary acquisition of land for works compound [D2] at Kempston Hardwick.

8.6 Details of the objections to these schemes (together with suggested amendments/ solutions) are set out below.

Marston Valley

8.7 NR proposes that 10,393 sq.m of O&H's land ownership (Plot 1255) is acquired permanently as a CFSA. O&H objects to this for the following reasons:

- a. As set out above, O&H has submitted an outline planning application for a mixed use development on this site comprising up to 5,000 dwellings, up to 30ha of employment land, retail, community, open space and other units. Contrary to local plan policy requirements, NR's proposals for the site will prejudice O&H's ability to deliver the quantum of development allocated for the site. In total, NR proposes that 1.6 ha of the Marston Valley development site would be acquired permanently with further 0.9 ha of land within the Marston Valley site would be subject to the acquisition of rights and temporary acquisition. Furthermore, the loss of this development opportunity has not been taken into account in NR's consideration of their proposals;
- b. It is understood that NR are acquiring the land to provide flood plain compensation due to the earthworks associated with the proposed Marston Road overbridge which would encroach into an area identified at Risk of Surface Water Flooding in a 1 in 1000-year event to the south of the railway line. It is noted that this area considered to be at risk is not in O&H's ownership. The summary of calculations provided by NR indicates that an area of 8,052 sq.m of flood plain compensation is required which is a smaller area

than the area that is proposed to be acquired by NR in the Draft Order. Indeed, the areas for this feature is stated inconsistently within the documentation submitted;

- c. It is questioned whether it is necessary for the land required for the CFSA to be acquired permanently. The proposals relate to the regrading of land to provide flood compensation, not flood attenuation or flow control. On this basis, it is considered that permanent land acquisition is not required.
- d. Additionally, if this land is acquired on a permanent basis, it will be a landlocked feature within O&H's land that cannot be accessed. On this basis, it is not clear how the CFSA feature will be adequately maintained.
- e. The details of outfall(s) from the toe-of earthwork swale / ditches are not provided. Without satisfactory arrangements, these swales / ditches may overflow and could then increase flood risk for O&H's land.

8.8 NR's proposals to replace the existing Marston Road Level Crossing with an overbridge will result in the unacceptable permanent loss of agricultural land and access thereto. The current means of access to O&H's land to the north of the Railway Line is from Marston Road via an existing field gate to the north of the existing Marston Road Crossing. The proposals for the construction of a road overbridge bridge to replace the Marston Road Crossing do not take account of this access and no provision is made in the proposals for this access to be replaced. It is considered that this is likely to have a significant detrimental impact on its existing agricultural tenants in their agricultural use of the land to the north of the railway line. It is likely to lead to increased journey times to access the land with associated increases in fuel and mileage demands on machinery.

8.9 The proposed design of the overbridge does not make any provision for accommodating O&H's land to the rear of Valley House currently taken from Marston Road. Given the design of the proposed Marston Road overbridge, should the accesses described above be replicated in their existing locations, embankments would be required within the respective land parcels in order to provide an acceptable gradient from the existing ground level to the proposed bridge embankment level. However, it is considered that there is limited technical opportunity for such a design to be provided and that visibility would be restricted and therefore sub-standard considering the horizontal and vertical planes due to the design of the overbridge structure and embankment. NR proposals could also separate O&H's land from a contiguous boundary with the public highway.

8.10 In addition O&H objects to the proposed design of the Marston Road overbridge insofar as the proposed design will not adequately meet the needs of all of the users which will cross it. The proposed design does not seek to provide cycleway provision and it is not clear if the design would be suitable for equestrian use.

- 8.11 NR proposes to close the existing Pillinge Farm South Level Crossing and to extinguish Footpath FP1 where this currently runs across the crossing. NR proposes that the footpath is diverted via the Station Road Crossing entering O&H's land at the northern edge of Lidlington and crossing eastwards to meet its current onwards alignment. Notwithstanding O&H's general objection to this proposal due to its impact on connectivity at Lidlington and resulting severance of the village, the proposed diversion of Footpath FP1 will result in this footpath passing through a field in use for grazing livestock. O&H's tenant is concerned that the use of the footpath for pedestrians and people walking dogs will have a detrimental impact upon the current agricultural use of this field and livestock. It is not clear if the footpath will be adequately fenced or segregated.
- 8.12 NR proposes that Ecological Mitigation Site D3 is established on 0.4 ha of O&H's land to the rear of existing properties which front onto Marston Road. This land would be permanently acquired for this purpose. O&H objects to this proposed use. A detailed consideration of the justification for the proposed use of this land for ecological mitigation is provided in the Proof of Evidence of Dr Fairclough (ecology). The degree to which NR has considered reasonable alternative sites to Ecological Mitigation Site D3 is also not clear. As set out in Dr Fairclough's evidence, it is considered likely that alternative sites could have been identified by NR to provide compensation for general habitat losses and assessed impact to species.
- 8.13 O&H object to the proposed temporary use of its land which will have a detrimental impact upon its agricultural use, by taking the land out of productive agricultural use and by restricting access to neighbouring fields.

Kempston Hardwick

- 8.14 We understand that NR propose to acquire part of the O&H landholding in this location on a permanent basis for a work site and environmental mitigation works, including a CFSA. Further land is required on a temporary basis to be used as a site compound and for construction access.
- 8.15 O&H object to the inclusion of the above land in the Draft Order for the following reasons:
- a. The NR proposals will result in the permanent loss of agricultural land and will therefore have an impact on O&H's tenants. The proposals will result in an unacceptable loss of access into agricultural land. The current means of access to O&H's land to the north of the Railway Line is from Manor Road via an existing field gate to the north of the existing Kempston Hardwick Crossing. The proposals for the construction of a road overbridge to replace the Kempston Hardwick Crossing do not take account of this access and no provision is made in the proposals for this access to be replaced in its current form or to an equivalent standard. If the existing field access was to be replicated in its existing location, an embankment would be required within the

land parcel in order to provide an acceptable gradient from the existing ground level to the proposed overbridge embankment level. However, due to the vertical alignment of Manor Road, visibility from the access would be substandard. Also, it appears that visibility would be restricted and substandard considering the horizontal plane due to the proposed bridge parapets and infrastructure associated with the design of the overbridge. Additionally, the proposed design of the overbridge and associated embankments would prevent O&H from upgrading the existing field access in the future as a junction with substandard visibility would be deemed a "Departure from Standards" in the DMRB. Further, NR proposals could also separate O&H's land from a contiguous boundary with the public highway;

- b. O&H has emerging development proposals within the Kempston Hardwick landholding (on land known as CP Farm) for an education campus to support wider strategic growth between Bedford and Milton Keynes. Although a planning application for this use has not yet been submitted, O&H submitted an EIA Screening Request on 17 September 2018 to Bedford Borough Council (Planning Ref – 18/02414/EIASCR), the Council issued its Screening Opinion on 20 December 2018 (EIA Required) and a Scoping Request was subsequently made to the Council in January 2019 (BBC Ref 19/00056/EIASCP) (see Appendix 16). This development project will include the use of the existing access from Manor Road as a sustainable route to Kempston Hardwick station. The proposed NR design of the Manor Road overbridge - with its consequent reduction in DMRB standard; failure to provide adequate access for ether cyclists or equestrian use²; and its severing of the permissive bridleway that O&H have already implemented around Lidlington Pit to the Millennium Country Park - would prejudice O&H's ability to deliver an adequate standard of access to serve the educational uses as currently planned, fail to adequately meet the needs of all of the users who will cross it, and negate the ability to access the recently-implemented permissive bridleway network. It is understood that the bridge also removes Forest of Marston Vale Woodland (it is unclear how or whether NR are proposing to replace this loss).
- c. O&H object to the proposed temporary use of its land for Compound D2. The proposed use of this land during the construction period will result in a substantial loss of agricultural land and will have a detrimental impact upon the wider agricultural use of O&H's land in this location.

(a) ² The relevant cross section describes the 2.105m features to either side of the road as 'Footways'. 2.105m is not adequate for either cycle or equestrian use.

- 8.16 NR proposes that 27,627.05 sq.m of O&H's land (part of Plot 1300) is acquired as a CFSA. O&H objects to this for the following reasons:
- a. It is understood that this is intended to provide flood plain compensation due to the earthworks associated with the proposed Manor Road overbridge and temporary compound encroaching into an area identified as fluvial flood plain. The summary of calculations provided within the submission documents indicates that an area of 1,220 sq.m of flood plain is lost and that the proposed CFSA is 12,626 sq.m. It is noted that the CFSA is assumed to be regraded into the existing ground levels at a gradient of 1 in 12. However, notwithstanding that the suggested quantum of land required is stated inconsistently within the submission documents, the requirement for a substantially larger land take from that suggested by the summary of calculations is not clear from those calculations. On this basis, the suggested extent of O&H's land which would be compulsory purchased is not justified.
 - b. O&H questions if it is necessary for the land required for the CFSA to be acquired permanently. The NR proposals relate to the regrading of land to provide flood compensation, not flood attenuation or flow control. On this basis, O&H considers that permanent land acquisition is not required.
 - c. Additionally, if this land is acquired on a permanent basis, it will be a landlocked feature that cannot be accessed without the use of O&H's land. On this basis, it is not clear how the CFSA feature will be adequately maintained.
 - d. The arrangements for the maintenance of the outfall from the swale / ditch from the toe-of earthworks have not been properly considered. Without satisfactory arrangements, these swale / ditches may overflow and could then flood onto adjacent O&H land.
- 8.17 Detailed evidence in relation to the justification of the CFSA is provided in the Proof of Evidence of Ms Hensler (drainage).
- 8.18 NR proposes that Ecological Compensation Site D4 is established on 3.9 ha of O&H's land at Kempston Hardwick (eastern part of Plot 1300). This land would be permanently acquired for this purpose.
- 8.19 O&H object to this proposed use. Appendix 9.13 of the Environmental Statement (NR16) indicates that this land will be used for watercourse enhancement, lowland mixed deciduous woodland planting and bat mitigation. It is not clear why such a large land take is required to meet the mitigation requirements of the proposals.
- 8.20 A detailed consideration of the justification for the proposed use of this land for ecological mitigation is provided in the Proof of Evidence of Dr Fairclough (ecology).

- 8.21 The degree to which NR has considered reasonable alternative sites to Ecological Mitigation Site D4 is also not clear. As set out in Dr Fairclough's evidence, it is considered likely that alternatives sites could have been identified by NR to provide compensation for general habitat losses and assessed impact to species.

TWAO Grounds for Objection (Planning)

i. Inadequacy of EIA Process - Cumulative Assessment Process

- 8.22 I do not consider that the cumulative assessment undertaken by NR in the EIA is robust in that it fails to consider the cumulative impact of a number of proposed development sites, including the allocation of the O&H Marston Valley landholding for strategic development in the CBC Local Plan.
- 8.23 NR's definition of a Reasonably Foreseeable Future Project (RFFP) is outlined in Environmental Statement (NR16) Volume 2i, Chapter 15, Paragraph 15.4.11 (see para 5.18 above).
- 8.24 It is my view that according to this definition, the Marston Valley allocation should have been considered as a Development Plan project scheduled for development prior to 2024 within 500m of the line and included as a RFFP in NR's cumulative effects assessment.
- 8.25 NR fixed the RFFP shortlist in March 2018 which was prior to the submission of the outline application at Marston Valley but does not pre-date the Development Plan (NR84) allocation of the site in January 2018. Notwithstanding this, NR have been engaged in formal discussions regarding the development of the site for several years and as such were well aware of the development prospect of Marston Valley; indeed, Marston Valley is specifically referenced elsewhere in NR evidence in respect of relevant planning policies.
- 8.26 The RFFP definition set by NR stipulates that site allocations will only be included where they are scheduled for development prior to 2024. CBC's housing trajectory published in July 2018 (see Appendix 17) and submitted as part of the Local Plan examination demonstrates that Marston Valley is to begin development prior to 2024 and contribute to CBC's housing supply as early as 2021/22. Whilst it is recognised that the housing trajectory was published after NR fixed the RFFP short list, it is further evidence that NR made an incorrect judgement to exclude the site from the cumulative effects assessment.
- 8.27 O&H consider Marston Valley should have been included as a RFFP according to the methodology approach used by NR and therefore considered in the context of cumulative effects. We note that Central Bedfordshire Council makes the same point in its Proof of Evidence (para 4).
- 8.28 Appendix 15.1 of the Environmental Statement (NR16) sets out Reasonably Foreseeable Future Projects shortlist (and neither Appendix 15.1 or 15.2 of the ES Vol 3 include any entry

for this site). Any impact of the scheme's design and mitigation on this strategic development project has therefore not been assessed by NR or reported in the environmental assessment.

8.29 The list of projects includes other draft allocations within local plans which are not yet adopted and other outline planning applications for proposed development not yet approved. Marston Valley's exclusion from the cumulative effects assessment demonstrates an inconsistent application of NR's own EIA methodology, an inconsistent approach to the selection of reasonably foreseeable future projects and it follows that an inconsistent assessment of the cumulative effects of the East West Rail proposals has taken place.

8.30 Given the above, it is my view that NR's EIA findings should not be considered robust in this regard.

ii. Appropriate Mitigation and Consideration of Alternatives

8.31 O&H's evidence in respect of the appropriateness of the mitigation is set out in paragraphs 8.6 to 8.12 above, and further detailed evidence is provided in the Proofs of Evidence of Mrs Hensler (drainage and food compensation) and Dr Fairclough (ecology).

8.32 On this basis, I therefore conclude that the conclusions of the EIA both in relation to the environmental effects assessed and appropriate mitigation identified, are not considered a robust or sound basis upon which to judge the environmental impact of the scheme on the surrounding area.

iii. Prejudicing the effective implementation of planned/allocated/consented development projects

Marston Valley New Villages Development Project

8.33 As set out above, following the site's allocation in the Central Bedfordshire Submission Version Local Plan (NR84), in May 2018 O&H submitted an outline planning application for a mixed use development on this site comprising up to 5,000 dwellings, up to 30ha of employment land, retail, community, open space and other units. Contrary to policy and NIC recommendations, NR's mitigation proposals on O&H land will prejudice its ability to construct proposed development on the site in one of the key locations in the central part of the O2C Arc where strategic growth is already allocated. In total, NR proposes that 1.6 ha of the Marston Valley development site would be acquired permanently with further 0.9 ha of land within the Marston Valley site would be subject to the acquisition of rights and temporary acquisition.

8.34 The failure to agree alternative mitigation with O&H which would remove its objection and allow the development project and EWR works to progress unhindered is of concern to O&H in that it undermines the very reason for the EWR project being supported by central government.

CP Farm Education Campus

- 8.35 O&H has emerging proposals for the educational use of its land at Kempston Hardwick (known as CP Farm) which will include the use of the existing access from Manor Road as a sustainable route to Kempston Hardwick station (and potentially for emergency access).
- 8.36 O&H's proposals at CP Farm seek to meet a growing and significant need for educational facilities in the wider Marston Vale, associated with the transformational levels of growth planned in this area (much of which the EWR project is designed to support and serve).
- 8.37 The proposed design of the Manor Road overbridge would limit O&H's opportunity to deliver sustainable educational uses for the reasons set out in paragraph 8.14 (b) above. O&H question if on this basis the proposed design and use of its land in this location is in the wider public interest.

9.0 CONCLUSION

- 9.1 I consider that NR's EIA and its findings should be considered inadequate for two reasons.
- 9.2 Firstly, the EIA has failed to adhere to *Regulation 14(2) (Schedule 4) of the Infrastructure Planning (EIA) Regulations 2017* (see Appendix 2) through the omittance of O&H's committed and allocated development sites from the site and cumulative assessment process, inconsistently applying its own methodology and neglecting to consider the impact of the EWR proposals on the continued operation of landholdings and delivery of planned and consented development.
- 9.3 It is my view that an addendum to the EIA should be completed that brings the EIA in line with the regulations and consistently applies its own methodology. O&H recognise that this would result in some delay, but it would allow NR to add to its existing evidence rather than start afresh. The completion of this additional assessment is crucial to allow proper and full consideration of the environmental impact of the TWAO scheme.
- 9.4 Secondly, it is my opinion that elements of the scheme proposals will prejudice the effective delivery of development allocations and development projects already in the pipeline. On the basis of the evidence provided above, I conclude that NR has failed to respond positively to the representations of O&H and others in respect of negotiating alternative or adjusted mitigation proposals which would not prejudice committed or emerging development proposals, thereby removing objections to many aspects of the proposed scheme design.
- 9.5 In failing to do so, the proposed TWAO works as they stand run counter to the strategic objectives of the EWR project set by the NIC and government in respect of delivering infrastructure "*aligned to the development of major new and expanded settlements*" (NR44) and "*future proofed to ensure it can support continued transformational levels of growth across the arc into the longer term*" (NR108). As a result, it has not been established that there is a compelling case in the public interest to justify the compulsory purchase of O&H's land.
- 9.6 In the light of the above, I request that the Transport and Works Act Order as it is currently drafted be refused.

