

**THE HIGHWAYS ACT 1980**

**-and-**

**THE ACQUISITION OF LAND ACT 1981**

**THE HIGHWAYS (INQUIRIES PROCEDURE) RULES 1994**

**COMPULSORY PURCHASE (INQUIRIES PROCEDURE) RULES 2007**

**REFERENCE: LAO/NW/SRO/2013/40 and LAO/NW/CPO/2013/41**

**REBUTTAL PROOF**

**-of-**

**James McMahon in relation to the Proof**

**of**

**The Brown Rural Partnership**

**on behalf of Mrs Angela Mary Rowland**

**The Metropolitan Borough Council of Stockport**

**acting on its behalf and on behalf of**

**-Manchester City Council -and-**

**Cheshire East Borough Council**

**to be presented to a Local Public Inquiry on the 30<sup>th</sup> September 2014 to consider  
objections to**

**THE METROPOLITAN BOROUGH OF STOCKPORT (HAZEL GROVE (A6) TO  
MANCHESTER AIRPORT A555 CLASSIFIED ROAD) COMPULSORY PURCHASE  
ORDER 2013**

**THE METROPOLITAN BOROUGH OF STOCKPORT (HAZEL GROVE (A6) TO  
MANCHESTER AIRPORT A555 CLASSIFIED ROAD) (SIDE ROADS) ORDER 2013**

**Parveen Akhtar**

**Head of Legal and Democratic Governance**

**The Metropolitan Borough Council of Stockport**

**Corporate and Support Services**

**Town Hall, Stockport SK1 3XE**

This rebuttal proof of evidence sets out the Council's response to the objector's proof in relation to their objection to the A6 to Manchester Airport Relief Road Compulsory Purchase Order and/ or Side Road Order that was submitted to the Department for Transport by The Brown Rural Partnership on behalf of Mrs Angela Mary Rowland.

This rebuttal proof is presented by the Council's Project Director for the A6MARR scheme. James McMahon, however, contributions to this rebuttal have been made by the Council's Expert Witnesses as indicated alongside the responses.

The Expert Witnesses contributing to the responses to the objections submitted are as follows:

<b>Expert Witness</b>	<b>Initials</b>	<b>Proof of Evidence Name and Reference Number</b>
James McMahon	JMcM	Volume 1
Naz Huda	NH	Volume 2
Nasar Malik	NM	Volume 3
Paul Reid	PR	Volume 4
Paul Colclough	PC	Volume 5
Jamie Bardot	JB	Volume 6
Alan Houghton	AC	Volume 7
Sue Stevenson	SS	Volume 8
James McMahon	JMcM	Volume 9
Henry Church	HC	Volume 10

A plan showing the relevant land contained within the order(s) is shown at Figure 1.

<p>Objector 35: Mrs Angela Mary Rowland          6 School Cottages, Nantwich Road, Wimboldsley, Middlewich, Cheshire. CW10 0LN          CPO Plots: 6/3 6/3A-6/3C          Agent:          John Seed          Brown Rural Partnership, 29 Church Street, Macclesfield, Cheshire, SK11 6LB</p>			
<b>Element of objector proof</b>	<b>Objection</b>	<b>Response</b>	<b>Expert Witness</b>
35/R01	Our client owns a paddock of approximately 4.08 acres (1.65 hectares), which is currently let on a Grazing Licence to Charles Jones. The CPO affects approximately 0.25 acres (0.10 hectares).	The extent of the occupational interest is unproven, copies of an agreement having been requested but not provided.	HC
35/R02	Our client submitted a letter of objection to the CPO and SRO and the grounds of that objection still stand.	Mrs Rowland did not sight safety as a concern when commenting on the planning application. It appears that the scope of the objection has now changed.	HC
35/R03	Whilst the statement of case examines a range of impacts, including environmental, air quality, cultural heritage, landscape, ecology and nature conservation, geology and soils, noise and vibration etc., it offers no explanation of the impact on agricultural land, and how this is to be mitigated.	Reference is made to agricultural and agricultural holdings under Community and Private Assets in the Statement of Case (paragraphs 20.23 and 20.24).  As is acknowledged by Mr Seed, an assessment of the impact of the proposed scheme on agricultural land and that referred to in Mr Seed's proof of evidence has been undertaken and was reported in the Environmental Statement. The conduct of the assessments relating to	PR

	<p>It is accepted that the Authority commissioned a limited Agricultural Impact Assessment; this has resulted in a brief section in the Environmental Statement but chiefly as an appendix to it. It was prepared, so far as I can determine, after minimal investigation and consultation; I was involved in an office meeting of approximately 1.5 hours with the agricultural consultant involved on 12<sup>th</sup> October 2012, but at an early stage of our being instructed by various clients. I am not aware of any detailed consultations by the consultant with our clients directly. The agricultural data sheets provide a brief summary of the impact of the scheme on various landholdings and a very brief note on proposed mitigation.</p>	<p>agricultural land and individual farms, including that forming the subject of Mr Seed's evidence, was informed by the guidelines contained in the Design Manual for Roads and Bridges, Volume 11, Section 3. Part 6 - Land use. The guidance is nationally recognised and is adopted for the assessment of major road schemes throughout the UK.</p> <p>With regard to the concerns raised that more detailed discussion is required relating to accommodation works, further discussions will be held and appropriate measures agreed should the draft orders be approved and the proposed scheme be progressed.</p>	
35/R04	<p>It is critical for the future use of retained land in agricultural or equestrian use that the scheme and/or its contractors employ specialist land drainage consultants and contractors to advise on and undertake appropriate land drainage remedial works, including new header drains, on relevant lands. This has been proposed as a standard accommodation work but does not appear to have been accepted by the Authority.</p>	<p>The scheme proposes to create a bridleway from Hall Moss Lane to Woodford Road, Bramhall along an existing private farm track as per planning drawing 1007/3D/DF7/A6-MA/PROW/212 Public Rights of Way Sheet 3 of 5.</p> <p>The bridleway is proposed to be at the top of a cutting slope, north of the adjacent to the existing A555 (in cutting) and south of existing fields in the ownership of the objector. The vertical design levels are not proposed to alter significantly and therefore drainage problems such as surface water flooding is not envisaged from the bridleway.</p> <p>The Contractor will design and construct appropriate drainage to deal with any increase in impermeable surfaces.</p>	NH, HC

		SMBC has offered to intercept every artificial land drain, whether previously identified or not and to pipe it to a suitable outfall.	
35/R05	<p>The scheme proposal includes the acquisition of the land by which our client enter her land from the access track to the west, without any provision to maintain the access she currently enjoys.</p> <p>The land is not required for the construction of a new road, as the A555 road is already in existence.</p>	<p>The land identified in the Order is the land that is to be acquired permanently. SMBC will re-grant rights to all those currently enjoying rights over the land.</p> <p>The Side Roads Order has provided a Private Means of Access (PMA) to the Objector's land as noted below:</p> <ul style="list-style-type: none"> <li>• Site Plan 5 Indicates PMA 4, 5, 6 and 7 which creates rights to access the Objector's land from the highway at Hall Moss Lane and</li> </ul> <p>SMBC will re-grant the existing rights of access over the track.</p>	HC
35/R06	<p>The Authority does not seek to acquire an easement from Mrs Rowland's neighbour, Charles and Richard Jones, for the full extent of the access opening at the south western corner of the paddock. Accordingly the CPO/SRO is defective in that it does not maintain full access to Mrs Rowland's land.</p>	<p>The Side Roads Order has provided a Private Means of Access (PMA) to the Objector's land as noted below:</p> <ul style="list-style-type: none"> <li>• Site Plan 5 Indicates PMA 4, 5, 6 and 7 which creates rights to access the Objector's land from the highway at Hall Moss Lane and</li> </ul>	NH
35/R07	<p>A revised plot plan (dated 07/07/2014) was sent to us by the Authority's Agents, by email, on the 1<sup>st</sup> September 2014, and this shows an area required for temporary licence, not shown on previous plot plans. It is not clear what the purpose of this area is, and there is no undertaking that it will be returned to our client post-construction.</p>	<p>SMBC has identified a requirement to occupy some land temporarily. Under the current legislation SMBC is unable to acquire land temporarily and, therefore, to ensure scheme delivery it has to acquire the land permanently. Land not required permanently will be returned to landowners on completion of the scheme, subject to the Crichel Down rules.</p>	HC/ NH

35/R08	<p>The track which is subject to the Authority's bridleway proposal was created specifically to deal with severance of lands to the north of the (existing) A555 road, and compensation was settled on the basis that full rights of way would be provided along the track to the subject land. It is the only means of access to the land.</p> <p>The design of the new bridleway was carried out without consultation with the landowners and occupiers affected, and therefore without any consideration of the needs of the users of approximately 31.5 acres (12.75 hectares) of land affected.</p> <p>The Authority are seeking to increase public rights of access on the back of the road CPO/SRO, but appears unwilling to pay for the mitigation of the impact on our client.</p> <p>There is a sufficient footpath network in the area.</p>	<p>The position of the proposed right of way was shown during the two stages of consultation and as part of the first stage of consultation there was an explicit consultation event for land owners who had concerns regarding the design to come and meet the designers to allow people to identify any issues they had.</p> <p>The types of land usage e.g. grazing by horses and for hay where considered when the route was identified. The proposal for a bridleway provides more opportunities for horse riders in an area with few bridleways – an issue identified in the area's Rights of Way Improvement Plans.</p> <p>The shared use cycleway/footways and bridleways also deliver part of the main scheme objectives and aim to increase social benefit and safety in the area. The Council considers that there is a compelling case for them to be included within the scheme and CPO.</p> <p>Following survey of the site and the design of the proposed bridleway the proposals will provide sufficient width in order for both the private and public provisions to be created.</p>	SS/NH
35/R09	<p>The existing track is in practical terms not wide enough for modern agricultural traffic: tractor widths are routinely 2.4 metres and hay harvesting equipment 2.6 metres: these compare with the current track width shown on the drawing at Appendix 1.5.2. The measurements taken on site for Appendix 1.5.2 followed hedge cutting; when hedges grow out, the practical widths available are less. There</p>	<p>The Design Manual for Roads and Bridges (DMRB) TA 90/05 states that:</p> <p>7.11 Ridden horses can occupy a width of around 1.5m, and a surfaced width of 2.0m should be provided as a minimum to accommodate this. Where horses are expected to pass, a minimum width of 3.0m should be provided.</p> <p>The objector appears to have referred to section of the</p>	NH

	<p>is insufficient width for modern farm machinery and other traffic to pass along the existing track.</p> <p>In the circumstances introducing new pedestrian, cycle and equestrian traffic creates a safety hazard which offends one of the key objectives of the scheme.</p> <p>Extracts from Guidance/Advice from the Highways Agency, The Countryside Agency, the British Horse Society and the PROW Good Practice Guide appear in the appendices. These include:</p> <ul style="list-style-type: none"> <li>• Highways Agency: where horses are expected to pass, a preferred minimum width of 3 metres. A preferred minimum width for pedestrian and cycle routes of 5 metres.</li> <li>• Countryside Agency: optimum width for bridleways: 4 metres; desirable minimum width for bridleways 2.9 metres.</li> <li>• British Horse Society: recommended standard for bridleways: 5 metres.</li> <li>• Rights of Way Act 1990 Schedule 12A: minimum and maximum width for bridleways: 3 metres.</li> </ul> <p>It appears that such standards have not been considered in the design process.</p>	<p>design guidance relative to pedestrian/cycle routes segregated by a white line whereas the scheme proposes a bridleway for shared usage. TA 90/05 states that:</p> <p>7.20 Table 7.3 provides values for the surfaced widths of pedestrian/cycle routes segregated by line.</p> <p>Preferred Minimum 5.0m (3.0m cycle route, 2.0m pedestrian route)  Acceptable Minimum 3.0m (1.5m cycle route, 1.5m pedestrian route)</p> <p>Table 7.3 – Surfaced Widths of Unbounded Pedestrian/Cycle Routes Segregated by Line</p> <p>2. Countryside Agency Section:</p> <p>The objector has referred Section 7.2.2 for the desirable widths for bridleways:</p> <p>‘For routes which carry horse-riders, the Greenways Handbook [Countryside Agency, 2000] recommends segregation from pedestrians and cyclists, and the provision of separate surfaces. For horse-riding routes, which can be segregated or shared use, the Handbook recommends:</p> <ul style="list-style-type: none"> <li>• An optimum width of 4 metres, to take two horses abreast and allow passing.</li> <li>• A desirable minimum width of 2.9 metres, which allows a horse to turn.</li> <li>• An absolute minimum width of 2 metres. This absolute minimum should only be considered if there is an open verge, where traffic flows are low and where passing and turning are not necessary.</li> </ul>	
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		<p>Section 7.2.2 goes on to state that:</p> <p>The British Horse Society suggests an ideal width of 5 metres for newly created or diverted routes, but confirms 4 metres as an optimum and recognises that many perfectly acceptable bridleways are 3 metres or less'</p> <p>3. British Horse Society:</p> <p>The British Horse Society advice note states that it:</p> <p>'...encourages Order Making Authorities to a adopt a recommended standard of 5m width for new bridleways but recognises that a lesser width may be necessary in order to create any path in some cases'</p> <p>The document goes on to advise that in order to satisfy general maintenance requirements the British Horse Society request the following widths are observed:</p> <ul style="list-style-type: none"> <li>• Where there is no substantive evidence of a path's width, the Society will request that a width of no less than 3m (10ft) is cleared.</li> <li>• If the Definitive statement includes a width, then a minimum of that width should be reinstated so long as it is wide enough to be practical (at least 3m if bounded on one or both sides, 2m if open).</li> <li>• Where it is required to turn a horse (in order to close a gate, for example), the ideal space required is at least 4m x 4m. Many large horses require more than 4m to turn easily. The absolute minimum space required is a diameter of 3m (9ft) on clear, flat ground with no protrusions or overhanging vegetation.</li> </ul> <p>4. Rights of Way Act:</p>	
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		<p>The Rights of Way Act 1990 Schedule 12A states the following:</p> <p>1(1) For the purposes of this Schedule the “minimum width” and “maximum width” of a highway shall be determined in accordance with sub-paragraphs (2) and (3) below. .</p> <p>(2) In any case where the width of the highway is proved, that width is both the “minimum width” and the “maximum width”. .</p> <p>(3) In any other case— .</p> <p>(a)the “minimum width” is— .</p> <p>(i)as respects a footpath which is not a field-edge path, 1 metre, .</p> <p>(ii)as respects a footpath which is a field-edge path, 1.5 metres, .</p> <p>(iii)as respects a bridleway which is not a field-edge path, 2 metres, or .</p> <p>(iv)as respects any other highway, 3 metres; and .</p> <p>(b)the “maximum width” is— .</p> <p>(i)as respects a footpath, 1.8 metres, .</p> <p>(ii)as respects a bridleway, 3 metres, or .</p> <p>(iii)as respects any other highway, 5 metres.</p> <p>The above design standards along with consultation with Vulnerable Road User Groups (VRUG) has inputted into the design of the proposed bridleway. The objector appears to have cited design standard that the scheme proposals adhere to. A survey was carried out in February 2014 and the findings are outlined within 35/R12.</p> <p>The Council considers that the safety aspects of the design</p>	
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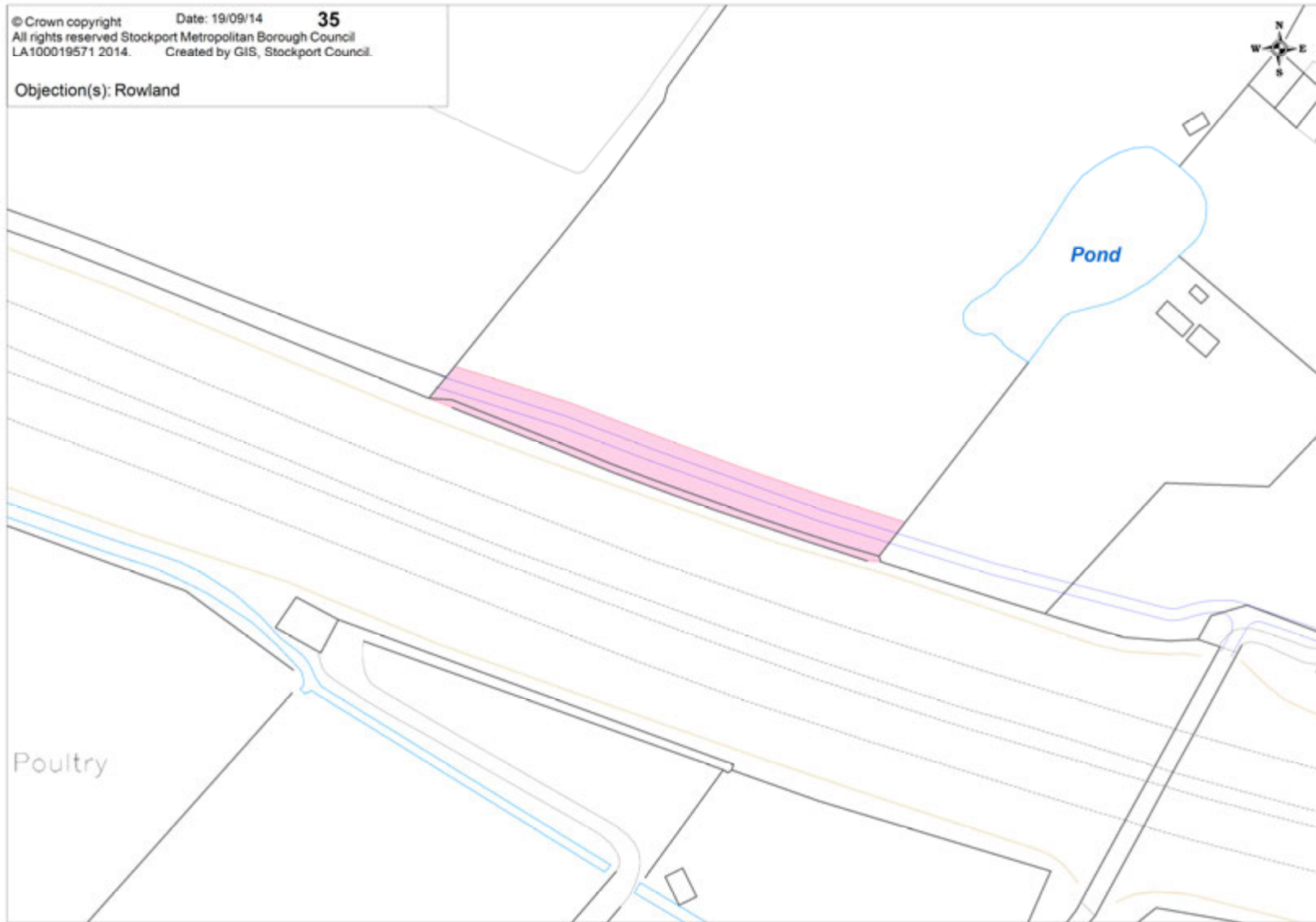
		are mitigated where appropriate when considering the survey data, the design and the relevant design standards.	
35/R10	<p>The client has put forward a practical proposal involving the provision of a new track within the claimant's landholding, immediately to the north of the line of the existing hedge between the track and land affected by the proposal. The new track would be used solely by the claimant for agricultural and equestrian purposes, and will be maintained at the claimant's expense. This would leave the existing track (other than at its opening from Hall Moss Lane) to be used entirely by new pedestrian, cycle and equestrian traffic. This deals with all safety concerns (the opening at Hall Moss Lane could be widened to enhance safety).</p> <p>The cost of a new 3.2 metre wide agricultural track, to include a new fence to the retained land, would be in the region of £25,000 to £34,000, depending on whether the surface base can be locally excavated material or imported (Ref. extract from John Nix Pocket Book at Appendix 1.5.1).</p>	<p>The estimated costs of the scheme provided by the Objector's agent costs do not appear to take account of the following items:</p> <ul style="list-style-type: none"> <li>• Design fees</li> <li>• Plant and labour costs</li> <li>• Crossing the existing watercourse (at least once but possibly 3 times)</li> <li>• Vegetation clearance</li> <li>• Preliminary costs</li> <li>• Contractors fee</li> <li>• Signage</li> <li>• Deposition of excavated material on site</li> </ul> <p>Following the site visit carried out in February 2014 a cost estimate of constructing a new track was established. The total cost of providing a new track was estimated to be approximately £140,000 including design fees, preliminaries and contractor's fee.</p> <p>The Objector has proposed that the Council constructs an additional track for the private purposes of the various land owners and tenants north of the A555, east of Hall Moss Lane. The track is proposed outside of the current planning consent boundary and outside of the Compulsory Order extents. The track would increase the construction costs of the scheme and compensation payable to the objector and also adjacent objectors.</p> <p>There is no justification to construct the additional track nor does not offer best value to the Council and therefore the approved scheme will continue to be promoted. The safety</p>	NH

		concerns regarding the conflict of various movements is a matter that will continue to be a design parameter to be addressed during the detailed design stage.	
35/R11	We have assessed the injurious affection compensation arising out of a restricted access way servicing the land owned by Messrs Fielding, Jones and Rowland at in excess of £150,000.	The level of injurious affection is not a matter for this Inquiry. Notwithstanding this Mr Seed has been asked for evidence to sustain this previously stated position but has failed to provide any.	HC
35/R12	<p>The Authority's first response to our clients concerns was to design occasional passing places. This proposal does not deal with our clients concerns as new users of the bridleway will not necessarily give way to existing agricultural traffic, meaning that agricultural traffic may have to reverse to the nearest passing place (notwithstanding any cyclists, horse riders etc. behind as well as in front of the vehicles.</p> <p>The dual track option is considered to be "uneconomic" (email Henry Church to John Seed, 24/07/14) and "not considered a viable solution" (email Henry Church to John Seed, 05/08/14).</p>	<p>A site visit was undertaken in February 2014 to establish widths of the existing track in order to review options for upgrading the track to suite the requirements of the scheme.</p> <ul style="list-style-type: none"> <li>•The minimum existing track width was surveyed to be 2.5m</li> <li>•The maximum existing track width was surveyed to be 3.3m</li> <li>•The proposal to widen the track would provide a minimum 3.5m track for the length of the track therefore complying the design standards noted above.</li> </ul> <p>Drawing 1007/3D//DF7/A6-MA/GA/311 Charles-Jones/ Rowland Land Cross Sections (Appendix A)</p> <p>These works as outlined on plan 1007-3D-DF7-A6-MA-GA-308 (Appendix B) were estimated at £36,000 including design fees, preliminaries and contractor's fee. This demonstrates the value for money that this option provides to the Council compared to the provision for a full new track – as referenced in the response to Objection reference 35/R14 below.</p> <p>In considering options SMBC has reviewed the extent to which it considers the cost of works for the additional track exceeds the compensation payable to determine whether</p>	NH/ HC

		solutions are justified on financial grounds.	
35/R13	The Authority's second response was to widen the track by 1 metre (possibly including fencing). This was proposed in the email referred to above of the 5 <sup>th</sup> August 2014 in which it was stated "SMBC has modified the scheme to allow for the widening of the line by 1 metre along its length, as per the attached plan. Please advise your clients accordingly." The latter comment is symptomatic of the Authority's attitude – it prefers to impose solutions rather than consult and discuss them. The additional 1 metre width is insufficient for horse riders.	The widening of the track is something that the Council considers justified and will deliver.	HC
35/R14	We have requested the Authority to confirm: <ul style="list-style-type: none"> <li>• Their cost estimate of the dual track option.</li> <li>• The cost of providing new cycling and equestrian routes on the scheme generally so that the Authority's comments about the actual and environmental costs of the dual track option can be considered in their full context.</li> <li>• What detailed proposals exist for managing the shared access arrangement the Authority proposes, in terms of traffic movements and safety.</li> </ul>	The cost of the following have been provided to the Objector's land agent: <ul style="list-style-type: none"> <li>• SMBC construction cost estimate of the dual track - £140,000.</li> <li>• SMBC construction costs estimate of new footway / cycleway and bridleways are approximately £1m. This information has been provided to the Objector's land agent.</li> <li>• The access details to the track/bridleway is to be determined during detailed design in liaison with the land owners and the Vulnerable Road User Groups in order to create a safe and efficient provision.</li> </ul>	HC

	These questions remain unanswered.		
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Figure 1: Land within the Order(s)



*Rebuttal Volume 20/2*  
*25<sup>th</sup> September 2014*

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**-and-**  
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**VOLUME 2 - APPENDICES**

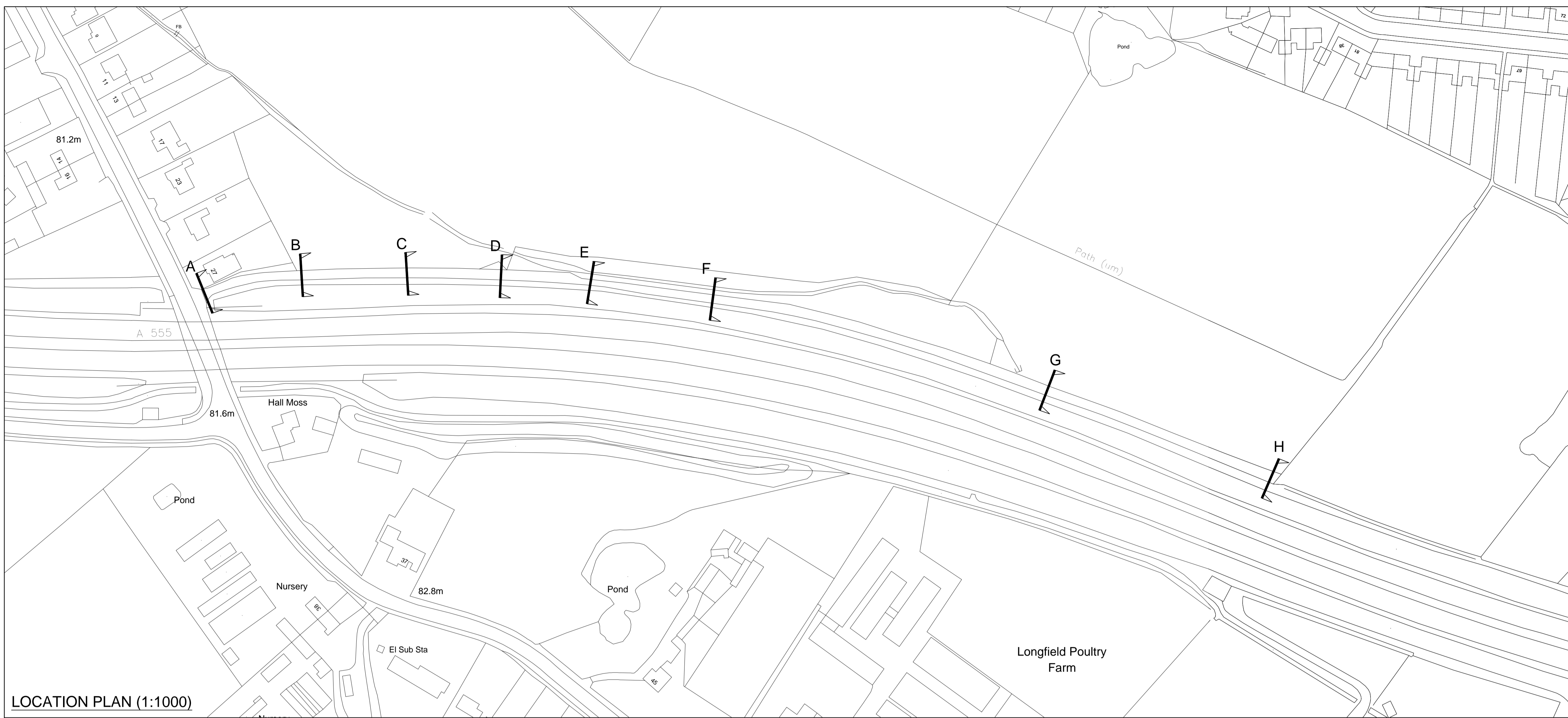
**Parveen Akhtar**

**Head of Legal and Democratic Governance**  
**The Metropolitan Borough Council of Stockport**  
**Corporate and Support Services**  
**Town Hall, Stockport SK1 3XE**

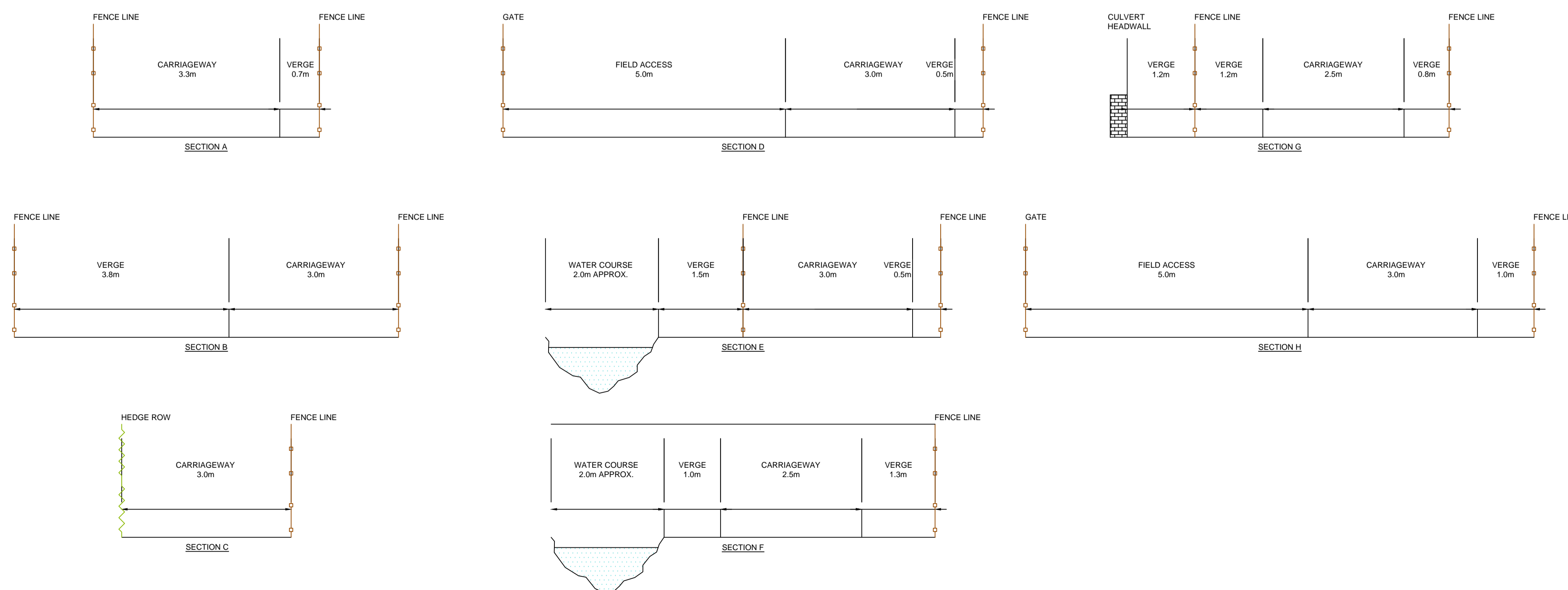
**Appendix A\_1007-3D-DF7-A6-MA-GA-311 CHARLES-JONES/ROWLAND LAND CROSS SECTIONS**



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LOCATION PLAN (1:1000)



SECTIONS (1:50)

Rev.	Drawn	Checked	Date	Revision Details

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Job Title  
**SEMMMS - A6 TO MANCHESTER AIRPORT RELIEF ROAD**

Drawing Title  
**CHARLES-JONES/  
ROWLAND LAND  
CROSS SECTIONS**










Drawn	Engineer	Checked	Approved
TF	JW	NH	
Date	Date	Date	Date
24.09.14	24.09.14	24.09.14	24.09.14
Size	Scale	AS STATED	
A1	Filename		
SCG No.			

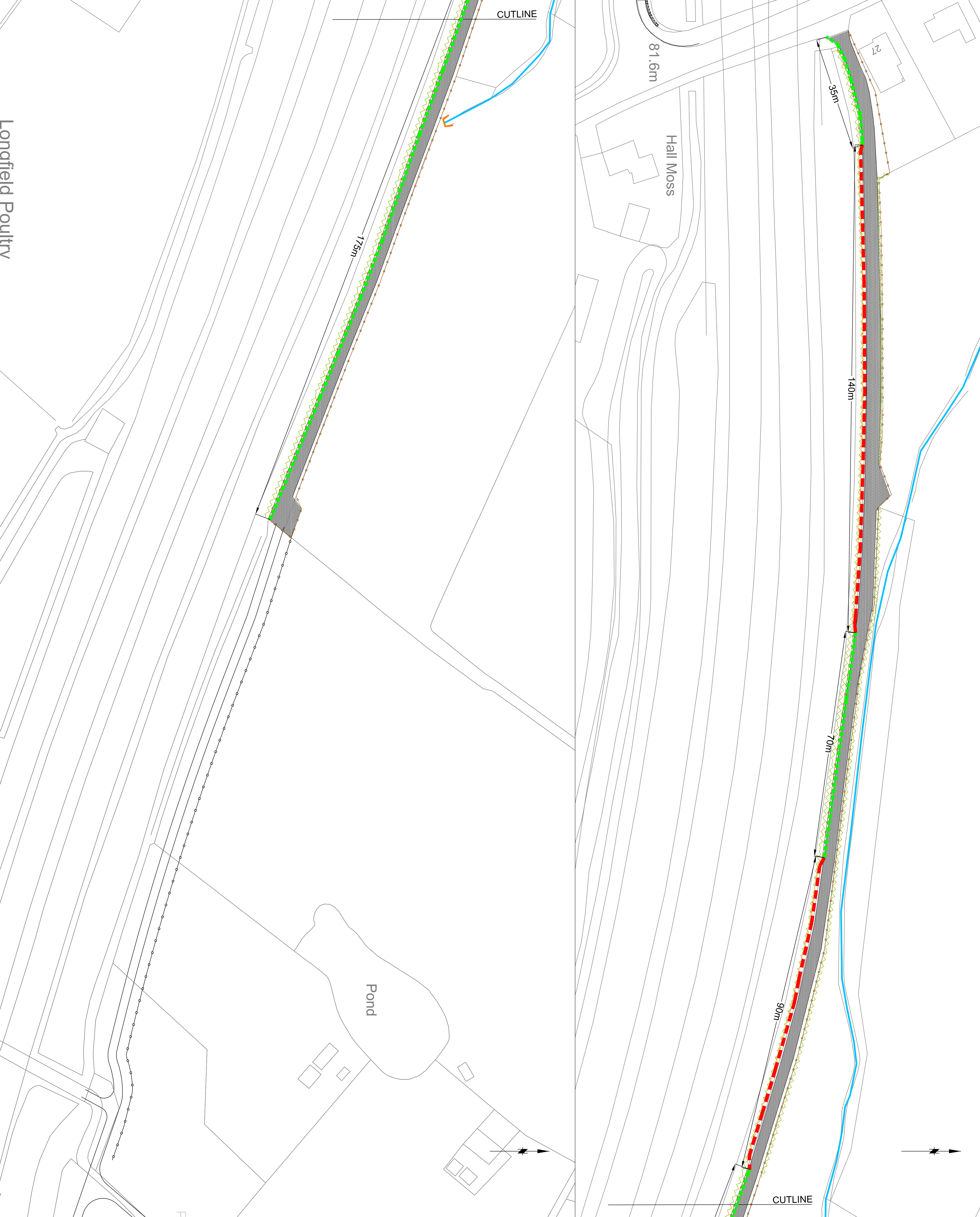
Drawing No. 1007/3D/DF7/A6-MA/GA/311 Revision -

**Appendix B 1007-3D-DF7-A6-MA-GA-308 CYCLEWAY OPTION 1**

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**KEY**

-  EXISTING HEDGEROW
-  EXISTING FENCELINE
-  EXISTING WATERCOURSE
-  EXISTING TRACK
-  PROPOSED REGULATING COURSE
-  PROPOSED VEGETATION CLEARANCE
-  PROPOSED FENCELINE
-  PROPOSED 1.0m TRACK WIDENING WITHIN THE EXISTING FENCELINE
-  PROPOSED 1.0m TRACK WIDENING OUTSIDE EXISTING FENCELINE



Rev.	Drawn	Checked	Date	Revision Details

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Job Title  
**SEMMS - A6 TO MANCHESTER  
 AIRPORT RELIEF ROAD**

Drawing Title  
**CHARLES-JONES/  
 ROWLAND LAND -  
 CYCLEWAY OPTION 1**

Drawn	Engineer	Checked	Approved
JW	JW	NH	
Date: 28.07.14	Date: 28.07.14	Date: 22.08.14	Date: 22.08.14
Size: A1	Scale: 1:500	Filename:	
SCG No.:			
Drawing No. 1007/2DD/DF7/A6-MA/GA/308			Revision