Proof of Evidence of The Leeds Railway Station (Southern Entrance)

LSSE.PTE/ P/5.1

Proof of Evidence Environmental
November 2012

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Contents

Appendices

Appended to this proof of evidence:

Appendix 1. Email correspondence from Jerome Masters, Environment Agency, 13th March 2012

Appendix 2. Letter to Rachel Jones (Planning Liaison Technical Specialist) at the Environment Agency from Paul Clarke (Ardent) dated 24th July 2012

Appendix 3. Letter to the Department of Transport from Rachel Jones (Planning Liaison Technical Specialist) at the Environment Agency dated 19th September 2012

Note on Public Inquiry Documentation:

Public Inquiry documentation has been referenced in this Proof of Evidence using the reference numbers. The main document I refer to is the Environmental Statement LSSE: A15 to LSSE:A19 inclusive.

Introduction

1.1 Qualifications and Experience

1.1.1 My name is Kevin Leather. I have a BSc (hons) Degree in Environmental Science from the University of East Anglia and an MSc in Pollution and Environmental Control from the University of Manchester. I am a full member of the Institute of Environmental Management and Assessment (IEMA) and Chartered Environmentalist with the Society for the Environment. I am also a registered environmental auditor under the IEMA scheme. I sit on the Yorkshire and Humber steering group for IEMA.

1.1.2 I am a Regional Manager for the North of England with Mott MacDonald, where for the last 10 years based in Leeds, I have led a team of planning and environmental professionals, who are involved in the planning and environmental assessment of a range of infrastructure projects in the North of England and nationally. Other roles have included international environmental projects, management of coastal and air quality services for other companies. Overall I have over 24 years' experience in environmental consultancy, gained in the field of Environmental Impact Assessment.

1.1.3 My experience includes being involved in a significant number of environmental assessment projects including advising on infrastructure and transport schemes such as the Croydon Tramlink, Victoria Station upgrade, Channel Tunnel Rail Link, East Coast Main Line, Crossrail and more recently, Nottingham Express Transit and High Speed 2. I have given evidence at two public inquiries in relation to air quality for proposed road schemes.

1.2 Responsibility for the Scheme

1.2.1 I have been involved with the environmental assessment of the Leeds Station Southern Entrance scheme (herein referred to as "the Scheme") since 2011, with overall responsibility for the delivery of the Environmental Statement (ES) (LSSE A15, LSSE A16, LSSE A17, LSSE A18 and LSSE A19) and other supporting documentation for the Transport and Works Act Order (TWAO) application. I provided technical direction and review for the production of the ES and other supporting documentation such as the Sustainability Appraisal (LSSE A18), Planning Statement (LSSE A9) and Design & Access Statement (LSSE A10) relating to the Scheme.

1.2.2 My role on the Scheme is that of general environmental specialist, to ensure that appropriate EIA processes and procedures and guidance are followed and that appropriate technical specialists are used in each the environmental topics examined. I also lead the production of the introductory sections of Volume I: Main Statement of the ES (LSSE A15), reviewed each technical chapter of the Main Statement (LSSE A15) and Technical Appendices in Volume II of the ES (LSSE A16) and originated the Non-Technical Summary (LSSE A19).

1.3 Outline of Proof

1.3.1 My Proof of Evidence is not intended as a means to deal with all technical environmental aspects, but provides a summary of the legal processes and environmental assessments specifically relating to the areas of land subject to the TWAO inquiry. My expertise is acting as a manager of and adviser on EIA and the ES. Where appropriate I record and rely upon the evidence of experts in their respective fields. For all other environmental topics such as air quality, ecology, geology and soils, historic environment, noise and vibration, socio-economics,

townscape and visual amenity, traffic and access and water resources, I rely upon the evidence of experts.

1.3.2 My Proof of Evidence complements that of the other expert witnesses, in particular Eileen Thomas who addresses planning and urban design, Jason Smith who leads on highways and public rights of way, Matthew Murr who deals with engineering and constructability, and Stephen Hind who represents the Scheme Promoter.

1.3.3 I deal in Section 2, with the Statement of Matters and relevant Clauses in this Proof of Evidence as a response.

1.3.4 In Section 3, I consider Environmental Impact Assessment, describing the process and conformity with the Transport and Works Applications and Objections Procedure (England and Wales) Rules 2006 (LSSE B19), outlining the key environmental mitigation measures required to avoid, reduce or remedy any adverse environmental effects of the Scheme. This section also includes a clear outline of any environmental significant residual effects identified as part of the EIA process.

1.3.5 I discuss the objections and representations received from the statutory bodies, stakeholders and residents in Section 4. This section also provides my response to these objections, including more information of the preliminary responses given in the Statement of Case, where appropriate.

1.3.6 In Section 5, I present evidence on the request for planning direction and the draft planning conditions.

1.3.7 Finally, I summarise and conclude this Proof of Evidence in Section 6.

1.4 Declaration

1.4.1 I confirm that insofar as the facts stated in this Proof of Evidence are within my own knowledge, I have made clear which they are and I believe them to be true. Where some areas of environmental assessment are not my specialist subjects, I believe that the relevant facts and opinions stated to be true and to be based on the professional opinions of experts in their fields. In my professional opinion, I believe that this Proof of Evidence represents an unbiased and true assessment of the environmental implications of the Scheme which have been assessed in accordance with current legislation and environmental best practice.

1.5 Glossary

1.5.1 This Proof of Evidence uses the abbreviations as contained in the overall Glossary (LSSE.PTE/P/8.1)

2 Statement of Matters

2.1 Introduction

2.1.1 The TWAO application and the application for a direction as to deemed planning permission fall to be determined by the Secretary of State for Transport. The application for conservation area consent falls to be determined by the Secretary of State for Communities and Local Government, both on the recommendation of the appointed inspector.

2.1.2 The Secretary of State for Transport and the Secretary of State for Communities and Local Government issued a Statement of Matters for the TWA inquiry on 28th September 2012.

2.1.3 In this Proof of Evidence, I address, in particular, the following matters from that Statement of Matters, in whole or in part:

5. The likely impact on residents, businesses and the environment of the scheme, during construction and after opening to the public, including:

a) noise, dust and vibration, including the impacts of construction traffic;

c) impacts on air quality;

d) impacts on townscape, including the character and appearance of the conservation area;

e) impacts on light, visual amenity, privacy and security (including the effects of oversailing crane operations);

f) impacts on water resources, including flood risk (with particular reference to flood alleviation proposals) and the potential for contaminations;

g) impacts on biodiversity, and opportunities for appropriate enhancement in connection with the scheme; and

i) impacts on the viability of businesses affected by the scheme.

7) The measures proposed by the promoters for mitigating any adverse impacts of the scheme, including:

a) Network Rail's Contract Requirements – Environment and Code of Construction Practice;

c) any measures to avoid, reduce or remedy any major or significant adverse environmental impacts of the scheme; and

d) whether, and if so, to what extent, any adverse environmental impacts would still remain after proposed mitigation.

8) The adequacy of the Environmental Statement submitted with the application for the TWA Order having regard to the requirements of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 and whether the statutory procedural requirements have been complied with.

9) The conditions proposed to be attached to deemed planning permission for the scheme, if given, and in particular where those conditions meet the tests of DOE Circular 11/95 of being necessary, relevant, enforceable, precise and reasonable.

2.2 Response to the Statement of Matters

2.2.1 The issues are presented in this Proof of Evidence in the following clauses.

2.2.2 Statement of Matters 5 is addressed in the following Clauses.

5(a) is addressed in clause 3.12

5(c) is addressed in clause 3.8

5(d) is addressed in clause 3.14

5(e) is addressed in clause 3.14 (with the exception of privacy and security which are addressed in Eileen Thomas's proof Planning and Urban Design)

5(f) is addressed in clause 3.16

5(g) is addressed in clause 3.9

5(i) is addressed in clause 3.13

2.2.3 Statement of Matters 7(a) is covered in Clause 3.5 below, whilst Statement of Matters 7(c) and (d) are covered for each environmental topic included in the ES in Sections 3.7 to 3.16.

2.2.4 Statement of Matters 8 is covered in Clauses 3.2.5 and 3.17.

2.2.5 Statement of Matters 9 is covered in Section 5 of this Proof of Evidence.

3 Environmental Impact Assessment

3.1 Introduction

3.1.1 In this section, I present evidence in relation to the Environmental Impact Assessment (EIA), the result of which have been presented in an Environmental Statement (ES). Statement of Matters 8 asks the Promoters to provide evidence of "*the adequacy of the Environmental Statement submitted with the application for the TWA Order having regard to the requirements of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 and whether the statutory procedural requirements have been complied with*".

3.1.2 The requirements of an EIA are defined by EC Directive 2011/92/EU (Appendix 1) (herein referred to the "the Directive"), as amended and now set out in the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (LSSE B21) (herein referred to as the "EIA regulations") in the UK. The ES for this scheme must meet the requirements of the EIA regulations and the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (herein referred to as "the Application Rules").

3.2 Process and Conformity with the Rules

3.2.1 The Application Rules require that an application for a TWA Order must be accompanied by an ES if that scheme is a type that falls within Annex 1 of the Directive, or for a scheme which falls within Annex 2 of the Directive ("Annex 2") and is expected to give rise to significant environmental effects.

3.2.2 This section of the Proof of Evidence demonstrates that the Environmental Statement is a robust and transparent assessment which properly addresses the requirements of the EIA Directive and the Rules which is, in simple terms, to assess the "*likely significant environmental effects*" of the proposed development. It identifies clearly the potential effects, any necessary mitigation measures and any significant (adverse or beneficial) residual environmental effects" once mitigation is in place.

3.2.3 In undertaking the EIA for the Scheme, I have ensured that the ES conforms fully with the requirements of the Application Rules, particularly in respect of Schedule 4 (Part 1 and Part 2) of the EIA regulations which sets out the information needed to be included in an ES. I am confident that the ES meets in full all necessary requirements for such documents. In my opinion, the documentation submitted with the ES follows Government guidance and significantly exceeds the minimum requirements for the Application Rules, providing, amongst others, a Wind Assessment, Climate Change Management Assessment, Sustainability Appraisal and Energy Demand Assessment (LSSE A18). I am confident that the ES has been prepared in accordance with best practice by an experienced team of specialists.

3.2.4 The ES was publicised in accordance with the relevant procedures. I am entirely satisfied that any statutory requirements in relation to consultation have been fully complied with. At present I have no knowledge as to whether Leeds City Council consider the ES to be appropriate or adequate.

3.2.5 In summary, I confirm the adequacy of the ES submitted with the TWAO application having regard to the requirements of the Application Rules and that statutory procedural requirements have been complied with. This addresses Statement of Matters 8 in relation to the adequacy of the ES.

3.3 Scheme Development and Consideration of Alternatives

3.3.1 Stephen Hind, representing Network Rail, in his evidence outlines the process that the Promoters undertook in consideration of alternatives and refinements of the design options which lead to the development of the Scheme which is the subject of this TWAO application.

3.3.2 To enable a full consideration of the acceptability of the environmental effects of the Scheme, it is important to have an understanding of the alternatives to the Scheme that have been considered and the reasons for selection of the preferred Scheme. The Application Rules require than an ES contains, amongst other things, *"(in outline) the main alternatives (if any) studied by the applicant, and an indication of the main reasons for choosing the project (or form of the project) proposed, taking into account the environmental effects*".

3.3.3 The ES submitted with the TWAO application includes a description of the appraisal process that was adopted by the Promoters to examine the alternatives. A summary of this is contained in Section 4 of the Main Statement of the ES.

3.3.4 In addition, the Location and Design Rationale report (LSSE A18) produced by Mott MacDonald (2012) and included in Volume IV of the ES, contains a summary of the key environmental issues for the various alternatives considered during the design phases for the Scheme. The methodology applied for testing options was the Department for Transport's Web based Transport Analysis Guidance, known as WebTAG, which deals with accessibility, safety, economy and integration and environment which covers noise, townscape, biodiversity, heritage of historical resources, water environment, and journey ambience.

3.3.5 As an overview of the optioneering process, in broad terms, three main locational areas were considered, namely the Granary Wharf area at the western end of the station, the River Aire area and the Sovereign Place area to the east side of the station. Early in the design process at Network Rail GRIP stages 1 and 2, the Granary Wharf area and Sovereign Place locations were rejected and not taken forward to the next stage of the design process. Granary Wharf was rejected on the basis that safety and passenger capacity issues associated with connecting directly to platform 16 could not be resolved. Sovereign Place was rejected because passengers were unlikely to gain sufficient journey time benefits and therefore the operational requirements of the Scheme would not be met.

3.3.6 During the GRIP 3 stage, four options were considered for the River Aire area. Three of these four options (Option 1Ai, Option 1Aii, and Option 1Aiii) were located in the selected location on the River Aire. The other option (Option 1B) was located on the eastern side of the Blue Apartments adjacent to Little Neville Street. See ES Section 4, Figure 4:15 to Figure 4:18. The preferred option (Option 1Aiii) was selected as it was considered by the design team to meet the promoter's objectives and operational requirements of the Scheme, but also, in terms of environmental issues, there were positive benefits of the preferred Scheme over the other options in relation to noise where residential receptors would be further away, townscape, heritage and journey ambience.

3.3.7 A consideration of the key environmental issues for the alternatives to the Scheme provides additional information in support of Statement of Matters 3, which is addressed in evidence by Stephen Hind.

3.4 The EIA Process

3.4.1 This section provides an overview of the EIA process which has been undertaken for the Scheme. The results of the EIA have been presented in the ES, which comprises:

- Non-Technical Summary (LSSE A19);
- Volume I: Main Statement (LSSE A15);
- Volume II: Technical Appendices (LSSE A16);
- Volume III: Figures (LSSE A17); and
- Volume IV: Supporting Documents (LSSE A18) – including a copy of Network Rail's Contract Requirements Environment, Flood Risk Assessment, Heritage Statement, Transport Statement, Energy Demand Assessment, Sustainability Appraisal, Climate Change Management Assessment, a Schedule of Site Specific Construction Mitigation Measures and a Wind Assessment.

3.4.2 A Scoping Report was prepared and was used for the basis of consultation to ensure the EIA addressed the key environmental issues and appropriate methodologies for the EIA process. A Scoping Opinion was received from the Department for Transport and that opinion was taken into account in the scope of the EIA, which included addressing climatic factors, ecology, geology and soils and noise and vibration. These documents are included as Appendices A & B respectively in the Main Statement (Volume I) of the ES.

3.4.3 The ES contains a description of the likely environmental effects and the mitigation measures which are suggested to prevent, reduce and where possible offset any likely significant adverse effects on the environment. Where measures are integral to the design and the Promoters have committed to their implementation, that mitigation is termed "incorporated mitigation".

3.4.4 Any other mitigation measures which are not incorporated into the design of the Scheme for which the TWAO is being sought, are termed "supplementary mitigation". Supplementary mitigation can also take the form of enhancement measures which aim to improve existing baseline environmental conditions.

3.4.5 A comprehensive register of all mitigation measures (both incorporated and supplementary) for the construction and operation phase is given in Appendix E of the Main Statement (Volume I) of the ES.

3.4.6 Where significant environmental effects still remain after application of incorporated mitigation, they are termed significant residual environmental effects and these are described in the ES Main Statement in each topic chapter.

3.5 Network Rail's Contract Requirements – Environment documentation

3.5.1 During the construction phase, the appointed construction contractor will be instructed to comply with Network Rail's environmental requirements as provided in the Contract Requirements – Environment (CR-E) documentation. The CR-E document provides descriptions of mitigation measures which shall be implemented to reduce the environmental effects during the construction period including best practice construction techniques and measures to comply with environmental legislation. Of note, this includes a requirement that the appointed construction contractor to produce and implement an Environmental Management Plan (EMP). This is also required by draft Planning Condition 9 as submitted with the TWAO application. The adoption and implementation of Network Rail's CR-E

documentation is a key element of incorporated mitigation for the environmental topics addressed in the ES and will form the basis of the required EMP.

3.5.2 I have reviewed the CR-E documentation and consider this to represent best practice in construction work and note that it is aligned to British Standard ISO 14001, the British Standard for Environmental Management Systems. While I have no personal experience of its implementation on site during construction work, I am aware that this approach has been widely and successfully applied by Network Rail and its contractors on major construction projects such as West Coast Main Line and Nuneaton North Chord.

3.5.3 A Schedule of Site Specific Construction Mitigation Measures (LSSE A18) has been produced for the Scheme for the basis of consultation on the generic mitigation measures for the Scheme. This document is often referred to on other schemes, and in the Statement of Matters as a Code of Construction Practice or COCP. The incorporation of the Schedule of Site Specific Construction Mitigation Measures produced for the TWAO application, into the EMP to be produced by the appointed construction contractor, and other documents to be produced as part of Network Rail's CR-E documentation will form the basis of an environmental management system which is capable of delivering best construction practise for the Scheme. The environmental effects during construction will depend to some extent on the effectiveness of the implementation of the EMP and associated mitigation measures. This implementation of the EMP will be the responsibility of the construction contractor who will normally self-certify the work and also be subject to internal and external environmental audit. In undertaking the EIA, the environmental specialists have assumed that the generic mitigation measures presented in the Schedule of Site Specific Construction Mitigation Measures and the construction contractor's EMP will be implemented effectively, and the results of the assessment are presented in the ES.

3.5.4 This addresses Statement of Matters 7(a) in relation to the measures proposed by the Promoters for mitigating any adverse impacts of the Scheme in relation to Network Rail's CR-E documentation and the Schedule of Site Specific Construction Mitigation Measures (referred to as the "*Code of Construction Practice"* in the Statement of Matters).

3.5.5 It should be noted that the promoter will commit to this approach including the Site Specific Construction Mitigation Measures and this will form part of the EMP and also this is proposed to be implemented by way of a contractual commitment and also a draft planning condition 9.

3.6 Support and conformity with environmental policies

3.6.1 During the environmental assessment process, environmental policies form Leeds City Council and other Government departments, were reviewed by the specialists for each environmental topic. This was reported in section 6 of the Main Statement (Volume I) of the ES on policy and in all cases the Scheme was judged by the specialists to be supportive of relevant environmental policies, as described in the respective Technical Appendices (Volume II of the ES).

3.7 Assessment of Environmental Effects and Mitigation

3.7.1 The following sections 3.8 to 3.16 provide an overview of each environmental topic included in the ES, including any significant residual environmental effects. It should be noted that I am not an expert in these environmental topic areas. Any evidence presented is based on my understanding of the professional opinions of

experts in their fields, and that assessment presented in the ES, supplemented by discussions where necessary with those experts.

3.8 Air Quality

3.8.1 *Scope of the Assessment* – The Scheme has the potential to cause air quality effects during the construction phase and, to a limited degree, the operation phase. The key pollutants which have been considered within the air quality assessment of the EIA are:

- Nitrogen oxides (NO_x) particularly nitrogen dioxide (NO_2);
- Fine particles (particulate matter defined as those less than 10 and 2.5 microns in diameter; PM_{10} and $PM_{2.5}$ respectively); and
- Dust (defined as particulate matter in the size range 1-75 microns in diameter).

3.8.2 No assessment was considered necessary for emissions of any pollutants other than those identified above, as no significant emission sources of these pollutants are introduced or affected by the Scheme.

3.8.3 In the UK, the presence of the above pollutants in ambient air is managed through legislation (including that transposed from EU directives) and UK Government policy. National 'limit values' and 'objectives', with respect to NO_x, NO_2, PM_{10} and $PM_{2.5}$, have been transposed from EU directives into national legislation. Ambient air quality limit values and objectives are a key tool in this assessment process.

3.8.4 A baseline assessment was carried out for the EIA to estimate the existing ambient concentrations of the above pollutants within the study area. The baseline assessment included a review of the information provided in the air quality and dust assessment undertaken for the Scheme in April 2009 by Faber Maunsell/AECOM and utilised publicly available data from Leeds City Council's Review and Assessment Documents and the Department for Environment and Rural Affairs (Defra). Leeds City Council currently has six Air Quality Management Areas (AQMAs) declared due to exceedences of the NO_2 annual mean objective. The closest AQMA is located 800m from the Scheme and, because of this, potential impacts of the Scheme upon ambient air quality within this area was not considered in detail within the assessment.

3.8.5 The construction phase assessment focused on the duration of construction activities and key phases within it. A qualitative construction dust assessment was carried out following a range of best practice guidance, including that produced by Defra, the Mayor of London and Building Research Establishment.

3.8.6 The assessment of the operational phase of the Scheme focussed on the local effects on air quality resulting from changes in road traffic emissions. The assessment methodology also followed best practice guidance, primarily that produced by Environmental Protection UK and Defra. A qualitative assessment of the Scheme's operational phase reviewed the current road layout on Dark Neville Street and Little Neville Street against the proposed road layout in the Transport Statement for the Scheme.

3.8.7 *Mitigation and Predicted Effects during Construction* – As outlined in Clause 3.5.1 above, the appointed construction contractor will be required to follow Network Rail's Contract Requirements – Environment (CR-E) documentation, which will include the formulation of a Register of Consents and Commitments. This register requires the appointed construction contractor to implement Best Practicable Means (BPM) for the control of dust and other emissions to the atmosphere.

These requirements will form part of the construction contractor's Environmental Management Plan (EMP). In addition to adopting an EMP, the measures listed in the Site Specific Construction Mitigation Measures report will also be included in the EMP.

3.8.8 The BPM mitigation measures to be contained within the EMP are based on the "*Greater London Authority and London Councils Best Practice Guidance – The Control of Dust and Emissions from Construction and Demolition*" (2006) which provides a comprehensive overview of BPM mitigation measures to control dust and combustion related emissions from construction site. This guidance includes mitigation measures such as erecting effective barriers around dust emitting activities and the site boundary, planning the site layout to ensure that machinery and dust generating activities are located away from receptors, all site vehicles to be switched off and using enclosed chutes and covered skips. While the Scheme is located outside London, the BPM mitigation measures contained within this guidance are in my view, appropriate for this urban setting.

3.8.9 The effects on air quality arising from the Scheme during the construction phase are considered to be a temporary minor adverse effect. This is based on the temporary nature of the construction phase and the appropriate implementation of the incorporated mitigation measures summarised above and provided in more detail in the Air Quality Technical Appendix of the ES.

3.8.10 *Mitigation and Predicted Effects during Operation* – Consideration of operational air quality effects in the EIA related to changes in road traffic emissions for the opening year on Little Neville Street and Dark Neville Street. These streets were identified by transport specialists from Mott MacDonald for consideration in the EIA due to the nature of the proposed works in these areas.

3.8.11 The Transport Statement (LSSE A18) produced by Mott MacDonald for the Scheme includes the installation of access control measures, to be implemented under a Traffic Regulation Order, at the entrances to Little Neville Street and Dark Neville Street to prevent congested traffic and high vehicle emissions in an enclosed space.

3.8.12 It is considered by the air quality expert who carried out the EIA, that the implementation of controlled access to Little Neville Street and Dark Neville Street will reduce traffic flow, creating a beneficial effect on air quality in the local area.

3.8.13 The Transport Statement and the mitigation measures specified within it, such as providing a pedestrianised route on Little Neville Street and installing access control measures on Dark Neville Street and Little Neville Street was such that no further operational mitigation measures to be recommended as part of the air quality assessment for the EIA.

3.8.14 *Significant Residual Effects* – Upon implementation of the incorporated mitigation measures as summarised above, no significant residual effects on air quality are predicted to occur as a result of the construction and operation of the Scheme.

3.8.15 I have addressed Statement of Matters 5(a) in relation to dust and Statement of Matters 5(c) in this section.

3.9 Ecology

3.9.1 *Scope of Assessment* – The ecological impact assessment undertaken for the EIA of the Scheme followed the Institute of Ecology and Environmental Management (IEEM) (2006) "*Guidelines for Ecological Impact Assessment in the UK*". The methodology provided in this best practise guidance, assigned a conservation

value or importance to ecological features and using professional judgement to determine, whether or not effects are significant, based on the importance of features and nature, magnitude, permanence and severity of effects.

3.9.2 The ecological impact assessment considered the following habitats; buildings and hard standing, ruderal habitat and the river/canal and the following protected species; breeding birds, bats, fish and otters.

3.9.3 The ecological impact assessment utilised the available ecological information from the previous planning application. This information included an Ecological Assessment incorporating a Phase 1 Habitat Survey (Faber Maunsell AECOM, April 2009), bat survey report (AECOM July 2009), an addendum to the Ecological Assessment (AECOM, December 2009) and an updated bat survey report (Access Ecology, August 2011). A site walkover was undertaken by a suitably qualified ecologist from Mott MacDonald to confirm that the habitats have remained constant since this information was produced.

3.9.4 Protected species surveys were undertaken as part of the previous planning application (LSSE.D11) which was approved by Leeds City Council on 13th May 2010. Surveys for bats, which were originally carried out in 2009, were updated in 2011 by Access Ecology. These surveys indicated that the features within the area of the Scheme are considered to be of low to moderate suitability for roosting bats and no bats were recorded emerging from this area. A small number of common pipistrelle bats were recorded foraging over the River Aire.

3.9.5 Surveys for breeding birds undertaken for the Ecological Assessment (Faber Maunsell AECOM, April 2009) indicated that nesting opportunities for birds within the area of the Scheme are limited to occasional immature vegetation.

3.9.6 Surveys for otters were also carried out in March 2009, as part of the Faber Maunsell AECOM 2009 Ecological Assessment. Following information provided by Leeds City Council (LCC) in November 2011, as part of the Scoping Opinion for this EIA, LCC requested that an additional otter survey be carried out for the purposes of this ES to establish current activity and any likely effects on otters and their habitat as a result of the Scheme.

3.9.7 Subsequently an otter survey was undertaken at the site of the Scheme and the Water Lane barge loading/unloading site by a suitably qualified ecologist from Mott MacDonald on 16th December 2011 using appropriate survey assessment techniques. This is reported in the ES in the Ecology technical appendix.

3.9.8 These surveys indicated no signs of otters but confirmed that the previously identified sites from surveys carried out in 2008 and 2009 still had potential to be used by otters. The sites included an artificial holt and otter tunnel which had been provided as an ecological enhancement measure for the adjacent Granary Wharf development.

3.9.9 Given the extent of previously conducted surveys, it was considered by Mott MacDonald specialists that sufficient surveys (aside from otters) had already been carried out by Faber Maunsell AECOM and by Access Ecology to allow the ecological impact assessment to be completed without further field surveys.

3.9.10 As part of the Scoping Opinion, the Environment Agency requested a consideration of fisheries in the ecological impact assessment. Mott MacDonald subsequently requested and analysed fish data provided by the Environment Agency. This data found a small number of salmonids in a mainly cyprinid fish assemblage indicating a water environment of good quality. The assemblage included brown trout and bullhead.

3.9.11 There are no statutory designated sites and three non-statutory designated Local Wildlife Sites within 2km of the proposed Scheme. These are the Leeds and Liverpool Canal Site of Ecological and Geological Importance, Aireside Embankment Local Nature Area (LNA) and St. Matthew's LNA. Due to its distance and isolation from the Scheme, St. Matthew's LNA was not considered in the ecological impact assessment.

3.9.12 *Mitigation and Predicted Effects during Construction* – As outlined in Clause 3.5.1 above, an EMP will be produced and implemented by the appointed construction contractor. This will include undertaking works in accordance with the Environment Agency's *"Pollution Prevention Guidance Note 5: Works on, near, or liable to affect watercourses"*, clearing vegetation outside of bird nesting season, using low intensity directional lighting where possible to reduce effects on bats and fisheries and undertaking a preconstruction check for bats (in accordance with guidance provided by the Bat Conservation Trust).

3.9.13 With these incorporated mitigation measures, it was considered that there will be no effect on designated sites, negligible effects on the surrounding habitats, and negligible effects fisheries and slight adverse effects on breeding birds, bats and otters.

3.9.14 *Mitigation and Predicted Effects during Operation* – A consideration of operational ecological effects in the EIA related to the loss of habitat and bird nesting sites as a result of land take and increased disturbance from lighting and human activity. In terms of operational incorporated mitigation, it was considered that careful lighting design to minimise spill and where landscaping works are undertaken, native species of local provenance should be used wherever possible.

3.9.15 With these incorporated mitigation measures, it was considered that there will be no effects on the designated sites, no/negligible effects on the surrounding habitats, breeding birds and fisheries and a slight adverse effect on bats and otters.

3.9.16 *Supplementary Mitigation* - As part of the previous planning application, the ecological assessment undertaken by Faber Maunsell/AECOM in 2009 recommended collaborative mitigation with other Schemes i.e. with otter habitat enhancements for the Granary Wharf development, providing otter ledges on the new entrance structure, and complementary planting.

3.9.17 Planning Condition 17 proposes to undertake an otter survey to provide information with which to design any mitigation measures that may be required to protect otters, prior to the works. The inclusion of otter ledges and planting was not considered as part of this Scheme. In my opinion, which is informed by discussion with the ecology expert, Planning Condition 17 is appropriate for the mitigation of the effects on otters resulting from the Scheme.

3.9.18 As outlined in Clause 3.8.10 of this proof, the Environment Agency requested a consideration of fisheries in the ecological impact assessment and stated that the weir underneath the station viaduct is currently a barrier for fish movement. In response to these comments Mott MacDonald arranged a site visit with Jerome Masters (Environment Agency fisheries technical officer) on the 1st March 2012.

3.9.19 It was noted by Jerome Masters during the site visit that the current Leeds Station Viaduct was a barrier to the passage of fish on the River Aire. Other schemes are in place or in development at a number of points along the River Aire; with the Leeds Station viaduct being one of the few remaining barriers to fish and eel movement. He also noted that the Scheme would not negatively impact the

existing use of the River Aire by fish and eels. He also acknowledged that alterations to the river channel to install fish passes were outside of the remit of this Scheme, in his email correspondence dated 13th March 2012 (See Appendix 1).

3.9.20 Therefore, the provision of a fish pass underneath the station viaduct is considered as supplementary mitigation as it is not currently a statutory requirement, and did not form part of the ecological impact assessment with regards to the prediction of effects. The development of a fish pass will be required by the EA at a later stage to meet forthcoming legislation and the scope of any fish pass is not yet known. The landowner, which is Network Rail, will of course provide a fish pass in the future, if, as expected, it will be a statutory requirement.

3.9.21 *Significant Residual Effects* – Upon effective implementation of the incorporated mitigation measures outlined in the Ecology Technical Appendix of the ES, no significant residual effects on ecology are predicted to occur as a result of the construction and operation of the Scheme.

3.9.22 I have addressed Statement of Matters 5(g) in this section.

3.10 Geology and Soils

3.10.1 *Scope of Assessment* - The geology and soils assessment undertaken for the EIA considered how geology and soils (including land contamination) effects may potentially arise at the site during the construction phase only.

3.10.2 As outlined in the Scoping Report, it was considered that with the inclusion of mitigation measures, it was unlikely that there would be significant impacts to geology and soils or from contaminated land during the operational phase of the Scheme and the operational phase was scoped out of the EIA.

3.10.3 The primary regulatory regime under which contaminated land is managed in the UK is Part IIA of the Environmental Protection Act (EPA), 1990. The assessment of potential land contamination is based on current guidance documents regarding the implementation of Part II A of the EPA and the assessment of potentially contaminated land, with particular reference to the following:

- CLR 11 - Model Procedures for the Management of Contaminated Land;
- Construction Industry Research and Information Association (CIRIA) Report C552 - Contaminated land risk assessment - a guide to good practice; and
- C665 - Assessing risks posed by hazardous ground gases to buildings.

3.10.4 *Mitigation and Predicted Effects during Construction* – In order to mitigate the risks posed by activities during the construction phase, the following incorporated mitigation measures are considered;

- undertaking a ground investigation, risk assessment and remedial options appraisal (as appropriate);
- undertaking a piling risk assessment and design;
- providing a materials management plan for the excavation of soils; and
- as outlined in Clause 2.1.4, producing an EMP which incorporates measures for contaminated land.

3.10.5 Following the implementation of these incorporated mitigation measures, the predicted effects on identified receptors are as follows:

- Geology and soils (Soils) - slight adverse;
- Land quality (Soils) – negligible positive;
- Groundwater – slight adverse;
- Surface water/ aquatic environment – slight adverse;
- Construction workers – slight adverse;
- Site users – slight adverse; and
- Built environment – negligible adverse.

3.10.6 *Mitigation and Predicted Effects during Operation* – As outlined in the Scoping Report, a consideration of operational effects on geology and soils was scoped out of the EIA.

3.10.7 *Significant Residual Effects* – Upon effective implementation of the incorporated mitigation measures outlined in the Geology and Soils Technical Appendix of the ES, no significant residual effects on geology and soils are predicted to occur as a result of the construction and operation of the Scheme.

3.10.8 Planning Condition 19, which proposes a ground investigation survey will assist in the design of mitigation measures to control the effects on geology resulting from construction of the Scheme, as this will allow information on environmental risks to be addressed through appropriate mitigation measures in the later detailed design and construction phase.

3.11 Historic Environment

3.11.1 *Scope of Assessment* – The historic environment assessment undertaken for the EIA of the Scheme followed the methodology provided by the Institute for Archaeologists' "Standards and Guidance for Desk-Based Assessments" (2008). This best practice methodology defines an assessment as a "*collation of written and graphic evidence to identify the likely character, extent, quality and worth of the known or potential archaeological resource in order to assess the likely impact of a proposed development and to enable strategies for the cultural heritage to be formulated in line with national and local historic environment policies*".

3.11.2 As part of the previous planning application (LSSE D 11) an Archaeological Assessment of the Scheme was undertaken by Faber Maunsell / AECOM in 2009. This assessment focused on the archaeological potential of the site and had a 500m buffer study area. Based on this information, an initial scoping assessment undertaken by suitably qualified archaeologist from Mott MacDonald identified that the Scheme was located within an area of low potential to contain archaeological remains. The assessment identified that potential impacts on the historic environment may arise because of the new entrance, site offices and crane site border the Canal Wharf Conservation Area and the barge loading site is located within the Leeds City Centre Conservation Area.

3.11.3 *Mitigation and Predicted Effects during Construction* – At the barge loading/unloading site on Water Lane, the existing archway structure and low level wall will need to be dismantled and the ground levelled to facilitate a safe working area. As an incorporated mitigation measure, this structure will be carefully dismantled, stored safely onsite and then reinstated during the final stage of the construction works. This will be subject to a written method statement, which will be approved in advance on the advice of the conservation officer at Leeds City Council. This is secured by condition 20 of the draft Planning Conditions submitted with the order application.

3.11.4 As part of the TWAO application and upon pre-submission consultation with officers at Leeds City Council, a Conservation Area Consent for dismantling and reinstating the archway structure has been submitted and the principles agreed. Pre-submission consultation was held with the West Yorkshire Archaeological Service and Leeds City Council. West Yorkshire Archaeological Service advised that no archaeological mitigation such as a watching brief would be necessary for the dismantling of the structure or ground levelling works.

3.11.5 Public realm improvement works on Little Neville Street will involve the removal of the existing basalt setts. As an incorporated mitigation measure, the basalt setts

are to be retained and have been included in the design plans for the public realm improvements in this area.

3.11.6 In terms of direct effects, the temporary effect of dismantling the archway structure at Water Lane has been assessed as negligible. It has also been identified that there will be a limited amount of physical impact on the structure of the Dark Arches caused by the construction of the Scheme. The removal of the basalt sett road surface on Little Neville Street is necessary for the public realm improvements required for pedestrian access to the eastern side of the new entrance. Whilst the incorporated mitigation measure of retaining and reusing the basalt setts on Little Neville Street will retain an element of the historic character of the road surface it will not be reinstated as it currently is. Therefore the effect on the historic environment is assessed as moderate adverse by the environmental expert assessors.

3.11.7 In terms of indirect effects, the temporary nature of the effects during the construction phase (from the crane, scaffolding etc.) has been assessed as having a negligible effect on the Listed Buildings and Conservation Areas.

3.11.8 *Mitigation and Predicted Effects during Operation* – In terms of direct effects, the high quality design of the Scheme is likely to have a beneficial effect on the Canal Wharf Conservation Area. No further mitigation measures beyond the design of the development and the incorporation of the basalt setts into the public realm improvements on Little Neville Street was deemed necessary.

3.11.9 *Significant Residual Effects* – In accordance with the historic environment significance criteria set out of the Scoping Report, the removal and reinstatement of the basalt setts on Little Neville Street means that there will be a significant residual effect on this heritage asset.

3.11.10 The removal of the basalt setts is a necessary part of the Scheme to provide a suitable surface finish for the new pedestrianised area on Little Neville Street. The Promoters have considered the views of the Conservation Officers at Leeds City Council and have committed to retaining and reusing the basalt setts as part of the public realm design incorporating modern design whilst maintaining an element of the historic character. However, despite this commitment, the basalt setts will not be reinstated as it currently is, resulting in this significant residual effect.

3.11.11 Once complete, the high quality, striking design of the Scheme has been assessed as an improvement to the surrounding setting resulting in a beneficial significant residual effect on the Canal Wharf Conservation Area. Therefore, on balance, in my view, the net effect of the Scheme is positive, since the basalt setts will be reinstated in the best way possible as part of the new public realm design, maintaining as far as possible elements of the historic character.

3.11.12 I have addressed Statement of Matters 5(d) in relation to the appearance of the Conservation Area in this section.

3.12 Noise and Vibration

3.12.1 *Scope of Assessment* - The Scheme has the potential to cause noise and vibration effects at sensitive receptors in the vicinity of the site. Such effects during the construction and operational phases have been considered as part of the noise and vibration assessment in the EIA.

3.12.2 For the purposes of the noise and vibration assessment, key residential sensitive receptors included Blue Apartments, Waterman’s Place, Hilton Hotel, Water Lane

and The Quays. Key commercial sensitive receptors included the UKI Partnerships, the Golf Bar Café and the Hop. These sensitive receptors were identified for the purposes of the EIA by a suitably qualified acoustic specialist from Mott MacDonald.

3.12.3 The assessment of noise effects during construction followed the methodology set out in BS 5228*:"Code of practice for noise and vibration control on construction and open sites"* (2009). BS 5228–1:2009 provides a methodology for calculating noise levels generated by fixed and mobile plant used for a range of typical construction operations. Whilst the standard does not define strict criteria to determine the significance of effects of noise impacts, the standard provides examples of how limits of acceptability have been applied historically and some examples of assessing significance are presented. 'Example Method 1 – The ABC method' (Annex E 'Significance of Noise Effects' section E.3.2) has been adopted for the assessment of effects at residential receptors as the approach considers the expected changes in ambient noise levels and better reflects conventional EIA methodologies compared with the use of fixed/absolute noise limits.

3.12.4 In terms of the operational phase, potential sources of noise effects were identified as road traffic accessing the site, and the operation of fixed plant associated with building services and public address (PA) system.

3.12.5 With regard to road traffic, the Scheme specification in terms of the impact on road traffic is limited to the management of vehicle movements accessing Little Neville Street and Dark Neville Street. A restriction on access will not change traffic flows other than reducing occasional through traffic movements by preventing unauthorised access. Consequently, changes in traffic flows on the local road network with and without the Scheme in operation have not been considered as part of the noise and vibration assessment. The Scheme is not expected to generate traffic noise effects, therefore this was not part of the scope of work for this noise and vibration assessment in the EIA.

3.12.6 Noise from fixed plant installed on site, including the PA system and building services plant, has been considered within the context of BS 4142 "*Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas*" (1997) to ascertain the likelihood of complaint at residential receptors.

3.12.7 The noise and vibration assessment utilised existing baseline noise data from the previous planning application (LSSE D11) and additional noise surveys undertaken by Mott MacDonald specifically for the EIA.

3.12.8 The previous planning application (LSSE D11) included the results of a brief noise measurement survey conducted in 2009 in the area of the Waterman's Place Apartments which at the time were under construction, and the Blue Apartment which were occupied at the time.

3.12.9 Additional noise surveys were undertaken in October 2011 by a suitably qualified acoustic specialist from Mott MacDonald to supplement the description of the previous baseline noise conditions, specifically:

- an unattended continuous noise measurement on a balcony of the Waterman's Place Apartments for a period of 4 days including one weekend;
- an unattended continuous noise measurement on a balcony of Blue Apartments for a period of 7 days including one weekend; and
- a short-term attended measurement at the rear façade of the Hilton Hotel and adjacent to a residential building on Water Lane near Bridge End.

3.12.10 *Mitigation and Predicted Effects during Construction* – As outlined in Clause 3.5.1 above, an EMP will be produced and implemented by the appointed construction contractor. This will include the preparation of a Noise and Vibration Management Plan and seek consent from Leeds City Council for construction works under Section 61 of the Control of Pollution Act (1974). Due to the nature of working within close proximity to the railway, some night time works will need to be undertaken for the safety of the construction workers and railway users.

3.12.11 For the sensitive receptors identified in Clause 3.11.2 of this proof, the effects have been assessed as mostly slight or moderate adverse during the daytime and slight adverse/neutral for when night time works are considered necessary.

3.12.12 *Mitigation and Predicted Effects during Operation* – Noise effects associated with the operation of the new PA system within the new station entrance building have been assessed as part of the EIA. The provision of a large number of low power speakers (rather than fewer speakers with higher outputs) will mitigate the effect of the noise resulting from the PA system's operation. The acoustic specification of the PA system and building services plant were not known at the time of undertaking the EIA, therefore it was not possible to assess potential effects quantitatively, however with appropriate design considerations, it is anticipated that significant noise effects can be avoided.

3.12.13 *Significant Residual Effects* - Upon effective implementation of the incorporated mitigation measures such as the preparation of a noise and vibration plan and working in accordance with BS5228, no significant residual effects are predicted to occur as a result of the construction and operation of the Scheme.

3.12.14 I have addressed Statement of Matters 5(a) in relation to noise and vibration in this section.

3.13 Socio-economics

3.13.1 *Scope of Assessment* – The socio-economic assessment undertaken as part of the EIA for the Scheme considered effects resulting from the construction phase such as temporary employment and disruption to residents and the operation phase from reduced journey times and impacts on economic activity.

3.13.2 *Mitigation and Predicted Effects during Construction* – The appointed construction contractor will appoint a Liaison Manager to consult with third parties and minimise disruption. The hoarding which will be erected around the site will be clearly signed and lit to minimise disruption on businesses and improve security. The alignment and location of the hoarding will be locally agreed with businesses and Leeds City Council to ensure that it is aesthetically pleasing as reasonably practicable.

3.13.3 Access to residential properties and businesses will be maintained throughout the construction phase.

3.13.4 In terms of direct effects, it is assessed by the socio-economic expert that there will be a moderate beneficial effect on employment during the construction phase. Construction disturbance on residents and businesses resulting from the tower crane or the self erecting crane is assessed as moderate adverse. Effects on access, severance, journey times and personal security are assessed as minor adverse.

3.13.5 In terms of indirect effects, there is likely to be some increased economic activity as a result of the construction workers using local facilities resulting in a minor beneficial effect.

3.13.6 *Mitigation and Predicted Effects during Operation* – No incorporated mitigation measures were included within the socio-economic assessment due to the beneficial nature of the effects on employment opportunities, improving access and reducing severance and indirectly, economic activity, particularly for restaurants and bars in Granary Wharf. In addition, wider economic benefits will arise during operation of the scheme from more trade as a result of easier access for customers. Forecasts undertaken for the Major Scheme Business Case (LSSE C2) show that there will be improved pedestrian journey times for residents, business users and commuters by providing a more direct access to Leeds City Station.

3.13.7 *Significant Residual Effects* – The nature of the site surroundings, which includes a number of businesses and residential properties, means that some disruption during the construction phase is inevitable and unavoidable. The Promoter is committed to ensure that the appointed construction contractor provides as much information as possible to the affected residents and businesses by designating a Liaison Manager and minimising the effects of the construction works. Noise generated during the construction phase from the use of the tower crane or the self-erecting crane will result in a significant residual effect, however some form of crane is required within close proximity to the site to ensure that the Scheme can be built safely and within the required timeframes and budget. The exact location of crane within this constrained site will be carefully considered at the detailed design stage, and the final decision will be communicated to residents and businesses in due course.

3.13.8 I have addressed Statement of Matters 5(i) in this section.

3.14 Townscape and Visual Amenity

3.14.1 For the townscape and visual amenity evidence to be presented at the inquiry please refer to Eileen Thomas's Proof of Evidence on Planning and Urban Design.

3.14.2 *Scope of Assessment* – The townscape and visual amenity assessment of the EIA considered the effects during the construction phase and operation phase.

3.14.3 In terms of townscape, the study area for the assessment was divided into two character areas; the Leeds Station Transport Hub and the Canal-side Mixed Development – Commercial and Residential.

3.14.4 In terms of visual amenity, the extent of the visual envelope was also determined and defined as the extent of potential visibility to or from a specific area or feature.

3.14.5 The townscape and visual amenity assessment also included a consideration of the Daylight Analysis undertaken for the previous planning application in 2009 and the Obtrusive Light Analysis undertaken by Mott MacDonald in 2012.

3.14.6 *Mitigation and Predicted Effects during Construction* – In addition to the site hoarding discussed in Clause 3.12.2 above, the construction working areas will be sensitively reinstated upon completion of the works to mitigate against any deterioration in visual and townscape amenity. Where night time works are required, construction lighting will be managed through the adoption of guidance as set out in the Institution of Lighting Professionals "*Guidance Notes for the Reduction of Obtrusive Light GN01:2011*".

3.14.7 In terms of the predicted effects on townscape, the Leeds Station Transport Hub Character Area (defined in the ES) is assessed to be negligible and the Canal-side Mixed Development – Commercial and Residential is assessed to be slight adverse.

3.14.8 In terms of the predicted effects on visual amenity, the closest visual receptors including residents and commercial users of Waterman's Place, Granary Wharf and Blue Apartments is assessed to be moderate adverse.

3.14.9 *Mitigation and Predicted Effects during Operation* – The high quality, striking design of Scheme is intended to improve pedestrian permeability and increase activity levels and vibrancy of the public realm areas.

3.14.10 Whilst the new entrance structure will be a significant development into the area, the adjacent built elements are considered to be of sufficient scale to counterbalance the development.

3.14.11 The Obtrusive Light Assessment (LSSE A18 Mott MacDonald, 2012) undertook calculations based on the assumption that no mitigation measures would be implemented which resulted in a significant light intrusion into the adjacent buildings, especially at lower levels and in close proximity to the Scheme.

3.14.12 In response, the Obtrusive Light Assessment recommended a number of mitigation measures, such as careful consideration to the aiming of luminaires and reducing the intensity and light output of the planned upward facing luminaries. The Promoter is committed to fully considering, at the detailed design stage, the exact nature and combination of the incorporated lighting mitigation measures to mitigate against any predicted effects resulting from obtrusive light.

3.14.13 Planning Condition 6, relates to the control of proposed lighting details for the Scheme. Compliance with this condition will enable the opportunity for the Promotor to incorporate appropriate mitigation for the control of the effects on obtrusive light resulting from the operation of the Scheme, at a later stage.

3.14.14 The Daylight and Sunlight Performance Study undertaken by Faber Maunsell/AECOM in April 2009, indicated that the majority of test planes (11 out of 15) identified on the residential properties in the Blue Apartment building are likely to have a major adverse reduction in direct daylight, which is noted in the report to be a daylight reduction of more than the good practice guidance of 20%, with the proposed Scheme in place. The analysis also concluded that windows and receptors above the 3rd storey adjacent to Leeds City Station and the Dark Arches are likely to have a moderate-minor adverse reduction in direct daylight. Further analysis is required to determine the number of flats affected, but it is likely that the adverse reduction in daylight will only affect a small minority of flats within the Blue Apartments.

3.14.15 However, the Daylight and Sunlight Performance Study also highlighted that the access to direct daylight is already inherently limited to these properties due to overshadowing by the Waterman's Place building to the west of the Scheme.

3.14.16 In relation to sunlight, the Daylight and Sunlight Performance Study indicates the residential properties in the Blue Apartment building are likely to experience a minor adverse reduction in direct sunlight. The Daylight and Sunlight Performance Study also highlighted that the access to direct sunlight is inherently limited to these properties due to overshadowing by the Waterman's Place building to the west of the Scheme, which was under construction at the time of the assessment in April 2009. However, it should be noted that I am aware from discussions with

the design team that from site current observations, some properties at the Blue Apartments do receive direct sunlight.

3.14.17 In terms of the predicted effects on townscape, the effects on the Leeds Station Transport Hub Character Area is assessed to be negligible and the Canal-side Mixed Development – Commercial and Residential is assessed to be slight beneficial.

3.14.18 In terms of visual amenity, for the majority of the receptors such as users of the Leeds City Station and residents in the Blue Apartments and Waterman's Place Apartments who live further away from the Scheme, the predicted effect is assessed as slight beneficial. For residents and users of Blue Apartments and Waterman's Place Apartment closest to the Scheme, the predicted effect is assessed as moderate adverse.

3.14.19 *Significant Residual Effects* – During the construction phase, an inevitable significant residual effect on visual amenity has been predicted. Due to the built up, residential and commercial environment surrounding the site, effects on townscape and visual amenity are to be expected during the construction phase. The Promoters have committed to ensure that any townscape and visual amenity effects are mitigated as far as it is practicable, given the nature of the construction works including the use of a crane and the surrounding area.

3.14.20 Once the Scheme is complete, the visual amenity of a small number of residents in the Waterman's Place and Blue Apartments is considered by the expert to be adversely affected resulting in localised significant residual effects.

3.14.21 I have addressed Statement of Matters 5(d) and Statement of Matters 5(e) in relation to light and visual amenity in this section.

3.15 Traffic and Access

3.15.1 *Scope of Assessment* – The traffic and access assessment undertaken for the EIA considered effects arising during the construction phase and operation phase of the Scheme on transport resources and receptors. This included existing users of public transport services, private and commercial vehicle users of the highway network, the emergency services, pedestrians and cyclists, equestrians and people with disabilities.

3.15.2 The assessment of potential effects during construction was informed by the Department for Transport's Guidance on Transport Assessments. The method for determining and appraising baseline conditions was based on that considered to be best practice guidance in terms of EIAs and the DfT Guidance. This involved both a desk study and additional survey work which was undertaken by others.

3.15.3 The traffic surveys, which informed the baseline conditions for the EIA, were undertaken for the previous planning application in 2009 and updated for the Transport Statement for the TWAO application.

3.15.4 *Mitigation and Predicted Effects during Construction* – A key mitigation measure to minimise the effects on receptors during the construction phase will be the preparation and implementation of the Construction Traffic Management Plan which will identify measures such as temporary and permanent road closures and diversions, temporary traffic control measures and routes to be used by construction traffic.

3.15.5 The Promoter is committed to fully utilising deliveries by barge from the Water Lane site to minimise to number of road transport deliveries to the site. Despite this, a number of low to moderate adverse predicted effects are to be expected,

especially for users of Little Neville Street, during the erection of the tower crane when road closures are likely to be needed.

3.15.6 *Mitigation and Predicted Effects during Operation* – As part of the TWAO application, Little Neville Street will be upgraded to become a pedestrianised route including a prohibition of driving with specified exceptions. Vehicular access onto Dark Neville Street from Little Neville Street and vice-versa will be blocked via means of physical access control. Network Rail in conjunction with the station's operators, Northern Rail, have committed to reviewing and updating, as appropriate, the Leeds Station Management Plan to reflect that the new entrance is likely to be the preferred choice of access/egress for station users attending local events or Leeds United Football Club matches.

3.15.7 There are predicted to be a number of moderate beneficial effects once the Scheme is operation. Station users will benefit from an alternative means of access and improved journey times. Non-motorised users will benefit from the creation of pedestrian friendly environments on Little Neville Street.

3.15.8 *Significant Residual Effects* – The effects during the construction phase on users of Little Neville Street are predicted to be potentially significant. The level of significance is heavily dependent on the choice of the crane location. If a tower crane is to be used on Little Neville Street, a number of road closures will be required for the erection and removal of the crane and more road deliveries are likely to be made to the site. The extent of these road closures and road deliveries are not known at this stage, however the EIA has assessed what is considered to be the worse case scenario. The number of construction trips will be better defined at the detailed design stage and as a consequence this effect is likely to be less onerous than the worse case, and in reality this may downgrade the effect to 'not significant'.

3.15.9 The Scheme will improve pedestrian accessibility and provide stepped and step-free access to Leeds City Station from and to the south of the city. This will result in a beneficial significant effect on station users and non-motorised users.

3.16 Water Resources

3.16.1 *Scope of Assessment* – The water resources assessment of the EIA considered the predicted effects on hydrology, flood risk, geology and hydrogeology during the construction and operation of the Scheme.

3.16.2 There is no defined significance criteria for the assessment of water resources in the context of this type of Scheme. Therefore the impacts and associated effects have been assessed against criteria which is based on those within the Department for Transport's Transport Analysis Guidance, Unit 3.3.11.

3.16.3 *Mitigation and Predicted Effects during Construction* – The close proximity of the site to the River Aire and the Aire and Calder Navigation will require the appointed construction contractor to work in accordance with industry guidelines and construction best practise to mitigate any adverse effects on water resources. This will include working in accordance with Pollution Prevention Guidelines published by the Environment Agency as outlined in Network Rail's CR-E documentation and the EMP, as discussed in Clause 3.5.1 above.

3.16.4 During the construction phase, the predicted effects on water resources, which have been considered to be of low or medium environmental value, will be temporary and can be appropriately mitigated against with the incorporated mitigation measures as summarised in Clause 3.16.3 above.

3.16.5 *Mitigation and Predicted Effects during Operation* – Once operational, good maintenance practices will be followed and appropriate procedures for preventing pollution will be adopted during regular cleaning.

3.16.6 The predicted effect on surface water courses during operation is assessed as being of low magnitude and therefore not significant.

3.16.7 *Flood Risk* – A stand-alone Flood Risk Assessment (FRA) accompanied the ES as a Supporting Document and was submitted with the TWAO application. The future proposals for the Leeds Flood Alleviation Scheme (FAS) on the River Aire have been clarified through additional discussions with the Environment Agency, as the original proposals for the Leeds FAS were subsequently found to be unaffordable and hence a new approach to the Leeds FAS was adopted. The Environment Agency confirmed that the new proposal is for the Leeds FAS to be implemented in phases which will mean that during the initial phases of the delivery a lower standard of protection would be provided, but that the long term aspiration is to achieve the higher standard of protection of 1 in 200 year (plus climate change) for the overall Scheme. The FRA for the submitted with the TWAO application considers the Leeds FAS with the higher standard of protection, which represents the more conservative flood conditions, and therefore addresses the flood risk to the Scheme in line with the long term aspirations for the Leeds FAS.

3.16.8 *Significant Residual Effects* – Upon effective implementation of the incorporated mitigation measures as summarised above, no significant residual effects on water resources are predicted to occur as a result of the construction and operation of the Scheme.

3.16.9 I have addressed Statement of Matters 5(f) in relation to water resources including flood risk (with particular reference to flood alleviation proposals) in this section.

3.17 Conclusions

3.17.1 The conclusion of my evidence is that the ES meets in full all necessary requirements for such documents. In my opinion, the documentation submitted with the ES follows Government guidance and exceeds the minimum requirements for the Application Rules, such as a Wind Assessment, Climate Change Management Assessment, Sustainability Appraisal and Energy Demand Assessment amongst others. The ES has been prepared in accordance with best practice by an experienced team of specialists.

3.17.2 My evidence, drawing on the advice of my specialist colleagues and the legal team, where necessary, is that the requirements of the Application Rules in relation to EIA (Statement of Matter 8) have been met fully. I can also confirm that there have been no substantive changes proposed by the Promoters since the draft TWA Order was submitted and therefore there has been no requirement to consider any changes in the ES following the submission of the draft TWA Order (Statement of Matters 12).

4 Objections and Representations

4.1 Introduction

4.1.1 This section outlines the objections and representations received from statutory bodies, stakeholders and residents and a response in relation to the ES and other supporting documentation, where appropriate.

4.2 Objections, Representations and Letters of Support from Statutory Bodies

4.2.1 Upon submission of the TWAO application, a letter of support was received from Councillor Richard Lewis at Leeds City Council (SUPP/4) outlining that the Scheme was "urgently needed as it will encourage growth in the Leeds economy by enhancing its competitive position and unlocking future employment growth. This Scheme is therefore vitally important for West Yorkshire and the Leeds City Region". I believe there are other letters of support which presented in Eileen Thomas's proof on Planning and Urban Design.

4.2.2 Upon submission of the TWAO application, objections and representations have been received from the following statutory bodies:

4.2.3 *Environment Agency (OBJ/29)* – The contents of this objection included a review of the Request for a Direction under section 90 (2A) of the Town and Country Planning Act 1990. Of note, the Environment Agency considered that the submitted Flood Risk Assessment (FRA) complied with the requirements set out in the Technical Guide to the National Planning Policy Framework (NPPF) and provided a suitable basis for an assessment to be made of the flood risks arising from the proposed development. The Environment Agency considered that the proposed development would only meet the requirement of the NPPF if the measures detailed in Section 6 of the submitted FRA are implemented and secured by way of a planning condition, for which they provided suggested wording of such a condition. In addition, the Environment Agency wished to see the inclusion of a planning condition which ensured that the final design details are compatible with the proposed Leeds Flood Alleviation Scheme (FAS) and they provided suggested wording for such a condition.

4.2.4 In relation to the compatibility of the Scheme with Leeds FAS, the Environment Agency accepted minor adjustments to the wording of the planning condition, which allow the 'Power to Deviate' to be retained, provided the Scheme is carried out in accordance with the current approved FRA or subsequent versions submitted to and approved in writing by the Environment Agency. Therefore, should the Leeds FAS proposals be revised in the future, and subsequently reduce the current constraints on the Scheme, there would be an avenue under which the design of the Scheme could be reviewed through discussion of a subsequent FRA with the Environment Agency. However it is noted that the Environment Agency stated that they are highly unlikely to be in a position to agree any flexibility to the Scheme where this would compromise the implementation of flood risk management measures.

4.2.5 As outlined in Clauses 5.4.1 to 5.4.7 below, the Promoters intend to introduce three additional planning conditions to the Request for Direction to fully satisfy the objections raised by the Environment Agency in relation to flood risk.

4.2.6 In relation to biodiversity, the objection letter from the Environment Agency stated that it had reviewed the Ecology Technical Appendix (Volume II of the ES) and it considered that the recommendations made in the Ecology Technical Appendix for

biodiversity mitigation and enhancement are appropriate and implementation should be secured by way of a planning condition, for which the EA provided suggested wording of such a condition. A response to the Environment Agency on 24th July 2012 by Paul Clarke of Ardent (see Appendix 2) outlined that the protection of biodiversity is covered by Planning Conditions 6, 7, 8, 9, 16, 17, 18 and 19 which, in line with "Circular 11/95 The Use of Conditions in Planning Permissions", are specific and therefore more likely to achieve the desired outcomes.

4.2.7 In a letter to the DfT (see Appendix 3), dated 19th September 2012, the Environment Agency stated that it considered the planning conditions referred to within Ardent's letter (dated 24th July 2012) related, in their opinion, to securing mitigation rather than to ensuring that the enhancements identified in the Ecology Technical Appendix are carried out. The letter reiterated its request for the inclusion of a planning condition in relation to a scheme for the protection and enhancement of biodiversity.

4.2.8 The increased footfall in the area during operation of the Scheme could affect otters, however there is currently no evidence of this protected species using the area. The mitigation measures incorporated into the Scheme such as vegetation planting will provide cover and is viewed as ecological enhancement. It is my opinion, based on my limited knowledge, and reliance on discussions with the expert in ecology, that specifically Planning Conditions 9, 16, 17 and 18 will adequately cover any necessary mitigation measures in relation to biodiversity.

4.2.9 I am aware from discussions held by the design team and the EA that the EA is considering withdrawing its objection on the basis of the discussions held to date.

4.2.10 *Canal and River Trust (then British Waterways) (OBJ/24)* –The contents of this objection related to a number of items including the compulsory purchase of the River Aire and Leeds and Liverpool Canal and the temporary closure of the River Aire. In relation to environmental issues, the Canal and River Trust sought "an undertaking from the Promoters that they will sign up to and abide by the "Code of Practice for Works Affecting British Waterways" published on BW's website". As outlined in the Promoter's response dated 18th July 2012, the provisions of the TWAO and the Protective Provisions confer commitments on the Promoter which the Promoter is required to comply with in carrying out the construction and operation of the authorised works. In addition in carrying out the authorised works the Promoter is required to comply with the commitments contained in the Promoter's own mandatory Construction Environmental Management Plan (CEMP). Accordingly the Promoter is prepared to consider providing a side agreement with the Canal and River Trust a commitment that in constructing the authorised works the Promoter will have regard to the Canal and River Trust's code of practice, where this is appropriate and consistent with the exercise of the Promoter of the statutory powers conferred by the TWAO, the terms of the Protective Provisions, the terms of the CEMP, and the timely and efficient delivery of the authorised works.

4.2.11 *English Heritage (REP/2)* - A representation was received by the Secretary of State from English Heritage. A letter was drafted in response to address the representation in particular to the issue raised of "Consideration should be given to reducing the physical presence of the Scheme in order to comply with the requirements set out in Policy 131 of the NPPF".

4.2.12 The letter and the response to this representation is discussed further in Eileen Thomas's Proof of Evidence on Planning and Urban Design, but the key issues

are presented below for completeness. The Promotors draft letter of response states that "the form and layout of the structure has been reduced to a minimum commensurate with operational requirements, not only to protect the amenities of those who live in the nearby apartments but also to protect the setting of the arches. The proposed enclosure will be no wider that the central arch and piers (approximately 10m). This means that more than two thirds of this stretch of viaduct (one arch to the east and two arches to the west) will remain in direct view, sufficient to show the backdrop of the arches against which the LSSE Scheme will sit. Moreover there will be oblique views of the arches continuing on dry land in each direction for those standing on nearby banks or within the apartments".

4.2.13 *Natural England* - No formal objection has been received by the Secretary of State on the TWAO application from Natural England.

4.3 Objections and Representations from Stakeholders and Residents

4.3.1 This section provides an overview of the key environmental issues raised in the objections and representations received from stakeholders and residents.

4.3.2 *Noise, vibration and dust during construction* – Sixteen objections (SOC clause 12.23) have been raised in relation to dust, noise and vibration arising the construction phase. As outlined in Clauses 3.8 and 3.12 of this proof, a robust assessment of the likely significant effects on air quality and noise and vibration has been undertaken and mitigation measures have been incorporated into the Scheme, wherever possible. These mitigation measures will be implemented through the Planning Conditions, compliance with Network Rail's CR-E documentation (as outlined in Clause 3.5.1) and the Schedule of Site Specific Construction Mitigation Measures (also known as COCP).

4.3.3 The mitigation measures that are to be applied which include Network Rail's Contract Requirements - Environment are tried and tested by Network Rail and I consider them as a package of measures to be appropriate for the nature of the Scheme and the surrounding urban environment.

4.3.4 *Socio-economic effects during construction* – Eight objections (SOC Table 11.1) have been received from local businesses. A number of these businesses raised concerns over the socio-economic impact resulting from the construction works, especially within the vicinity of Little Neville Street and Granary Wharf. As outlined in Clause 3.13 above, the socio-economic assessment of the EIA included a consideration of the effects arising from construction works on local businesses. The magnitude of effect on the businesses in these two areas is heavily dependent on the location of the crane which is required to build the Scheme; this level of detail will become known during the detailed design stage. The Promoters have committed to ongoing consultation with the local residents and businesses with regards to the details of the Scheme as it progresses.

4.3.5 Access to local businesses will be maintained throughout the construction phase, although this may comprise alternative arrangements, with clear signage, for local businesses where appropriate. The socio-economic assessment of the EIA highlighted that there is likely to be an indirect effect on local businesses resulting from some increased economic activity from construction workers utilising local facilities and businesses around the site, with the potential for short-term induced employment.

4.3.6 *Loss of visual and residential amenity once the scheme is operational* – Eleven objectors (SOC Clause 12.8) have expressed concern about the perceived loss of or change of view from their apartments.

4.3.7 As outlined in Clause 3.14, the townscape and visual amenity assessment of the EIA has given detailed consideration to the visual amenity effects resulting from the Scheme on nearby residential receptors. In my opinion, which is based on discussion with an urban design and landscape expert, the Scheme has incorporated a high quality and contemporary design with the glazed elements allowing views to existing Dark Arches structure.

4.3.8 As outlined in 3.14.20 a small number of resident's views will be adversely affected by views of the Scheme. Whilst every effort has been made by the Promoters to provide a high quality and contemporary design, the townscape and visual expert has concluded that no further mitigation measures are considered appropriate.

4.3.9 Part B of the Planning and Urban Design Proof of Evidence provides more detail on the design rationale and urban design of the Scheme.

4.3.10 Five objectors (SOC clause 12.12) also raised concerns over the perceived loss of light to their apartments.

4.3.11 As outlined in Clauses 3.14.13 to 3.14.16, the Daylight and Sunlight Performance Study indicated that the Blue Apartments would be adversely affected by the new structure, but access to direct sunlight and daylight is inherently limited to these properties due to overshadowing by Waterman's Place Apartments to the west of the Scheme.

4.3.12 *Noise resulting from the operation of the scheme* – Ten objectors (SOC clause 12.19) have concerns about an increase in noise levels once the Scheme is operational. The Scheme will be an enclosed structure which is expected to mitigate any noise produced by the PA system or users. In addition, the design of the PA will be further improved to minimise noise during the detailed design stage.

4.3.13 Planning Condition 14 which relates to the details of the PA system, which is to be submitted and approved by Leeds City Council, is considered, in my opinion, based on my limited knowledge, to be a means of potentially reducing noise levels during operation. Network Rail, in conjunction with the station operators, Northern Rail, can also assist with reducing noise levels during operation by limiting the new entrance opening hours at night time.

4.3.14 *Obtrusive Light* – One objector (SOC clause 12.61) is concerned about light spill. As outlined in Clause 3.14, the townscape and visual amenity assessment of the EIA and the separate Obtrusive Light Analysis (Mott MacDonald, 2012) has provided consideration to obtrusive light resulting from the Scheme on nearby residential receptors. Based on the calculations in the Obtrusive Light Assessment (Mott MacDonald, 2012), undertaken on the assumption that no mitigation measures would be implemented, a significant light intrusion into the adjacent buildings is likely, especially at lower levels and in close proximity to the Scheme. This is based on a worst case position.

4.3.15 The Obtrusive Light Assessment recommended a number of mitigation measures, such as careful consideration to the aiming of luminaires and reducing the intensity and luminous output of the planned upward facing luminaries. The Promoter is committed to fully considering, at the detailed design stage, the exact nature and combination of these incorporated lighting mitigation measures to mitigate against any predicted effects resulting from obtrusive light.

4.3.16 The inclusion of Planning Condition 6, which relates to proposed lighting details for the Scheme, is in my opinion, based on my limited knowledge, a means of potentially reducing light spill resulting from the operation of the Scheme.

4.4 Conclusions

4.4.1 Many of these objections are considered in relation to the assessments made and presented in the Environmental Statement and the mitigation measures applied. Mitigation has been applied through the design of the structure, generic mitigation measures as part of the EMP, and specific mitigation measures presented in the ES, as well as items to be considered further in the detailed design phase. These mitigation measures and residual environmental effects are discussed in more detail my Proof of Evidence.

4.4.2 I have addressed objections, representations and letters of support from statutory bodies, stakeholders and residents which relate to my area of expertise.

5 The Request for Direction including Draft Planning Conditions

5.1 Introduction

5.1.1 In this section of my evidence I discuss the Request for Direction and the Draft Planning Conditions. I report ongoing consultations with the Environment Agency on drafting the planning conditions. I deal with Statement of Matters 9, in particular whether the proposed conditions meet the tests of DOE Circular 11/95 of being necessary, relevant, enforceable, precise and reasonable.

5.2 Amendments to the Request for Direction

5.2.1 I am proposing to introduce three additional planning conditions to the Request for Direction at the start of the Inquiry (see section 5.4 below), since these relate to environmental issues.

5.3 Draft Planning Conditions in the Request for Direction

5.3.1 The request for deemed planning permission is accompanied by a set of draft Planning Conditions. The proposed Planning Conditions were drafted by Eversheds, in consultation with Leeds City Council.

5.3.2 In light of consultation comments by the Environment Agency, I am proposing to submit a set of revised draft Planning Conditions to the Inquiry. I comment below in general terms on each condition and any likely proposed, based on the submitted Request for Direction and the draft Planning Conditions.

5.3.3 A total of 20 Planning Conditions have been proposed by the Promotors, not all of which relate to environmental matters. As such, Condition 15 will be covered by Jason Smith in the Highways and Public Rights of Way Proof of Evidence whilst Conditions 1, 2, 3, 4 and 5, 6, 11, 12, 13 and 20 will be addressed by Eileen Thomas in the Planning and Urban Design Proof of Evidence. Some of the conditions are covered in both the planning and urban design proof and the environmental proof.

5.3.4 The following conditions pertain to environmental matters and are discussed below.

5.3.5 *Planning Condition 6 – No building works shall take place until a scheme detailing the proposed lighting for the development site, including its phasing, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and thereafter retained and maintained for the lifetime of the development.*

5.3.6 This condition is necessary is to protect the residential amenity in the vicinity of the Scheme for the lifetime of the development.

5.3.7 *Planning Condition 7 – No building works shall take place until full details of appropriate mitigation measures to prevent the pollution of the waterway during construction of the approved development have been submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved measures.*

5.3.8 *Planning Condition 8 – No building works shall take place until full details of surface water drainage arrangements including means of discharging into the watercourse has been submitted to and approved in writing by the local planning*

authority. Works shall be carried out in accordance with the approved details and retained as such thereafter.

5.3.9 Planning Conditions 7 and 8 relate to gaining approval from the local planning authority regarding appropriate mitigation measures for the prevention of water pollution during the construction phase, including surface water drainage arrangements. These conditions are necessary to meet the requests of the Environment Agency, as well as to prevent pollution and/or damage to the waterway, and works will be carried out in accordance with the approved measures.

5.3.10 *Planning Condition 9 – No building works shall take place until a site construction environmental management plan (EMP) has been submitted to and approved in writing by the local planning authority. The EMP may comprise one or more documents but shall contain details of:*

a. The phasing of all construction works;
b. Management of on site parking in respect of vehicles of the workforce;
c. Dust, noise and vibration management;
d. Pollution control measures;
e. Temporary site illumination during the construction period;
f. Management of on site plant and machinery.

5.3.11 *The development shall be carried out in accordance with the approved EMP as amended from time to time with prior written approval of the local planning authority.*

5.3.12 Planning Condition 9 identifies that building works will not take place until a site construction Environmental Management Plan (EMP) has been submitted to and approved in writing by the local planning authority. Preparation and execution of an EMP is a requirement under the Network Rail CRE documentation (as outlined in Clause 3.5.1), as well as being best practice, and is fully implemented on all Network Rail construction projects. It should be noted that it is envisaged that the Schedule of Site Specific Mitigation Measures will form part of the EMP.

5.3.13 *Planning Condition 10 – Unless otherwise agreed in writing by the local planning authority no operations for the construction of the development shall take place:*

a. before 0730 hours on weekdays and 0800 hours on Saturdays nor after 1900hours on weekdays and 1800 hours on Saturdays; or
b. at any time on Sundays or Bank Holidays or Christmas Day or Good Friday.

5.3.14 Planning Condition 10 identifies the restrictions placed on the hours of operation of the construction phase of the development. In order to avoid unduly affecting the local residents, these hours of operation will be adhered to throughout the duration of the works, unless otherwise agreed in writing by the local planning authority. This will also be followed in line with the Network Rail CRE documentation (as outlined in Clause 3.5.1).

5.3.15 *Planning Condition 14 – No public announcement system shall be operated within the new station entrance until details of the operation of the system, including hours of operation and location of loud speakers, have been submitted to and approved in writing by the local planning authority. The public announcement system shall thereafter only be used in accordance with the approved details.*

5.3.16 Planning Condition 14 discusses the operation of the public announcement (PA) system within the new station entrance and the need for approval by the local planning authority. LCC has been consulted throughout preparation of the EIA regarding this matter and details of the PA system will be finalised, with a view to reducing noise level, during the detailed planning phase. The public announcement system shall thereafter only be used in accordance with the approved details.

5.3.17 *Planning Condition 16 – Any works involving vegetation clearance, will be scheduled so as to avoid the bird breeding season (April – August). Should any vegetation clearance be required to take place during this period a qualified ornithologist will check the area for nesting birds and appropriate measures will be taken to ensure they are safeguarded.*

5.3.18 *Planning Condition 17 – No building works shall take place until a survey has been undertaken to identify any over land routes used by otters within any areas likely to be affected by construction activities. A scheme for the protection of such routes during construction shall be submitted to and approved in writing by the local planning authority prior to the commencement of development and the proposed scheme shall be implemented in accordance with the timescales set out therein.*

5.3.19 *Planning Condition 18 – No building works shall take place until a survey has been undertaken to identify the presence of any bats that may be affected by the development or its construction. A scheme for mitigating any impact on bats shall be submitted to and approved in writing by the local planning authority prior to the commencement of development and the approved scheme shall be implemented in accordance with the timescales set out therein.*

5.3.20 Planning Conditions 16, 17 and 18 relate to ecological issues, namely the need for appropriately timed vegetation clearance and the undertaking of protected species (i.e. otters or bats) surveys prior to commencement of construction works. The measures proposed as part of the conditions are in line both with standard best practice and also the views expressed by the statutory consultees, and will be fully implemented in order to prevent any adverse effect on local flora and fauna as a result of the development. Should protected species be identified during the pre-construction surveys, construction methods will be adapted in consultation with relevant statutory consultees to prevent potential effects, in addition to implementation of mitigation measures proposed within the EIA.

5.3.21 Planning Condition 16 flows from the legal requirement under the Wildlife and Countryside Act (1981) (as amended) to protect all species of bird.

5.3.22 Planning Conditions 17 and 18 flow from the similar considerations under the Wildlife and Countryside Act (1981) (as amended) and the Conservation of Habitats and Species Regulations (2010).

5.3.23 *Planning Condition 19 – No building works shall take place until a ground investigation survey, risk assessment and materials management plan for soils excavation and reuse and proposed mitigation measures shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the timescale therein.*

5.3.24 Planning Condition 19 refers to the need for a ground investigation survey, risk assessment and materials management plan to be undertaken and approved by the local planning authority prior to construction. This is considered standard practice for this type of Scheme and is necessary in order to avoid both ground and water contamination from either historical sources or from imported construction materials.

5.3.25 *Planning Condition 20 – Before any works to demolish the archway structure on the Water Lane site are undertaken a method statement for the dismantling and reinstatement of the archway shall be submitted to and approved in writing by the local planning authority. The approved method statement shall be implemented in accordance with the timescale therein.*

5.3.26 Planning Condition 20 identifies the need for a method statement to be prepared for the demolition and reinstatement of the archway structure on the Water Lane site. This has been discussed in detail with LCC as part of the heritage consent application and is considered to be standard best practice in order to secure the accurate and appropriate reconstruction of the archway.

5.4 New Planning Conditions

5.4.1 Additional conditions are now being proposed with regards to flood risk. Whilst all approvals for planning conditions will come from Leeds City Council, these have been drafted in consultation with the Environment Agency. The matters covered by these conditions will be:

5.4.2 *Condition* - The Finished Floor levels of the ground level main deck shall be no lower than 29.10mAOD unless otherwise agreed in writing by the Environment Agency.

5.4.3 *Reason* - To ensure compatibility of the station southern access with the proposed Leeds Flood Alleviation Scheme and to reduce the risk of flooding to the proposed development and future users, in accordance with the requirements of the National Planning Policy Framework.

5.4.4 *Condition* - Development shall not commence until full construction details of the areas of the Scheme to be in contact with the banks of the River Aire have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

5.4.5 *Reason* - To ensure compatibility of the station southern access with the proposed Leeds Flood Alleviation Scheme.

5.4.6 *Condition* - The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Ref 296480RPT03 Rev D or subsequent versions submitted to and approved in writing by the Environment Agency.

5.4.7 *Reason* - To reduce the risk of flooding to the proposed development and future users, in accordance with the requirements of the National Planning Policy Framework.

5.5 Conclusions

5.5.1 My evidence is that, as set out in Statement of Matters 9, the draft Planning Conditions have been drafted to "*meet the tests of DOE Circular 11/95 of being necessary, relevant, enforceable, precise and reasonable*".

5.5.2 I would therefore ask the Secretary of State to grant the deemed planning permission necessary for the Scheme, set out in the amended Request for Direction incorporating the revised draft Planning Conditions that will be introduced at the start of the Inquiry. In the event that further amendments are necessary to deal with matters to be agreed with objectors these will be also be brought forward before the conditions session of the Inquiry.

6 Summary and Conclusions

6.1 Overall Conclusions

6.1.1 In my evidence I have addressed the identified items in the Statement of Matters as outlined in Section 2, the likely impact on residents, businesses and the environment of the Scheme, during construction and after opening to the public. These environmental topic items have been assessed as part of the EIA process for the Scheme. I have also examined the measures proposed by the Promoters for mitigating any identified adverse environmental effects of the Scheme, as described in the ES.

6.1.2 Where environmental effects were considered to be significant as part of the EIA process, suitable measures were put forward to avoid, reduce or remedy any environmental effects. In my opinion, based on discussions with environmental experts, and the evidence presented in this proof, the mitigation measures that have been applied are considered to be appropriate for the nature of the Scheme and the urban environment.

6.1.3 The construction contractor will be required to comply with Network Rail's Contract Requirements Environment documentation (as outlined in Clause 3.5.1), which will set a good standard of environmental construction practice, which will be part of the contractor's Environmental Management Plan. The use of Network Rail's CR-E documentation is considered a best practice approach and this method of environmental management has been applied successfully by Network Rail and its construction contractors to the construction of railway infrastructure schemes in the UK such as the West Coast Main Line and Nuneaton North Chord.

6.1.4 The significant residual environmental effects which remain, after mitigation has been applied, have been identified in my Proof of Evidence under Section 3 for each environmental topic covered in the ES.

6.1.5 Where significant residual environmental effects have been identified, the Promoters are committed to ongoing improvements during the detailed design stage. In my opinion, this presents a realistic opportunity to reduce further the likely environmental effects.

6.1.6 I conclude that the ES has been prepared by an experienced team of environmental specialists in accordance with best practice. The ES is considered to be adequate in relation to the requirements of the Application Rules and the statutory procedural requirements.

6.1.7 I have reviewed the Request for Direction and the Draft Planning Conditions and consider these to be appropriate for the Scheme. As set out in the statement of matters, Clause 9, I consider that the proposed planning conditions have been drafted to meet the tests of DoE Circular 11/95 of being necessary, relevant, enforceable, precise and reasonable.

6.1.8 I have set out the Promotor's intention to include three additional Planning Conditions to cover flood risk which I consider to be appropriate for the protection of flood risk for the Scheme and these have been agreed in principle with the Environment Agency. This has been based on evidence provided by the Scheme's flood risk experts within this proof and my discussions with those experts.

6.1.9 I have addressed objections, representations and letters of support from statutory bodies, stakeholders and residents which relate to my area of expertise.

6.1.10 I have highlighted where environmental issues can be further resolved during the detailed design phase and through the appropriate implementation of mitigation measures by the appointed construction contractor. As I have stated in my Proof of Evidence these are considered appropriate and reasonable.

6.1.11 On the basis of the environmental evidence I have presented I therefore ask the Secretary of State to approve the Order and approve the Planning Conditions.

Appendices

Appendix 1. Email correspondence from Jerome Masters, Environment Agency, 13th March 2012 (Clause 3.9.19 of this proof)

From: Masters, Jerome [mailto:jerome.masters@environment-agency.gov.uk]
Sent: 13 March 2012 10:28
To: Renshaw, Paul A
Subject: Leeds Station South Entrance

Hello Paul,

Thanks for your email. Here's a summary of what we discussed on site. I've also attached a short report I sent to Joanne Blignaut last week.

The Leeds Station South Entrance is being built over the River Aire. This will effectively extend the length of the culvert under the railway station. At present, the culvert is a barrier to migration for fish. Without mitigation, this will continue to be the case. However, the point where fish passage becomes difficult (the entrance to the Dark Arches) will remain unaltered by the Station Entrance project, apart from increased overhead shading.

The new entrance is being built by Metro, whereas the existing culvert is owned by Network Rail. I think that the difference in ownership, as well as the limited new effects on fish passage mean that fish passage improvements in the culvert can be considered as 'supplementary mitigation' for this project.

There could potentially be significant cost savings for Network Rail if fish passage improvement works are carried out at the same time as construction work takes place on the new entrance. Network Rail have responsibilities to improve passage for eels through the culvert, under the Eels (England & Wales) Regulations 2009. The Salmon and Freshwater Fisheries Act (1975) would require fish passage improvements in the event of significant maintenance work taking place. New fish passage legislation, expected through Parliament later this year, may further increase Network Rail's responsibilities with regard to fish passage.

Regards,

Jerome Masters
Fisheries Technical Officer

Tel: 0113 213 4710 (Internal 7 28 4710)
Email: jerome.masters@environment-agency.gov.uk

Environment Agency
Fisheries and Biodiversity Team
Yorkshire (South) Area
Phoenix House
Global Avenue
Leeds LS11 8PG

Part of the Environment Agency's Yorkshire and North East Region

Appendix 2. Letter to Rachel Jones (Planning Liaison Technical Specialist) at the Environment Agency from Paul Clarke (Ardent) dated 24th July 2012 (Clause 4.2.6 of this proof)

ardent
infrastructure and regeneration

Rachel Jones
Environment Agency
Phoenix House
Global Avenue
Leeds
LS11 8PG

24 July 2012

Dear Miss Jones,

TRANSPORT AND WORKS ACT 1992: APPLICATION FOR THE PROPOSED LEEDS RAILWAY STATION (SOUTHERN ENTRANCE) ORDER - Objection No.29 – Environment Agency

We have received your letter (Ref: RA/2012/122089/01-L01) submitted to the Secretary of State for Transport setting out points of objection in relation to the draft Leeds Railway Station (Southern Entrance) Order. It has been reviewed by environmental specialists and our initial response is set out in this letter.

We note that you consider the Flood Risk Assessment (reference 296480RPT03 Rev D) to be satisfactory and compliant with policy. This document was written to reflect the Leeds Flood Alleviation Strategy (at the time) and its requirement for a 200 year Standard of Protection; and this is further assumed in the Works as shown on the Order plans. Through discussions with Leeds City Council we understand that the Leeds Flood Alleviation Strategy is being changed and is likely to have a lesser Standard of Protection due to other measures being adopted. Therefore, the scheme promoters wish to have some flexibility should local flood alleviation requirements change prior to construction. It is intended that the Leeds Station Southern Entrance (LSSE) will be fully compliant with the Leeds Flood Alleviation Scheme at the time of construction.

Power to Deviate

Article 5 of the draft Order sets out a Power to Deviate, which aside from the vertical piles supporting Work No.1, is restricted vertically to 2 metres upwards or downwards for the scheduled works. This will provide the scheme with flexibility should the requirements of the Leeds Flood Alleviation Scheme change.

Ardent Management Ltd
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Article 47 of the draft Order provides protective provisions for the Environment Agency and these are set out in detail within Schedule 16. In particular, Schedule 16 paragraph 2 contains the following provisions:

> *2.-(1) Before beginning to construct any specified work, the promoter must submit to the (Environment) Agency plans of the specified work and such further particulars available to it as the (Environment) Agency may within 28 days of the submission of the plans reasonably require.*
>
> *(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the (Environment) Agency, or determined under paragraph 13.*

Paragraph 13 of Schedule 16 sets out the procedure for dispute resolution which if the parties agree is to be determined by arbitration under article 51 of the draft Order or otherwise determined by the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Transport acting jointly.

In conclusion, we believe that the requirements placed on the promoters to consult and seek approval from the Environment Agency for the specified works affecting drainage are sufficient to guard against an inappropriate use of the Power to Deviate; our Parliamentary Agents would be pleased to discuss this further with you

Flood Risk

We understand that the Environment Agency wish to include a planning condition for the Flood Risk Assessment. We have reviewed your suggested wording and adjusted it to retain flexibility in relation to potentially changing requirements, and would be happy to accept the following planning condition:

The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) ref 296480RPT03 Rev D or subsequent versions accepted by the Environment Agency

In addition we accept your suggested wording in the following condition:

Development shall not commence until full construction details of the areas of the scheme to be in contact with the banks of the River Aire have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Biodiversity

We are pleased that you consider that the recommendations contained within the (Environmental Statement) Ecology Technical Appendix for biodiversity mitigation to be appropriate. All of the incorporated mitigation measures set out in the Ecology Technical

Appendix have been included within the scheme design and will be delivered as part of the specified works.

The protection of biodiversity is covered by several planning conditions which, in line with Circular 11/95 The Use of Conditions in Planning Permissions, are specific and therefore more likely to achieve the desired outcomes. We draw you attention to the following planning conditions which we consider satisfactorily address biodiversity protection:

9. *No building works shall take place until a site construction environmental management plan (EMP) has been submitted to and approved in writing by the Local Planning Authority. The EMP may comprise one or more documents but shall contain details of:*

   a. *The phasing of all construction works.*
   b. *Management of on site parking in respect of vehicles of the workforce.*
   c. *Dust, noise and vibration management.*
   d. *Pollution control measures.*
   e. *Temporary site illumination during the construction period.*
   f. *Management of on site plant and machinery.*

   The development shall be carried out in accordance with the approved EMP as amended from time to time with the prior written approval of the Local Planning Authority.

16. *Any works involving vegetation clearance, will be scheduled so as to avoid the bird breeding season (April-August). Should any vegetation clearance be required to take place during this period, a qualified ornithologist will check the area for nesting birds and appropriate measures will be taken to ensure they are safeguarded.*

17 *No building works shall take place until a survey has be undertaken to identify any over land routes used by otters within any areas likely to be affected by construction activities. A scheme for the protection of such routes during construction shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and the approved scheme shall be implemented in accordance with the timescales set out therein.*

18. *No building works shall take place until a survey has be undertaken to identify the presence of any bats that may be affected by the development or its construction. A scheme for mitigating any impact on bats shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development*

and the approved scheme shall be implemented in accordance with the timescales set out therein.

19. *No building works shall take place until a ground investigation survey, risk assessment and materials management plan for soils excavation and reuse and proposed mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the timescale therein.*

We trust that we have adequately addressed your concerns. The scheme promoters would be pleased to discuss these issues further with you should that be required. Please contact the undersigned should you require any further information or clarification.

Yours faithfully

Paul Clarke
Associate Director

Appendix 3. Letter to the Department of Transport from Rachel Jones (Planning Liaison Technical Specialist) at the Environment Agency dated 19th September 2012 (Clause 4.2.7 of this proof)

	Our ref:	RA/2012/122089/02-L01
Department of Transport Transport and Works Act Order Unit Great Minster House 76 Marsham Street LONDON SW1P 4DR	**Your ref:**	TWA/12/APP/04/OBJ/29
	Date:	19 September 2012

Dear Sir/Madam

TRANSPORT AND WORKS ACT 1992 - PROPOSED LEEDS RAILWAY STATION (SOUTHERN ENTRANCE) ORDER
SOUTHERN ENTRANCE LEEDS RAILWAY STATION LEEDS

Thank you for your letter dated 25th July 2012 advising that the Secretary of State for Transport has made the decision to hold a public local inquiry into the above mentioned application.

We are in receipt of correspondence dated 24th July 2012 from the applicant's consultants, Ardent Management Ltd, which sets out the applicant's response to our letter of objection dated 28th June 2012. I attach a copy of Ardent's letter for information.

We have considered the points set out in this correspondence and wish to confirm that we have decided that it will not be necessary for us to appear at the inquiry. However, we do wish to submit further written evidence for the Inspector's consideration in determining this application, which we have set out in detail below.

Flood Risk

The application is supported by a flood risk assessment (FRA) (reference 296480RPT03 Rev D) and we confirmed in our letter dated 28th June that we consider that the submitted FRA complies with the requirements set out in the National Planning Policy Framework (NPPF) and its Technical Guidance, providing a suitable basis for an assessment to be made of the flood risks arising from the proposed development.

Ardent, in their letter dated 24th July 2012, confirm that the FRA was written to reflect the Leeds Flood Alleviation Scheme (at the time) and its requirement for a Standard 200 year Standard of Protection. The Works as shown on the Order plans further assume this requirement. Ardent comment that through their discussions with Leeds City Council, they understand that the Flood Alleviation Scheme will change such that it will have a lesser standard of protection and it is for this reason that the scheme promoters wish to have some flexibility should local flood alleviation requirements change prior to construction.

In response to this, we consider it is important for us to set out further information in relation to the Flood Alleviation Scheme and our concerns for the Inspector to consider in the decision making process.

Leeds Flood Alleviation Scheme (FAS)
The Environment Agency has worked in partnership with Leeds City Council in the development of proposals to provide flood defences for the city of Leeds. Currently there are no formal flood defences along the River Aire and in recent years the city has come close to flooding. In 2000, the city centre was

centimetres away from flooding with further near misses in 2004. June 2007 and January 2008. It has been estimated that over 4,500 residential and commercial properties are at risk and approximately £400m of direct damage would be caused by a major flood from the River Aire in Leeds. Leeds City Council have confirmed that the flood alleviation scheme is a high priority for the City which has the aim of ensuring and supporting the further growth of the Leeds economy.

A comprehensive scheme for the River Aire was developed in accordance with Defra's guidelines prevailing at the time. This scheme, which was to be progressed by the Environment Agency, with the agreement of Leeds City Council, was designed to provide a standard of protection at a 1 in 200 year event level, without an allowance for climate change. Climate change was to be managed by future interventions such as upstream storage, land management or by periodic 'topping up' of defences in future years.

In January 2011 Defra confirmed that the proposals for the River Aire needed to be progressed in accordance with the concept of 'payment for outcomes' model. This resulted in the external funding requirement for the scheme being increased to a level that made the comprehensive proposals unaffordable in the foreseeable future.

The Environment Agency has worked with Leeds City Council to consider whether the council could deliver a revised scheme. A review of options has been undertaken and an alternative phased approach, with Leeds City Council taking the lead role, will now be undertaken to deliver a flood alleviation scheme for the city.

This proposed phased approach means that in the short term, in the initial phases of delivery, a lower standard of protection would be delivered. However it is important to note that the long term aspiration is to achieve the higher standard of protection of 1 in 200 year (plus climate change) for the overall scheme. It is the council's aim that this standard shall be delivered in the later phases of construction of the flood alleviation scheme.

As the aim is to deliver this standard of protection in the future, it is important to ensure that the Leeds Station Southern Entrance is constructed in a manner that would not cause any difficulties/obstructions to this aim. Our concern is that if the Southern Entrance Scheme is amended and designed to reflect only the first phase of the FAS at the lower level of protection, it will not be future proofed. This would have knock on impacts for the FAS, although it is accepted that these impacts can only be fully understood when informed by more detailed modelling work. Impacts could include:

(a) the council's ability to implement the higher standard of protection for the city centre being compromised as to do so would increase the flood risk to the new station entrance itself if this is built at lower standard of protection. At the same time flood risk to others could also be increased with the LSSE creating a restriction to river flow at this point. The effectiveness of the wider FAS would have to be called into question in this scenario;
(b) a future need to carry out works at the new station entrance to bring this up to the higher standard of protection, which would be costly and difficult to implement and disruptive to Network Rail's service;

Clearly it will be important for Network Rail to ensure that they avoid any potential abortive costs and future disruption that might occur through the provision of a higher standard of flood protection in the future. It is also important to ensure that the LSSE will afford the greatest flexibility in the future for later phases of the flood alleviation scheme to be implemented.

Power to Deviate

It is against the above background that the Environment Agency consider it important to point out to the Inspector and Secretary of State that it is unlikely that we will be in a position to agree any flexibility (in terms of height above the River Aire) to the LSSE scheme beyond that previously agreed through the grant of planning permission on 13 May 2010 by Leeds City Council (planning ref 09/04625/FU). This approved scheme is reflected in the Planning Direction Drawings submitted with this application. For this reason we previously raised concerns in respect of the Power to Deviate set out in Article 5 of the proposed Order.

We previously set out that our concern was that the Power to Deviate could result in development that did not meet the flood risk management measures set out in the submitted flood risk assessment, one such measure being that the finished floor level of the LSSE be set at 29.1m AOD.

Ardent, in their letter on behalf the applicant dated 24th July 2012, have described that the Power to Deviate will provide the scheme with flexibility should the requirements of the Leeds Flood Alleviation Scheme change. The letter goes on to describe that Article 47 of the draft Order provides protective provisions for the Environment Agency, which are set out in detail in Schedule 16. Ardent conclude that the Article 47 and Schedule 16 requirements placed on the promoters to consult and seek approval from the Environment Agency are sufficient to guard against an inappropriate use of the Power to Deviate

Having considered the points made by Ardent, we are in a position to confirm that we agree with these conclusions. We are able to agree that the draft Order provides a mechanism to ensure that the approval of the Environment Agency must sought and gained before any work as specified in Schedule 16 is undertaken sufficient to guard against inappropriate use of the Power to Deviate.

On this basis we are able to confirm that we no longer wish to object to the inclusion of the Power to Deviate within the draft Order. However, we would strongly emphasise to the promoter and the Secretary of State the point that we are highly unlikely to be in a position to agree to any flexibility to the LSSE scheme where this would compromise the implementation of the flood risk management measures, particularly in relation to the level of the main deck, as set out in the submitted planning statement; the Flood Risk Assessment (reference 296480RPT03 Rev D) submitted with this application; planning approval 09/04625/FU dated May 2010 and as reflected in the Planning Direction Drawings.

Direction under Section 90 (2a) of the TCPA 1990
Flood Risk Planning Condition
We requested the inclusion of planning conditions in relation to flood risk in our letter dated 28th June 2012.

In light of the correspondence from Ardent regarding the reasons behind the Power to Deviate and the points made in the above section, we wish to request that an additional planning condition be added to the Direction. The addition of this condition would serve to make clear the importance of the finished floor levels of the scheme in relation to the potential flood risks. We request the inclusion of the following condition:

Condition
The Finished Floor levels of the ground level main deck shall be no lower than 29.10mAOD unless otherwise agreed in writing by the Environment Agency.

Reason
To ensure compatibility of the station southern access with the proposed Leeds Flood Alleviation Scheme and to reduce the risk of flooding to the proposed development and future users, in accordance with the requirements of the National Planning Policy Framework.

We are pleased to note that Ardent accept our suggested wording in the following condition and re-iterate our request for this condition to be included in any approval of the Planning Direction.

Condition
Development shall not commence until full construction details of the areas of the scheme to be in contact with the banks of the River Aire have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
Reason
To ensure compatibility of the station southern access with the proposed Leeds Flood Alleviation Scheme.

We have also requested the inclusion of the following condition, setting out that without the inclusion of this condition, our position would be one of objection. Our requested condition was as follows:

Condition
The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Ref 296480RPT03 Rev D.

Reason
To reduce the risk of flooding to the proposed development and future users, in accordance with the requirements of the National Planning Policy Framework.

We are pleased to note that Ardent are happy to accept the inclusion of a condition to this effect but have requested the following rewording

Condition
The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Ref 296480RPT03 Rev D or subsequent versions accepted by the Environment Agency.

Reason
To reduce the risk of flooding to the proposed development and future users, in accordance with the requirements of the National Planning Policy Framework.

In response, we can confirm that our preference would be for the condition to be worded as follows:

Condition
The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Ref 296480RPT03 Rev D or subsequent versions submitted to and approved in writing by the Environment Agency.

Reason
To reduce the risk of flooding to the proposed development and future users, in accordance with the requirements of the National Planning Policy Framework.

As set out in our initial letter, our position would be one of objection to the Direction in the absence of the above mentioned condition.

Biodiversity

We set out in our letter of the 28th June 2012 our views that opportunities to secure enhancement to ensure the protection of wildlife should be sought through the proposed scheme. Paragraph 109 of the NPPF recognises that the planning system should aim to conserve and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible.

Ardent have provided a response to our comments in their letter dated 24th July 2012. Having considered the points made by Ardent, we have the following comments to make.

Ardent have confirmed that mitigation measures have been included with the scheme design and will be delivered as part of the specified works. Their letter points to a number of conditions relating to the protection of biodiversity.

We wish to make clear that our concern is to ensure that enhancement measures identified in the Ecology Technical Appendix Report as well as mitigation measures are secured by way of planning permission through any Planning Direction. This will ensure that the scheme accords with national planning policy in securing both protection and enhancement of the natural and local environment.

As mentioned in our previous response, this Report recognises the need for enhancement of passage along a known otter route through Leeds. Habitat in this area is very sparse; we consider that additional habitat to extend that which has been secured through the neighbouring Granary Wharf Development would constitute a positive enhancement which would offset increased permanent disturbance resulting from the proposed development.

The planning conditions referred to within Ardent's letter relate, in our opinion, to securing mitigation rather than to ensuring that that the enhancements identified through the EIA process are carried out. We note that condition 17 of the draft planning conditions requires the applicant to carry out a survey to identify any over land routes used by otters during construction activities and to submit a scheme for the protection of such routes. However, this condition would not ensure that the mitigation and enhancement

recommended within the EIA Ecology Technical Appendix Report would be secured in accordance with the NPPF.

We therefore re-iterate our request for the inclusion of a planning condition to ensure that the ensure that the mitigation and enhancement measures set out in the Report (as summarised in table 5.1) are incorporated during construction and operational phases of the proposed development. The following condition is recommended.

Condition
Development shall not commence until a scheme for the protection and enhancement of biodiversity shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be based on the recommendations in the Ecology Technical Appendix Report 296480RPTO14 (Mott MacDonald May 2012). The scheme shall include a timetable for implementation and it shall be thereafter be implemented in accordance with the approved details and timetable.

Reason
In the interests of the enhancement and protection of biodiversity and the waterway.

Should you require any further information or clarification of the points raised in this representation, please contact me on the details below.

Yours faithfully

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