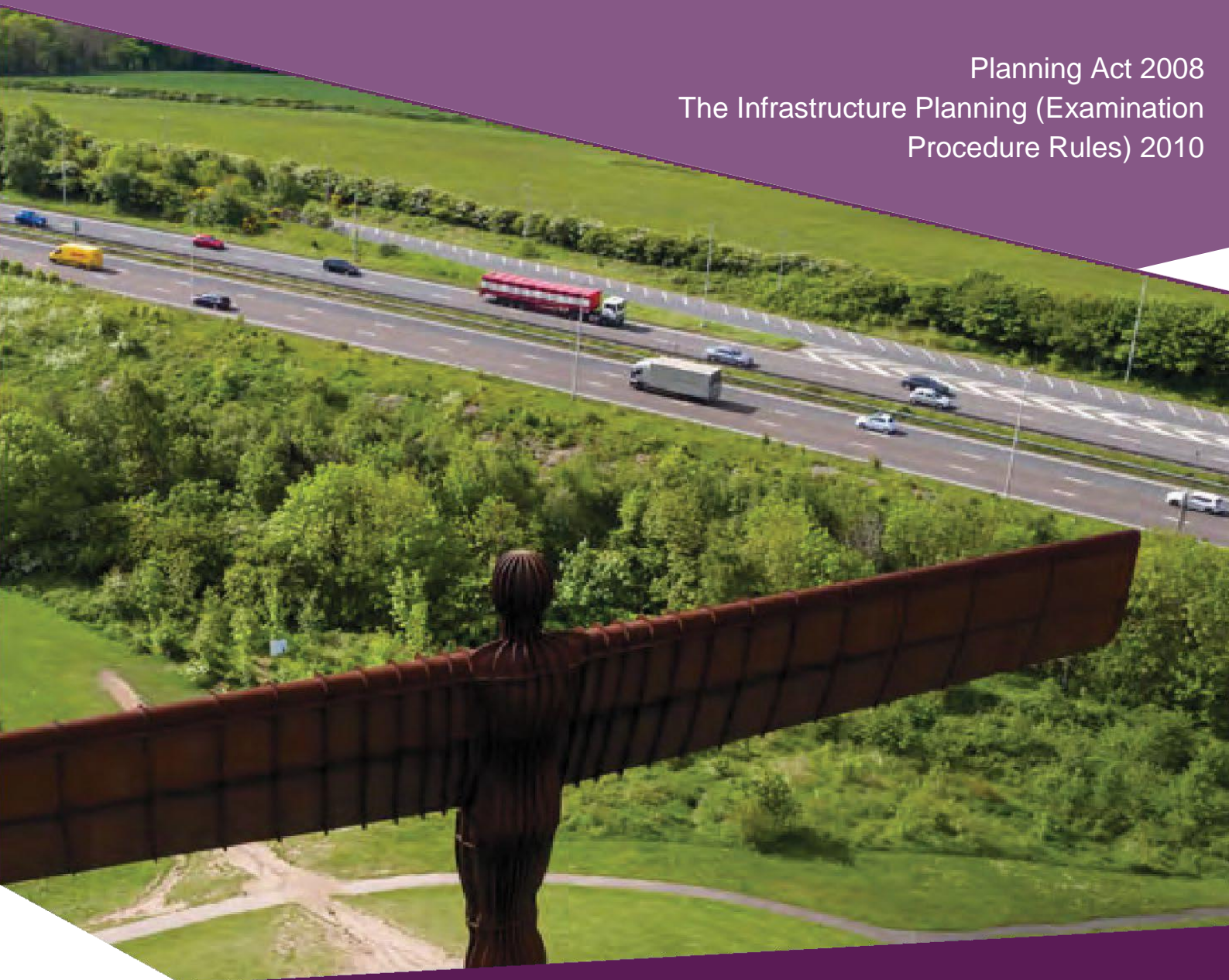


A1 Birtley to Coal House

Scheme Number: TR010031

**Applicant's Comments on Written
Representations**

Planning Act 2008
The Infrastructure Planning (Examination
Procedure Rules) 2010



Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning
(Examination Procedure Rules) 2010**

**The A1 Birtley to Coal House
Development Consent Order 20[xx]**

APPLICANT'S COMMENTS ON WRITTEN REPRESENTATIONS

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Applicant's Comments on Relevant Representations

This statement contains the Applicant's comments on the written representations lodged at Deadline 1. In the event that a point raised in a written representation is not responded to then it is to be treated as not being agreed by the Applicant.

1.1 Written representation from Network Rail Infrastructure Limited

	Written Representation from Network Rail Infrastructure Limited	Response from Highways England (the "Applicant")
Summary 1	<p>Network Rail does not object in principle to the Proposed Development subject to the outcome of Network Rail's internal clearance process and the requirements of any regulatory consents.</p>	<p>It is noted that Network Rail Infrastructure Limited (NRIL) does not object to the principle of the proposed DCO [APP-013]. As such, it is understood that matters are effectively resolved subject to appropriate protection of NRIL. In this response where any point is not addressed specifically it should be considered to be not accepted. The Applicant notes that NRIL's clearance process refers to its <u>internal</u> process of governance for the voluntary extinguishment of rights and disposals and not the compulsory acquisition of land. This does not have any bearing on the DCO process and is merely a mechanism governing its own ability to approve land disposals. Similarly, this is not relevant to any judgement of the objective acceptability of the Scheme.</p> <p>Under license Condition 17 of its Network License, NRIL may dispose of land in certain circumstances in any case, but all of those instances relate to voluntary disposals. However, it is notable that it may voluntarily dispose of land without consent from the Office of Rail and Road in light of a general consent dated October 2019, as:</p> <p>A lease or license "in connection with ... rail infrastructure activities connected to the network (General consent para 2.1(b)(vii);</p> <p>A license that would not have a material adverse effect on the ability of Network Rail... to use or develop the land for the purpose of providing services relating to railways (General consent para 2.1(e))</p> <p>To surrender a lease interest, grant or relinquish a wayleave, covenant, easement or servitude that would not have a material adverse effect on the ability of Network Rail ... to use or develop the land for the purpose of providing services relating to railways (General consent para 2.1(f));</p> <p>The grant of sub-surface or air rights that do not infringe on the space [including bridges] which may be needed to facilitate the provision of services relating to railways (General consent para 2.1(h) and 4.2); and</p> <p>The disposal of land to a governmental or local authority, agency or department for the purposes of or in connection with a highway, where such land does not otherwise form part of the operational rail network and where recent prior consultation with relevant stakeholders has left no issue unresolved.</p> <p>There may well be other applicable provisions, especially since the existing A1 Allerdene Bridge is owned by the Applicant, and this would effectively amount to a land swap – NRIL would not increase the interference by oversailing structures with the railway as a result of the Scheme.</p> <p>As such, the Applicant considers that there is no concern in relation to regulatory approval, particularly since paragraphs 4.6 to 4.8 of the General consent state:</p> <p><i>"4.6 There may be occasions when Network Rail is required to sell its land through, for example, the execution of a compulsory purchase order (CPO) or in circumstances of</i></p>

	Written Representation from Network Rail Infrastructure Limited	Response from Highways England (the "Applicant")
		<p><i>leasehold enfranchisement (under the Leasehold Reform Act 1967 and Leasehold Reform, Housing and Urban Development Act 1993).</i></p> <p><i>4.7 A CPO would require Network Rail to dispose of land which would normally be referred to us for specific consent. Under Condition 17.1(a) of Network Rail's network license, Network Rail can dispose of land without notifying us when the land is required by or under any enactment.</i></p> <p><i>4.8 There may also be occasions when Network Rail proceeds with a land disposal that, while not made under an enactment, would have been under an enactment had the acquiring party taken the steps to do so".</i></p> <p>For these purposes, the DCO granted pursuant to the application would be a CPO.</p>
Summary 2	Network Rail requests that the Protective Provisions appended to its Written Representation be included in the DCO at Part 3 of Schedule 3.	The Applicant's responses to NRIL's proposed changes to the Protective Provisions are set out below. The Protective Provisions are set out at Schedule 11 of the draft DCO [APP-013], while Schedule 3 addresses the classification of roads.
Summary 3	Network Rail welcomes the exclusion of compulsory acquisition of its land and rights over its land and other DCO powers in respect of its land without its consent, as provided by Paragraph 21 of the Protective Provisions submitted by the Applicant.	<p>Paragraph 21 of Schedule 11 of the draft DCO [APP-013] sets out the powers conferred on the undertaker under the DCO in respect of which consent must be sought from NRIL prior to the exercise of those powers. It also provides that such consent must not be unreasonably withheld by NRIL but may be given subject to reasonable conditions. In case of dispute, the matter is susceptible to resolution by arbitration under the draft DCO.</p> <p>The Applicant's responses to NRIL's proposed changes to the Protective Provisions are set out below.</p>
Summary 4	Given the potential risk of major accidents during the installation and operation phases of the Proposed Development, Network Rail considers it to be of utmost importance that full protections are first put in place and that the Proposed Development should proceed by way of agreement rather than compulsory acquisition.	<p>NRIL has not raised any risk of major accidents to the Applicant or in its representation. The Applicant's proposals would all be undertaken in accordance with appropriate engineering practices, on behalf of a Government-owned transportation body (like NRIL) during engineering possessions and subject to the general law relating to health and safety. As such, it is not understood what particular risk NRIL is seeking to argue exists here.</p> <p>In terms of the operation phase, a risk identified by the Applicant is that of vehicles leaving the highway where it passes over the new bridge and entering the railway. In order to address this risk, Volume 2 Section 2 Part 8 TD 19/06 of the Design Manual for Roads and Bridges (DMRB) and the Road Restraint Risk Assessment Process (RRRAP) have been followed in the design of the proposed bridge. The provision of H4a parapet (the highest level of containment) is prescribed for parapets over railways in paragraph 4.6 of the relevant section of the DMRB and will be provided as part of the Scheme. The RRRAP has been applied to the Scheme and demonstrates that the level of risk following mitigation with the proposed Vehicle Restraint System would be acceptable.</p> <p>As such, in the absence of any risks of major accidents being identified by NRIL, there are no works proposed that would affect the safe and efficient operation of the railway. Indeed, by the replacement of Allerdene Bridge with a modern structure and removal of the need for NRIL's overhead line electrification equipment to be mounted on the Applicant's structure (as at present), the safe and efficient operation of the railway will</p>

	Written Representation from Network Rail Infrastructure Limited	Response from Highways England (the "Applicant")
		<p>be improved as a result of the Scheme. This is a <i>benefit</i> of the Scheme. Beyond the mitigated risk referred to above, NR has not identified what risks would arise during the operation phase of the Scheme, given the improvement offered through replacement of the bridge.</p> <p>The Applicant has been engaging with NRIL since before the submission of the application and as such NRIL have had an extensive period in which to engage on the land and rights which are subject to compulsory acquisition powers. Justification for the extent of compulsory acquisition powers can be found in the Statement of Reasons [APP-016] and Part 3 of Schedule 11 of the draft DCO [APP-013] contains the Protective Provisions for the protection of railway interests. The Applicant will continue to engage with NRIL on the proposals for the Scheme, additional agreements and the Protective Provisions to be included in the draft DCO.</p> <p>Nevertheless, protective provisions are proposed for the benefit of NRIL. These are industry standard and it is for NRIL to demonstrate that the current drafting will result in or enhance "the potential risk of major accidents during the installation and operation phases".</p>
Summary 5	<p>Further, the Secretary of State cannot allow the DCO to be granted without protection for Network Rail from compulsory acquisition as the test in section 127 of the Planning Act 2008 cannot be satisfied. The granting of compulsory acquisition powers to the Applicant would result in serious detriment to Network Rail's undertaking; would raise significant health and safety concerns for the general public; and Network Rail does not have any other land available to it which could be used to avoid such detriment.</p>	<p>Part 3 of Schedule 11 of the draft DCO [APP-013] contains the Protective Provisions for the protection of railway interests. As stated above, paragraph 21 sets out the powers conferred on the undertaker under the DCO in respect of which consent must be sought from NRIL prior to the exercise of those powers. The powers subject to NRIL's consent include the compulsory acquisition of land and the compulsory acquisition of rights. Paragraph 21 also provides that such consent must not be unreasonably withheld by NRIL but may be given subject to reasonable conditions. In addition to the protection provided by the DCO, the Applicant continues to engage with NRIL in respect of the additional agreements requested by NRIL. Therefore, the DCO and these agreements will provide protection for NRIL. There is no sustainable reason for this objection as a result.</p> <p>Regardless, the tests in section 127 of the Planning Act 2008 can be satisfied. The compulsory acquisition of land and the compulsory acquisition of rights would not result in serious detriment to the carrying on of the undertaking, rather a benefit. No works are proposed that would affect the safe and efficient operation of the railway and, while it is not of direct relevance to the tests under section 127, the Scheme would not raise significant health and safety concerns for the general public. Indeed, by the replacement of Allerdene Bridge with a modern structure and removal of the need for NRIL's overhead line electrification equipment to be mounted on the Applicant's structure (as at present), the safe and efficient operation of the railway will be improved as a result of the Scheme. Rather than resulting in serious detriment to the carrying on of the undertaking, the Scheme will improve the future carrying on of the undertaking. Again, there is no sustainable reason for this objection as a result.</p>
Summary 6	<p>Network Rail is in ongoing discussions with the Applicant regarding the DCO, the extent of land and rights required in order to undertake the Works and the property agreements and Protective Provisions that will be required to enable its delivery.</p>	<p>The Applicant is grateful for the acknowledgement that discussions are ongoing and will continue to engage with NRIL.</p>
Summary 7	<p>Should sufficient progress regarding the Protective Provisions and private agreements</p>	<p>The Applicant will continue to engage with NRIL on the proposals for the Scheme,</p>

	Written Representation from Network Rail Infrastructure Limited	Response from Highways England (the "Applicant")
	to be entered into not be made between the parties in the coming weeks, Network Rail will request to be heard at an appropriate hearing to explain in detail the impacts of the Proposed Development. Network Rail will of course respond to any Written Questions that the Panel wishes to ask.	additional agreements and the Protective Provisions to be included in the draft DCO [APP-013]. It is for NRIL to decide whether it wishes to attend a hearing.
1	Introduction	N/A
1.1	This written representation (Written Representation) is submitted on behalf of Network Rail Infrastructure Limited (Network Rail) in response to the application by Highways England (Applicant) for the A1 Birtley to Coal House Improvement Scheme Development Consent Order (DCO). The Applicant seeks development consent for the authorised development described in Schedule 1 to the DCO (Proposed Development).	The Applicant notes the comments of NRIL contained within the written representation. The Applicant's responses to these comments are set out in this table.
1.2	The Proposed Development will comprise significant engineering works to operational railway land and land adjacent to and crossing over operational railway, which is owned, operated and maintained by Network Rail pursuant to its network licence granted under section 8 of the Railways Act 1993 (as amended) (Network Licence). The Applicant is seeking permanent and temporary acquisition of and rights over land owned by Network Rail.	The detail of all works to be carried out in the vicinity of the operational railway is found in the Works Plans [APP- 007], the Engineering Section Drawings [APP-009], the Structures Engineering Drawings and Sections [APP-011], the General Arrangement Plans [APP-010] and Schedule 1 of the draft DCO [APP-013], specifically work numbers 5a and 5b dealing with the demolition and replacement of the Allerdene Bridge. In summary, the works affecting the operational railway comprise the demolition of the Allerdene Bridge and construction of the replacement bridge structure where the A1 crosses over the East Coast Main Line (ECML), 40m to the immediate south of the existing Allerdene Bridge structure which would tie into the existing carriageways at junction 67 (Coal House) and north of junction 66 (Eighton Lodge). The detail of all land, rights and restrictive covenants subject to compulsory acquisition is set out in the Book of Reference [APP-018] and shown on the Land Plans [APP-006].
1.3	The railway affected by the Proposed Development is the East Coast Main Line, a line that runs from London to Edinburgh via Peterborough, Doncaster, York, Darlington, Durham and Newcastle. The East Coast Main Line is a key transport artery on the eastern side of Great Britain running broadly parallel to the A1 road and is used extensively by both passenger (including commuter and inter city services) and freight transport.	The Applicant notes NRIL's description of the ECML.
1.4	It is imperative that the Proposed Development proceeds in consultation and agreement with Network Rail and with the appropriate protections in place, as set out in this Written Representation.	The Applicant has consistently and regularly consulted NRIL in relation to the Scheme. NRIL was first consulted on the Scheme in 2016, and the Applicant has continued to engage with NRIL extensively on the proposals for the Scheme. It is considered that all of NRIL's concerns are capable of being addressed provided that it continues to engage with the Applicant. The Applicant will continue to engage with NRIL on the proposals for the Scheme, additional agreements and the Protective Provisions to be included in the draft DCO [APP-013].
1.5	Network Rail submitted a section 56 representation [RR-003] on 8 November 2019.	The Applicant has responded to NRIL's Relevant Representation in the Responses to Relevant Representations [RR-004].

	Written Representation from Network Rail Infrastructure Limited	Response from Highways England (the "Applicant")
1.6	Network Rail objects to any temporary and permanent compulsory powers being granted or executed or the extinguishment of the rights held by Network Rail over operational railway land and third party land on which it relies for the carrying out of its statutory undertaking. Network Rail also objects to the seeking of other powers to carry out works over and/or to operational and non-operational railway land belonging to Network Rail without first securing appropriate protective provisions for Network Rail's statutory undertaking.	NRIL's objections are noted, and its specific comments are addressed in this table. The Applicant considers that the powers in the draft DCO [APP-013] are necessary and proportionate in their entirety, particularly noting that the works powers are essential to the delivery of the Scheme. Justification for the extent of compulsory acquisition powers can be found in the Statement of Reasons [APP-016] and Part 3 of Schedule 11 of the draft DCO [APP-013] contains the Protective Provisions for the protection of railway interests. The Applicant will continue to engage with NRIL on the proposals for the Scheme, additional agreements and the Protective Provisions to be included in the draft DCO.
1.7	Network Rail welcomes the Applicant's inclusion at paragraph 21(1) of Part 3 of Schedule 3 to the draft DCO [APP-013], of a provision which, if included in the DCO that is granted consent by the Secretary of State, would ensure that compulsory acquisition and other DCO powers could not be undertaken in respect of Network Rail property without Network Rail's consent.	As stated above, paragraph 21 of Schedule 11 of the draft DCO [APP-013] sets out the powers conferred on the undertaker under the DCO in respect of which consent must be sought from NRIL prior to the exercise of those powers. It also provides that such consent must not be unreasonably withheld by NRIL but may be given subject to reasonable conditions and is subject to arbitration in default of agreement. The Applicant's responses to NRIL's proposed changes to the Protective Provisions are set out below.
1.8	Network Rail is willing to enter into the agreements referred to in this Written Representation to enable the Proposed Development to be carried out while safeguarding Network Rail's undertaking.	Noted. This comment is addressed at 3.5 below.
1.9	While negotiations with the Applicant are in progress and Network Rail is hopeful that agreement can be reached during the course of the Examination, in the absence of an agreement that safeguards its interests, Network Rail requests that the Examining Authority (ExA) recommend that the attached Protective Provisions are included as Part 3 of Schedule 11 to the draft DCO.	The Applicant is grateful for the acknowledgement that negotiations are ongoing and will continue to engage with NRIL on the proposals for the Scheme. The Applicant's responses to NRIL's proposed changes to the Protective Provisions are set out below.
1.10	Network Rail has also been asked by the ExA to agree a Statement of Common Ground with the Applicant (SoCG). The first SoCG is being submitted at Deadline 2.	A Statement of Common Ground has been submitted in draft to NRIL, and the draft has been submitted to the ExA at Deadline 2.
2	Network Rail's duties and the Clearance approval process	N/A
	<u>Network Rail's Statutory Duties</u>	N/A
2.1	Network Rail owns, operates and maintains the railway infrastructure of Great Britain pursuant to the Network License. Network Rail must comply with regulatory consents or approvals required under the Railways Act 1993 and the Network License, by either the Office of Rail and road or the Secretary of State for Transport.	Noted.
2.2	Network Rail considers that there is no compelling case in the public interest for the compulsory acquisition of land and rights over its land as the Applicant and Network Rail	The Government's Guidance on compulsory acquisition provides for compulsory powers to be sought in parallel with the promotion of an agreement. It is entirely

	Written Representation from Network Rail Infrastructure Limited	Response from Highways England (the "Applicant")
	should instead negotiate matters by private agreement to grant the Applicant the necessary rights.	appropriate for such powers to be granted as a result in the absence of an agreement with NRIL, subject to suitable protection. The Applicant considers that section 122(2) and 122(3) of the Planning Act 2008 have been satisfied. The justification for the compulsory acquisition and temporary possession powers sought can be found in the Statement of Reasons [APP-016]. Annex A of the Statement of Reasons sets out why compulsory acquisition powers are necessary in relation to each individual parcel of land with reference to the relevant DCO works numbers and the nature of the works. It is considered that the land included in the draft DCO [APP-013] is the minimum land-take required to construct, operate, maintain and mitigate the Scheme and in this context, the limits of deviation have been drawn as tightly as possible to avoid unnecessary land take. In the event that less land proves to be required in a particular area following the detailed design stage, the Applicant would only seek to acquire that part of the land that is required and, in all events, will seek to minimise effects on landowners. Further, there are no reasonable alternatives to the Scheme that would reduce the amount of land that would be subject to compulsory acquisition.
2.3	Network Rail also considers that the Secretary of State, in applying section 127 of the Planning Act 2008, cannot conclude that new rights and restrictions over the railway land can be created without serious detriment to Network Rail's undertaking; and no other land is available to Network Rail which means that the detriment can be made good by them.	Section 127 of the Planning Act 2008 only applies where the representation in question has not been withdrawn before the completion of the examination of the application. However, as stated above, the tests in section 127 of the Planning Act 2008 can be satisfied. The compulsory acquisition of land and the compulsory acquisition of rights would not result in serious detriment to the carrying on of the undertaking. Indeed, NRIL has advanced no evidence whatsoever that the Scheme would in any way cause detriment to NRIL's undertaking. No works are proposed that would affect the safe and efficient operation of the railway. Indeed, by the replacement of Allerdene Bridge with a modern structure and removal of the need for NRIL's overhead line electrification equipment to be mounted on the Applicant's structure (as at present), the safe and efficient operation of the railway will be improved as a result of the Scheme. Rather than resulting in serious detriment to the carrying on of the undertaking, the Scheme will enable the future carrying on of the undertaking.
2.4	Network Rail welcomes the inclusion of paragraph 21(1) of Part 3 of Schedule 3 to the draft DCO, which dis-applies the compulsory acquisition powers granted by the DCO in respect of Network Rail property.	As stated above, paragraph 21 of Schedule 11 of the draft DCO [APP-013] sets out the powers conferred on the undertaker under the DCO in respect of which consent must be sought from NRIL prior to the exercise of those powers. It also provides that such consent must not be unreasonably withheld by NRIL but may be given subject to reasonable conditions. It does not disapply the powers conferred on the undertaker under the DCO in respect of NRIL property but constrains them in a manner that is entirely consistent with that to which NRIL has acquiesced on multiple occasions. The Applicant's responses to NRIL's proposed changes to the Protective Provisions are set out below.
	<u>Network Rail Clearance Required for the Proposed Development</u>	N/A
2.5	Clearance is a two-stage process by which Network Rail's technical and asset	As stated above, the Applicant notes that NRIL's Clearance process refers to its

	Written Representation from Network Rail Infrastructure Limited	Response from Highways England (the "Applicant")
	protection engineers review a proposal before "clearance" can be granted for a proposal to proceed subject to engineering and other conditions.	<u>internal</u> process of governance for engineering works, the extinguishment of rights and the compulsory acquisition of land. This does not have any bearing on the DCO process and is merely a mechanism governing its own ability to approve land disposals. It is notable that NRIL operates a railway network and as such carries out works such as those envisaged on a regular basis. There is nothing extraordinary about those which the Applicant has for some time been consulting NRIL in relation to.
2.6	On the basis of information supplied to Network Rail by the Applicant regarding the Proposed Development, Network Rail is in the process of applying for Technical and Business Clearance.	This is noted.
2.7	The Clearances being applied for are based not on the scheme described by the Works identified in the Book of Reference but on details supplied by the Applicant during the course of discussions between the Applicant and Network Rail.	As stated above, NRIL's Clearance process refers to its internal process of governance for the undertaking of engineering works, extinguishment of rights and the compulsory acquisition of land. This does not have any bearing on the DCO process and is merely a mechanism governing its own ability to approve land disposals. The detail of all works to be carried out is found in the Works Plans [APP- 007], the Engineering Section Drawings [APP-009], the Structures Engineering Drawings and Sections [APP-011], the General Arrangement Plans [APP-010] and Schedule 1 of the draft DCO [APP-013]. The detail of all land, rights and restrictive covenants subject to compulsory acquisition is set out in the Book of Reference [APP-018] and shown on the Land Plans [APP-006]. Whilst NRIL relies on more detailed proposals, these are provided for in the proposed protective provisions.
2.8	Subject to the design of the Proposed Development submitted by the Applicant being acceptable to Network Rail's asset protection team and its engineers, Network Rail hopes to obtain Clearance before the closure of the Examination.	This is a helpful statement. The Applicant would aim to record such an agreement in a Statement of Common Ground. The detail of all works to be carried out in the vicinity of the operational railway is found in the Works Plans [APP- 007], the Engineering Section Drawings [APP-009], the Structures Engineering Drawings and Sections [APP-011], the General Arrangement Plans [APP-010] and Schedule 1 of the draft DCO [APP-013], specifically work numbers 5a and 5b dealing with the demolition and replacement of the Allerdene Bridge. In summary, the works affecting the operational railway comprise the demolition of the Allerdene Bridge and construction of the replacement bridge structure where the A1 crosses over the ECML, 40m to the immediate south of the existing Allerdene Bridge structure which would tie into the existing carriageways at junction 67 (Coal House) and north of junction 66 (Eighton Lodge).
2.9	Network Rail can confirm that Clearance has not yet been applied for in relation to all of the Works that affect Network Rail infrastructure as Network Rail has not received all the necessary information from the Applicant to enable it to do so. However, Network Rail understands that the Applicant will be submitting the necessary information soon and Network Rail will keep the ExA informed regarding the Clearance process at the relevant Examination deadlines.	As stated above, NRIL's Clearance process refers to its internal process of governance for the extinguishment of rights and the compulsory acquisition of land. This does not have any bearing on the DCO process and is merely a mechanism governing its own ability to approve land disposals. The Applicant has consistently and regularly consulted NRIL in relation to the Scheme. The Applicant will continue to engage with NRIL on the proposals for the Scheme.

	Written Representation from Network Rail Infrastructure Limited	Response from Highways England (the "Applicant")
3	DCO Powers Sought by the Applicant and the impact on Network Rail property	N/A
	<u>Network Rail Land Required, and Works Proposed</u>	N/A
3.1	Network Rail has freehold and other property interests in 37 plots of land (Plots) that are identified in the Book of Reference and shown in the Land Plans submitted with the application for the DCO.	As highlighted by NRIL, the detail of all land, rights and restrictive covenants subject to compulsory acquisition is set out in the Book of Reference [APP-018] and shown on the Land Plans [APP-006].
3.2	The Applicant is seeking DCO powers in relation to the Plots to carry out the following works, which are described fully in Schedule 1 to the DCO: Work Nos. 4a, 4b - the construction of a new offline section of the A1 southbound carriageway; Work No. 5b - the demolition of the exiting Allerdene Railway bridge and associated embankments; Work No. 6b - the widening, alteration and realignment of the A1 northbound carriageway; Work Nos. 9, 14, 15 and 16 - the diversion of existing Northern Gas Networks Gas Pipelines; and Work No. 11 - the construction of a private maintenance access road (together the Works).	The detail of all works to be carried out can be found in the Works Plans [APP- 007], the Engineering Section Drawings [APP-009], the Structures Engineering Drawings and Sections [APP-011], the General Arrangement Plans [APP-010] and Schedule 1 of the draft DCO [APP-013].
3.3	In order to undertake the Works, the Applicant is seeking permanent acquisition of land and rights over land or temporary possession and use of the Plots.	The detail of all land, rights and restrictive covenants subject to compulsory acquisition is set out in the Book of Reference [APP-018] and shown on the Land Plans [APP-006].
3.4	As we state below, the Plots identified in the Book of Reference may include land that is not required for the construction of the Works. Network Rail is investigating the Proposed Development and the land that will be required to undertake the Works and will confirm its findings to the ExA and the Applicant as soon as possible and at an appropriate Examination deadline.	It is considered that the land included in the draft DCO [APP-013] and the plots identified in the Book of Reference [APP-018] is the minimum land-take required to construct, operate, maintain and mitigate the Scheme and in this context, the limits of deviation have been drawn as tightly as possible to avoid unnecessary land take. In the event that less land proves to be required in a particular area following the detailed design stage, the Applicant would only seek to acquire that part of the land that is required and, in all events, will seek to minimise effects on landowners. The Applicant awaits receipt of the findings of the investigations being carried out by NRIL and will assess these once they have been received.
	<u>The property Agreements Required to Enable the Construction of the Proposed Development</u>	N/A
3.5	Network Rail is still considering the property agreements required to enable the Proposed Development to be constructed. Network Rail is in discussions with the Applicant in this regard but can confirm that there will be numerous property agreements, which are likely to include:	The Applicant continues to engage with NRIL in respect of the agreements requested by NRIL. The Applicant notes that NRIL is seeking additional land from the Applicant under 3.5(a) ("transfer to Network Rail..."). The Applicant does not necessarily accept that the full range of agreements identified by NRIL will be required, but is engaging

	Written Representation from Network Rail Infrastructure Limited	Response from Highways England (the "Applicant")
	<p>Property agreements required to remove existing land and rights of Network Rail (for the existing bridge and access route): Deed of Surrender of access rights, Deed of Variation terminating an easement, Transfer to Network Rail of land that is not required for the new bridge and Deed of Surrender in respect of the freight lease; Property agreements required for the demolition of the old bridge and the construction of the new bridge: Bridge Agreement and Licences to Occupy; Property agreements required to grant the Applicant with the necessary land and rights in respect of the new bridge: Deeds of Easement and Transfer; and Property agreements may be required to grant the Applicant with necessary rights in respect of diverting gas pipelines; and Property agreements in respect of relocation of any utilities/telephone mast.</p>	<p>nonetheless.</p>
3.6	<p>The Works also affect land that is leased to a freight operating company (FOC), as we refer further below, and therefore some property agreements will require the consent of the relevant FOC.</p>	<p>As set out in the Statement of Reasons [APP-016] and the Book of Reference [APP-018], DB Cargo (UK) Limited has a leasehold interest in plots 3/10c, 3/10d, 3/10e, 3/10f, 3/10g, 3/10h, 3/10i, 3/12a, 3/12b, 3/12c, 3/12d, 3/12e and 3/12f. The Applicant is involved in ongoing discussions with DB Cargo (UK) Limited, as detailed in table 1.3.1, produced in response to the Examining Authority's Written Question 1.3.1. The Applicant continues to engage with NRIL in respect of the agreements requested by NRIL.</p>
	<p><u>Possible Impact of Construction Traffic on Level Crossings</u></p>	<p>N/A</p>
3.7	<p>Network Rail is assessing the level crossings in the vicinity of the Proposed Development to check whether there will be an impact on their operation during the construction phase of the Works. If any affected level crossing is privately owned, the landowner's consent would need to be obtained before the Works could proceed.</p>	<p>The Applicant awaits receipt of the findings of the assessment being carried out by NRIL and will comment on the assessment once it has been received. However, the Applicant notes that there are no level crossings within the Order limits and that the nearest level crossings are believed to be North of Newcastle and South of Darlington (at least). It is submitted that there is very little need to carry out the assessment to which NRIL refers.</p>
	<p><u>Network Rail's Objection to the Works Identified in the Book of Reference</u></p>	<p>N/A</p>
3.8	<p>As we state above, Network Rail's asset protection team and its engineers are still considering the design of the Proposed Development and, further to ongoing discussions between the Applicant and Network Rail's asset protection team, Network Rail will provide the ExA with further explanation of any matters on which they cannot agree during the course of the Examination.</p>	<p>The Applicant awaits receipt of the findings of any further assessments being carried out by NRIL and will comment on the assessments once they have been received. However, it would be helpful to understand what assessments NRIL is undertaking and when they will be received.</p>
3.9	<p>As the Works set out in the Book of Reference cannot be agreed to by Network Rail, in so far as they relate to Network Rail property, the DCO should not, it is submitted, be granted without the exercise of compulsory acquisition and other compulsory powers, being excluded in respect of Network Rail property unless they are exercised with Network Rail's consent. The design of the scheme and other engineering matters that will have a direct impact on the safe operation of the railway can be dealt with by</p>	<p>The Applicant considers that NRIL is perfectly able to agree to the works as they appear in the Application subject to suitable protections, which have been offered. The detail of all works to be carried out is found in the Works Plans [APP-007], the Engineering Section Drawings [APP-009], the Structures Engineering Drawings and Sections [APP-011], the General Arrangement Plans [APP-010] and Schedule 1 of the draft DCO [APP-013].</p>

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	agreement between the Applicant and Network Rail's asset protection team and its engineers.	The detail of all land, rights and restrictive covenants subject to compulsory acquisition is set out in the Book of Reference [APP-018] and shown on the Land Plans [APP-006]. As stated above, paragraph 21 of Schedule 11 of the draft DCO [APP-013] sets out the powers conferred on the undertaker under the DCO in respect of which consent must be sought from NRIL prior to the exercise of those powers. It also provides that such consent must not be unreasonably withheld by NRIL but may be given subject to reasonable conditions. In addition to the protection provided by the DCO, the Applicant continues to engage with NRIL in respect of the additional agreements requested by NRIL.
	<u>How the Applicant can Address Network Rail's Concerns</u>	N/A
3.10	<p>Network Rail and the Applicant have begun discussions to seek to ensure that the necessary property agreements (or the form of the documents) are agreed before the close of the Examination. The discussions relate to the following documents:</p> <p>Protective Provisions that provide sufficient protection for Network Rail, its infrastructure and the safe operation of the railway, as referred to below;</p> <p>A framework agreement that describes or attaches the property agreements to be entered into, the protective provisions and any necessary Basic Asset Protection Agreement (BAPA) or Asset Protection Agreement (APA) for the benefit of Network Rail;</p> <p>The property agreements identified above regarding the relevant Plots (or part thereof) enabling the Applicant to install, operate and maintain the Works. Negotiations with the Applicant and the relevant FOC regarding the terms of the relevant property agreements are ongoing; and</p> <p>A BAPA and/or APA or agreements that regulate how Network Rail's assets will be protected during the construction and operation of the Proposed Development and ensure that Network Rail has full access rights during the construction and operation phases of the Proposed Development.</p>	The Applicant continues to engage with NRIL in respect of the agreements requested by NRIL. The Applicant does not necessarily accept that the full range of agreements identified by NRIL will be required, but is engaging nonetheless.
	<u>Requests of the ExA: The Protective Provisions</u>	N/A
3.11	Notwithstanding the ongoing discussions with the Applicant, Network Rail invites the ExA to request that the Applicant includes Protective Provisions that provide sufficient protection for Network Rail, its infrastructure and the safe operation of the railway in Part 3 of Schedule 9 to the DCO (and as attached at Appendix 1 - NR Protective Provisions).	The Applicant's responses to NRIL's proposed changes to the Protective Provisions are set out below. However, the Applicant considers that the provisions as drafted ought to be acceptable to NRIL.
3.12	Appendix 2 shows Network Rail's proposed amendments to the Protective Provisions submitted by the Applicant [AP-013] (Appendix 2).	The Applicant's responses to NRIL's proposed changes to the Protective Provisions are set out below.

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3.13	<p>A key concern with regard to the Protective Provisions is the inclusion by the Applicant of Paragraph 32(4), which states:</p> <p><i>"32(4) In no circumstances is the undertaker liable to Network Rail under subparagraph (1) for any indirect or consequential loss or loss of profits, except that the sums payable by the undertaker under that sub-paragraph include a sum equivalent to the relevant costs in circumstances where— (a) Network Rail is liable to make payment of the relevant costs pursuant to the terms of an agreement between Network Rail and a train operator; and (b) the existence of that agreement and the extent of Network Rail's liability to make payment of the relevant costs pursuant to its terms has previously been disclosed in writing to the undertaker, but not otherwise."</i></p>	<p>The Applicant's responses to NRIL's proposed changes to the Protective Provisions are set out below.</p>
3.14	<p>Paragraph 32 of the Protective Provisions provides for an indemnity by the Applicant in favour of Network Rail. The version shown in the Network Rail Protective Provisions is the standard indemnity which has been included in many statutory orders.</p>	<p>The Applicant's responses to NRIL's proposed changes to the Protective Provisions are set out below.</p>
3.15	<p>It indemnifies Network Rail in respect of losses it suffers and claims by train operators because of delays caused by reason of the construction or maintenance of a specified work or failure thereof or by reason of any act or omission of the undertaker or any of its employees or contractors while engaged on a specified work. It enables Network Rail to recover what are described as "relevant costs"; namely costs incurred by train operators for which Network Rail is liable under an agreement with the train operator as well as other consequential losses. In its version of the Protective Provisions, the Applicant is seeking to ensure that:</p> <p>the indemnity does not apply to indirect or consequential loss or loss of profits, relevant costs may only be recovered by Network Rail if it has provided details of its agreement with the train operator, and of its liability to pay costs to the train operator under that agreement, to the undertaker.</p>	<p>The Applicant's responses to NRIL's proposed changes to the Protective Provisions are set out below.</p>
3.16	<p>Network Rail should not be obliged to provide advance details of agreements with train operators to the Applicant; this creates an unnecessary administrative burden on Network Rail and any failure to provide the relevant details would invalidate the indemnity. Further, such agreements are commercially sensitive; the Office of Rail and Road only provides redacted copies of such train operator contracts for that reason. The standard Network Rail indemnity will be particularly necessary in this case because of the nature of the Works that are proposed over operational railway; therefore, a full indemnity covering Network Rail's potential costs, including those of train and freight operating companies, for which Network Rail is liable, is required.</p>	<p>The Applicant's responses to NRIL's proposed changes to the Protective Provisions are set out below.</p>
3.17	<p>Network Rail notes that under paragraph 32(2) it is already under an obligation to provide the Applicant with reasonable notice of any claim and not compromise a claim without the prior consent of the undertaker.</p>	<p>The Applicant's responses to NRIL's proposed changes to the Protective Provisions are set out below.</p>
3.18	<p>A further protection provision is required at paragraph 21(6) to ensure that railway property can always be used or maintained. In this case the access route that is</p>	<p>The Applicant's responses to NRIL's proposed changes to the Protective Provisions are set out below.</p>

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	currently used and relied upon by Network Rail cannot be surrendered by Network Rail until the new access route has been constructed (pursuant to Work No. 11), is made available for use by Network Rail and the access rights formally documented.	
	<u>Consultation with and Consent of the Freight Operating Company</u>	N/A
3.19	In addition to the asset protection requirements of Network Rail, where the Works affect land that is leased by Network Rail to a FOC, Network Rail is under a duty to notify and consult the FOC before allowing the Works to be commenced. Network Rail is liaising with the relevant FOC and will confirm to the ExA and the Applicant the impact that the Works will have on the operation of trains.	The Applicant continues to engage with NRIL in respect of the agreements requested by NRIL. It is noted that NRIL is liaising with DB Cargo (UK) Limited. The Applicant is involved in ongoing discussions with DB Cargo (UK) Limited, as detailed in the Statement of Reasons [APP-016]
3.20	The ExA and the Applicant should note that, as a result of the Works, the lease between Network Rail and the FOC may need to be amended prior to the construction of the relevant Works.	As stated above, the Applicant is involved in ongoing discussions with DB Cargo (UK) Limited, as detailed in table 1.3.1, produced in response to the Examining Authority's Written Question 1.3.1, and the Applicant continues to engage with NRIL in respect of the agreements requested by NRIL. It is noted that NRIL may need to amend the lease to DB Cargo (UK) Limited.
	<u>Network Rail's Objection to the DCO</u>	N/A
3.21	While Network Rail does not object to the principle of the DCO, for the reasons set out in this Written Representation Network Rail objects to the Proposed Development.	It is noted that NRIL does not object to the principle of the proposed DCO [APP-013]. The Applicant's responses to NRIL's written representation are set out in this table.
3.22	In relation to the above-mentioned Works Network Rail is liaising closely with the Applicant and is willing to enter into private agreements to agree the extent and scope of the rights to be granted to the Applicant and the method of the construction of the Works (subject to the outcome of Network Rail's internal land clearance process, a process which is imposed on Network Rail by its Network Licence, and the requirements of any regulatory consents).	The Applicant continues to engage with NRIL in respect of the works proposed and the additional agreements requested by NRIL.
3.23	Without these agreements and satisfactory protective provisions being in place, Network Rail considers that the Proposed Development, if carried out in relation to the Plots, will have a serious detrimental impact on the operation of the railway and will prevent Network Rail from operating the railway safely and efficiently and in accordance with its Network Licence. Until such agreements are in place Network Rail is unable to withdraw its objection to the DCO.	As stated above, paragraph 21 of Schedule 11 of the draft DCO [APP-013] sets out the powers conferred on the undertaker under the DCO in respect of which consent must be sought from NRIL prior to the exercise of those powers. It also provides that such consent must not be unreasonably withheld by NRIL but may be given subject to reasonable conditions. In addition to the protection provided by the DCO, the Applicant continues to engage with NRIL in respect of the additional agreements requested by NRIL. Therefore, the DCO and these agreements will provide protection for NRIL.
4	Conclusions	N/A
4.1	Network Rail does not object in principle to the Proposed Development subject to the outcome of Network Rail's internal clearance process and the requirements of any	It is noted that NRIL does not object to the principle of the proposed DCO [APP-013]. As stated above, the Applicant notes that NRIL's clearance process refers to its internal

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	regulatory consents.	process of governance for the extinguishment of rights and the compulsory acquisition of land. This does not have any bearing on the DCO process and is merely a mechanism governing its own ability to approve land disposals. The need for regulatory consents is addressed above.
4.2	Network Rail requests that the Protective Provisions appended to this document be included in the DCO at Part 3 of Schedule 3.	The Applicant's responses to NRIL's proposed changes to the Protective Provisions are set out below. The Protective Provisions are set out at Schedule 11 of the draft DCO [APP-013], while Schedule 3 addresses the classification of roads.
4.3	Network Rail welcomes the exclusion of compulsory acquisition of its land and rights over its land and other DCO powers in respect of its land without its consent, as provided by Paragraph 21 of the Protective Provisions submitted by the Applicant.	As stated above, paragraph 21 of Schedule 11 of the draft DCO [APP-013] sets out the powers conferred on the undertaker under the DCO in respect of which consent must be sought from NRIL prior to the exercise of those powers. It also provides that such consent must not be unreasonably withheld by NRIL but may be given subject to reasonable conditions. The Applicant's responses to NRIL's proposed changes to the Protective Provisions are set out below.
4.4	Given the potential risk of major accidents during the installation and operation phases of the Proposed Development, Network Rail considers it to be of utmost importance that full protections are first put in place and that the Proposed Development should proceed by way of agreement rather than compulsory acquisition.	The Protective Provisions for the protection of railway interests are set out at Part 3 of Schedule 11 of the draft DCO [APP-013]. These include the provision at paragraph 21, which sets out the powers conferred on the undertaker under the DCO in respect of which consent must be sought from NRIL prior to the exercise of those powers. The powers subject to NRIL's consent include the compulsory acquisition of land and the compulsory acquisition of rights. Paragraph 21 also provides that NRIL's consent may be given subject to reasonable conditions. As stated above, the justification for the compulsory acquisition and temporary possession powers sought can be found in the Statement of Reasons [APP-016], while Annex A of the Statement of Reasons sets out why compulsory acquisition powers are necessary in relation to each individual parcel of land with reference to the relevant DCO works numbers and the nature of the works.
4.5	Further, the Secretary of State cannot allow the DCO to be granted without protection for Network Rail from compulsory acquisition as the test in section 127 of the Planning Act 2008 cannot be satisfied. The granting of compulsory acquisition powers to the Applicant would result in serious detriment to Network Rail's undertaking; would raise significant health and safety concerns for the general public; and Network Rail does not have any other land available to it which could be used to avoid such detriment.	As stated above: Paragraph 21 of Schedule 11 of the draft DCO [APP-013] sets out the powers conferred on the undertaker under the DCO in respect of which consent must be sought from NRIL prior to the exercise of those powers. The powers subject to NRIL's consent include the compulsory acquisition of land and the compulsory acquisition of rights. Paragraph 21 also provides that such consent must not be unreasonably withheld by NRIL but may be given subject to reasonable conditions. In addition to the protection provided by the DCO, the Applicant continues to engage with NRIL in respect of the additional agreements requested by NRIL. Therefore, the DCO and these agreements will provide protection for NRIL. The tests in section 127 of the Planning Act 2008 can be satisfied. The compulsory acquisition of land and the compulsory acquisition of rights would not result in serious detriment to the carrying on of the undertaking. No works are proposed that would affect the safe and efficient operation of the railway and, while it is not of direct

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		relevance to the tests under section 127, the Scheme would not raise significant health and safety concerns for the general public. Indeed, by the replacement of Allerdene Bridge with a modern structure and removal of the need for NRIL's overhead line electrification equipment to be mounted on the Applicant's structure (as at present), the safe and efficient operation of the railway will be improved as a result of the Scheme. Rather than resulting in serious detriment to the carrying on of the undertaking, the Scheme will enable the future carrying on of the undertaking
4.6	Network Rail is in ongoing discussions with the Applicant regarding the DCO, the extent of land and rights required in order to undertake the Works and the property agreements and Protective Provisions that will be required to enable its delivery.	The Applicant is grateful for the acknowledgement that discussions are ongoing and will continue to engage with NRIL on the proposals for the Scheme and the Protective Provisions to be included in the draft DCO [APP-013].
4.7	Should sufficient progress regarding the Protective Provisions and private agreements to be entered into not be made between the parties in the coming weeks, Network Rail will request to be heard at an appropriate hearing to explain in detail the impacts of the Proposed Development. Network Rail will of course respond to any Written Questions that the Panel wishes to ask.	The Applicant will continue to engage with NRIL on the proposals for the Scheme, additional agreements and the Protective Provisions to be included in the draft DCO [APP-013]. It is noted that NRIL may request to be heard at an appropriate hearing, and that it is willing to respond to Written Questions from the Panel.
Protective Provisions - PART 3 For the Protection of Railway Interests		
18	The following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 32, any other person on whom rights or obligations are conferred by that paragraph.	No change.
19	In this Part of this Schedule— "construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings; "the engineer" means an engineer appointed by Network Rail for the purposes of this Order; "network licence" means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the undertaker <u>Secretary of State</u> in exercise of powers under section 8 (licences) of the Railways Act 1993(a) ; "Network Rail" means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at 1 Eversholt Street, London NW1 2DN) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes and for the purpose of this definition "associated company" means any company which is (within the meaning of section 1159 (meaning of "subsidiary" etc.) of the Companies Act 2006 (b)) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail (a) 1993 c.46 (b) 2006 c.46 75 Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited; "plans" includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction),	The amendment to the definition of "network licence", replacing the reference to the 'undertaker' with the 'Secretary of State', is accepted. The amendments to the definition of "Network Rail" are not accepted. The replacement of the quotation marks is immaterial and the reference to '(b)' relates to a footnote in the draft DCO [APP-013] and should be retained. It should be noted that the reference to '(a) 1993 c.46 (b) 2006 c.46 75' also relates to a footnote in the draft DCO.

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	<p>staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property; "protective works" means any works specified by the engineer under paragraph 22; "railway operational procedures" means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease; "railway property" means any railway belonging to Network Rail and— (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and (b) any easement or other property interest held or used by Network Rail for or connected with the purposes of such railway or works, apparatus or equipment; and "specified work" means so much of any of the authorised development as is, or is to be, situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property.</p>	
20	<p>(1) Where under this Part of this Schedule Network Rail is required to give its consent, agreement or approval in respect of any matter, that consent, agreement or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute <u>and, if applicable, shall be subject to first obtaining the consent and/or surrender of any leaseholder of the railway property.</u></p> <p>(2) In so far as any specified work or the acquisition or use of railway property or rights over railway property is or may be subject to railway operational procedures, Network Rail must— (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway <u>co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures;</u> and (b) use its reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development under this Order.</p>	<p>Paragraph 20(1): Paragraph 35 refers to agreements and, as such, the references to 'agreement' in paragraph 20(1) should be retained. The inclusion of 'agreement' in this paragraph has precedent in the A160/A180 (Port of Immingham Improvement) Development Consent Order 2015 and the M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016.</p> <p>Paragraph 20(1): The insertion of the provision relating to the consent and/or surrender of any leaseholders of the railway property is not accepted. The original wording proposed by the Applicant has precedent in the protective provisions for the protection of railway interests contained within the A160/A180 (Port of Immingham Improvement) Development Consent Order 2015, the M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016 and the National Grid (Hinkley Point C Connection Project) Order 2016. NRIL has not provided any justification for the departure from this precedent. Any other party should seek its own protection, and in case of recalcitrance on the part of any other such party, the power of compulsion must be retained.</p> <p>Paragraph 20(2)(a): The proposed amendment is accepted.</p>
21	<p>(1) The undertaker must not exercise the powers conferred by articles <u>21 (discharge of water)</u>, 22 (authority to survey and investigate land), 23 (compulsory acquisition of land), 26 (compulsory acquisition of rights), 27 (private rights over land), 30 (acquisition of subsoil or air-space only), 31 (rights under or over streets), 32 (temporary use of land for carrying out the authorised development), 33 (temporary use of land for maintaining the authorised development), 34 (statutory undertakers), 37 (felling or lopping of trees), <u>38 (trees subject to tree preservation orders)</u> or the powers conferred by section 11(3) (powers of entry) of the 1965 Act or by section 203 (power to override easements and rights) of the Housing and Planning Act 2016(a) in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.</p> <p>(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.</p>	<p>Paragraph 21(1): The points (reference to Article 21 and 38) are not accepted as NRIL has not explained why they are necessary to it in the context of the Scheme.</p> <p>Paragraph 21(4): The proposed insertions are otiose and are not accepted. The requirement for the Applicant to seek the consent of NRIL prior to exercising the powers conferred in respect of the imposition of restrictive covenants and the acquisition or extinguishment of existing rights is addressed by the references to articles 26 and 27 of the draft DCO [APP-013] in paragraph 21(1). It is also noted that the amendments requested by NRIL were not included in the A160/A180 (Port of Immingham Improvement) Development Consent Order 2015 or the M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016.</p> <p>Paragraph 21(5): The deletion of 'agreement' is accepted. The reference to (a) 2016 c.22 76 22 relates to a footnote in the draft DCO [APP-013] and should be retained.</p> <p>Paragraph 21(6): The insertion of a new paragraph 21(6) is not accepted. At paragraph 3.18 of the written representation, NRIL state that,</p>

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	<p>(3) The undertaker must not exercise the powers conferred by sections 271 (extinguishment of rights of statutory undertakers: preliminary notices) or 272 (extinguishment of rights of telecommunications code system operators: preliminary notices) of the 1990 Act, or article 34 (statutory undertakers), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.</p> <p>(4) The undertaker must not under the powers of this Order acquire or use, or acquire new rights over, <u>or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property,</u> except with the consent of Network Rail.</p> <p>(5) Where Network Rail is asked to give its consent or agreement under this paragraph, such consent or agreement must not be unreasonably withheld but may be given subject to reasonable conditions. (a) 2016 c.22 76 22.</p> <p><u>(6) The undertaker shall not place railway property in a position where it cannot be used, or maintained, or is placed at risk of not being capable of use, to run trains safely.</u></p>	<p><i>"A further protection provision is required at paragraph 21(6) to ensure that railway property can always be used or maintained. In this case the access route that is currently used and relied upon by Network Rail cannot be surrendered by Network Rail until the new access route has been constructed (pursuant to Work No. 11), is made available for use by Network Rail and the access rights formally documented."</i></p> <p>The insertion of paragraph 21(6) is otiose, as the reasons given by NRIL for its inclusion are already addressed by the existing drafting. The consent requirements imposed on the undertaker under paragraph 21 serve to protect NRIL from any risk of railway property not being able to be used or maintained, and the principle responsibility for assessing this is with NRIL, not with the Applicant. In particular, paragraph 21(2) provides that the undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of NRIL. This protects NRIL from any risk of being unable to access any railway property. It is noted that the provision requested by NRIL was not included in the A160/A180 (Port of Immingham Improvement) Development Consent Order 2015 or the M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016.</p>
22	<p>(1) The undertaker must, before commencing construction of any specified work, supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration under article 46 (arbitration).</p> <p>(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated disapproval of those plans and the grounds of disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer is deemed to have approved the plans as submitted.</p> <p>(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it with all reasonable dispatch<u>without unnecessary delay</u> on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.</p> <p>(4) When signifying approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the</p>	<p>Paragraph 22(3): The replacement of 'with all reasonable dispatch' by 'without unnecessary delay' is not accepted. The original wording proposed by the Applicant has precedent in the protective provisions for the protection of railway interests contained within the A160/A180 (Port of Immingham Improvement) Development Consent Order 2015, the M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016 and the National Grid (Hinkley Point C Connection Project) Order 2016. NRIL has not provided any justification for the departure from this precedent.</p> <p>Paragraph 22(4): For the reasons stated above, this change is not accepted.</p>

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	<p>safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case with all reasonable dispatch <u>without unnecessary delay</u> and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to the engineer's reasonable satisfaction.</p>	
23	<p>(1) Any specified work and any protective works to be constructed by virtue of paragraph 22(4) must, when commenced, be constructed— (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 22; (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer; (c) in such manner as to cause as little damage as is possible to railway property; and (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic on it and the use by passengers of railway property. (2) If any damage to railway property or any such interference or obstruction is caused by the carrying out of, or in consequence of the construction of a specified work or a protective work, the undertaker must, regardless of any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction. (3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents, or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or the undertaker's employees, contractors or agents. 77</p>	<p>Paragraph 23(3): The deletion of '77' relates to the draft DCO [APP-013] page number, which should be retained.</p>
24	<p>The undertaker must— (a) at all times afford reasonable facilities to the engineer for access to a specified work or protective work during its construction; and (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or protective work or the method of constructing it.</p>	<p>No change.</p>
25	<p>Network Rail must at all reasonable times afford reasonable facilities to the undertaker and the undertaker's agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as the undertaker may reasonably require with regard to such works or the method of constructing them.</p>	<p>No change.</p>

	Written Representation from Network Rail Infrastructure Limited	Response from Highways England (the "Applicant")
26	<p>(1) If any permanent or temporary alterations or additions to railway property, are reasonably necessary in consequence of the construction of a specified work or a protective work, or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.</p> <p>(2) If during the construction of a specified work or a protective work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work or protective work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work or protective work is to be constructed, Network Rail must assume construction of that part of the specified work or protective work and the undertaker must, regardless of any such approval of a specified work or protective work under paragraph 22(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work or protective work.</p> <p>(3) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving is to be set off against any sum payable by the undertaker to Network Rail under this paragraph.</p> <p>(4) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 27(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.</p>	<p>No change.</p>
27	<p>The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—</p> <p>(a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 22(3) or in constructing any protective works under the provisions of paragraph 22(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;</p> <p>(b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work or a protective work;</p> <p>(c) in respect of the employment or procurement of the services of any inspectors, signallers, watchkeepers and other persons whom it is reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident</p>	<p>Paragraph 27(d): The deletion of '78' relates to the draft DCO [APP-013] page number, which should be retained.</p>

	Written Representation from Network Rail Infrastructure Limited	Response from Highways England (the "Applicant")
	<p>arising from the construction or failure of a specified work or a protective work; (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the 78 construction or failure of a specified work or a protective work or from the substitution of diversion of services which may be reasonably necessary for the same reason; and (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work or a protective work.</p>	
28	<p>(1) In this paragraph—“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; “Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications. (2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 22(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change). (3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness. (4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)— (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 22(1) in order to identify all potential causes of EMI and the measures required to eliminate them; (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail’s apparatus identified under sub- paragraph (a); and (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified under sub-paragraph (a). (5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail’s apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their execution may be selected at the reasonable discretion of Network Rail, and in relation to such modifications paragraph 22(1) has effect subject to this sub-paragraph. (6) If at any time prior to the completion of the authorised development and</p>	<p>Paragraph 28(7)(b): It should be noted that the reference to ‘79’ relates to the draft DCO [APP-013] page number. Paragraph 28(9): The insertion of ‘the indemnity in’ is accepted in the interests of clarity.</p>

	Written Representation from Network Rail Infrastructure Limited	Response from Highways England (the "Applicant")
	<p>regardless of any measures adopted under sub-paragraph (3), the testing or commissioning of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.</p> <p>(7) In the event of EMI having occurred—</p> <p>(a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;</p> <p>(b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI; and 79</p> <p>(c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI.</p> <p>(8) Where Network Rail approves modifications to Network Rail's apparatus under subparagraphs (5) or (6)—</p> <p>(a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus; and</p> <p>(b) any modifications to Network Rail's apparatus approved under those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 23.</p> <p>(9) To the extent that it would not otherwise do so, the indemnity in paragraph 32(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.</p> <p>(10) For the purpose of paragraph 27(a) any modifications to Network Rail's apparatus under this paragraph are deemed to be protective works referred to in that paragraph.</p> <p>(11) In relation to any dispute arising under this paragraph the reference in article 46 (arbitration) to a single arbitrator to be agreed between the parties is to be read as a reference to an arbitrator being a member of the Institution of Engineering and Technology to be agreed.</p>	
29	<p>If at any time after the completion of a specified work or a protective work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work or protective work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work or protective work in such state of maintenance as to not adversely affect railway property.</p>	No change.
30	The undertaker must not provide any illumination or illuminated sign or signal on or in	No change.

	Written Representation from Network Rail Infrastructure Limited	Response from Highways England (the "Applicant")
	connection with a specified work or a protective work in the vicinity of any railway belonging to Network Rail unless the undertaker has first consulted Network Rail and the undertaker must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.	
31	Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work or a protective work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.	No change.
32	<p>(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be occasioned to or reasonably incurred by Network Rail—</p> <p>(a) by reason of the construction or maintenance of a specified work or a protective work or the failure of it; or</p> <p>(b) by reason of any act or omission of the undertaker or of any person in the undertaker's employ or of the undertaker's contractors or others whilst engaged upon a specified work or a protective work, and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or a protective work or any such failure, act or omission; and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision will not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this subparagraph. 80</p> <p>(2) Network Rail must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of such a claim or demand is to be made without the prior written consent of the undertaker.</p> <p>(3) The sums payable by the undertaker under sub-paragraph (1) may include a sum equivalent to the relevant costs.</p> <p>(4) In no circumstances is the undertaker liable to Network Rail under sub-paragraph (1) for any indirect or consequential loss or loss of profits, except that the sums payable by the undertaker under that sub-paragraph include a sum equivalent to the relevant costs in circumstances where— (a) Network Rail is liable to make payment of the relevant costs pursuant to the terms of an agreement between Network Rail and a train operator; and (b) the existence of that agreement and the extent of Network Rail's liability to make payment of the relevant costs pursuant to its terms has previously been disclosed in writing to the undertaker, but not otherwise. (5) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail</p>	<p>Paragraph 32(1)(b): The deletion of '80' relates to the draft DCO [APP-013] page number, which should be retained.</p> <p>Paragraph 32(4): The deletion of paragraph 23(4) is not accepted. While, at paragraph 3.14 of the written representation, NRIL state that their amendments represent the "standard indemnity which has been included in many statutory orders", it is noted that the deleted text was included in the National Grid (Hinkley Point C Connection Project) Order 2016. The examining authority's recommendation report stated that the protective provisions contained within the recommended order "would give adequate safeguards" (paragraph 9.2.137). The Secretary of State's decision letter points to the examining authority's finding that NRIL's proposed indemnity wording was "unduly onerous", and states that the Secretary of State was satisfied with the examining authority's finding on this issue, thereby confirming the point. This precedent is particularly relevant since it involved a finding by the Secretary of State (who is the shareholder of both NRIL and the Applicant) that the wording was not required, notwithstanding that it had been included in previous DCOs. As such, it should be excluded from the draft DCO [APP-013]. It is also noted that this provision was subsequently included in the M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016, consistently with this finding.</p>

	Written Representation from Network Rail Infrastructure Limited	Response from Highways England (the "Applicant")
	<p>receives under sub-paragraph (3) which relates to the relevant costs of that train operator. 6</p> <p>(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs is, in the event of default, enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator under sub-paragraph (5).</p> <p>(7) In this paragraph— "the relevant costs" means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or a protective work or any such act or omission as mentioned in subparagraph (1); and "train operator" means any person who is authorised to act as the operator of a train by a licence under section 8 (licences) of the Railways Act 1993.</p>	
33	<p>Network Rail must, on receipt of a request from the undertaker, at a frequency to be agreed between the undertaker and Network Rail, provide the undertaker free of charge with written estimates of the costs, charges, expenses, future cost forecasts and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 32) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made under this Part of this Schedule (including any claim relating to those relevant costs).</p>	<p>The deletion of 'future cost forecasts' is not accepted. The original wording proposed by the Applicant has precedent in the protective provisions for the protection of railway interests contained within the A160/A180 (Port of Immingham Improvement) Development Consent Order 2015 and the M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016. It is noted that NRIL's objections to both of these schemes was withdrawn before the time the examinations concluded, meaning NRIL had agreed to the inclusion of 'future cost forecasts' in the protective provision. Further, NRIL has not provided any justification for the departure from this precedent.</p>
34	<p>In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.</p>	<p>No change.</p>
35	<p>The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network license, enter into, and carry into effect, agreements for the transfer to the undertaker of—</p> <p>(a) any railway property shown on the works plans or land plans and described in the book of reference;</p> <p>(b) any lands, works or other property held in connection with any such railway property;</p> <p>(c) and any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.</p>	<p>No change.</p>
36	<p>Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part 1 (the provision of railway services) of the Railways Act 1993. 81</p>	<p>The deletion of '81' relates to the draft DCO [APP-013] page number, which should be retained.</p>
37	<p>The undertaker must give written notice to Network Rail where any application is</p>	<p>No change.</p>

	Written Representation from Network Rail Infrastructure Limited	Response from Highways England (the "Applicant")
	<p>required and is proposed to be made for the Secretary of State's consent under article 9 (consent to transfer benefit of the Order) and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—</p> <p>(a) the nature of the application to be made;</p> <p>(b) the extent of the geographical area to which the application relates; and</p> <p>(c) the name and address of the person acting for the decision-maker to whom the application is to be made.</p>	
38	<p>The undertaker must no later than 28 days from the date that the documents referred to in article 4044(1) (certification of plans, etc.) are submitted to and certified by the Secretary of State in accordance with article 44, provide a set of those documents to Network Rail in the form of a computer disc with read only memory a format to be <u>agreed between the undertaker and Network Rail's engineers.</u></p>	<p>The amendment to the article reference is accepted. The amendment to the format of the documents to be submitted to NRIL is accepted.</p>

1.2 Written representation from Sunderland City Council

	Written Representation from Sunderland City Council	Response from Highways England (the "Applicant")
1	<p>Sunderland City Council are supportive of the objectives of the proposed scheme; however, the Council wishes to reserve its position should any specific matters arise which impact on Sunderland's road network and environmental considerations.</p> <p>Please find below comments for Deadline 1, which sets out the Council's position following the Preliminary Hearing and Issue Specific Hearing 1. Written Rep: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010031/TR010031-000725-DL1%20-%20Sunderland%20City%20Council%20-%20Deadline%20Submission.pdf</p>	<p>It is noted that the Council is supportive of the objectives of the Scheme and this is welcomed.</p>
2	<p>Development Consent Order Please find below initial comments on the draft Development Consent Order:</p> <p>Satisfied with the inclusion of Clause 6 in respect of Planning Permission</p>	<p>It is noted that the Council is content with this provision.</p>
3	<p>Satisfied with the inclusion of Clause 11 – Power to alter layout etc of streets, subject to adherence with sub-paragraph (3), which requires the relevant street authority's consent and note the 6-week response period</p>	<p>It is noted that the Council is content with this provision.</p>
4	<p>Satisfied with the inclusion of Clause 12 'Street Works' in order to comply with the provisions of the NRSWA 1991</p>	<p>It is noted that the Council is content with this provision.</p>
5	<p>Satisfied with the inclusion of Clause 15 relating to the Temporary stopping up and restriction to the use of</p>	<p>Clause 13 provides for the temporary stopping up of roads to be subject to</p>

	Written Representation from Sunderland City Council	Response from Highways England (the "Applicant")
	streets, subject to prior agreement with the relevant local highway authorities, although this is unlikely to impact on Sunderland's road network	the consent of the street authority. In the event that there is a need to temporarily close a street in Sunderland City Council's areas then their consent would be required. As the Council says, it currently appears unlikely that this power will impact on streets within their jurisdiction.
6	Satisfied with the inclusion of Clause 18 'Modification of TROs' although this is unlikely to impact on Sunderland's road network	It is noted that the Council is content with this provision. The provisions will only apply to the A1 trunk road and hence will not impact on any roads for which Sunderland are responsible.
7	Schedule 2 – Requirement 10 - Traffic Management. Satisfied with the inclusion subject to agreement of extent of consultation with Sunderland City Council for residents and businesses within Sunderland (Springwell Village and Washington)	Requirement 10 of the draft DCO [APP-013] has been amended so that consultation is required with Sunderland City Council in relation to the traffic management plan.
8	<p>Applicant's Submission Sunderland City Council intend to provide more detailed comments by Deadline 2 (ExQ1 issued on 28th January 2020). These are specifically in relation to:</p> <p>Environmental Impact Assessment (cumulative effects) Transport Assessment report regarding traffic and transportation impacts within local authority area Outline Construction Environmental Management Plan (CEMP) Record of Environmental Actions and Commitments (REAC) Construction Traffic Management Plan (CTMP)</p> <p>These matters are likely to relate to scheme delivery with regards to temporary traffic management and any necessary diversion routes on the local road network during the construction phase.</p>	It is noted that the Council intends to provide more detailed comments on these matters.
9	There do not appear to be any requirements by the applicant to take possession of any land on either a temporary or permanent basis within Sunderland City Council's boundary based on the Works or Land Plans.	It is confirmed that there is currently no proposal to take possession of any land owned by Sunderland City Council on a permanent or temporary basis.
10	There are some text errors within the submission drawings relating to the naming of local authority areas of Gateshead, Sunderland and Durham which should be corrected. These include reference to 'Sunderland Borough', which should be corrected to 'Sunderland City Council.'	The Applicant acknowledges the need for amendments to drawings identifying the local authority areas. These have been corrected and revised iterations have been supplied to the Planning Inspectorate for publication.
11	Statements of Common Ground (SoCG) Sunderland City Council intend to enter into a SoCG with the applicant (Highways England).	A draft Statement of Common Ground has been prepared and has been submitted at Deadline 2.
12	Local Impacts Report (LIR) Sunderland City Council do not intend to produce and submit an LIR. Subject to your agreement, a position statement could be appended to the LIR to be submitted by Gateshead Council. This approach follows a similar joint approach with South Tyneside Council for the A19 A184 Testo's DCO application.	It is noted that Sunderland City Council intends to input into the Local Impact Report (LIR) produced by Gateshead Council
13	Applicant's Request for Amendments to the Application Sunderland City Council have no objections to the three proposed changes to the application which were submitted to The Planning Inspectorate for consideration in January 2020.	Noted.

	Written Representation from Sunderland City Council	Response from Highways England (the "Applicant")
14	There is no intention to make oral representation at future Issue Specific Hearings but would reserve the right to attend future meetings if required.	Noted.

1.3 Written representation from George F White LLP on behalf of B, C & G Askew

	Written Representation from George F White LLP on behalf of B, C & G Askew	Response from Highways England (the "Applicant")
1	<p>The Land Referencing carried out by the Acquiring Authority is inaccurate and incomplete due to the refusal of the Acquiring Authority to compensate my Clients for the reasonable cost of legal advice required in order to provide clarification. My Clients are unclear as to their status in regard to this matter because they could not instruct Solicitors without incurring costs.</p> <p>Written Rep: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010031/TR010031-000738-DL1%20-%20George%20F%20White%20on%20behalf%20of%20B,%20C,%20&%20G%20Askew%20-%20Deadline%20Submission.pdf</p>	<p>There is no evidence of inaccuracy or adverse effects upon persons represented by GFW LLP.</p> <p>The Applicant disagrees with the consultee's submission that the land referencing undertaken in support of the Application is inaccurate or incomplete and there is no evidence to suggest that there has been an adverse effect on the persons represented by GFW LLP. In preparing the DCO application the Applicant has carried out diligent inquiry in order to identify all persons with an interest in the Land as defined in section 44 of the Planning Act 2008. Section 4 of the Statement of Reasons [APP-016] sets out the approach the Applicant has taken regarding the identification of land interests. Land referencing was undertaken during pre-application and included; a search of HM Land Registry records, Land Interest Questionnaires (issued to all Category 1, Category 2 and Category 3 interests), and site visits where appropriate. In addition, further HM Land Registry searches were conducted over the course of pre-application and pre-examination to ensure that any changes in title in respect of land potentially required for or affected by the Scheme were identified. It is in the interest of all parties that the information held by the Applicant is accurate and up to date</p> <p>The consultee has given no detail of the alleged inaccuracies in land referencing. Rather, the submission is that, as the Applicant has been unwilling to pay for the cost of legal representation, that necessarily means that the land referencing is inaccurate. That submission is not logical.</p> <p>There is no requirement for the promoter of a DCO which includes compulsory purchase powers to pay for the costs of landowners in obtaining legal advice on the implications of a proposed acquisition. In common with other promoters, it is not the Applicant's policy to use public money to compensate a land interest for completion of the Land Interest Questionnaire.</p>

	Written Representation from George F White LLP on behalf of B, C & G Askew	Response from Highways England (the "Applicant")
2	<p>Furthermore, this failure means that the Applicant cannot demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement.</p>	<p>The consultee also submits that the Applicant cannot demonstrate that they have taken all reasonable steps to acquire land and rights by agreement. In this case, the Applicant has met the interested party twice prior to the submission of the DCO Application. The first meeting on 8 October 2018 was to discuss the land take/use and the Scheme generally and understand any initial concerns. The second meeting on 15 March 2018 was to explain the process and to confirm if acquisition by agreement was something the Askew's were open to. The matter of the Land Interest Questionnaire and costs is frequently raised by consultees, and the Applicant has not changed their approach to this. An opening offer was issued by the Applicant on 21st February 2020 and further discussions will be entered into over the coming weeks.</p> <p>The Applicant submits that it has undertaken reasonable steps to secure agreement to acquisition. In any event, as the Governments 2013 Guidance on compulsory acquisition makes clear, it is often sensible, given the amount of time required to complete compulsory acquisition procedures, for the acquiring authority to plan compulsory acquisition as a contingency measure and initiate formal procedures. The Scheme is for a nationally important highways scheme. It is common practice in such schemes for discussions to run in parallel with the formal compulsory purchase process.</p>
3	<p>I would also respectfully suggest that the Applicant cannot satisfy the guidance in regard to demonstrating the availability of the necessary funding set out within the publication "Planning Act 2008: procedures for the compulsory acquisition of land" if they have not properly established the basis upon which any land would need to be acquired and the compensation that would flow from that.</p>	<p>The Applicant has properly considered the basis for the acquisition of this land. It is understood that the submission relates to plots 4/4a, 4/4b, 4/4c, 4/4d, 4/4e, 4/4f of the Land Plans (APP-006). Plots 4/4a, 4/4c, 4/4d, 4/4e, and 4/4f are required temporarily for the establishment of a construction compound. Plot 4/4b is required for grouting works and as such permanent rights are required over the subsoil with temporary possession being taken at the surface. More detail on the exact requirements for each plot can be found in Annex A of the Statement of Reasons [APP-016].</p> <p>The amount of compensation payable for any compulsory acquisition is not properly a matter for examination and may be disregarded by the Examining authority pursuant to section 87(3)(c) of the Planning Act 2008. However, the Applicant is apprised of likely compensation requirements. Sufficient public funding is available for the Scheme, including for compensation and there is no impediment to its implementation.</p>
4	<p>There has not been sufficient justification of the need, or extent of the need in respect of the proposed acquisition areas.</p>	<p>The requirement for the land which is the subject of this representation is set out in Appendix A of the Outline Construction Environmental Management Plan (Outline CEMP) [APP-174], which is secured by Requirement 4 of the draft DCO [APP-013]. This shows the proposed location of a construction compound on the plots listed above which are required to construct the Scheme with an indication of the layout and use of the site. During the preliminary design stage an assessment was undertaken by an experienced contractor to determine the compound space that would be required during the construction of the works and also the most appropriate location. A key consideration was to minimise construction traffic on the local road network, to have plots that were big enough to accommodate the site buildings and storage required during the works and were in close proximity to key works.</p>

Written Representation from George F White LLP on behalf of B, C & G Askew	Response from Highways England (the "Applicant")
	<p>On this basis, the site identified for the construction compound forms an integral part of the land requirements for the Scheme. The overall justification for the Scheme is set out in the Statement of Reasons [APP-016].</p> <p>The bulk of the interference with the land will be temporary for the purpose of the construction compound. There will be a need for permanent rights in relation to grouting but these are sub-surface and would not prevent surface use. It is noted that the representation does not make any suggestion that the rights sought would have an unacceptable impact on the landholding.</p>
<p>5 There has not been provided sufficient detail in regard to drainage and accommodation works, nor any detail as to the impact on my Client's retained land.</p>	<p>The District Valuer representing the Applicant has been liaising with GWF LLP with regard to the interest of the Askew's. It is understood that details of drainage requirements and accommodation works have not been raised by GFW LLP before this submission. These are matters which require further discussion in order to understand areas of concern.</p>

1.4 Written representation from Natural England

Written Representation from Natural England	Response from Highways England (the "Applicant")
<p>PART 1 INTRODUCTION</p> <p>1.1. Purpose and structure of these representations</p> <p>1.1.1. These Written Representations are submitted in pursuance of rule 10(1) of the Infrastructure Planning (Examination Procedure) Rules 2010 ('ExPR') in relation to an application under the Planning Act 2008 for a Development Consent Order ('DCO') for A1 Birtley to Coal House Improvement Scheme ('the Project') submitted by Highways England ('the Applicant') to the Secretary of State.</p> <p>1.1.2. Natural England has already provided a summary of its principal concerns in its Relevant Representations, submitted to the Planning Inspectorate on 12 November 2019. This document comprises an updated detailed statement of Natural England's views, as they have developed in view of the common ground discussions that have taken place with the Applicant to date. These are structured as follows:</p> <p>a. Section 2 describes the conservation designations, features and interests that may be affected by the Project and need to be considered.</p> <p>b. Section 3 comprises Natural England's submissions in respect of the issues that concern it. This submission cross-refers to, and is supported by, the evidence contained in the Annexes.</p> <p>c. Annex A provides Natural England's answers to the Examining Authority's written questions which were asked on 28 January 2020.</p> <p>2. CONSERVATION DESIGNATIONS, FEATURES AND INTERESTS THAT COULD BE AFFECTED BY THE PROPOSED PROJECT</p>	<p>It is noted that Natural England does not object to the principle of the proposed DCO [APP-013]. Natural England is satisfied that all environmental impacts resulting from the proposal can be adequately addressed to ensure there are no residual impacts arise from the development.</p> <p>The only substantive issue raised by Natural England in their representation is the impact on common pipistrelle bats which roost in the Eighton Lodge South Underbridge. As the bats are a European Protected Species, a license will be required for works which may disturb them. The Applicant will provide Natural England with further information to support the license application. Natural England has confirmed that that a Letter of No Impediment will be issued prior to completion of the Examination.</p>

Written Representation from Natural England	Response from Highways England (the "Applicant")
<p>2.1. International conservation designations a. There are no international conservation designations that could be affected by this proposal.</p> <p>2.2. National conservation designations a. There are no national conservation designations that could be affected by this proposal.</p> <p>2.3. European Protected Species a. The proposal has the potential to impact upon a European Protected Species – Common Pipistrelle Bat – and Natural England are working with the applicants, and their consultants, to ensure that all necessary information is provided to enable a Letter of No Impediment to be issued.</p> <p>2.4. Nationally Protected Species a. There are no nationally protected species likely to be affected by the development.</p> <p>2.5. Non-designated interests and features of concern a. While there are woodlands adjacent to the scheme that are listed in the Ancient Woodlands Inventory, these are not expected to be affected by the development. b. There is the potential for locally designated sites, including Local Wildlife Sites, to be affected by the proposal. Natural England considers the measures proposed within the Construction Environment Management Plan to address any impacts to be appropriate.</p> <p><u>3. NATURAL ENGLAND'S CONCERNS AND ADVICE</u></p> <p>3.1. The principal issue 3.1.1. Natural England identified the following main issues in its Relevant Representations: a. Potential impacts on European Protected Species (roosting Common Pipistrelle bats) These issues will be discussed in corresponding sections below along with any updates on the progress or resolution of issues.</p> <p>3.2. Impacts on European Protected Species 3.2.1. Protected species surveys identified the presence of roosting common pipistrelle bats on the Eighton Lodge South Underbridge. Since Natural England provided our Relevant Representations to this proposal WSP (Ecological consultants for Highways England) have submitted further information to support the draft Protected Species Licence submission. Natural England is assessing this information and anticipates that a Letter of No Impediment will be issued prior to completion of the Examination.</p> <p>3.3. Conclusions 3.3.1. Based on the information provided to date, Natural England is satisfied that all environmental impacts resulting from the proposal can be adequately addressed to ensure no residual impacts arise from the development.</p> <p>3.4. The questions received 3.4.1. In its Rule 8 letter dated 28 January 2020, the Examining Authority asked Natural England a number of questions. These are set out, along with the answers, in the table provided at Annex A.</p> <p>*For informative purposes only ANNEX A: Schedule of Natural England's responses to Examining Authority's initial questions.</p>	

Written Representation from Natural England	Response from Highways England (the "Applicant")
<p>Question Natural England's Response</p> <p>1.0.2 – The outline CEMP [APP-174] including the Record of environmental actions and commitments (Table 3-1) and outline CTMP (Appendix B) includes measures to avoid, prevent, reduce or, where possible and appropriate, offset the potential environmental impacts associated with the construction of the Proposed Development.</p> <p>Please comment on the acceptability of the outline CEMP including any possible amendments or additions that may, in your view, be required. Provide appropriate justification for any amendments or additions sought.</p> <p>Natural England has considered the detail within the CEMP and CTMP and considers it to be appropriate. Natural England does not wish to propose any amendments or additions to the document.</p> <p>1.2.1 – The Consents and Agreements Position Statement [APP-015] states that a licence under Section 16 of the Wildlife and Countryside Act 1981 will be necessary in relation to roosting bats with associated mitigation and compensation requirements at Eighton Lodge South Underbridge. A draft licence application has been submitted [APP-136] and a Letter of No Impediment is anticipated to be provided during the Examination.</p> <p>Can the Applicant and Natural England provide an update on the progress made towards obtaining a Letter of No Impediment?</p> <p>WSP, on behalf of Highways England, has submitted further information to supplement that previously provided, and Natural England is assessing all information provided. Natural England anticipates being able to issue a Letter of No Impediment prior to the completion of the Examination.</p> <p>1.2.9 – The Applicant has submitted an Environmental Statement Addendum [AS-016] concerning the identification of two additional LWSs and the amendment of the boundaries of two Local Wildlife Sites within the scheme footprint and 2km buffer. Gateshead Council and Natural England should ensure their Written Representations and/ or Local Impact Report takes into account this additional information provided by the Applicant.</p> <p>Natural England notes these amendments and has taken account of the changes in our Written Representations.</p> <p>Written Rep: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010031/TR010031-000720-DL1%20-%20Natural%20England%20-%20Written%20Representation.pdf</p>	

1.5 Written representation from Historic England

	Written Representation from Historic England	Response from Highways Authority (the Applicant)
1	<p>1. INTRODUCTION</p> <p>1.1. The following statement has been prepared by the Historic Buildings and Monuments Commission for England (Historic England) for the Examination of Highways England's application for a Development Consent Order (DCO) for the nationally significant infrastructure project to construct the A1 Birtley to Coal House Improvement Scheme (the 'Scheme').</p> <p>1.2. Historic England has been involved through engagement with Highways England's ('the Applicant') development of the Scheme since 2017.</p> <p>1.3. In accordance with the National Networks National Policy Statement (NNNPS) which is relevant in the determination of this Scheme, the Scheme should avoid or minimise the conflict between the conservation of any heritage assets affected and any aspect of the proposal. Historic England's engagement and advice in relation to this Scheme has focused on ensuring that the historic environment, and scheduled monuments in particular, has been taken into account due to the potential for adverse impacts on the significance of the historic environment arising from the detail of the Scheme.</p> <p>1.4. Discussions with the Applicant in relation to the content of a Statement of Common Ground (SoCG) are on-going and it is hoped that a draft will be available for Deadline 2 on 25 February 2020.</p> <p>1.5. This Written Representation sets out Historic England's position in relation to the significance of the designated heritage assets affected by the Scheme and the impact of the Scheme on the significance of those assets, including any contribution made by their settings to their significance.</p> <p>Written Rep: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010031/TR010031-000739-DL1%20-%20Historic%20England%20-%20Written%20Representation.pdf</p> <p>Summary of Written Rep: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010031/TR010031-000740-DL1%20-%20Historic%20England%20-%20Summary%20of%20Representation.pdf</p>	<p>It is noted that Historic England does not object to the principle of the proposed DCO. As such, it is understood that matters are effectively resolved subject to appropriate measures within the draft DCO of the ES [APP-013] and Outline CEMP of the ES [APP-174] to protect the Bowes Railway scheduled monument and ensure appropriate consultation on historic environment matters.</p> <p>Historic England has recommended changes to elements of the text in both the Draft DCO of the ES [APP-013] and the Outline CEMP of the ES [APP-174]. The proposed changes to the Outline CEMP of the ES [APP-174] and changes to text in the Draft DCO of the ES [APP-013] are accepted and are incorporated into the revised version to be submitted at Deadline 2. The changes to the dDCO are discussed in more detail below.</p>
2	<p>2. ROLE OF THE HISTORIC BUILDINGS AND MONUMENTS COMMISSION FOR ENGLAND</p> <p>2.1 The Historic Buildings and Monuments Commission for England is generally known as Historic England. It was established with effect from 1 April 1984 under Section 32 of the National Heritage Act 1983. The general duties of Historic England under Section 33 are as follows "so far as practicable:</p> <p>(a) to secure the preservation of ancient monuments and historic buildings situated in England;</p> <p>(b) to promote the preservation and enhancement of the character and appearance of conservation areas situated in England; and</p> <p>(c) to promote the public's enjoyment of, and advance their knowledge of, ancient monuments and historic buildings situated in England and their preservation".</p>	<p>The role of Historic England is agreed.</p>

	Written Representation from Historic England	Response from Highways Authority (the Applicant)
3	2.2 We also have a role in relation to maritime archaeology under the National Heritage Act 2002 and advise Government in relation to World Heritage Sites and compliance with the 1972 Convention Concerning the Protection of the World Cultural and National Heritage.	The role of Historic England is agreed.
4	2.3 Historic England's sponsoring department is the Department for Digital, Culture, Media and Sport, although its remit in conservation matters intersects with the policy responsibilities of a number of other government departments, particularly the Ministry of Housing, Communities and Local Government, with its responsibilities for land-use planning matters.	The role of Historic England is agreed.
5	2.4 We are also a statutory consultee providing advice to local planning authorities on certain categories of applications for planning permission and listed building consent; we advise the Secretary of State for DCMS on applications for scheduled monument consent, and we are a statutory consultee on all Nationally Significant Infrastructure Projects (NSIP). Similarly, Historic England advises the Secretary of State for DCMS on those applications and on other matters generally affecting the historic environment. It is the lead body for the heritage sector and is the Government's principal adviser on the historic environment.	The role of Historic England is agreed. Historic England has been consulted throughout the DCO application process and such consultation is continuing.
6	2.5 In light of its role as a statutory consultee, Historic England encourages reapplication discussions and early engagement on projects to ensure informed consideration of heritage assets and to ensure that the possible impacts of proposals on the historic environment are taken into account. In undertaking pre-application discussions for a scheme such as this, the key issue for Historic England is ensuring that the significance and the impact on that significance of any heritage assets that may be affected is fully understood; that any proposals to avoid, or mitigate that impact have been considered and can be secured, and that the decision maker is fully informed and can be satisfied that there is clear and convincing justification for any harm with great weight given to the asset's conservation. Any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset, the greater the justification that will be needed for any loss (NNNPS para 5.132).	Pre-application discussions have taken place, and this will be detailed in the draft Statement of Common Ground (SoCG). The only heritage asset which Historic England raise an issue with is the Bowes Railways scheduled monument. Although Historic England seek additional provisions in the DCO in relation to this asset, Historic England has not suggested that impact on that asset is unacceptable, provided that the mitigation sought by Historic England is secured.
7	<p>3. SCOPE OF WRITTEN REPRESENTATIONS</p> <p>3.1 In this section we set out the scope of these Written Representations and address in further detail the matters raised in our Section 56 Relevant Representations (see Appendix 1). These two documents should be read together.</p> <p>3.2 As stated in our Section 56 Relevant Representations Historic England's interest in the Scheme is focused upon ensuring that the historic environment generally, and designated heritage assets in particular, are fully taken into account in decision making and that the Examining Authority have the necessary information to inform its decision in this application.</p> <p>3.3 The scope of Historic England's written representation will include:</p> <ul style="list-style-type: none"> • a summary of the proposals; • a brief summary of Historic England's consultation and advice on the proposals prior to submission; 	The scope of the submission is noted, and each part is responded to separately.

	Written Representation from Historic England	Response from Highways Authority (the Applicant)
	<ul style="list-style-type: none"> • a brief description of the designated heritage assets affected and an assessment of their significance (including that contribution made by their settings) and our assessment of the impact of the Scheme; • Historic England's comments and observations on the draft DCO and • An update on the current production of the SoCG. 	
8	<p>4. THE PROPOSALS AND HISTORIC ENGLAND'S INVOLVEMENT WITH THE SCHEME PRIOR TO SUBMISSION</p> <p>4.1 The proposal for the Scheme comprises:</p> <ul style="list-style-type: none"> • The widening of the southbound carriageway from three to four lanes, and widening of the northbound carriageway from two to three lanes (with an additional lane between junctions) between junction 67 (Coal House) and junction 65 (Birtley); • Changes to signage and road markings on the southbound carriageway between just south of junction 68 (Lobley Hill) and junction 67 (Coal House); • The Scheme includes a replacement bridge structure where the A1 crosses over the East Coast Main Line (ECML), 40 metres to the immediate south of the existing Allerdene Bridge structure, which would tie into the existing carriageways at junction 67 (Coal House) and north of junction 66 (Eighton Lodge); • Replacement of existing North Dene Footbridge located between junction 66 (Eighton Lodge) and junction 65 (Birtley) to accommodate the widening of the A1; and, • Diversion of utilities. 	<p>This is accepted as a reasonable summary of the Scheme. Further detail is available in the application documents.</p>
9	<p>4.2 Historic England was approached by the Applicant in late 2017 with initial proposals. The exact details of the Scheme, i.e.: the design; matters relating to construction compounds; extent of impact on the historic environment; and, proposed mitigation were at that point the subject of consultation through a series of meetings and during this process our first response was provided on 1st December 2017 in response to a written request for an ES Scoping Letter to PINS (see Appendix 2(a)). On 19th March 2018 we responded to the request for a Planning Act 2008, 'Section 42 Duty to Consult' on a proposed application (see Appendix 2(b)).</p> <p>4.3 At that time, it was understood that the Scheme would result in various environmental impacts, and that there would be an impact on the historic environment. The Environmental Statement identified 129 heritage assets within the Study Area (see ES Chapter 6.1 – sections 6.7.28 – 6.7.29). It identified three scheduled monuments, one Grade II* and 15 Grade II listed buildings and one Conservation Area. Other than one scheduled monument these other designated heritage assets were all outside the Order limit.</p> <p>4.4 Discussion continued up until August 2019 with the Applicant and their agents.</p> <p>4.5 On 10th September 2019 the application for a Development Consent Order for the proposed improvement of the A1 at Birtley was accepted for examination by the Secretary of State.</p>	<p>This is accepted as a reasonable summary of consultation. Further details will be set out in the SoCG.</p>
10	<p>5. ASSESSMENT OF SIGNIFICANCE AND IMPACT ON DESIGNATED HERITAGE ASSETS AFFECTED BY THE SCHEME</p> <p>Statement of Approach</p>	<p>It is agreed that Bowes Railway is the only one scheduled monument that is located within the Order limits.</p>

	Written Representation from Historic England	Response from Highways Authority (the Applicant)
	<p>5.1 As noted above, whilst 129 heritage assets were identified within the scheme's study area, only one scheduled monument is located within the boundaries of the Order. Namely:</p> <ul style="list-style-type: none"> • The Bowes Railway Scheduled Monument. 	
11	<p>5.2 Of the two other scheduled monuments (Ravensworth Castle and Ravensworth Coal Mill) identified within the study area (but which lie outside the order limit) the Ravensworth Coal Mill SM is directly adjacent to the order limit. Whilst the scheme proposes no impact on this scheduled monument, should any works be required to be undertaken, then scheduled monument consent would be required and early discussion with Historic England is encouraged.</p>	<p>It is agreed that no impact is expected to the two other scheduled monuments referred to. These lie outwith the order limits and separate scheduled monument consent would be required in the unlikely event that any works are required to them.</p>
12	<p>5.3 In these Written Representations Historic England will be focusing on the scheduled monument known as "Bowes Railway" as it falls within the order limits and it will be directly impacted by it.</p>	<p>Historic England's approach is noted.</p>
13	<p>5.4 We understand that the local authority will be leading on discussions regarding impacts to the Lamesley Conservation Area, the listed buildings and also any non-designated heritage assets of historic and/or archaeological interest (e.g. the Angel of the North).</p>	<p>This reflects the Applicant's understanding.</p>
14	<p>Assessing Significance</p> <p>5.5 Historic England assesses significance in the following manner. The primary document is the National Planning Policy Framework (NPPF) 2019 which is supported by 'Good Practice Advice in Planning 2: Managing Significance in Decision-Taking in the Historic Environment' (Historic England 2015) in which 'significance' is described as being the sum of a range of 'interests'. The interest may be archaeological, architectural, artistic or historic, but significance also derives from the contribution made by the setting of a heritage asset. 'Historic Environment Good Practice Advice in Planning: 3 The Setting of Heritage Assets (2nd Edition) (Historic England 2017) gives general advice on understanding setting, and how it may contribute to the significance of heritage assets and allow that significance to be appreciated, as well as advice on how views contribute to setting.</p>	<p>There are differences in the preferred approach by Historic England and that used by DMRB. Specifically, in the reference to less than substantial harm/substantial harm (NPPF) and the use of impacts and significance of effect (DMRB). However, this did not change the outcome of our assessment with which Historic England is in agreement, as stated in their paragraph 5.10.</p> <p>The Setting of Heritage Assets (2nd Edition, 2017) was used to guide the assessment of impacts to the significance of assets and their setting.</p>
15	<p>Scheduled Monument known as 'The Bowes Railway' (National Heritage List for England (NHLE) no. 1003723)</p> <p>5.6 The monument known as 'Bowes Railway' is a partly preserved standard gauge railway with rope haulage and associated structures and apparatus. It was scheduled in 1976 (see Appendix 3 for the scheduled monument entry from the NHLE). It was designed by renowned railway engineer George Stephenson and opened in 1826 from Jarrow to Mount Moor. By 1842, it was extended to Kibblesworth, and by 1855/6 it had linked with other sections of colliery railway which stretched toward Pontop and Dipton. The railway closed in 1974 after the closure of the last pit with which it was connected. It was scheduled in 1976. At its peak, it had 7 rope-worked inclines and 3 locomotive-worked sections. When it closed in 1974 it had 3 stationary electric haulers, 1 gravity inclined plane and diesel locomotives were used, making this the last such system in England. Included within the scheduled area are a c. 4 mile (6.12km) section of the line from Team Valley to Leam Lane; the colliery and railway workshops at the former Springwell Colliery; and, the two hauler houses (at Blackfell and Blackhams Hill) used on the rope inclines.</p>	<p>This is accepted as the history of the monument.</p>

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16	<p>5.7 The significance of the monument lies in the archaeological evidence it holds about technological advancements in the development of early railways in England. A substantial part of the alignment of the Bowes Railway dating from 1826 is now preserved for the Nation as a scheduled monument which can generally be freely visited, experienced and appreciated by the public. That part of the railway which is scheduled contains the world's only preserved and partly operational standard-gauge cable railway system - the 1.5 miles between Springwell and Blackham's Hill Hauler House. It also includes the route of the incline south from Blackham's Hill to Blackfell Hauler House; the trackbed east to Leam Lane, and then west to the East Coast Mainline in the Team Valley. It is this latter part of the monument which is bridged by the A1 at Longbank.</p>	<p>This is accepted as a summary of the monument's significance.</p>
17	<p>5.8 The Bowes Railway is highly vulnerable to vandalism across its length. It is on Historic England's Heritage at Risk register (which includes structures which are found to be at risk following assessment based on criteria as to their condition and vulnerability and future security). and has been since the register began in 2001.</p>	<p>It is agreed that the monument is vulnerable to vandalism. The proposals provide an opportunity to repair parts of the monument and improve public understanding of it through enhanced interpretation. It is noted that Historic England accept this point in paragraph 8.2.</p>
18	<p>Historic England's Assessment of Impact on the asset 5.9</p> <p>5.9 The proposed works will cause substantial harm (as per NPPF para 195) to a limited part of the scheduled monument. On the southbound side of the A1 it is proposed to extend to the north-east a bridge arrangement over the line of the monument. The scheme drawings (see TR010031/APP/2.7(J) in Section 2.7 of the ES) show an indicative length of new construction to be approximately 16.7m. The development will require the excavation of two construction trenches into which numerous piles will be drilled at 1m intervals. This will impact on extant revetment walls on either side of the trackbed, and may potentially damage buried remains such as evidence of rails, trackbed construction and associated features.</p>	<p>Whilst Historic England's view on the level of harm to a limited part of the Scheduled Monument is acknowledged, the Applicant assessed the level of harm on the basis of impacts to the asset as a whole. It is noted that Historic England agrees with the overall assessment of a 'moderate adverse significance of effect' to the overall significance of the monument which equates to less than substantial harm.</p> <p>Additionally, at this stage it is understood that the revetment walls only appear extant on the northern side of the former trackway. However, it is likely that the intrusive groundworks involved with construction will uncover the opposing wall. The potential for buried remains to be present until the current bridgeway is agreed. The likely construction method for the piles would be continuous flight auger.</p>
19	<p>5.10 The ES currently assesses that this will be a "minor" magnitude of impact (ES 6.1 Cultural Heritage para 6.10.2) which Historic England contends is not accurate as there will be a permanent removal of this part of the monument in the area affected and therefore the impact will be 'major', i.e. there will be 'substantial harm' (as per NPPF para. 195) to this part of the monument. We do, however, concur that overall there will be a 'moderate adverse significance of effect' or in NPPF terms, a 'less than substantial harm' to the overall significance of the monument. This will therefore require a balancing of the harm against the perceived public benefits of the scheme by the ExA.</p>	<p>It is noted that Historic England agree with the overall assessment of a 'moderate adverse significance of effect' to the overall significance of the monument and that any harm should be balanced against the perceived public benefit of the Scheme. Historic England have not objected to the Scheme on the basis of impact to the scheduled monument. It is understood from this that Historic England accept that the public benefits of the scheme outweigh the harm to the monument, provided that the mitigation sought by them is secured.</p>
20	<p>5.11 Historic England have previously discussed mitigation with the Applicant and have agreed a general scheme with them which is set out in 6.1 Environmental Statement sections 6.9.4 – 6.9.10 and in Section 7.4 (the Outline CEMP).</p>	<p>The mitigation is secured through requirements in the draft DCO of the ES [APP-013] and the Outline CEMP of the ES[APP-174] including the REAC sections CH1-6 and N8. In addition to this, the specifics of the mitigation will be secured through the production of the Outline Detailed WSI under requirement 9 of the draft DCO of the ES [APP-013], which will be agreed in consultation with both Historic England and the Tyne and Wear Archaeology</p>

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		Officer. This WSI will form the basis of the Final WSIs produced by the Main Archaeological Contractor.
21	5.12 However, in order to provide clarity on the ground during construction (to the main contractor and the appointed archaeological contractor) – should the DCO be granted – we advise that the Applicant provides a more detailed outline WSI to be agreed and submitted in support of the DCO. An example of what could be included within the outline WSI is attached in Appendix 4.	Following further consultation with both Historic England and the Tyne and Wear Archaeology Officer, a draft Outline WSI is now in production and will be submitted to accompany a future iteration of the Outline CEMP after this deadline in support of the Application. The outline WSI will form the basis of the work to be detailed in the final WSIs produced by the archaeological contractor.
22	5.13 We discussed this with the Applicant and their agents at a meeting on 30 th January 2020, so that the works to the Scheduled Monument can be appropriately designed, implemented and managed. We provided the example (in Appendix 4) of the type of outline WSI we expect to see and it is our understanding that a draft will be forthcoming for continued discussion between Historic England the Local Authority Archaeology Officer and the Applicant prior to submission to the ExA in due course	The Applicant gratefully acknowledges the receipt of the example WSI. A draft Outline WSI is now in production and will be submitted to accompany a future iteration of the Outline CEMP, after this deadline, in support of the Application.
23	6. DEVELOPMENT CONSENT ORDER (DCO) 6.1 The purpose of Historic England's comments on the DCO is to ensure that if appropriate mitigation measures are required to address any issues, that these are set out clearly in the DCO and undertaken and maintained to ensure that the protection and conservation of the historic environment is delivered. The points raised below are issues that we consider need to be dealt to ensure that the significance of designated heritage assets is addressed.	These points are accepted in principle and discussions will continue on detailed wording.
24	Part 6, Operations 6.2 Article 39: This article authorises the undertaker to carry out the specified works in Schedule 10 to the specified scheduled monument. However, no methodology and approach as to how these works will be carried out are then set out in Schedule 10, rather this is detailed within the draft outline CEMP. With regards the changes to the draft outline CEMP, these are set out in Appendix 7.	It is agreed that Schedule 10 does not include a methodology and approach to the works. This is included in the Outline CEMP of the ES [APP-174] and will be drafted in to the WSI. Paragraph 4(3) of the DCO requires that construction of the authorised development is carried out in accordance with the approved CEMP. Therefore, the methodology in the CEMP will require to be followed even though it is not set out in Schedule 10. The requested changes to the Outline CEMP of the ES [APP-174] are accepted and have been incorporated into the revised version.
25	Schedule 2, Part 1, Requirement 9 6.3 Historic England find that the wording of Requirement 9 lacks clarity and should the DCO be granted might cause confusion, especially in relation to works affecting the scheduled monument. We have identified the need to clarify Requirement 9 with the Applicant and are in discussion with them about amending it. Our suggested amended wording for consideration is set out in Appendix 5.	Requirement 9 has been revised to address the matters raised by Historic England. However, the wording proposed by Historic England has no equivalent to Requirement 9(6). This is considered necessary to ensure that, in the event that further investigations are required, these are completed before work recommences. The current wording of Requirements 9(5) and 9(6) has therefore been retained. This will be discussed further with Historic England.
26	Schedule 10 6.4 Historic England considers that Schedule 10 does not accurately nor clearly state the extent of	Historic England have sought to limit the extension of Longbank Bridleway Underpass to a maximum of 17m. The requirement is being considered and further work been undertaken to evaluate and agree the limitation to the

	Written Representation from Historic England	Response from Highways Authority (the Applicant)
	<p>demolition that is being proposed. We have therefore set out what we understand to be the extent of demolition required within Appendix 6 and would advise that this clarification is provided, and Schedule 10 amended to reflect this. As noted above, Schedule 10 does not deal with the methodology and approach as to how these works to the Scheduled monument will be carried out, rather this is detailed within the draft outline CEMP. This needs to be clearly worded so that there can be no misunderstanding of what can and cannot be done to the scheduled monument as part of the DCO. This is dealt with in more detail below.</p>	<p>extension.</p>
27	<p>Outline CEMP – Cultural Heritage (Chapter 7.4 of ES)</p> <p>6.5 We note that some refinement of wording is needed in CH2, CH3, CH5, CH6 and N8 to provide clarity; be enforceable; and, provide assurance that works to the Scheduled Monument will have the appropriate oversight of Historic England. We are in discussion with the Applicant about the proposed modifications we are advising with regards CH2, CH3, CH5, CH6 and N8 which we set out in more detail in Appendix 7.</p>	<p>The revisions to the Outline CEMP of the ES [APP-174] are accepted and will be included in the revised Outline CEMP.</p>
28	<p>7. STATEMENT OF COMMON GROUND (SoCG)</p> <p>7.1 Initial discussion with the Applicant regarding a draft Statement of Common Ground (SoCG) was carried out during pre-app stages up to August 2019. However, no agreement was reached at that time as Historic England had not yet seen the full application to be satisfied that the content of the draft SoCG accurately reflected our position. We anticipate having further discussion with the Applicant prior to Deadline 2 (25th February 2020) in order to progress the content of the draft statement.</p>	<p>A draft SoCG has been prepared and is under discussion with Historic England.</p>
29	<p>6.6 We highlighted the issues with Article 39; Requirement 9; Schedule 10 and the CEMP to the Applicant and their agents on 30th January 2020. The meeting was constructive, and we look forward to receiving an update on the amendments for further discussion, if required, to address those matters and this can be reflected in the draft SoCG.</p>	<p>We will continue to liaise with Historic England and record the outcomes within the SoCG.</p>
30	<p>8. CONCLUSION</p> <p>8.1 Historic England considers that there remain to be addressed various issues regarding the impact this proposal will have on the Bowes Railway Scheduled Monument. These are detailed below.</p> <ul style="list-style-type: none"> • An outline WSI setting out a clear structure and methodology to be followed including: responsibilities; any pre-construction requirements; relevant guidance; contents of the detailed (final) WSI including all methodologies (incorporating outline CEMP items CH2, CH3 and CH6); reporting; archive deposition; interpretation strategy (incorporating outline CEMP item CH5); and monitoring needs to be agreed and submitted as part of the DCO. An example of what could be done is included in Appendix 4. • Amendments to Requirement 9 to ensure clarity and understanding of actions required as part of the DCO. • Amendments to Schedule 10 to be clear on the extent of demolition that is proposed. • Amendments to certain provisions within the Outline CEMP. 	<p>A draft Outline WSI is now in production and will be submitted to accompany a future iteration of the Outline CEMP after this deadline in support of the Application. Amendments to the draft DCO of the ES [APP-013] and the Outline CEMP of the ES [APP-174] will be discussed and conclusions recorded within the SoCG.</p>
31	<p>8.2 The scheme provides the potential to provide public benefit in the form of heritage benefits through repairs to revetment walls on the Bowes Railway scheduled monument and the enhanced interpretation of</p>	<p>It is agreed that the scheme has the potential to provide public benefit through repairs to walls and interpretive measures. These are important points which</p>

	Written Representation from Historic England	Response from Highways Authority (the Applicant)
	the monument and its national importance.	help to demonstrate that the public benefits of the scheme outweigh the harm to the monument.
32	8.3 Historic England is keen to ensure that the matters highlighted in our Written Representations are addressed and that they can be resolved through discussion as part of a positive, constructive dialogue with the Applicant. This will then ensure that the impact of the proposals will have been avoided or mitigated with regards the historic environment and any benefits appropriately secured as part of the DCO	The Applicant is also keen to reach agreement on these matters with Historic England.

1.6 Written representation from Gateshead Council

	Written Representation from Gateshead Council	Response from Highways Authority (the Applicant)
1	<p>See written representation split into headings below.</p> <p>Written Rep: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010031/TR010031-000728-DL1%20-%20Gateshead%20Council%20-%20Deadline%20Submission.pdf</p>	<p>The mitigation strategy has been designed based on an understanding of the areas of habitat loss and gain. In addition, the strategy seeks to improve habitat quality and provide additional connectivity.</p> <p>As confirmed by Gateshead Council within their written response a greater area of woodland will be created than that lost. The woodland area lost and created for each of the Scheme options (embankment and viaduct) would be as follows: Embankment: Area Lost - 14.13Ha; Area Created: 14.88 Viaduct: Area Lost - 13.83 Ha; Area Created: 14.33</p> <p>The strategy has followed the mitigation hierarchy that states that the steps of mitigation should be approached in the following order: Avoidance, Minimisation, Restoration and Compensation. In accordance with this, the area of woodland loss has been reduced by changes to the design of the Scheme, which has included minimising habitat loss associated with Scheme design and construction activities at Long Acre Wood Local Wildlife Site (LWS) and other wooded areas. Woodland loss at Longacre Wood Local Wildlife Site has been reduced by steepening of the earthworks adjacent to the carriageway from 1:3 to 1:2 to reduce the footprint, and thus reducing the number of trees that would need to be removed from Longacre Wood. This reduction in area also ensured that there would be no permanent land take within the LWS.</p> <p>To enhance the functionality of woodland habitats within the vicinity of the Scheme, improvements in habitat connectivity have been proposed. This includes new woodland corridor creation, including links between existing woodland at Robin's Wood to the River Team and enhancing the wildlife corridors between Longacre Wood LWS and the existing wildlife corridor to the west. Improvements such as improving quality by strengthening connective</p>

	Written Representation from Gateshead Council	Response from Highways Authority (the Applicant)
		<p>corridors and improving retained woodland habitats enhances the effectiveness of the mitigation design.</p> <p>Additionally, the mitigation designs include areas of improvement of existing and newly created woodland thus improving the overall quality of woodland across the Scheme.</p> <p>With reference to the desire for the Scheme to provide compensation habitat, the objective of the Scheme is to mitigate its effects, the measures to do so would be secured through reference to L15 of the Outline CEMP [APP-174] and Figure 7.6 Landscape Mitigation Design of the ES (APP-061). Any further provision of habitat which is related to enhancements to habitats as opposed to mitigation is strictly speaking outside its scope.</p>
2	<p><u>Ecology</u></p> <p>The proposals will result in the direct loss of 14.13ha combined priority woodland habitat (Embankment) and 13.83ha combined priority woodland habitat (Viaduct). This includes the loss of 57m² of Long Acre Wood Local Wildlife Site. Replacement/compensation woodland creation totaling 14.88ha (Embankment) and 14.33 (Viaduct) is proposed. Given the considerable time lag in achieving the same level of ecological value and function as that to be lost; it is considered that a significant increase in the provision of replacement/compensation woodland creation is required.</p> <p>.</p> <p>.</p> <p>-</p>	<p>The habitat creation measures include improvement of habitats and increases in habitat connectivity. The response above addresses the question of mitigation and compensation – it is considered that the Scheme sufficiently mitigates its impact without a need for additional habitat creation.</p>
3	<p>The Guidelines for Ecological Impact Assessment in the UK and Ireland (CIEEM, 2018) state:</p> <p>Replacement ratios of compensatory habitat greater than one-to-one are frequently appropriate because of the uncertainty inherent in compensation, particularly in cases which require ecological restoration, habitat creation or translocation of species or habitats. The scientific basis for deriving appropriate ratios is not exact and will vary depending on the habitat or species concerned. Increased replacement ratios can also help take account of the time lag in delivering compensation and regaining the same maturity, complexity and diversity of habitats and the full complement of species as those affected.</p>	<p>IT is not considered that the Scheme has any adverse effect upon ecosystems services in the Borough of Gateshead or more widely.</p> <p>In terms of the air quality consequences as a result of temporary lost woodland, the potential receptors in the vicinity of Long Acre Wood are over 150m from the A1. At this distance, no significant effects on air quality are modelled. This conclusion will not be affected by the removal of the woodland.</p> <p>The Scheme includes measures (paragraph 13.9.2 of Chapter 13: Road Drainage and the Water Environment of the ES [APP-034]) to improve the water quality in the watercourses which receive discharges from the Scheme, this will help offset any loss offered by the mature woodland which is to be lost.</p>

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		<p>Whilst the temporary loss of woodland would result in loss of the carbon sequestration benefits of semi-mature/mature woodland, woodland of at least the same area lost will be planted within the Scheme.</p> <p>The woodland area lost and created for each of the Scheme options (embankment and viaduct) is detailed below: Embankment: Area Lost - 14.13Ha; Area Created: 14.88 Viaduct: Area Lost - 13.83 Ha; Area Created: 14.33</p> <p>Research by Natural England (2012) states that after establishment of woodland planting, carbon sequestration increases substantially as growth rates increase before slowing down when the trees reach maturity, thereby restoring the carbon sequestration properties once the proposed replanting is established.</p>
4	<p>In addition to impacts on biodiversity, the proposed loss of c.14ha of established, semi-mature/mature woodland has implications for the borough in terms of reduced ecosystems services, including air and water quality and carbon sequestration.</p>	<p>Priority grassland habitat: It is correct that there will be a loss in area of priority grassland habitat. However, there will be an increase in quality with the creation of species rich grassland areas.</p> <p>The 6.41ha (Embankment) and 5.94ha (Viaduct) grassland habitat provided includes newly created species rich grassland, improvements to the quality of neutral grassland and semi-improved grassland across the Scheme Footprint. Priority habitat creation across the Scheme Footprint from the ES (APP-029) detailing the priority habitat creation across the Scheme has been added into the updated Outline CEMP [APP-174] in B1.</p> <p>Dense/continuous scrub habitat The Scheme results in the loss of 1.71ha of scrub habitat and the creation of 1.09ha of scrub habitats. The loss of this scrub does not impact on the local Biodiversity Action Plan scrub target which is to expand the area of maritime scrub in the Durham BAP area (Gateshead are covered under the Durham Biodiversity Action Plan). Scrub habitats are widespread and commonly occurring as well as being relatively easily recreated. The species present within these habitats are fast growing. Therefore, this type of habitat whilst a planted area of 1.09ha, this area will increase in the short-term.</p> <p>Running water: The c.78m loss associated with the culvert will be addressed by improvement of the quality of the realigned Allerdene culvert.</p> <p>These improvements currently include naturalised design features, inclusion of species rich grassland on the banks and deculverting of sections. Replacement of running water habitat is secured within B1 of the Outline CEMP [APP-174]. Other measures for improvement of Allerdene culvert will be progressed at</p>

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		<p>detailed design stage as detailed in W10 of the Outline CEMP [APP-174] the following measures will be considered at detailed design: Improving the channel design and providing enhancement to the river environment and morphology by, for example, inclusion of pools and riffles (or similar features to increase biodiversity) constructing a two-stage channel, adopting bioengineering techniques, such as rock rolls and mattresses, to maintain the channel profile and by re-vegetating the banks of the proposed channel realignment. Where new culvert inlets are required, naturalised design features will be utilised, if design allows. Measures such as avoiding planting at the openings to the culvert to increase natural light entering the internal space, and an inclusion of a layer of soil and debris within the culvert to create a natural bed to encourage use will be considered.</p> <p>The design would be submitted to the SoS for approval after Gateshead Council has been consulted.</p> <p>With reference to the desire for the Scheme to provide compensation habitat, the objective of the Scheme is to mitigate its effects, the measures to do so would be secured through reference to L15 of the Outline CEMP (APP-174) and Figure 7.6 Landscape Mitigation Design (APP-061). Any further work which is related to enhancements to habitats is strictly speaking outside its scope as explained above.</p>
5	<p>Both options are anticipated to result in the direct loss of 6.79ha of priority grassland habitat. Replacement/compensation species rich grassland habitat creation of 6.41ha (Embankment) and 5.94ha (Viaduct) is proposed. Again, the replacement ratio of species rich grassland is considered to be inadequate. Similarly, the proposals are predicted to result in a net loss of dense/continuous scrub habitat and running water. Hedgerow is the only habitat type for which a significant increase in area/length is proposed.</p>	<p>With reference to the desire for the Scheme to provide compensation habitat, the objective of the Scheme is to mitigate its effects, the measures to do so would be secured through reference to L15 of the Outline CEMP [APP-174] and Figure 7.6: Landscape Mitigation Design of the ES [APP-061]. Any further work which is related to enhancements to habitats is strictly speaking outside its scope.</p> <p>The habitats included within the Landscape and Biodiversity planting design (as detailed within Figure 7.6: Landscape Mitigation Design of the ES [APP-061]) include the provision of a mosaic of habitats throughout the entire Scheme Footprint. These habitats include the provision of woodland, linear tree belts of shrubs and trees, scattered trees, hedgerow and grassland. The design aims to not only create new areas of habitat but, once established, to increase connectivity of habitats throughout the area.</p> <p>With regard to the issue of non-priority habitats, reinstatement of areas of non-priority habitat are included in the Scheme design, which include arable, semi-improved grassland, improved grassland, and amenity grassland. Details of this are shown on Figure 7.6: Landscape Mitigation Design of the ES [APP-061] as: All slopes and verges are to be LE1.1 Amenity Grass (unless otherwise stated); and all areas temporarily required for construction are to be reinstated to reflect their former vegetation cover (unless otherwise stated). These are not</p>

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		set out within the key to Figure 7.6: Landscape Mitigation Design of the ES [APP-061]. However, these are areas within the Scheme Footprint (not required for carriageway), that have not been allocated a habitat do include habitat reinstatement.
6	The need to ensure the proposed scheme delivers appropriate and proportionate levels of ecological compensation, particularly with regards to the creation of replacement priority habitat(s), is of particular concern as the scheme does not propose to provide any compensation for the direct/permanent loss of non-priority habitats and as a national infrastructure project is exempt from having to provide biodiversity net gains.	<p>Both designs provide a benefit with an increase in the green wildlife corridors along the south of the scheme, with created planting linking along the south of the scheme. Figure 7.6: Landscape Mitigation Design of the ES [APP-061].</p> <p>The largest differences between the two options are regarding the habitat loss and creation, Figure 7.6: Landscape Mitigation Design of the ES [APP-061].</p> <p>Embankment benefits compared to the viaduct: Provides a greater area for woodland and grassland habitat creation The larger area of grassland creation will be beneficial to the extant wintering bird population.</p> <p>Embankment disbenefit compared to the viaduct: Results in a slightly greater area of woodland loss of 0.3ha.</p> <p>Viaduct benefit compared to the Embankment: Provides a greater area for hedgerow habitat creation. Provides greater connectivity for species movements. The viaduct provides the greatest length of naturalised channel and habitat improvement for Allerdene Burn.</p> <p>Viaduct disbenefit compared to the Embankment: Results in a longer length of hedgerow loss of 51m.</p>
7	<p><u>In addition to the above, the opportunity to better understand, discuss and address the following key issues with the 'project team' and Council colleagues is considered necessary:</u></p> <ul style="list-style-type: none"> <u>The relative benefits/disbenefits of the two options (i.e. embankment and viaduct) for biodiversity.</u> 	<p>Details of the realignment of the Allerdene culvert will be finalised at detailed design stage as detailed on page 63 Chapter 8: Biodiversity of the ES [APP-029].</p> <p>The embankment option provides an area of naturalised culvert with species rich grassland banks.</p> <p>The viaduct option provides the largest extent of naturalised culvert with species rich grassland banks.</p>
8	<ul style="list-style-type: none"> Realignment of the Allerdene culvert. 	<p>The Council's land affected by the Scheme is addressed holistically in the approach taken to mitigation of the effects of the proposals.</p> <p>There are areas of retained habitat and reinstated as is, however, where habitat is lost the following habitat will be created: Species rich grassland Hedgerow with trees</p>

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		<p>Linear belts of shrubs and trees Woodland and woodland edge Scattered trees</p> <p>This mitigation design has been led by an assessment of habitats loss within that area and strategic planting to aid the effectiveness and increase the green wildlife corridors within the area.</p>
9	<p>• <u>Appropriate mitigation for the areas of Council land to be impacted by the scheme.</u></p>	<p>Habitat creation at Bowes Railway LWS and Longbank underpass includes retention of existing vegetation where possible and, the creation of linear tree belts of shrub and trees, provision of scattered trees. Additionally, the design attempts to funnel bats down under the A1 so that they continue to use the underpass, to reduce the effects of fragmentation of the extant bat population. This measure is included in the Outline CEMP [APP-174] within B16.</p> <p>Lighting during the operational phase of Longbank Bridleway Underpass was identified as potentially having a negative effect upon bats using the underpass. In order to minimise the effects from lighting a sensitive light strategy has been identified as follows: The use of movement triggers, thus lighting only turns on when people (large objects) move through the area. Avoidance of light spill using directional and or baffled lighting. Avoid use of blue-white short wavelength lights and high UV content. The mitigation associated with bats is detailed in G6 in the Outline CEMP [APP-174].</p>
10	<p>• <u>Compensatory habitat creation and maintenance issues relating to Bowes Railway LWS and Longbank underpass.</u></p>	<p>Mitigation measures for otter are detailed within the updated Outline CEMP [APP-174] at B24. This sets out mitigation measures associated with works adjacent to the River Team and at Coal House roundabout for otter, as follows: the requirement for a pre-construction check of the habitat within and immediately adjacent to Coal House roundabout prior to habitat clearance and installation of the temporary culvert; and should, at any time prior to the works commencing, signs of otter are receding or considered potentially present within the Scheme Footprint, then works would cease and a suitably experienced ecologist be contacted for advice prior to works re-commencing within this immediate area.</p>
11	<p>• <u>Mitigation measures for otter during the construction and operation of the proposed scheme.</u></p>	<p>This has been assessed within Appendix 8.10: Wintering Bird Survey Report of this ES [APP-132], and Chapter 8: Biodiversity of the ES [APP-029] sections Table 8-4 page 18 (survey effort), 8.7.43 to 8.7.48 (Baseline), Table 8-15 page 47 (construction impacts), Table 8-16 page 49 (operational impacts), 8.9.7 bullet point t) page 59 (mitigation), 8.9.8 bullet point a) page 61 (mitigation), 8.10.14 to 8.10.16 (construction residual assessment), and 8.10.28 to 8.10.30 (operational residual assessment). The mitigation requirements are detailed within the Outline CEMP [APP-174] in B4 and B19.</p>
12	<p>• <u>Predicted impacts and proposed mitigation relating to breeding and wintering waders.</u></p>	<p>Given that the Scheme is mainly online, it is considered that fragmentation and mortality risks already exist on the road. New lengths of acoustic fencing are restricted to a single location at Birtley. However, connectivity for wildlife within</p>

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		<p>this area will be maintained via retention of the Longbank Bridleway Underpass.</p> <p>Due to their linear nature, roads have the potential to connect different areas of habitat, creating a more joined up and better functioning ecological landscape; however, roads also have the potential to fragment and isolate habitats from each other, which can cause wildlife to cross the road.</p> <p>Concrete barriers are installed on roads to increase safety, their primary purpose is to reduce the amount of crashes that cross from one side of the road to the other. Irrespective of type of barrier installed on the network, the carriageway is never a safe place for animal passage.</p> <p>Wildlife crossing structures (usually bridges or underpasses) are important to provide direct connectivity between habitats on opposite sides of the road that would otherwise be severed. Highways England currently construct wildlife crossing structures during construction of new roads or improvements to existing roads. These are constructed when our assessments identify that habitats will be significantly segregated. The assessment for this Scheme included ecological surveys into surrounding wildlife populations and has not identified any new segregation of habitats. During the operation of Highways England's roads, if 'hotspots' of wildlife casualties are identified, the viability of installing wildlife fencing to direct animals to an appropriate crossing point is explored and delivered where appropriate; no such locations have been found along the Scheme.</p> <p>Unfortunately, even with crossing structures in place we do still experience animal deaths on roads.</p>
13	<p><u>• Impacts on ecological connectivity and wildlife mortality associated with the use of acoustic fencing and concrete step barriers</u></p>	<p>Further clarification is required regarding the 'details of landscape proposals/habitat creation': The landscape proposals are set out in Figure 7.6: Landscape Mitigation Design [APP-061] and is secured through various measures including [B2] in the Outline CEMP [APP-174], within B1, B2, B4, B16, B19, B21, B23.</p>
14	<p><u>• Details of landscaping proposals/habitat creation.</u></p>	<p>Provision of species-specific mitigation regarding the bat box locations associated with roost loss are currently under discussion with Natural England and will be subject to European Protected Species licensing requirements and standards. Current mitigation detailed within the EPS licence application documents includes the provision of four tree mounted boxes (two per tree) or pole mounted 'woodcrete' bat boxes: (Schwegler 1F or similar), to provide roosting opportunities during the widening of the bridge at Eighton Lodge South Underbridge.</p> <p>Enhancement measures including bat and bird boxes locations will be subject to confirmation at detailed design. The recommended models (or similar specification) are detailed within the Outline CEMP [APP-174] at B14 and</p>

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		<p>include the following requirements:</p> <ul style="list-style-type: none"> Installation of bat and bird boxes onto suitable trees/buildings or mounted on poles, dependent on the suitability of locations. Suitable bat and bird boxes include: <ul style="list-style-type: none"> - Bat boxes: 2F Schwegler bat boxes (General purpose), or similar; 1FF Schwegler bat boxes with built-in wooden rear panel, or similar; 2FN Schwegler bat boxes, or similar; and - Bird boxes: 1B Schwegler nest boxes, or similar; 2H Schwegler robin boxes, or similar; Vivara pro Barcelona woodstone open nest boxes, or similar.
15	<ul style="list-style-type: none"> <u>Provision of species specific mitigation/enhancement measures including bat and bird boxes (what and where)</u> 	<p>Taking account of the comments detailed above and the ongoing discussions with the council, it is considered that the species mitigation design is sufficient to deliver the Scheme.</p>
16	<p>On the basis of the information available; it is currently considered that delivery of the proposed Scheme (both options) is not achievable within acceptable ecological limits.</p>	<p>It is proposed to install lighting in the Longbank Bridleway Underpass, which forms part of the Bowes Railway. This is secured by [G6] of the Outline CEMP [APP-174].</p> <p>Because lighting both during the operational phase of Longbank Bridleway Underpass could have a negative effect upon bats using the underpass a sensitive light strategy would be adhered to, which would include: The use of movement triggers, thus lighting only turns on when people (large objects) move through the area. Avoidance of light spill using directional and or baffled lighting. Avoid use of blue-white short wavelength lights and high UV content.</p> <p>This mitigation for the effect upon bats is secured by [G6] within the Outline CEMP [APP-174].</p>
17	<p><u>Heritage and Culture</u> <u>Bowes Railway</u></p> <p>The proposed scheme will extend the existing tunnel over the Bowes Railway by approx. 15m to the north side. The current tunnel is not illuminated. The extra length of tunnel will compound the lack of light within the tunnel and create an uninviting, anti-social environment for users. The conflict arises with the use of the tunnel at present by bats. Further consideration should be given to lighting the tunnel, with the Council's preference being for lights operated on a sensory basis i.e. only triggered when pedestrians/horses approach but not triggered by bats.</p>	<p>Cultural Heritage: Provision relating to the Bowes Railway comprises: Enhancement of appreciation is being sought through the repair of an equivalent length of wall to that being demolished and installation of an information board following completion of works as detailed in the Outline CEMP [APP-174] at CH6.</p>
18	<p><u>Heritage and Culture Bowes Railway</u> At the meeting with Charly Vallance (WSP) on 1st March 2018 it was agreed that the scheme would seek to provide:</p> <ul style="list-style-type: none"> Measures to enhance the appreciation including the instalment of information boards along the public right of way detailing the origin, form and function of Bowes Railway were discussed as a possibility. 	<p>This response is noted and agreed.</p>

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19	<ul style="list-style-type: none"> • Opportunities to enhance the appreciation and understanding of Bowes have the potential to outweigh the physical harm to the SM. 	<p>The appearance of the new underpass will not affect the significance of the Bowes Railway.</p>
20	<ul style="list-style-type: none"> • The appearance of the new underpass is not of concern. 	<p>Under CH2 of the Outline CEMP [APP-174] the engagement of Historic England prior to demolition is required.</p> <p>Archaeological monitoring of the construction works is secured by CH2 of the Outline CEMP [APP-174] and will seek to record any remains associated with the Bowes Railway</p> <p>The detail of the monitoring will be included in the Outline WSI which will be submitted during the examination.</p>
21	<ul style="list-style-type: none"> • Any physical impact to the Bowes Railway including the demolition of a section of retaining wall should be discussed with Historic England in order to devise an appropriate investigation/mitigation strategy. WSP will be consulting with Historic England on all matters associated with gaining Scheduled Monument Consent. 	<p>Provision is made in the Outline CEMP [APP-174] at CH2 for the prior involvement of the County Archaeologist and Historic England.</p>
22	<p>The existing path surface is of little significance, but below the surface, there is varying survivals of the former railway line including masonry structures. The construction of the additional 15m of tunnel will disturb the remains of railway bed. This matter should be discussed and agreed with the County Archaeologist and Historic England.</p>	<p>Through discussions with Gateshead Council, the Applicant is aware of the studies undertaken by Gateshead Council on the setting of the Angel of the North, in particular the perceived harmful impact the existing level of tree cover in the area has on views from and to the sculpture. The Applicant is content to liaise with Gateshead Council, but its responsibility in relation to the mitigation of effects cause by the Scheme is only related to those effects. Insofar as it is able it will cooperate in delivering a solution, but again, this is not its primary responsibility. Documentation received to date from Gateshead Council includes "A study of the Significance which the Angel of the North gains from its Setting" and drafts of the Angel Habitat Management Plan, Ecology report and Woodland Management Plan.</p> <p>Highways England considers that proposals submitted within the application and outlined in Figure 7.6: Landscape Mitigation Design of the ES [APP-061], which is secured by Table 3-1, references L3 – L15 in Outline CEMP [APP-174] would deliver the required mitigation for the Scheme.</p> <p>To the extent that Gateshead Council wishes its own proposals to be integrated with Highways England Scheme, it is necessary for it to engage with Highways England. Highways England considers that measure CH1 in Table 3-1 of the Outline CEMP [APP-174] provides sufficient certainty and control to allow this to take place, since the achievement criteria in relation to the implementation of Figure 7.6: Landscape Mitigation Design of the ES [APP-061], and its development will be: <i>"Landscape Mitigation Design, approved by the SoS following consultation with the local authority."</i></p>

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		<p>See Table 3-1 Register of Environmental Actions and Commitments column 6 references [C1], [L4 – L11], [L13], [L15], [L17], [B1], [B2] and [B4] of the Outline CEMP [APP-174].</p> <p>If Gateshead Council were able to identify potential sites which could provide compensatory woodland, should replacement woodland edge planting to the reprofiled cutting indicated on Figure 7.6: Landscape Mitigation Design of the ES [APP-061], between chainages 12300 and 12640, including the planting on the southbound exit of Junction 66, be considered inappropriate in delivering the vision for the Angel of the North, the Applicant is willing to discuss potential off site compensatory woodland to offset that removed by the Scheme and that cannot be replaced due to the physical constraints of the corridor.</p> <p>The effect of the Scheme on woodland habitat is addressed above which details that the woodland area lost and created for each of the Scheme options (embankment and viaduct) is detailed below: Embankment: Area Lost - 14.13Ha; Area Created: 14.88 Viaduct: Area Lost - 13.83 Ha; Area Created: 14.33</p>
23	<p>-</p> <p><u><i>The Angel of the North</i></u></p> <p>The land immediately around the Angel is owned by the Council but land between the Angel and existing A1 is owned by Highways England.</p> <p>The Council has recently, in partnership with Historic England, produced a study which examines the significance of the setting of the Angel including key views. The study highlighted the harmful impact the current tree cover has had on key views of the Angel. A further study, to examine the quality of the existing landscape, which amounts to two planting schemes – one by Highways England and one by the Council, was undertaken. The key objective was to enhance the setting of the Angel and enable improved views, and an improved visitor and resident experience. Both reports should form part of any evidence base informing this scheme of improvement.</p> <p>The landscape report proposed three options - essentially do nothing, carry out minor works to create views and a comprehensive clearance and new, low level landscape. In discussion with Highways England (Nicola Wilkes) in November 2019 it was discussed how the proposal to enhance the Angel landscape and the Highways England scheme for the A1 could and should be aligned. It was agreed that single designed landscape covering both Council and Highways England land was the preferred outcome. It was agreed that detailed landscape design would take place during the course of 2020 for discharge as a condition by the Council. This design process would allow the Council to work with Highways England on the preferred landscape option.</p> <p>It is recognised that, in any event, the existing landscape will not exist once the A1 works start on site due to the levels of tree clearance which will be required prior to construction work starting. The design and level of planting will need to be designed in partnership and having regard to all stakeholders. It is</p>	<p>The Angel of the North narrative (landscaping technical paper) (Appendix 1.5 A submitted at Deadline 2) sets out: how the presence of new gantries along the A1B2CH, refer to the General Arrangement Plans 5(2)(o) [APP-010] for the locations, would modify the way in which views of the Angel of the North would be perceived by users of the A1 corridor by providing a commentary on the sequence of views approaching from the north and the south; and</p> <p>The Angel of the North narrative (landscaping technical paper) (Appendix 1.5 A submitted at Deadline 2) identifies the viewpoints in Chapter 7 : Landscape and Visual of the ES [APP-028] and locations indicated on Figure 7.4: Visual Effects Drawing of the ES [APP-057], from which the Angel of the North is a notable feature.</p> <p>The Angel of the North narrative (landscaping technical paper) (Appendix 1.5 A submitted at Deadline 2) also includes images extracted from a drive-through of the corridor, which indicates the location, scale and nature of the proposed gantries to demonstrate the likely impact that might arise on the travelling public using the A1 in views that include the Angel of the North. This includes some images that indicate the likely removal of existing roadside vegetation arising from the scheme.</p> <p>The number, placement, type, sign face design and structural form have been determined in accordance with Highways England's guidance at the time. The main driver for the guidance in respect of gantry locations is the safe operation of the highway. It is considered that provision of gantries is necessary to provide an appropriate level of safety by avoiding the impacts associated with the</p>

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	<p>preferred that the final scheme is a single contract across both land ownerships.</p> <p>Stakeholder consultation on the options outlined above shows a preference towards a more open, less planted landscape which enhances the setting of, and views of the Angel and offers a low maintenance low revenue management option. At the meeting in November 2019 Highways England confirmed they had an obligation to show no net loss of trees, but that the replanting could be on a different site. The Council would equally not wish to see a net loss in trees and would seek to compensate for the latter option with replanting off site at no net loss and outside of any commitment to plant trees in response to the climate change agenda. This would allow an existing, or new site within Gateshead to be enhanced/created with significant biodiversity benefits.</p>	<p>criteria defined within DMRB Volume 9, Section 1, Part 2 TD 18/85: Criteria for the use of Gantries for Traffic Signs and Matrix Traffic Signals on Trunk Roads and Trunk Road Motorways and to mitigate the sub-standard elements.</p> <p>WSP propose to review the locations of the proposed gantries and provide a high level assessment of the likely impacts on receptors identified in Chapter 7: Landscape and Visual of the ES [APP-028].</p>
24	<p>The second issue which is of concern, is the number of and proposed locations for the gantries. It is recognised that, at this stage, the precise locations of the gantries are not confirmed. Further, visual information requested at the meeting with Highways England in November 2019 has not been submitted – specifically a photo montage or visuals of the finished scheme showing the new infrastructure of the road to assess construction massing to understand appearance as if a traveller on the A1 and the views of the Angel.</p> <p>A number of the proposed gantries will directly harm key views of the Angel as identified in the study (referred to above). The following information would be prudent:</p> <ul style="list-style-type: none"> • Exact locations • Photo montage of impacts on views with specific reference to the Angel and the study • Justification for their location and numbers – is this a mandatory requirement or are they simply desirable? 	<p>As described above Appendix 1.5 A Angel of the North narrative (Landscape Technical Paper) has been submitted at this Deadline 2. This addresses the points raised by Gateshead Council.</p>
25	<p><u>Landscape</u></p> <p>At an early stage the viewpoints and photomontage locations were agreed with the consultants, however, the extent of the overhead infrastructure gantries and the impact on the Angel have become apparent since then. The Council have not received any updated information despite meetings in 2019, the latest of which was in November when WSP indicated that they were carrying out additional visual assessment and refining the design. As a result, the Council considers that the Landscape and Visual Assessment is incomplete at this stage. Therefore, as the unresolved matters could have significant adverse landscape and visual impacts, the Council believes they must be fully considered and finalised before the scheme can be approved.</p>	<p>Landscape and Visual Impacts: Chapter 7: Landscape and Visual of the ES [APP-028] acknowledges that the Scheme would give rise to short term impacts on the perception of landscape character and on some visual receptors immediately following construction. This is expressed at paragraphs 7.10.63 and 7.10.65 – 7.10.73.</p> <p>The woodland planting shown on Figure 7.6: Landscape Mitigation Design [APP-061] identifies the function of the planting proposed, Mitigation is secured at Table 3-1 Register of environmental actions and commitments,]L4 – L14] in the Outline CEMP [APP-174] and the resultant assessment of impacts on the landscape is that significant effects would not arise as a result of the embankment option but would remain in the Design Year 15 for the viaduct option on LCA 1: Team Valley, and visual effects (“people’s experience of the view”) is that significant effects would remain immediately following construction, but would reduce for the majority of these in the Design Year 15. For a small number of receptors (R7, R8 and P3, refer to Appendix 7.1: Visual Effects Schedule of the ES [APP-121] with a direct view of the viaduct option, significant effects would remain in the Design Year 15, however the overall visual effect is not considered to be significant (refer to paragraph</p>

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		<p>7.10.88 to 7.10.95 of Chapter: Landscape and Visual of the ES [APP-028].</p> <p>The Applicant considers the existing planting proposal to be sufficient to mitigate the potential effects on landscape character and visual receptors, having proposed woodland, woodland edge and tree planting to replace that removed by the scheme , and restore the existing characteristics of the woodland and vegetation within the existing corridor, avoiding significant effects.</p>
26	<p>The widening of the road and introduction of new signage and bridges will adversely affect the landscape and people's experience of the area, whether from the surroundings or using the A1 itself. None of the landscape mitigation removes this impact in the short term. In the medium to long-term, from 15 years post completion, the woodland planting should form an effective screen and attractive landscape feature in some locations. The mitigation is currently insufficient and there is no compensation planting.</p>	<p>Existing planting: The Applicant considers that the existing retained planting is not fragmentary, the majority forming larger plots of woodland or stands of mature trees. Landscape proposals, set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061] have identified replacement planting to restore woodland, woodland edges or hedgerows to restore physical and/or visual connectivity of landscape features.</p> <p>The Scheme would, where feasible, retain and protect healthy trees contained within existing planting (in accordance with BS5387: Trees in relation to demolition and construction). Whilst the Scheme would inevitably lead to the removal of other planting, this has been avoided where possible. Subsequently the detailed design would, in discussion with Gateshead Council, confirm the areas of woodland/planting that would be ultimately retained, and provide measures for the replacement of planting where feasible, in order that the outcome of the mitigation strategy is more certain.</p> <p>Retained planting would be protected and these measures would be overseen by a Landscape Specialist as outlined in the Outline CEMP [APP-174] at Table 2-1 Responsibility Matrix. In addition, and as outlined in Table 3-1 – Register of environmental actions and commitments of the above document, Ref L3 the Applicant is required to protect retained vegetation, to reduce the risk of loss due to operations during construction. Any trees that are exposed to a risk due to windthrow would be assessed by an arboriculturalist to determine their safety and where appropriate woodland would be replaced with LE 2.1 Woodland or LE 2.2 Woodland Edge planting. This is expressly provided for in the arboriculturalist required in the Outline CEMP [APP-174] at Table 2-1 Responsibility matrix.</p> <p>Planting: Gateshead Council have identified two areas where the Scheme would leave less space for replanting of slopes: beside the Angel of the North and between Birtley and the A167 junction (junction 65). With reference to the Angel of the North, the replanting of the associated slopes can be designed to support Gateshead Council's vision for the site, but this may require a modification to the current proposals for woodland edge planting. . Between Birtley and junction 65 the A1 will be widened and a noise barrier provided (Table 3-1:</p>

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		<p>Register of Environmental actions and commitments, references N2 in the Outline CEMP [APP-174]). Scattered trees that reflect the existing style of planting would be provided here, and over time would reduce awareness of the A1 and associated structures including reducing the effect of proposed gantries. Trees within the existing verge would be removed, and similar planting provided, albeit at a younger age.</p> <p>Mitigation: Mitigation is secured by Table 3-1: Register of Environmental actions and commitments, [L3 – L15] in the Outline CEMP [APP-174].</p> <p>Additional infrastructure: All additional infrastructure has been described in Chapter 2: The Scheme of the ES [APP-023] and assessed accordingly. The prospective locations of signage gantries is shown by orange hatching on the General Arrangement Plans [APP-010] have been assessed to determine whether the effects recorded in the ES, refer to Section 7.10 of Chapter 7: Landscape and Visual of the ES [APP-028] would be modified. The assessment of the effects of the gantries can be found in Appendix 1.5 B: Gantry assessment schedule submitted at Deadline 2 This has identified that for the majority of receptors with a view of the proposed gantries the impacts and resulting effects would not be changed. For receptors to the north of Birtley between junctions 65 and 66 the presence of the gantries is anticipated to give rise to a minor worsening in the view however the resulting effects are not considered to be significant. a. The final location of the gantries will be determined in accordance with Requirement 3(1) of the draft Development Consent Order.</p> <p>Guidance: The photography and photomontages were prepared using the guidance outlined in Chapter 7: Landscape and Visual, paragraph 7.4.29 of the ES [APP-028]. The assessment was undertaken during 2018 and 2019. The guidance on Visual Representation of Development Proposals (Technical Guidance Note 06/19, September 2019) was published too late for all the guidance to be incorporated into the assessment. However, reference was made to the emerging guidance at the time. Refer to Appendix D (WR6) – Approach to photography and photomontages to view of our approach to taking photographs with this response.</p>
27	<p>The fragmentary nature of some existing planting that is shown as retained is of concern. At the scale of these drawings the outcome is uncertain. Remaining vegetation may be more delicate than anticipated and more vulnerable to windthrow or incidental loss due to operations during construction. The approach taken in this scheme of increasing the width of highway within existing boundaries inevitably leaves less space for revegetation, and sections are already tightly confined e.g. beside the Angel, and between Birtley and the A167 junction. The adverse impact of the scheme is of particular concern in these sections. More detailed information and increased mitigation are required.</p>	<p>Other Design Issues: The design of the realigned Allerdene Burn channel has been constrained by needing to ensure that we do not impact third parties by adversely impacting the flood risk to land which is not being permanently obtained by Highways England. The channel is already highly modified and has a number of flow constraints along its length, these combined with the current banks and channel profile etc this means that it is difficult to vary the characteristics without adversely impacting the flood risk to adjacent third party land. The is secured</p>

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	<p>There is potential for additional infrastructure in future eg OH signage increasing in size, additional smart features, VMS etc, so the correct location and treatment is imperative at this point.</p> <p>The Landscape Institute issued updated guidance in September 2019 on LVIA. This is not retrospective, but a note should be provided of the consideration given to the new Technical Guidance Note.</p>	<p>through the Outline CEMP [APP-174] within W10. The landscape design around the channel reflects the requirement to ensure that a mosaic of habitats including woodland, hedgerows and scattered trees, along with are substantial area of species rich grassland, appropriate to the location and nature of the ground conditions is provided and this would include variation of the seeding specification and ongoing management to ensure delivery of diverse habitats. The detailed design of the channel profile, and outline and profile of the SUDS basin would be refined during the detailed design period within the agreed parameters laid out in the Surface Water Drainage Strategy which forms Appendix C of Appendix 13.1: Flood Risk Assessment of the ES [APP-163].</p> <p>Both the SUDS basin and the realigned watercourse are not within the public realm, the SUDS basin is within Highways England land ownership and not publicly accessible, the watercourse provides a field boundary in the long term. Both are adjacent to the wider landscaping to assist with the Scheme becoming part of the landscape.</p> <p>The Sustainable Urban Drainage System (SUDS) basin is not within a publicly accessible area, it is located within the highway boundary, which will be fenced. The pond is safe by design and unfenced. The pond has been designed to be first and foremost a balancing pond to accommodate the volume required without adverse impacts on the landscape and biodiversity, a greater area would require more extensive adverse impacts on the existing landscape.</p> <p>The watercourse is predominately controlled by the need to avoid adverse impacts on third parties in the longer term. The highly engineered baseline scenario, controls where waters spill and when which has been a challenge to replicate in the new design, which has established that small changes to the banks and channel have wider adverse implications that cannot be addressed without changing the flood regime.</p>
28	<p><i>Other Design Issues</i></p> <p>Aspects of the design require more attention to deliver improved landscape and other benefits, in particular the integration of the drainage and landscape design. The new SUDS basin and realigned watercourse should be of naturalistic appearance with varied shape, multiple pools, varied side-slope gradients and channel profile, to create an attractive appearance and develop diverse habitats.</p> <p>The SUDS basin is in an area publicly accessible from the residential area of Allerdene so should be a safe by design and unfenced.</p>	<p>The bridge design is noticeably different to the existing bridge as a result of the removal of the central reserve support pier. At a meeting on the 19/2/20 with Gateshead Council and Sunderland Council it was agreed that a review of the bridge design would be undertaken to consider if a design could be identified that would reduce potential impacts.</p>

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29	<p>The new Bowes Incline footbridge is more visually dominant than existing, and it is not clear that this is necessary or that alternatives have been considered.</p>	<p>Landscape at the Angel of North: The Applicant does not consider that the necessary clearance of established vegetation would give rise to a radical change. Where feasible and as identified on Figure 7.6: Landscape Mitigation Design of the ES [APP-068], vegetation would be retained and where appropriate replaced with woodland edge planting, specifically between chainages 12280 and 12640, avoiding the long term exposure of new and expansive views. The assessment of effects on the views and associated amenity at the Angel of the North is described in Appendix 7.1: Visual effects schedule of the ES [APP-121] and summarised in Chapter 7: Landscape and Visual Section 7.10 of the ES [APP-028]. Significant visual effects during construction have been identified on receptor O14 due to some vegetation clearance and operations to reprofile adjacent cutting slopes. Figure 7.6: Landscape Mitigation Design of the ES [APP-121] identifies that some vegetation immediately adjacent to the Angel of the North would be retained and provide a filtering/screening effect to views of the construction activity within the A1 corridor. It is predicted that once construction activities are complete that the effects would reduce to slight adverse, the retained vegetation continuing to provide a screen to the A1 and associated infrastructure.</p>
30	<p>The proposed landscape scheme should take account of the landscape at the Angel, and an integrated approach is desirable. The landscape treatment and land use at the Angel are currently under consideration by the Council. The necessary clearance of established planting for the A1 will cause radical change, not just through the absence of trees, but exposure of other elements, bringing other landscape features to greater prominence. The effect of the works on the experience of visitors to the Angel will be significant in terms of increased visibility of traffic and lighting perception of noise and loss of tranquillity & amenity.</p>	<p>Tourism / recreation and fencing / screens: With regard to the impact during the works upon the footpath routes and recreation around the Angel of the North, this information is detailed in Paragraph 12.7.57 of Chapter 12: Population and Human Health of the ES [APP-033] and identified the Angel of the North as an iconic landmark. Paragraph 12.10.45 of Chapter 12: Population and Human Health of the ES [APP-033] states that there will be the potential for a slight adverse effect (not significant) on tourism and recreation during construction. The Applicant has considered Public Rights of Way (PRoW) as part of Appendix 12.1 Walking Cycling and Horse Riding Assessment of the ES [APP162] with the identified mitigation shown on Figure 2.4 Streets, Rights of Way and Access Plans [APP-008]. The impacts of the Scheme on Walkers, Cyclists and Horse-riders (WCH) who use these PRoW are assessed within Chapter 12: Population and Human Health of the ES [APP-033] with mitigation measures for the construction phase suggested in paragraphs 12.9.7 to 12.9.9. Temporary works will be fenced in accordance with industry best practice. Provision for fencing for safety is not proposed to be secured through the DCO as consideration and mitigation of risk during construction is required by alternate legislation e.g. The Construction (Design and Management)</p>

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		Regulations 2015.
31	<p>The impact during the works upon the footpath routes and recreation around the Angel have not been considered and mitigated adequately. For example the use of bespoke fencing and screens may be required for safety and amenity during the works.</p>	<p>Subsequent to the 2018 Coal Authority Guidelines, the Coal Authority and the Environment Agency released an online screening tool for Local Planning Authorities, developers and consultants to identify specific mining and groundwater related constraints.</p> <p>This tool kit has been utilised in the preparation of the Flood Risk Assessment (FRA) and its output is documented in Appendix B of Appendix 13.1: Flood Risk Assessment of the ES [APP-163]. The Scheme is split into three zones all of which the toolkit identifies that no further consultation with the Coal Authority on groundwater flood risk in relation to proposed surface water drainage system is required.</p>
32	<p><u>LLFA/flood risk/drainage/water quality</u></p> <p>Minewater/ groundwater risk: The potential impacts of minewater/ groundwater constraints on the proposed surface water drainage system still require full consideration in accordance with the 2018 Coal Authority guidelines. This should take place as part of the consultation with the Coal Authority and should include a hydrogeological assessment of the design of any surface drainage features (eg geocellular storage, drainage basin, filter drains) and in accordance with the Coal Authority guidance document.</p>	<p>The SuDS (detention basin) (i.e. the detention basis) has been designed principally to manage the highway runoff from the Scheme. It is located in a landscaped area that is not publicly accessible. Therefore, there are and can be no amenity benefits associated with this pond. Health and safety has been at the forefront of all design considerations concerning the pond design; however, the principal design objective is to achieve volume attenuation and constructability.</p> <p>The access track has been designed to accommodate the vehicles (which includes a vacuum tanker to empty the oil interceptor) that are likely to be required for the maintenance of the pond and associated apparatus. Due to the topography, layout and types of vehicles that require access the extent of the track and turning head is appropriate.</p> <p>The surface water pond has been designed to minimise the impacts on the existing landscape and biodiversity, resulting in the design which minimises land take. The changes suggested by the council would lead to an increase in the land area that is required, a reduction in replacement planting that can be undertaken and greater impacts on the existing landscape, through land clearance and re-profiling etc and therefore cannot be accommodated without adverse impacts.</p> <p>The Scheme is considered to be compliant with Policy CS17 of the Newcastle Gateshead Core Strategy as:</p> <ul style="list-style-type: none"> • The A1 is already in place and the Scheme minimises impacts on the floodplain, • The flood risk is managed to ensure that the flood risk is not increased • Opportunities for the contribution of flood risk elsewhere are taken through the drainage strategy • SUDS have been prioritised where land is available • The development is in accordance with the SFRA • A Flood Risk Assessment (Appendix 13.1 of the ES [APP-163]) has

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		<p>been produced</p> <ul style="list-style-type: none"> • Surface water drainage is to be provided with sufficient capacity • Water quality is to be improved through the drainage strategy • Surface water is to be controlled and discharged to watercourses <p>The Scheme is considered to be compliant with NPPF paragraph 165 as:</p> <ul style="list-style-type: none"> • SUDS are incorporated, where feasible • The Scheme designers have meet with and taken advice from the LLFA • Have appropriate minimum standards following discussions with Highways England and the LLFA • Maintenance arrangements will be in place • And where possible multifunctional benefits are included. <p>Appendix 13.2: Water Framework Directive of the ES [APP-164] and Chapter 13: Road Drainage and the Water Environment of the ES [APP-034]) has been prepared to influence the design of the Scheme and ensure that the final design suitably meets the requirements of the legislation.</p> <p>The design would be submitted it to the Secretary of State for approval after Gateshead Council has been consulted.</p>
33	<p>Surface water management/ SuDS: The General Arrangement drawings show the detention basin as heavily engineered and uniform in plan form and profile, served by an excessive area of maintenance track. The basin should be amended to a more naturalistic design, incorporating more variation in form and profile to provide maximum potential for habitat development, and delivery of water quality and amenity benefits. This would then be in accordance with Newcastle Gateshead Core Strategy Policy CS17, NPPF paragraph 165, and the aims of Appendix 13.2 (Water Framework Assessment). The extent of the basin maintenance track and turning head area should be reduced to allow more scope for the provision of appropriate habitat space around the basin. These improvements must be incorporated prior to the detail design stage, to provide confidence that they will be delivered at that stage.</p>	<p>In terms of the design, the existing channel is highly engineered and not natural, whilst the Applicant has sought to improve upon the current conditions, there are many constraints that need to be considered.</p> <p>The main constraint to changes to the channel are landownership, as the land in which the Allerdene Burn flows adjacent to is only being obtained on a temporary basis, therefore, the flood regime needs to be maintained. Only the land adjacent to the A1 is being sought for the Applicant ownership and therefore the flood regime cannot be changed in the long term without having an impact on third parties.</p> <p>In accordance with the National Planning Policy Framework (NPPF) we are required to ensure that there is no increase in flood risk to third party land. The Applicant has undertaken a further iteration of the hydraulic modelling to address comments from the Environment Agency. This modelling has been submitted to the Environment Agency for their review, the comments are provided in WR10 B. This modelling demonstrates that it is not possible to balance changes in profile against an increase in flood risk, as the channel currently provides a significant volume of storage and any change in flow conveyance, storage or bank height means that flood risk will likely increase or the spill location and volume would alter.</p> <p>The inclusion of pools at this stage is not feasible as further works would be required to quantify the sediment load and whether they would remain viable in the long term. As given the channel slope and potential load any pools may quickly become full of sediment. However, the design of the channel is</p>

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		<p>documented in W10 of the Outline CEMP [APP-174].</p> <p>Chapter 13: Road Drainage and the Water Environment of the ES [APP-034] states that ecological benefits will be provided through a two stage channel (paragraph 13.9.18 and 13.9.26).</p> <p>The design would be submitted to the Secretary of State for approval after Gateshead Council has been consulted.</p>
34	<p>Allerdene Burn: The re-aligned and opened-up sections of the Allerdene Burn shown on the General Arrangement drawings (all 3 options) are over-engineered, with not enough variation in form or profile. It goes against good flood risk management principles with an engineered design and disconnect from its floodplain. The drawings should be modified to show a more naturalised channel that would conform with paragraph 5.2.3 of the WFD Assessment (Appendix 13.2). There is space to incorporate some areas of widened channel with slackened bank profiles, pools, and possibly some connected floodplain areas. Although the Environmental Statement suggests that naturalised features could be considered at detail design stage, a firm commitment to them should be made now, to avoid them being overlooked or value-engineered out at detail design stage.</p>	<p>The option to creating alternative storage facilities by form of a pond was considered during design. Some of the constraints which limited suitability was due to the following:</p> <p>The levels did not permit much flexibility as storage was needed to be contained within shallow depths.</p> <p>Adverse environmental impact due to the removal of established vegetation. Combined constraints of shallow depths and storage volume with a pond feature would have required further land acquisition.</p> <p>The maintenance accessibility against frequency would cause safety implications in comparison to a geocellular tank. For these reasons, an underground tank was deemed to be more appropriate.</p>
35	<p>Underground tank (Junction 65): It seems unnecessary to install an underground tank. A surface basin or pond that has the potential to provide habitat would be more in keeping with WFD, local and national policy requirements.</p>	<p>The locations of the culverts in question are shown on Figure 13.2: Water Feature Location Plan of the ES [APP-093].</p> <p>Table 4-1 of the Outline CEMP [APP-174], details that Ordinary Watercourse Consent is required, for the following works:</p> <ul style="list-style-type: none"> • Renewal of an existing gateway crossing by means of a culvert or bridge. • Creation of a new gateway crossing by means of a culvert or bridge. • Piping a watercourse for a length of eight metres or less. • All structures or modifications in or within 9 metres of a watercourse (headwalls, sluices and fencing). • Any temporary works in or within nine metres of a watercourse, that will be in place for less than six months <p>The General Arrangement Plans [APP-010] show key features that are relevant to the DCO application – i.e. major works. Because the culverts in question are minor and are not being altered (with the exception of the southernmost Culvert at Smithy Lane – see below) as part of the Scheme, they do not need to be shown at this stage.</p> <p>The works comprised in the Scheme will not physically damage the culverts and their connecting watercourses, and that no extensions or alterations will be required to the culverts, or their connecting watercourses. Provision for their protection is contained in the updated Outline CEMP (APP-174) in W19. The LLFA will be given the opportunity to review the detailed drawings as a requirement as set out in the Outline CEMP [APP-174] well in advance of the work progressing, for any ordinary watercourses/culverts that will be impacted.</p>

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		<p>The culvert which is being altered is the southern most culvert at Smithy Lane (Grid Reference 426045,557936) where the earthworks require minor extension to the culvert headwall. The final design for the culvert extension / headwall will be hydraulically modelled during detailed design to ensure no impacts on flow conveyance and the findings submitted to the Lead Flood Authority (LLFA) as part of the submission for an Ordinary Watercourse Consent.</p>
36	<p>Ordinary Watercourses: The culverts at Bowes View, Leyburnhold Gill, Long Acre Dene, and the two at Smithy Lane should be clearly shown on the General Arrangement, and related drawings. This shall be to demonstrate that the works will not physically damage the culverts and their connecting watercourses, and that no extensions or alterations will be required to the culverts, or their connecting watercourses. Ordinary Watercourse Consent is required from the LLFA for any alterations to culverts, or watercourse channels.</p>	<p>It is correct that a silt control vortex separator is proposed at Long Acre Dene.</p> <p>It is not clear that there is sufficient space to include the silt control vortex separators at all discharge locations. Checks are to be carried out to ensure that they can be physically installed and will not increase flood risk, as they reduce the peak flows that can be conveyed, as well as being able to be maintained over the longer term.</p> <p>Importantly, Appendix 13.3 Highways Agency (now Highways England) Water Risk Assessment Tool (HAWRAT) of the ES [APP-165] does not demonstrate the need for inclusion of these in respect of the Scheme. Improvement in water quality is being provided through the inclusion of hydrocarbon separators.</p>
37	<p>Silt control vortex separators: There is only a firm commitment to provide a silt control mechanism at Long Acre Dene. A firm commitment to protect all affected watercourses should be made at this stage (prior to detail design) in order to avoid negative impact, and ideally provide betterment in water quality in line with WFD and local policy requirements.</p>	<p>It is not always appropriate for naturalistic design features to be selected.</p> <p>The design approach is for the existing outfalls to be utilised, some of which are beyond the Order limits. The Order limits are set as close as possible to the existing highway landownership so as to avoid impacts on third party land as well as that on existing biodiversity.</p> <p>In relation to the culvert extension at Smithy Lane (Grid Reference 426045,557936) where a new inlet is required, naturalistic design features will be utilised, if constraints allow, which are to be developed during detailed design. We are aware of some reticence towards the use of gabion mattresses from the Environment Agency (due to perceived design life) but will seek a robust and environmentally acceptable design. This approach is detailed in the updated Outline CEMP [APP-174] in W10.</p> <p>Appendix 13.2: Water Framework Directive (WFD) assessment of the ES [APP-164] outlines that where existing surface water outfalls fall within the Extent of Works, detailed design will consider modifications to the outlet structure to ensure that they are set back from the watercourse, to reduce the impacts to flow. This is detailed in the Outline CEMP [APP 174] within W10.</p>
38	<p>Inlet/outlet features: New Inlets and outlets should utilise naturalistic design features wherever possible and minimise the use of pre-cast concrete features through the use of gabion mattresses, vegetated features, and a commitment to a more environmentally sensitive design. This approach would conform with the principles of the WFD, and with the objectives of the River Team Catchment Partnership and the emerging Gateshead Local Plan policies MSGP Policy 30:1a and b.</p>	

1.7 Written representation from Nigel Harrison on behalf of Tyne and Wear Joint Local Access Forum

	Written Representation from Nigel Harrison on behalf of Tyne and Wear Joint Local Access Forum	Response from Highways England (the "Applicant")
1	<p>I am writing on behalf of the Tyne and Wear Joint Local Access Forum. We are a statutory advisory body established under the Countryside & Rights of Way Act 2000 and our role is to advise on Public Rights of Way and the wider issue of improving access to and enjoyment of the countryside having regard to "the desirability of conserving the natural beauty of the area " ..."including the flora, fauna, and geological and physiographical features ."</p> <p>This letter constitutes formal advice from the Tyne and Wear Joint Local Access Forum. Highways England is required, in accordance with Section 94(5) of the Countryside and Rights of Way Act 2000, to have regard to relevant advice from this Forum in carrying out its functions.</p> <p>Written Rep: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010031/TR010031-000722-DL1%20-%20Tyne%20and%20Wear%20Joint%20local%20Access%20Forum%20-%20Deadline%20Submission.pdf</p>	<p>This response focusses on providing details relevant to the proposed development, rather than addressing specific comments made on other schemes save inasmuch as they relate to the Scheme.</p>
2	<p>In principle we accept the proposals as laid out by Highways England in their D.C.O. We do however, have concerns regarding the delivery of the scheme and in particular the temporary diversions to the Rights of Way. Approximately 2 miles to the south of this scheme, the A1 crosses a former railway line which is now part of the National Cycle Network (NCN 7). Highways England have introduced a temporary diversion to the cycle route for approximately one year whilst they upgrade and strengthen the A1 overbridge.</p>	<p>It is noted that Highways England's proposals are accepted.</p>
3	<p>The diversion of approximately 400 metres takes cyclists and pedestrians from a continuous off-road path onto roadside pavements, with a busy road crossing plus two other road crossings and a litany of other hazards including a rubber mat surface. See the website which includes a public comment page. https://a1mvigorailway.commonplace.is/timeline</p>	
4	<p>It is our understanding that Highways England got the go-ahead having made promises on the diversion and were then unable to fulfil these due to the presence of cables just below the surface which they had failed to prepare for.</p>	<p>Any issues experienced on the A1 Vigo scheme were, as stated, due to statutory infrastructure equipment underground. The majority of the diversion route proposed for North Dene Footbridge (BI/16/1) and Longbank Bridleway (LA/72A) is in operation already, with the exception of one field in private ownership. It is not envisaged that statutory infrastructure, or any other issues, will therefore constrain the delivery of this diversion, as was experienced on the A1 Vigo scheme. Even if statutory infrastructure is found to be in place in the field where the new part of the diversion is proposed, this route comprises laying of a shallow course of material on the surface of the ground only, which would not interrupt or necessitate removal of below ground infrastructure.</p> <p>All other temporary diversions proposed within the Scheme</p>

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		similarly make use of existing routes in operation or routes which the Applicant does not envisage they would be unable to fulfil.
5	This diversion has introduced significant safety hazards for users, and we know of one road traffic accident involving a cycle and a car that was indirectly caused by it.	As stated above, the circumstances associated with the Scheme are very different to the A1 Vigo scheme referred to. It is not appropriate for the Applicant to comment on the allegation made in these proceedings.
6	<p>Diversions to the rights of way on the A1 Birtley to Coal House scheme must be achieved in a way that is safer for users than at A1 Vigo. We would expect that the diversions of rights of way can be staged, not only with each other so there is no cascading of diversions, but also that any diversion of the rights of way that involves crossing the roads at Junction 66 should not be concurrent with greater traffic flow at that junction due to traffic being diverted off the main A1 carriageway. Highways England's D.C.O. application identifies a number of collisions between vehicles and cyclist at this junction and nearby with the present layout and steps must be taken not to introduce further risk. We would like sliproads to be crossed to be narrowed with Pegasus crossings and appropriate fencing for equestrians. If that is not possible then steps should be taken to slow down and marshal traffic.</p>	<p>The diversions required for the Scheme will be safe for users.</p> <p>The North Dene Footbridge (BI/16/1) and Longbank Bridleway (LA/72A) closures share the same proposed temporary diversion route. This diversion route measures approximately 1.2km in length. As the existing A1 crossings are part of each diversion, HE will ensure that construction work and the closure of these crossings is phased and ensure there is no overlap. This also ensures the length of the temporary diversion is minimised. This proposed temporary diversion route will utilise new routes across existing agricultural fields and existing footpaths. There are no at-grade crossings of the highway network on this temporary diversion, ensuring safety hazards to users are minimised.</p> <p>It should be noted that equestrian users of Longbank Bridleway cannot be diverted on a route via North Dene Footbridge as the existing and proposed replacement bridge is unsuitable for horses. An alternative route for equestrians is proposed which diverts users via the Junction 66 Eighton Lodge Interchange, and whilst this route crosses on/off slip roads to the A1, this part of the diversion route is already designated as an existing cycle network. The Applicant therefore disputes that the temporary diversions proposed would be hazardous to users.</p> <p>In response to the suggestions made, it is not considered appropriate to narrow sliproads, install fencing or introduce Pegasus crossings given the duration the diversions will be in place. However, the roundabout and sliproads will be subject to traffic management which will slow traffic, making crossings safer at these points. Further consultation will also be undertaken with equestrian users of the existing routes to advise them of the works proposed and time frames involved to encourage use of different recreational routes during this period. Due to the planned construction phasing, it is not possible for the diversion to be phased outside a period of greater traffic flow at the interchange.</p>

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7	We would advise that the Inspector, along with members of the A1 Birtley to Coal House HE team might visit the nearby A1 Vigo Railway bridge scheme to see an example of a poorly executed diversion that must be bettered when doing A1 Birtley to Coal House.	The Applicant does not accept that the A1 Vigo Railway Bridge scheme was poorly executed. Highways England has no objection to the Examining Authority visiting the A1 Vigo Railway Bridge scheme.

1.8 Written representation from Anthony Gormley Studio

	Written Representation from Anthony Gormley Studio	Response from Highways England (the "Applicant")
1	The proposed development scheme between junctions 65 and 67 of the A1 could potentially impact my iconic work The Angel of the North. Written Rep: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010031/TR010031-000754-DL1%20-%20Antony%20Gormley%20-%20Deadline%20Submission.pdf	Potential impacts and effects on the Angel of the North have been assessed and are reported in the ES, within the relevant following chapters. Within Chapter 6: Cultural Heritage [APP-027] the assessment considers impacts in terms of the setting of the sculpture, whereas Chapter 7: Landscape and visual [APP-028] has assessed the impact on views from the Angel of the North as a visitor experience. These are distinct assessments so as to avoid double counting. These impacts are considered below.
2	I am of course concerned by how the proposed changes to the road and surrounding vegetation may affect the viewer or visitor's experience of The Angel of the North. At this early stage of the planning process, and without fully developed renders or visuals, it is difficult to understand the full impact of the proposed changes	The Applicant has considered several aspects in undertaking the environmental assessment. This has included the experience of visitors to the site and of views of the landscape from a variety of receptors. In undertaking the assessment, visual material has been prepared in accordance with guidance provided in Interim Advice Note 135/10, published by the Applicant and Guidelines for the Landscape and Visual Impact Assessment (Third Edition) published by IEMA. Visitor experience The impacts on the views from the Angel of the North have been assessed and are included within Chapter 7: Landscape and Visual of the ES [APP-028]. Viewpoint 26 comprises the view towards the A1 from the base of the sculpture (refer to Figure 7.5 Viewpoint Photos – C [APP-060]) and Receptor O14 in Appendix 7.1 – Visual Effects Schedule [APP-121] identifies that the impacts during construction would be moderate adverse which is considered significant but would reduce to slight adverse immediately following construction, and this level of effect would continue into the subsequent Year 15 following completion of the Scheme. This is on the assumption that views of the A1 would remain partially filtered by roadside vegetation. A photomontage has been prepared for Viewpoint 26, refer to Figure 7.7 Viewpoint Photomontages – Viewpoint 26 [APP-068]. Viewer's experience The assessment of visual effects has considered the impact of the Scheme on visual receptors, including the occupants of residential buildings, users of public rights of way and highways and the occupants or users of other potentially sensitive receptors, refer to Appendix 7.1: Visual effects schedule [APP-061] and locations indicated on Figure 7.4 Visual Effects Drawing [APP-057]. The views for some of these receptors include the Angel of the North, the assessment considering the

	Written Representation from Anthony Gormley Studio	Response from Highways England (the "Applicant")
		<p>effect of the Scheme on the whole view. The visual receptors were agreed with Gateshead Council prior to undertaking the assessment to ensure that the effects were appropriately assessed in line with the guidance set out in Interim Advice Note 135/10 and The Guidelines for Landscape and Visual Impact Assessment (Third Edition). In line with the methodology and approach to the assessment agreed with Gateshead Council (refer to Appendix 4.4 Environmental Consultation [APP-106]), an assessment from each location whereby the Scheme, including infrastructure would interrupt a view of the Angel of the North has not been undertaken. As outlined below, several viewpoints include a view of the Angel of the North and receptors associated with these viewpoints have been assessed in detail.</p> <p>Visual materials In line with guidance provided in IAN 135/10 Annex 1, paragraph 3.7, photomontages have been prepared to illustrate the nature of the change in views. To demonstrate the predicted landscape and visual effects on the view experienced by visitors to the Angel of the North, a photomontage has been prepared for Viewpoint 26, refer to Figure 7.7 Viewpoint Photomontages – Viewpoint 26 [APP-068]. In addition the following photomontages for viewpoints that include a view of the Angel of the North have been prepared that demonstrate the impacts of the Scheme: Figure 7.7 Viewpoint Photomontages - Viewpoint 5 – A [APP-063] Figure 7.7 Viewpoint Photomontages - Viewpoint 5 – B [APP-063] Figure 7.7 Viewpoint Photomontages - Viewpoint 6 – A [APP-064] Figure 7.7 Viewpoint Photomontages - Viewpoint 6 – B [APP-065] Figure 7.7 Viewpoint Photomontages - Viewpoint 30 [APP-071]</p> <p>Furthermore, and to illustrate the likely sequence of views experienced from the A1 and from the ECML, a Landscape Technical Paper 1 [Appendix 1.5 A, Responses to the Examining Authority Written Questions] has been prepared and further information on this is provided below.</p>
3	<p>I would therefore be grateful if I could be kept apprised as the planning process progresses. With further information, new concerns may be highlighted, whilst others are assuaged. As part of this initial written submission, I would like to impress upon the Planning Inspectorate that it is vital that the existing access is maintained and that the site is returned to a state in which to the original views of The Angel of the North are unencumbered by vegetation.</p>	<p>The design of the Scheme would not permanently modify the current access arrangements to the site or the onsite access arrangements.</p> <p>During construction access to the Angel of the North will not be affected. However, the footpath leading from Angel of the North to Junction 66 (Eighton Lodge) will be temporarily closed during construction to provide a safe working area for the construction of the embankment for the widened road between Eighton Lodge Slip Road overbridge and Eighton Lodge North overbridge. There are some statutory undertakers diversions required in the section too. The footpath is anticipated to be closed for approximately 4 months prior to reinstatement on reopening. The proposal has identified a diversion of this footpath along a footway adjacent to A167 Durham Road. The closure and diversion will be well signed to ensure continued access to the landmark.</p> <p>With reference to the condition of the site and the desire to return the site to the state in which the original views of the Angel of the North are restored, the objective of the Scheme is to mitigate its effects. Any further work which is related to the Angel of the North and its setting (as opposed to the Scheme) is strictly speaking outside its scope.</p>

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		<p>Nevertheless, the Applicant is continuing dialogue with Gateshead Council's heritage, landscape and planning officers to ensure that the landscape strategy for the Scheme (Figure 7.6 Landscape Mitigation Design [APP-061] can be amended to accommodate the desire to reduce the degree to which the views both to and from Angel of the North are affected by the surrounding vegetation.</p>
4	<p>I am particularly anxious to ensure that current views to The Angel of the North - from both the train and the road - are not impaired by the proposed changes to the road and landscaping in near proximity to site of the work. This includes the proposed rerouting of the road, widening of the road, replacement of the existing bridge, vegetation management, and the erection of gantries and display signs across the road. It is essential that any new developments do not obscure these views.</p>	<p>The Applicant has prepared a Landscape Technical Paper to address the views from the train and the A1. This is submitted at Deadline 2 at [Appendix 1.5 A, Responses to the Examining Authority Written Questions].</p> <p>In addition to the assessment of views from the wider landscape contained within Appendix 7.1: Visual effects schedule [APP-121], located on Figure 7.4 Visual Effects Drawing [APP-057] and summarised in Chapter 7: Landscape and visual [APP-028], the Landscape Technical Paper [Appendix 1.5 A, Responses to the Examining Authority Written Questions] provides a narrative of the existing views and how as a result of the Scheme and the proposed gantries the views of the Angel of the North would be modified. This has included a series of images taken from the 3-D model of the Scheme, demonstrating where and how the proposed structures would interrupt or modify the views from the northbound and southbound A1 and the ECML.</p> <p>In addition, the following photomontages, within which the Angel of the North is a visible element have been updated to include the fixed gantry locations: Figure 7.7 Viewpoint Photomontages – Viewpoint 5 [APP-062 and APP-063] Figure 7.7 Viewpoint Photomontages – Viewpoint 6 [APP-064 and APP-065] Figure 7.7 Viewpoint Photomontages – Viewpoint 30 [APP-071]</p> <p>The assessment of effects on visual receptors associated with these viewpoints has concluded that the Scheme would result in a significant effect for several of these associated with viewpoints 5 and 6. These arise as a result of the change in the view within the valley landform and creation of the new proposed crossing of the ECML via the Allerdene viaduct option. However, views towards the Angel of the North are not predicted to be substantially changed.</p>
5	<p>It is reassuring to know that Highways England intend to work closely with Gateshead Council to develop a coherent and effective vegetation management scheme.</p>	<p>The Applicant has had discussions with Gateshead Council's heritage, landscape and planning officers on their strategy for the landscape proposals around the Angel of the North and potential options for the enhancement and/or restoration of the views, specifically on the replacement of woodland within the highway boundary that would support the Scheme without resulting in a reduction in biodiversity from that which currently exists.</p> <p>The position of the Applicant is that the Scheme must mitigate its effects in its existing landscape. However, so far as possible (and without compromising other mitigation required for the Scheme as a result of effects upon biodiversity, etc.), it is willing to seek a design that can accommodate the aspirations of the Council in respect of the setting of the Angel of the North.</p>
6	<p>Gateshead Council are aware of my views on the treatment of vegetation surrounding the Angel of the North and the mound, and I have submitted my response to the Southern Green proposal report separate to this.</p>	<p>The Applicant's position in respect of the mitigation of the effects of the Scheme is set out above.</p>

	Written Representation from Anthony Gormley Studio	Response from Highways England (the "Applicant")
7	<p>Perhaps most worrying to me are the proposed gantries – some of which appear to span the width of the road.</p> <p>The Angel of the North has become a landmark for the North East and welcomes travelers' home. In my view it would be sad to lose sight of the Angel on the approach from the A1 – and so I am keen to ensure that the locations of the proposed gantries do not interfere with these views.</p>	<p>The Applicant has prepared a Landscape Technical Paper to address the views from the train and the road (A1). This is submitted at Deadline 2 [at Appendix 1.5 A, Responses to the Examining Authority Written Questions].</p> <p>The Landscape Technical Paper provides a narrative of the existing views and how as a result of the Scheme and the proposed gantries the sequence of views of the Angel of the North would be modified. This has included a series of images taken from the 3-d model of the Scheme, demonstrating where and how the proposed structures would interrupt or modify the views.</p> <p>In addition, the following photomontages, within which the Angel of the North is a visible element have been updated to include the fixed gantry locations: Figure 7.7 Viewpoint Photomontages – Viewpoint 5 [APP-062 and APP-063] Figure 7.7 Viewpoint Photomontages – Viewpoint 6 ([APP-064 and APP-065]) Figure 7.7 Viewpoint Photomontages – Viewpoint 30 [APP-071]</p> <p>The Applicant has also prepared an assessment of the proposed gantries and groups of gantries (Assessment of Gantries, Appendix 1.6A) which identified that from the Angel of the North O14 [refer to Appendix 7.1 – Visual Effects Schedule (APP-121)] the resulting effect would not be modified from the findings identified in Appendix 7.1 – Visual Effects Schedule (APP-121) and remain slight adverse.</p>
8	<p>We would be grateful for further information regarding the footpath marked at 4/1h and the boundary between 4/2a and 4/2b. How will this juncture be communicated? How will this juncture affect access? (Land Parcel 4/1h) Will this footpath be closed during construction? Or will this footpath be closed ongoing? (Path in Land Parcel 4/1h) Will this footpath be closed during construction? Or will this footpath be closed ongoing? (Path in land parcel 4/1c) Will this footpath be closed during construction? Or will this footpath be closed ongoing? (Path located in land parcel 4/3c)</p>	<p>The representation includes a marked-up version of the Composite Land and Works Plan [AS-017] with reference to a footpath being closed during construction. This footpath temporary closure is shown on the Streets, Rights of Way and Access Plan between points 4/1 and 5/1 [APP-008]. The footpath will be temporarily closed during construction to provide a safe working area for the construction of the embankment for the widened road between Eighton Lodge Slip Road overbridge and Eighton Lodge North overbridge.</p> <p>The footpath is anticipated to be closed for approximately four months. The proposal has identified a diversion of this footpath along a footway adjacent to A167 Durham Road, the diverted route affording direct views to the Angel of the North, to the east and north east. There will be continued access to the landmark.</p>
9	<p>Antony Gormley Studio is concerned about the potential impact of the Gantries on views towards the Angel of the North (Work No. 6a)</p>	<p>Please refer to Plate 4 within the Landscape Technical Paper [Appendix 1.5 A, Responses to the Examining Authority Written Questions] that shows the gantry at this location in context with the A1, with the Angel of the North screened by a combination of landform and existing vegetation.</p> <p>The Applicant has also prepared an assessment of the proposed gantries and groups of gantries (Assessment of Gantries, Appendix 1.6A). This identified that the top of the gantry within Work No. 7a would be perceptible from Viewpoint 26 (receptor O14 within Appendix 7.1 Visual effects schedule [APP-121]), above the top of the intervening vegetation. The assessment of the view from the Angel of the North (receptor O14 within Appendix 7.1 Visual effects schedule [APP-121]) identified that the effect would be slight adverse in the winter Year 1 and would remain so into the design year 15.</p>

	Written Representation from Anthony Gormley Studio	Response from Highways England (the "Applicant")
10	Antony Gormley Studio is concerned about the potential impact of the Gantries on views towards the Angel of the Nort (Work No. 7a)	<p>Please refer to Plate 5 within the Landscape Technical Paper [Appendix 1.5 A, Responses to the Examining Authority Written Questions] which shows the gantry at this location in context with the Angel of the North (the wing tip of the sculpture is visible above the tree line).</p> <p>The Applicant has also prepared an assessment of the proposed gantries and groups of gantries (Assessment of Gantries, Appendix 1.6A). This identified that the gantry within Work No. 7a would not be perceptible from Viewpoint 26 (receptor O14 within Appendix 7.1 Visual effects schedule [APP-121]).</p>
11	Antony Gormley Studio is concerned about the potential impact of the Gantries on views towards the Angel of the North (Located at land parcel 4/1J)	<p>Please refer to Plate 10 within the Landscape Technical Paper [Appendix 1.5 A, Responses to the Examining Authority Written Questions], which shows the gantry at this location in context with the Angel of the North.</p> <p>The Applicant has also prepared an assessment of the proposed gantries and groups of gantries Appendix 1.5 B – Assessment of Gantries [Responses to the Examining Authority Written Questions]. This identified that the top of the gantry within land parcel 4/1J (APP-006) would be perceptible from Viewpoint 26, (receptor O14 within Appendix 7.1 Visual effects schedule), above the top of the intervening vegetation.</p> <p>Please refer to the Angel of the North O14 (refer to Appendix 7.1 – Visual Effects Schedule [APP-121]) the effect would be slight adverse.</p>
12	Antony Gormley Studio is concerned about the potential impact of the Gantries on views towards the Angel of the North (Located land parcel 4/3r)	<p>The Landscape Technical Paper includes a series of images taken from the 3-D model of the Scheme, demonstrating where and how the proposed structures would interrupt or modify the views of the Angel of the North.</p> <p>Please refer to Plate 9 within the Landscape Technical Paper, which shows the gantry at this location in context with the Angel of the North.</p> <p>The Applicant has also prepared an assessment of the proposed gantries and groups of gantries (Appendix 1.5 B Assessment of Gantries [Responses to the Examining Authority Written Questions], this identified that the gantry within land parcel 4/3r (APP-006) would not be perceptible from Viewpoint 26. (receptor O14 within Appendix 7.1 Visual effects schedule [APP-121]).</p>
13	Antony Gormley Studio is concerned about the potential impact of the Gantries on views towards the Angel of the North (Located a land parcel 4/1s)	<p>Please refer to Plate 8 within the Landscape Technical Paper, which shows the gantry at this location in context with the Angel of the North.</p> <p>The Applicant has also prepared an assessment of the proposed gantries and groups of gantries (Appendix 1.5 B Assessment of Gantries [Responses to the Examining Authority Written Questions]) this identified that the gantry within land parcel 4/3r (APP-006) would not be perceptible from Viewpoint 26 (receptor O14 within Appendix 7.1 Visual effects schedule [APP-121]).</p>

1.9 Written representation from Mr. and Mrs. Leonard

	Written Representation from Mr. and Mrs. Leonard	Response from Highways England (the "Applicant")
1	Following our attendance at the meeting to discuss the widening of the bridge at Allerdene, we were shocked that no plans were made available to view.	The application and all plans are available to view on the Planning Inspectorate website and hard copies of the entire application can be requested through the Applicant for which there would be a charge. Copies of the Scheme plans will be brought to subsequent hearings for the public to view. The Applicant spoke to Mr and Mrs Leonard at the hearing held on 21 January 2020, and this was followed up by a phone call with an offer to meet with Mr and Mrs Leonard to provide them with any further details they required about the Scheme and to provide them with plans.
2	On learning exactly on where and what was involved we were greatly concerned. Widening and moving the bridge will bring more traffic into the area, Smithy Lane as it implies is a narrow lane leading to Lamesley Village, with our Church and Village Hall at the crossroads, we believe the widening of this bridge will produce more traffic causing problems for the village and village buildings.	<p>It is not the case that there will be a material increase in traffic entering the area of Lamesley.</p> <p>Figure 5.1 in the Transport Assessment Report [APP-173], shows the modelled impact of the Scheme on traffic around Lamesley. It can be seen that the local roads here either show a change in traffic flows of less than 10% or a predicted reduction in traffic flows of greater than 10%. This is as a result of the additional capacity created on the A1 mainline and slip roads which draws traffic off the local road network.</p> <p>Given the level of change involved, it is not the case that there will be problems for the village or village buildings.</p>
3	Also, pollution, inconvenience and traffic noise to our beautiful historic village of Lamesley.	<p>For the reasons stated above, the impacts highlighted in the written representation will also not occur.</p> <p>The change in road traffic noise levels predicted at receptors on Lamesley Road, Haggs Lane and Smithy Lane is predicted to be between – 1 dB and + 1 dB. This magnitude of change would be imperceptible and negligible in both the short-term and the long-term. This is shown in the noise model plots presented in Figure 11.10: Do Minimum 2023 v Do Something 2038 Noise Change Map of the ES [APP-087] and Figure 11.11: Do Minimum 2023 v Do Something 2038 Noise Change Map of the ES [APP-088]. The short-term increases of between 1 and 3 dB which are indicated towards the west end of Smithy Lane (close to a single receptor location) in Figure 11.10: Do Minimum 2023 v Do Something 2038 Noise Change Map of the ES [APP-087] relate to the actual road only and would not extend beyond the carriageway itself. In any event, these increases are below the threshold of significance. As shown in Figure 11.5: Do Minimum 2038 Noise Map of the ES [APP-081] and Figure 11.9: Do Something 2038 Noise Map of the ES [APP-086], in absolute noise level terms, receptors in Lamesley are, and will remain, between the Lowest Observed Adverse Effect Level (LOAEL) and the Significant Observed Adverse Effect Level (SOAEL).</p> <p>Pollutant concentrations in Lamesley are currently well below the standards set for the protection of human health and fall further below the standard in the Scheme opening year, with or without the Scheme. The Scheme results in an insignificant improvement in pollutant concentrations in Lamesley (along Lamesley Road), although there is a small worsening closer to the A1 along Banesley Lane. This is shown in Figure 5.6: Monitored Concentrations 2017 of the ES [APP-047] to Figure 5.9: Modelled Change in Concentrations</p>

Written Representation from Mr. and Mrs. Leonard	Response from Highways England (the "Applicant")
	(2023) of the ES [APP-050]. With pollutant concentrations remaining well below the health-based air quality standards, no significant effects due to changes in air pollution are expected as a result of the Scheme.

1.10 Written representation from Environment Agency

	Written Representation from Environment Agency	Response from Highways England(the "Applicant")
1	<p>On behalf of the Environment Agency (EA) <u>Flood Modelling</u> The Environmental Statement (ES) acknowledges that there are several references within the ES to the flood zone data and maps which have been superseded. In particular, section 2.5.13 of the ES states that "the EA have informed WSP that the published Flood Map for Planning has been superseded by the River Team flood model, the results of which should be used in its place. This new mapping has yet to be published". The EA are still in the process of verifying the updated flood model. It is estimated that this modelling work will be completed within 3 months. However, this cannot be guaranteed. If the baseline flood model is deemed to be acceptable, our flood maps will be updated to reflect the updated modelling. Our flood maps are updated every 3 months.</p>	<p>Whilst the Environment Agency has yet to finish the verification process for their hydraulic model to be used in the update to the Flood Map for Planning they have informed the Applicant that this model is the latest and most up to date information for the River Team and should be used as the basis of the flood risk assessment at this location. This model has been used, therefore there is no risk to the Scheme when the Environment Agency update their flood map for planning.</p>
2	<p><u>Temporary possession of the land containing EA gauging station</u></p> <p>The EA currently leases a plot of land from Gateshead Council for flood risk purposes (grid reference NZ2496358470). Situated at this location is a flood risk gauging station and telemetry software that serves the Team Valley and the wider area. This infrastructure allows us to understand the river levels along the River Team and is used to issue our flood alerts and warnings as part of our incident response to flooding.</p> <p>Drawing title 'land Plan sheet 3 of 5 Regulation 5(2)(i) HE551462 /WSP/LS1' dated 24/7/2019 (located within document 2.2. Land Plan) illustrates the temporary possession, and the permanent acquisition of rights over land. Areas 3/3x and 3/3y show the temporary possession of land. This is also the location of our gauging station and telemetry software. It appears sections 3/3x and 3/3y will be used temporarily during the construction of the road scheme. However, no details have been provided by the applicant regarding what this land will be used for, the types of works to be undertaken and the timescales for any works. This information must be submitted as part of the DCO application. As this is an essential piece of infrastructure, we will not allow any works or temporary possession of this land as it may affect our ability to undertake our statutory duties and powers.</p> <p>There are limited flood risk impacts associated with the proposed bridge pillar extension and the proposed mitigation next to the River Team. However, the applicant has failed provide any assessment or information regarding the potential impact the proposed works will have on our flood</p>	<p>The Applicant has been engaged with the Environment Agency (EA) during design development to inform the EIA methodology and assessment, as well as the proposed environmental mitigation for the Scheme. The Applicant has held several meetings with the EA between 2017 and 2019 (alongside Gateshead Council) on the water and ecology receptors potentially affected by the Scheme. The Applicant has shared documents with the EA for comment and discussed their feedback at a meeting on 11 April 2019. The District Valuer contacted the EA on 9 July 2019 to discuss their land plots near to the River Team and land take requirements for the Scheme.</p> <p>To provide further information, Plots 3/3a, 3/3c, 3/3d, 3/3e, 3/3f, 3/3g, 3/3h, 3/3i, 3/3j, 3/3k, 3/3l, 3/3m, 3/3o, 3/3p, 3/3q, 3/3t, 3/3u, 3/3z, 3/3cc, 3/3dd, 3/3ee, 3/3ff, 3/3gg, 3/3hh, 3/3ii, 3/3kk, 3/3oo, 3/3pp, 3/3qq, 3/3rr and 3/3tt identified on Land Plan sheet 3 of 5 [APP-006] have been included within the Order limits as these are required for works within and around junction 67 (Coal House) Roundabout including works to River Team in the roundabout circulatory for the widening of Kingsway viaduct. The location of the flood risk gauging station has been identified and included within constraints planning. The proposed works are within the roundabout circulatory which is downstream of the flood risk gauging station. The contractor at detailed design stage will</p>

	Written Representation from Environment Agency	Response from Highways England(the "Applicant")
	<p>risk gauging station and telemetry software, and how the rating curve may need to be changed due to the increase in channel levels for certain return periods i.e. how the development will affect the accuracy and the performance of the telemetry to read the river levels. This information is fundamental to the development of hydraulic models and the issuing of flood alerts and warnings.</p> <p>The information submitted to date by the applicant does not provide us with any detail to reassure us there will be no impact on our gauging station and telemetry software. This information must be submitted as part of the DCO application. It should be noted that we would expect the applicant to fund the work our Hydrology team will need to do to recalibrate the gauge. We would welcome further discussions with the applicant regarding this issue or the inclusion a requirement within the DCO regarding this matter.</p>	<p>review and assess any possible impact and liaise with the Environment Agency to provide mitigation.</p> <p>However, upstream of the culvert, where we understand the gauging station is located, the land has been included within the Order limits (Plots 3/3s, 3/3w, 3/3x) to enable access to be obtained to undertake maintenance, if required. The Outline CEMP [APP-174] includes measures (W20) to prevent impacts to the gauging station.</p> <p>In any event, protective provisions have now been included in Part 4 of Schedule 12 to the DCO. This would restrict "specified works" which would include a work which would affect a drainage work (including the Environment Agency's gauging station). Such a work would require the approval of the Environment Agency, which consent cannot be unreasonably withheld. The position of the Environment Agency is therefore protected in relation to their gauging station.</p>
3	<p><u>Flood Plain compensation</u> It is vital that the flood plain compensation (as a result of the new piers in the floodplain) is in place prior to the implementation of the piers. Further discussions with the applicant is required on this matter.</p>	<p>12m³ of flood plain associated with the River Team is being lost within the Coal House Roundabout due to the construction of the additional pier width. This flood plain is being compensated on the left bank of the River Team as it flows through the Coal House Roundabout. This is being achieved through lowering higher ground within the roundabout boundary. This is detailed within the FRA Appendix 13.1 of Chapter 13: Road Drainage and the Water Environment of the ES [APP-034] and shown in Figure 13.7 of the ES. Paragraph 13.9.10.g of Chapter 13: Road Drainage and the Water Environment of the ES [APP-034], details that the Outline CEMP [APP-174] through measure W17 will detail the timing of the works to ensure that the mitigation is to be in place prior to the commencement of the works that they are required to off-set.</p>
4	<p><u>Flood Risk Model</u></p> <p>In 2019, the EA undertook a review of the Integrated Catchment Model (which included the two scheme options). Our review identified a number of concerns in relation to the hydrology element of the model. Furthermore, a number of model run files were missing. Consequently, a detailed model reviewed could not be undertaken due to the missing modelling files. The applicant will need to submit the revised flood risk model for the EA for review as part of the DCO application.</p>	<p>The Environment Agency's hydraulic model has been used as the baseline scenario for the River Team. This has been amended to include the Scheme, as agreed with the Environment Agency, as detailed in the Environment Agency's letter dated 6 December 2017, this is appended (WR10 A).</p> <p>The Environment Agency did not make the applicant aware that there were missing model files at the time, as evidenced in theirs and JBA's review, which is appended.</p> <p>The flood risk model was re-submitted to the Environment Agency on 11 February 2020 to address their questions raised following their previous review. The Environment Agency's questions and our responses are appended</p>

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		in Appendix WR10-B.
5	<p><u>Flood Risk Activity Permit (FRAP)</u> The applicant has not requested to disapply the need for a FRAP. Therefore, a FRAP will be required for the constructions works next to the River Team and flood plain.</p>	This permit will be sought by the contractor prior to commencement of the relevant works as set out in the Consents and Agreements Position Statement [APP-015] (see page 10).
6	<p><u>Water voles</u></p> <p>The applicant has failed to provide an adequate assessment of the risks to water vole.</p> <p>The Biodiversity Chapter of the ES which assesses the scheme states that 'a habitat assessment was completed as part of the extended Phase I habitat survey and habitats within the Scheme Footprint were considered unsuitable. The River Team has negligible potential to support water vole on this particular Tyneside House, Skinnerburn Road, Newcastle Business Park, Newcastle upon Tyne, stretch' (Section 8.7.62). This statement suggests that there is no opportunity for water vole to be present on site. However, appendix 8.1 Preliminary Ecological Appraisal (which provides the information for the assessment on water vole for the Biodiversity Chapter) states that 'the River Team has shallow sparsely vegetated banks with a gentle gradient that have the potential to support burrowing water vole, however as mentioned above, the watercourse is subject to higher levels of disturbance' (Section 3.4.25). This statement contradicts the Biodiversity Chapter in the ES, which does not address the suitable habitat to support burrowing water vole.</p> <p>A risk assessment is required to assess how the proposal will affect water vole and to provide clarification between the statements in Biodiversity Chapter (Chapter 8) and Appendix 8.1 Preliminary Ecological Appraisal. This assessment will need to demonstrate how this risk will be controlled. Where possible, it should identify opportunities for environmental improvements. Until this information is provided, the risk posed by the proposed development is unacceptable.</p> <p>To overcome this issue, the applicant will need to carry out and submit an ecological assessment on water vole prior to the development of any detailed plans. The risk assessment (and survey, if required) should:</p> <ul style="list-style-type: none"> Identify whether water vole is or has potential to be present on the scheme. If water vole has potential to be present, a scheme to survey water vole prior to construction will be devised as part of the scheme and submitted to the local planning authority It will reassess the importance of water vole at a local, regional and national level if needed Identify the impacts of the scheme on those features Demonstrate how the development will avoid adverse impacts Propose mitigation for any adverse ecological impacts or compensation for loss Propose wildlife/habitat enhancement measures 	<p>An assessment of water voles has been completed, it was concluded that it would be no higher than Local valuation and so it was not taken beyond the baseline summary and valuation.</p> <p>Habitat types that could be suitable for use by water vole are present at the identified locations within the Scheme footprint. However, following their examination on site during the extended Phase 1 habitat survey, where accessible, which considers the suitability of habitats to support protected species, no indications of the presence of water vole were observed and these areas were found to be subject to high levels of disturbance. On this basis, it was concluded that these areas were unsuitable to support water voles and further, more detailed, surveys for this species were not required to inform the biodiversity chapter of the ES [APP-029].</p> <p>Water voles may, however, from year to year move into areas in which they are not currently present. Thus, areas where water vole are not currently present, but which may be suitable offer opportunities for enhancement for water vole. The existing ecological mitigation design includes the measures detailed below which will enhance the suitability of habitats for water vole. Therefore, water vole has been added as a reason objective of these mitigation measures to ensure that as a matter of precaution water voles are considered during construction.</p> <p>Invasive Non Native Species Management Plan [B18] A pre-construction check of the habitat within and immediately adjacent to the Coal House roundabout [B24] Monitoring of the freshwater environment for a range of variables that measure water quality [B9] A reduction in pollution road discharge and a reduced of rate of surface water runoff via the inclusion of oil interceptors, silt control, pollution control devices, and creation of attenuation ponds as detailed in the Outline CEMP [W4] [W5] [W7] [W1].</p> <p>The Outline CEMP will be updated to include water vole to ensure that opportunities for their enhancement are considered during the construction of the Scheme.</p> <p>During construction any river dewatering and/or in-channel working, an</p>

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		<p>ecological watching brief and fish rescue plan would be instigated. Where areas are required to be temporarily dewatered to permit construction activities, fish would be removed by means of electrofishing and relocated upstream prior to dewatering.</p> <p>By adding water vole to Paragraph 8.9.7, bullet f, this provides the protection that If at any point during the construction works water vole is recorded, works within that section would cease and advice sought.</p>
7	<p><u>Landscape and Ecological Management Plan</u></p> <p>We recommend the inclusion of a requirement in relation to the provision of a landscape and ecology management scheme as part of the DCO. We propose the inclusion of the following requirement as part of the DCO:</p> <p><u>Requirement:</u></p> <p>No development shall take place until a landscape and ecological management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), shall be submitted to, and approved in writing by, the local planning authority. The landscape and ecological management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority. The Environment Agency should be consulted on the management plan.</p> <p>The scheme shall include the following elements: Detailed design information on the reinstatement and enhancement of the River Team at the Coalhouse Roundabout that includes measures to improve on the existing river habitat. The proposed measures will need to demonstrate how they contribute to the delivery of the outstanding WFD mitigation measures for this section of the waterbody. Details on natural screening / planting along the River Team at the Coalhouse Roundabout to screen the river from the road and allow for species dispersal in this area. Detailed design information on the Allerdene Burn once the design option is finalised. This includes environmental improvements to the watercourse and the creation of a connected floodplain for the option chosen which maximises the morphology of the channel and riparian zone for habitats and wildlife. Design of the new attenuation SuDS feature which will maximise habitat creation. Details of any new habitat created on site. Details of treatment of site boundaries and/or buffers around water bodies. Details of management responsibilities.</p> <p><u>Reason(s)</u></p> <p>To ensure the protection of wildlife and supporting habitat and to ensure that the scheme does not degrade watercourses on site, whilst maximising habitat creation as part of the restoration. Also, to secure opportunities for implementing WFD mitigation measures as well as enhancing the site's nature conservation value in line with national (sic.)</p>	<p>It can be agreed that these works can be subject to a management plan and this requirement has been included in the update of the outline CEMP. This requirement will be included as an element of the Ecological Management Plan.</p> <p>Mitigation already included for the protection of the River Team includes:</p> <ul style="list-style-type: none"> • Fish protection during temporary culvert installation [B11] • Invasive Non Native Species Management Plan [B18] • A pre-construction check of the habitat within and immediately adjacent to the Coal House roundabout [B24] • Monitoring of the freshwater environment for a range of variables that measure water quality [B9] • A reduction in pollution road discharge and a reduced of rate of surface water runoff via the inclusion of oil interceptors, silt control, pollution control devices, and creation of attenuation ponds as detailed in the Outline CEMP [W4] [W5] [W7] [W1]. • Culverts will be designed, where possible, to include natural beds(between 100mm and 250mm) to maintain and assist fish passage [B3] • Ecological watching brief and fish rescue plan [B11] • Water vole protection and mitigation if found to be present on site [B24] • Details and location of baffles or similar structures to be installed within existing culverts for fish passage [B3] • Rehabilitation of the banks associated with the construction access removal [W21] • The design of the realigned section of the Allerdene Burn [W10] <p>Additionally, mitigation identified on Figure 7.6 Landscape Mitigation Design [APP-061] outlines woodland and woodland edge planting to provide screening to the River Team from the road. This will be secured through reference L15 in Table 3.1 of the outline CEMP [APP-074].</p>

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	<p>The works proposed as part of this development could have an unacceptable effect on the ecological value of the River Team and Allerdene Burn once the works are complete. The River Team is an important migratory route for Atlantic salmon, sea trout and European eel. These species have been recorded just downstream of the scheme footprint and trout, upstream of it. The River Team also supports European otter at this location. The Allerdene Burn will also be subject to works and potential enhancements, depending on the option chosen. Therefore, these proposed works will require a management plan to be in place.</p> <p>This will ensure the landscape provides a maximum benefit to people and the environment and ensures that the River Team and Allerdene Burn will be restored to an appropriate condition / design once works to these waterbodies are complete. The new attenuation Sustainable Drainage Systems (SuDS) pond also offers an opportunity to design the feature to maximise habitat creation whilst carrying out its attenuation functions.</p>	
8	<p>The River Team at the Coalhouse Roundabout will be subject to a temporary culvert during works. No detail is provided in the assessment on the removal of the culvert and restoration of the river once the works are complete, and no habitat mitigation is shown on the Environmental Masterplan (Figure 2.4) at the river in this location. In reinstating the river post-construction, the applicant will need to ensure that a natural watercourse is designed into the scheme and includes measures to improve on the existing poor quality habitat available for fish within this straightened and uniform section of the River Team. There is an opportunity here to consider how the scheme can be compliant with the Water Framework Directive (WFD) through the delivery of the relevant mitigation measures for this reach of the River Team. For example; reconnecting the floodplain, remove or soften hard banks, in-channel morphological diversity.</p> <p>We note that within the roundabout it will be reinstated to species rich grassland. While this is positive, the Landscape Management Plan will need to consider otter passage through this disturbed area and consider shrub planting to screen the watercourse from the road (which is currently present). An open channel here will increase noise and visual disturbance to species commuting through the watercourse such as European otter.</p> <p>There are two options for the reinstatement for the Allerdene Burn, an updated culvert with greater capacity (embankment option) or an open channel (viaduct option). Both options at detailed design stage will need to be designed in such a way as to maximise environmental benefits:</p> <p>For the Allerdene embankment option, there would be a re-engineered culvert. There are in-channel improvements which can be made to increase the flow diversity of the modified channel, which can in turn affect the morphology of the channel and therefore the biodiversity of the channel. This needs to be considered in any detailed design.</p> <p>For the Allerdene viaduct option, the Allerdene Burn is noted to be realigned as part of the scheme. There is an opportunity to realign this in such a manner as to work with natural processes in order to gain a more diverse fluvial system than a uniform straight section of channel. This needs to be considered in any detailed design as opposed to an open ditch.</p>	<p>A WFD assessment has been undertaken and is provided as Appendix 13.2 of Chapter 13: Road Drainage and the Water Environment of the ES [APP-034], this demonstrates that the Scheme is compliant with the WFD, and paragraph 6.7.1 states that <i>"The section of the River Team which is to be culverted as part of the temporary construction works will require bank rehabilitation as part of the culvert removal."</i> This is secured in Section W21 of the Outline CEMP [APP-174]</p> <p>Habitat mitigation as detailed in the environmental masterplan Figure 2.4 is detailed on Figure 7.6 Landscape Mitigation Design [APP-061] which is secured in the outline CEMP (APP-174) at [B2], [W10], [B24].</p> <p>With reference to the desire for the Scheme to provide additional mitigation, the objective of the Scheme is to mitigate its effects, the measures to do so would be secured through reference to W8, W9, W10 and W21 of the Outline CEMP (APP-174). Any further work which is related to enhancements to watercourses is strictly speaking outside its scope, this includes:</p> <ul style="list-style-type: none"> • Restoration of the river (beyond that impacted); • Inclusion of a natural watercourse, featuring improved habitat for fish; • Reconnecting the floodplain (beyond that associated with the floodplain compensation); • Removal or softening of banks (beyond those impacted by construction works) • In-channel morphological diversity; • Otter passage; and • Shrub planting <p>River Team The section of the River Team within the Coalhouse Roundabout that is impacted by construction works will require rehabilitation, especially where the</p>

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	<p>For both the viaduct and embankment options, it is noted that flow control measures will transfer water from the channel out onto the floodplain during a 1% event. The design of the channel and the adjacent floodplain could allow more frequent flooding, with the potential to trap and store fines and nutrients, help reduce downstream flooding and benefit local biodiversity. We would welcome proposals as to how this may be achieved.</p> <p>The new attenuation SuDS pond also offers an opportunity to design the feature to maximise habitat creation whilst carrying out its attenuation functions. This has been considered in the Biodiversity Chapter of the ES, which options for multiple water bodies, or varying depths within a single water body.</p>	<p>temporary culvert is removed, where bank rehabilitation will be required.</p> <p>As the approach to the construction and crossing of the River Team at the roundabout is currently unconfirmed. As a result, the magnitude of post construction reinstatement required and the improvements that can be undertaken to the river channel cannot be confirmed.</p> <p>Allerdene Burn The adopted option would be designed at detailed design stage so as to maximise the environmental benefits. The design would be submitted to the SoS for approval after the Environment Agency has been consulted.</p> <p><i>Allerdene Embankment Option</i> – this will include aspects, where feasible, to increase the flow diversity and biodiversity of the channel <i>Allerdene Viaduct Option</i> - this will consider opportunities to realign in a manner to work with natural processes, where space and other constraints allow. Both the viaduct and embankment option - Whilst detailed design will consider a design which would allow water to flood the land more frequently, this will only occur where ownership allows.</p> <p>Attenuation SUDS pond The new attenuation SuDS Pond (as shown in Appendix D of the FRA, which is Appendix 13.1 of Chapter 13: Road Drainage and the Water Environment of the ES [APP-034]) has been designed to first and foremost to manage the highway runoff from the Scheme. Health and Safety has been forefront to all design considerations with the pond design however the proposal signifies the concept towards achieving volume attenuation and constructability. Further work to adapt SUDS features are to be explored in detailed design. The design would be submitted to the SoS for approval after the Environment Agency has been consulted.</p>
9	<p><u>Legally Protected Species and Habitat Protection Plan</u></p> <p>Fish species, great crested newt and otter are protected species and receive protection through various pieces of legislation. These species have been found to be present or potentially present at the proposed development site. In addition, Invasive Non-Native Species (INNS) have also been found to be present on site and have been identified as requiring management.</p> <p>The Outline Construction Environmental Management Plan (CEMP) details a number of measures in which those species listed above would be protected and invasive species managed. Otter are not mentioned in the Outline CEMP but are included within the mitigation required within the Biodiversity Chapter of the ES.</p> <p>This Outline CEMP details that a 'Detailed CEMP' will be produced as part of the</p>	<p>It can be agreed that the proposed wording provided by the EA is acceptable.</p> <p>Mitigation measures for legally protected species and habitats relating to the water environment have been detailed in the Outline CEMP [APP-174]:</p> <ul style="list-style-type: none"> • A Precautionary Working Method Statement for great crested newt [B17] • Strategy to be implemented for the appropriate treatment of Invasive Non Native Species [B18] • Fish protection during temporary culvert installation [B11] • Monitoring of the freshwater environment for a range of variables that measure water quality [B9] • Culverts will be designed, where possible, to include natural

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	<p>scheme. We therefore recommend the inclusion of a requirement in the DCO requiring the provision of detailed Construction Environmental Management Plan. The CEMP should aim to protect against damage and mitigate any damage to fish species, great crested newt and otter as well as manage INNS. We recommend the inclusion of the following requirement as part of the DCO:</p> <p><u>Requirement:</u></p> <p>No development shall take place until the Detailed Construction Environmental Management Plan detailing the protection of and mitigation of damage to fish species, great crested newt and otter as well as their habitat has been submitted to the local planning authority. These species are protected under various pieces of legislation; The Wildlife and Countryside Act 1981 as amended, Habitats Directive Annex II (species), Natural Environment and Rural Communities Act 2006, Eel Regulations 2009 and the Salmon and Freshwater Fisheries Act 1975.</p> <p>The plan must consider the whole duration of the development, from the construction phase through to development completion. Any change to operational responsibilities, including management, shall be submitted to and approved in writing by the local planning authority. The Detailed Construction Environmental Management Plan shall be carried out in accordance with a timetable for implementation as approved.</p> <p>The scheme shall include the elements already detailed in the Outline Construction Environmental Management Plan and Mitigation Requirements detailed in the Biodiversity Chapter of the Environmental Statement (including otter protection), with the addition of specific mitigation requirements that arise during detailed design stages.</p> <p>Elements will include but not be limited to:</p> <p>A Precautionary Working Method Statement for great crested newt. Strategy to be implemented for the appropriate treatment of Invasive NonNative Species. Fish protection during temporary culvert installation. Monitoring of the freshwater environment for a range of variables that measure water quality. Culverts will be designed, where possible, to include natural beds(between 100mm and 250mm) to maintain and assist fish passage. Ecological watching brief and fish rescue plan. Water vole protection and mitigation if found to be present on site. Details and location of baffles or similar structures to be installed within existing culverts for fish passage.</p> <p><u>Reason(s)</u></p> <p>To protect a range of species dependent on freshwater environments and their habitat within the development site and to prevent the spread on INNS.</p>	<p>beds(between 100mm and 250mm) to maintain and assist fish passage [B3]</p> <ul style="list-style-type: none"> • Ecological watching brief and fish rescue plan [B11] • Water vole protection and mitigation if found to be present on site [B24] • Details and location of baffles or similar structures to be installed within existing culverts for fish passage [B3] <p>Water vole and otter mitigations have been added to the update of the Outline CEMP. The Outline CEMP will be developed to a full CEMP and approved by the Secretary of State under requirement 4 of the DCO [APP-013].</p>
10	<u>Sedimentation and Biosecurity</u>	

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	It is positive to see pollution prevention and sedimentation plans in the ES. We recommend that a detailed specific Method Statement on pollution prevention and sedimentation be written and implemented during construction phases. This should also include biosecurity to prevent the spread of non-native invasive species, as well as pathogens harmful to biodiversity. This will be particularly relevant for the temporary culverting of the River Team, any outfall works and demolition activities near the River.	The Outline CEMP [APP-174] (Ref B24) contains measures to prevent pollution prevention and sedimentation. This is an important aspect given the type and magnitude of the work which will be undertaken in the River Team corridor within the Coalhouse Roundabout which will include the installation of a temporary culvert to facilitate access to both side of the river. Without appropriate controls these works could lead to the transfer of sediment, non-native invasive species and pathogens into the river channel.
11	<u>Mine water</u> Groundwater within the coal measures underlying the area are currently being managed by the Coal Authority to prevent mine water pollution. Water is currently being actively pumped at a site (Kibblesworth) near Birtley. There is a risk that shallow groundwater may be present, now or in future, along some parts of the proposed route. As such, we recommend that the applicant considers whether rising mine water may pose a risk to the proposed scheme and that a risk assessment is undertaken. It may be beneficial to contact the Coal Authority for further information.	The Environment Agency has previously confirmed that they are satisfied with Chapter 13: Road Drainage and the Water Environment of the ES [APP-034] as documented in minutes of the meeting with the Environment Agency dated 10th April 2019, which are appended at WR10 C. This chapter contains the mine water assessment (paragraphs 13.7.22 to 13.7.38) which determines that rising mine water will not pose a risk to the Scheme.
12	<u>Statement of Common Ground (SoCG) Update</u> The applicant has not yet provided the EA with a draft SoCG to review.	A draft Statement of Common Ground was submitted to the Environment Agency on 13 February 2020 for their review.
13	<u>Written Questions</u> We will provide our response to the Examining Authority's written questions and requests for information by Tuesday 25 February 2020 (Deadline 2). Written Rep: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010031/TR010031-000730-DL1%20-%20Environment%20Agency%20-%20Deadline%20Submission.pdf	It is noted that the EA will be providing its submission for Deadline 2.

1.11 Written representation from Gateshead Green Party

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1	This Scheme contravenes Central Government's Declaration of a Climate Emergency made in April 2019. It also conflicts with their ban on selling new petrol & diesel cars by 2040 (announced July 2017). That date will almost certainly be brought forward and include hybrid vehicles, at UN COPT26 Summit in Glasgow later this Year. In addition in May 2019 Gateshead Council declared it wanted to be carbon neutral by 2030. The Council agreed to work with organisations for them to also meet that target. Central Government and Highways England are key such organisations.	The Government's declaration of a Climate Emergency is not a moratorium on the development of new roads or the improvement of existing roads. It is noted that the UK has committed to Net Zero by 2050 and the Applicant is committed to ensuring that the improvement of the strategic road network does not result in adverse environmental impacts. Building a new road does not conflict with banning the sale of specific technologies or the

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	<p>Written Rep: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010031/TR010031-000729-DL1%20-%20Green%20Party%20-%20Deadline%20Submission.pdf</p>	<p>use of different technologies on the road. The ban on new petrol and diesel cars for sale from 2040 does not mean that the Scheme will not be required. The strategic road network is capable of being used by electric vehicles as well as those run on conventional fuel sources, and any ban on such vehicles inevitably necessitates a shift to electric vehicles. A ban on conventional fuel sourced vehicles does not therefore impact on the need for or use of the Scheme and does not render the Scheme redundant as it is capable of being used by all vehicle technologies consistently with Government policy.</p> <p>Gateshead Council has committed to making the "Council's activities carbon neutral by 2030" – see here: https://www.gateshead.gov.uk/article/14171/What-Gateshead-Council-is-doing The Council's activities do not include the construction and operation of the strategic road network. Any emissions associated with the construction and operation of the Scheme are outside the scope of the target.</p>
2	<p>The average motor car with 1 occupant emits 171grams of CO2 per kilometre travelled (source: BEIS/Defra Greenhouse gas Conversion factors 2019). About 70% of cars have only one occupant. The same Defra source states that domestic rail only emits 41g per Km. This is further reduced where rail is electrified. The Scheme will increase greenhouse gas emissions in Birtley, Kibblesworth, Eighton Banks & surrounding residential areas. Carbon and fine particulate emissions are already a concern here. Air pollution and consequent resident ill health will increase. In 2018 the number of UK licensed vehicles again increased to 38.2 million (ONS). These additional vehicles & existing ones will be attracted to a widened A1 road. More traffic.</p>	<p>The Applicant makes no comment on average car occupancy or domestic rail emissions which are not relevant in the air quality assessment of the Scheme. Chapter 14: Climate of the ES [APP-035] acknowledges that there will be an increase of greenhouse gas (GHG) emissions. As GHG emissions result in the same global climate change effects wherever and whenever they occur, the sensitivity of different human and natural receptors is not considered by the GHG assessment. The outcome of the assessment of GHG emissions associated with the Scheme is considered not significant. In terms of fine particulate emissions and the effect of air pollution on resident ill health, Chapter 5: Air Quality of the ES [APP-026] demonstrates that there are no exceedances of health-based air quality standards, and that the Scheme results in no significant air quality effects. This applies to all areas adjacent to roads affected by the Scheme.</p>
3	<p>The Green Party cannot understand how Gateshead Council can State any fundamental Common Grounds with Highways England. It will conflict with their Climate Emergency.</p>	<p>This is a matter for Gateshead Council, not for the Applicant.</p>
4	<p>The Scheme will cost tens of millions of £. We propose that valuable these public funds should instead be invested in railway infrastructure. The Tyne Rail Yard has ample spare land for freight. Birtley Rail Station only has 2 hourly trains. Washington remains the largest UK town with no rail station.</p>	<p>The investment of public funds into railway infrastructure is not within the powers of the Applicant, whose responsibilities are prescribed by its Licence. Matters of investment in the railway network are for other bodies, principally Network Rail. Therefore, the rail alternative, or how the network or its assets are used, was not considered and is not relevant as part of the decision process for the viability of the Scheme.</p> <p>The objectives of the Scheme are set out in Chapter 2: The Scheme of the ES [APP-023] , and focus on making the existing road safer, more free-flowing and accessible providing improved connectivity with the local road network and improving the local economy. In addition, part of the reason for the Scheme is to replace the existing Allerdene Bridge over the ECML, which was built nearly 40 years ago and is approaching the end of its operational lifespan. The Allerdene Bridge requires regular maintenance works to keep it operational which results in road closures and disruption to the travelling public. This structure is also a pinch point on the network and adds to the congestion seen on this route. The structure would be replaced as part of the Scheme which would help reduce local traffic disruption as fewer road closures would be required to carry out maintenance and would</p>

	Written Representation from Gateshead Green Party	Response from Highways England (the "Applicant")
		lead to significant savings in maintenance costs (approximately £9 million over ten years).
5	<p>Alternative investment in buses, cycling & walking will also improve public health. It is imperative for all life on Earth to continue, that global average temperatures do not rise more than 1.5 degrees Centigrade above their pre-industrial (1800) level. This application increases the likely hood that this will happen. The Green Party ask that the Order be rescinded.</p>	<p>The investment of public funds into public buses is not within the powers of the Applicant, whose responsibilities are prescribed by its Licence. Therefore, it has not been considered as part of this Scheme.</p> <p>Consideration has been given to investment in cycling and walking. As part of the application a walking, cycling and horse-riding assessment (Appendix 12.1 [APP-162]) was undertaken. The purpose of this assessment was to <i>"facilitate the inclusion of all walking, cycling and horse-riding modes within the highway scheme design process from an early stage, enabling the design team to identify opportunities for improved facilitates and integration with local, regional or national networks through the design process"</i>. Tables 5-1 to 5-6 set out the opportunities to improve as well as the design action required by the Applicant. As part of the Scheme the Applicant will invest in upgrading existing facilitates for walking and cycling, this includes new North Dene Footbridge and the facilitates at crossing points at the Coal House interchange will be brought up to current standards.</p> <p>The Government's declaration of a Climate Emergency is not a moratorium on the development of new roads or the improvement of existing roads. Building a new road does not conflict with this (global) target to limit the average temperature increase to no more than 1.5C above pre-industrial levels. The strategic road network is capable of being used by electric vehicles as well as those run on conventional fuel sources.</p>

1.12 Written representation from Lamesley and Lady Park Residents Association

	Written Representation from Lamesley and Lady Park Residents Association	Response from Highways England (the "Applicant")
1	We have a number of concerns regarding the scheme and its effect on the Lady Park and Lamesley Area	A number of concerns have been raised by the association, which are addressed below:
2	Increased noise	<p>There is no materially increased noise predicted as a result of the Scheme. In Lamesley, the change in road traffic noise levels predicted at receptors on Lamesley Road, Haggs Lane and Smithy Lane is predicted to be between – 1 dB and + 1 dB LA10,18h . This magnitude of change would be imperceptible and negligible in both the short-term and the long-term and is therefore insignificant. This is shown in the noise model plots presented in Figure 11.10: Do Minimum 2023 v Do Something 2023 Noise Map of the ES [APP-087] and Figure 11.11: Do Minimum 2023 v Do Something 2038 Noise Change Map of the ES [APP-088]. The short-term increases of between 1 and 3 dB which are indicated towards the west end of Smithy Lane (close to a single receptor location) in Figure 11.10: Do Minimum 2023 v Do Something 2023 Noise Map</p>

	Written Representation from Lamesley and Lady Park Residents Association	Response from Highways England (the "Applicant")
		<p>of the ES [APP-087] relate to the actual road only and would not extend beyond the carriageway itself (i.e. they would not affect receptors). In any event, these increases are below the threshold of significance.</p> <p>In Lady Park increases of between 1 and 3 dB LA10,18h are predicted at the south elevations (the less sensitive front elevations with driveways and front gardens) of some of the houses to the north of Coach Road in Lady Park. Noise changes predicted at the elevations (and rear gardens) facing the A1 are predicted to be between -1 dB and +1 dB in both the short-term and the long-term, which would be both imperceptible and insignificant. These can be seen in Figure 11.10: Do Minimum 2023 v Do Something 2023 Noise Map of the ES [APP-087] and Figure 11.10: Do Minimum 2023 v Do Something 2023 Noise Map of the ES [APP-087]. The increases will result from natural traffic growth rather than the Scheme and, in any event, correspond with impacts of a negligible magnitude which are not significant.</p>
3	Loss of trees (some with TPO) and vegetation which currently protect our community from noise and pollution	<p>During the detailed design activity in this area, the exact position of trees and their rooting areas will be plotted, and the potential impact of neighbouring proposed works assessed. The first objective will be to retain as many trees as possible during construction activities while also having consideration for operational requirements on completion of the Scheme. Where possible, any impact will be mitigated through reasonable design alterations alongside compensation planting for any trees that can no longer be retained. It should be noted that the area of mature trees that are subject to a Tree Preservation Order (TPO) would benefit from management intervention to ensure their long term success as a group and individually. To that end proactive management works to the betterment of the group may be considered part of appropriate mitigation. This of course would need to be agreed in partnership with Gateshead council who are responsible for the administration of the TPO at this location.</p> <p>It is not possible to confirm the exact number and location of trees that may be impacted until detailed design has been completed. Nevertheless, the existing trees provide no sound attenuation or protection in air quality for residents of this community. The trees do act as a visual screen between the highway and properties and maintaining a visual screen on this part of the site will be an important consideration as part of any replacement planting scheme and is secured in Table 3-1 REAC Ref L15 of the Outline CEMP [APP-174].</p>
4	Loss of green corridor and wildlife	<p>The risk to the green corridors within the vicinity of Lamesley and Lady Park area has been considered within Chapter 8: Biodiversity of the ES [APP-029]. Lamesley is not specifically identified as an area of assessed impacts, because the assessment has covered green wildlife corridors for the whole Scheme. However, every effort has been made to retain vegetation within the Lamesley area, which may serve that purpose.</p> <p>Changes have been made to minimise habitat loss associated with Scheme design and construction activities. Longacre Wood Local Wildlife Site (LWS) forms part of the green corridor connected to the habitat within the Lamesley area.</p> <p>Woodland loss at Longacre Wood LWS has been reduced to avoid unnecessary removal through the design of earthworks. This has been achieved through the steepening of the earthworks adjacent to the carriageway from 1:3 to 1:2 to reduce the footprint and with it the number of trees to</p>

	Written Representation from Lamesley and Lady Park Residents Association	Response from Highways England (the "Applicant")
		<p>be removed within Longacre Wood.</p> <p>Additionally, the Scheme includes reinstatement of habitats and woodland habitats in areas of temporary loss. Woodland creation and creation of woodland corridors is included within the Scheme, including linking existing woodland at Robin's Wood to the River Team (associated with the Lamesley area) and enhancing the wildlife corridors between Longacre Wood Local Wildlife Site (LWS) and the existing wildlife corridor to the west. Green wildlife corridors are initially described within Table 8-7 on page 31 of Chapter 8: Biodiversity of the ES [APP-029]. Paragraph 8.7.5 on page 32 of Chapter 8: Biodiversity of the ES [APP-029] presents the valuation of these receptors. Mitigation design is described within Section 8.9.4 a, c. Chapter 8: Biodiversity of the ES [APP-029].</p>
5	<p>In the construction stage we understand our green fields are to be used for storage and compound which again will affect our wildlife. This is a wetlands area and greenbelt</p>	<p>The site and construction compound at Lamesley Road currently comprises the main site compound and associated parking and welfare areas, the storage of 57,000m³ of topsoil, subsoil and bulk fill material, a 3m high grass seeded topsoil bunds, an attenuation pond, and provision of access and egress from the local road network.</p> <p>Chapter 8: Biodiversity of the ES [APP-029] as a whole assesses and proposes mitigation for impacts associated with wildlife throughout the entire Scheme, including those associated with Lamesley. Specifically, this includes consideration of grassland habitats and habitats associated with wintering bird species as detailed within Appendix 8.10: Wintering Bird Survey Report of this ES [APP-132], and Chapter 8: Biodiversity of the ES [APP-029] sections Table 8-4 page 18 (survey effort), 8.7.43 to 8.7.48 (baseline), Table 8-15 page 47 (construction impacts), Table 8-16 page 49 (operational impacts), 8.9.7 bullet page 59 (mitigation), 8.9.8 bullet a page 61 (mitigation), 8.10.14 to 8.10.16 (construction residual assessment), and 8.10.28 to 8.10.30 (operational residual assessment).</p> <p>Chapter 7: Landscape of the ES [APP-028] and Section 5.4 of the Planning Statement [APP-171] assess the impact of the proposed development on the Green Belt. Specifically, this includes consideration of its potential impact on the openness of the Green Belt (Paragraph 5.4.4-5.4.16 of the Planning Statement [APP-171]) and the very special circumstances that exist in relation to the scheme (Paragraph 5.4.20 of the Planning Statement [APP-171]). In summary it is concluded that the limited degree of harm identified is considered to be outweighed by the very special circumstances that exist in relation to the impact of the Scheme on the Green Belt (Paragraph 5.4.27 of the Planning Statement [APP-171]).</p>
6	<p>We needs assurances any tree loss will be replaced by mature trees and that we are consulted on landscaping etc</p>	<p>The Scheme would, where feasible, retain and protect healthy trees (in accordance with BS5387: Trees in relation to demolition and construction). Whilst the Scheme would inevitably lead to the removal of planting, this has been avoided where possible and would require the removal of a relatively small number of trees at the eastern end of the area covered by a TPO. Subsequently the detailed design would, in discussion with Gateshead Council, confirm the areas of woodland/planting that would be ultimately retained, and provide measures for the replacement of planting where feasible, including the proposed planting of additional trees within the TPO to replace those removed</p>

	Written Representation from Lamesley and Lady Park Residents Association	Response from Highways England (the "Applicant")
		<p>and additional trees to improve the structure of the woodland. Vegetation protection measures would be secured through measures outlined in Table 3-1 REAC Ref L3 of the Outline CEMP [APP-174], additionally the requirement for replanting within the woodland and would be implemented in accordance with Figure 7.6: Landscape Mitigation Design [APP-061] and is secured outlined in Table 3-1 REAC Ref L15 of the Outline CEMP [APP-174].</p> <p>Tree protection measures as outlined in Chapter 7: Landscape and Visual of the ES [APP-028], Table 7-3 – Relevant local Planning Policy – Gateshead Unitary Development Plan, ENV44 Woodland, Trees and Hedgerows would be adopted. This is secured through measures outlined in Table 3-1 REAC Ref L3 of the Outline CEMP [APP-174].</p> <p>Retained planting would be protected and these measures would be overseen by a Landscape Specialist as outlined in the Outline Construction Environmental Management Plan (CEMP) [APP-174]. This would be secured through measures outlined in Table 3-1 REAC Ref L3 of the Outline CEMP [APP-174].</p> <p>In addition, and outlined in Table 3-1 – REAC of the above document, Ref L3 undertakes to protect retained vegetation, to reduce the risk of loss due to operations during construction. Any trees that pose a risk due to windthrow would be assessed by an arboriculturalist to determine their safety and where appropriate trees would be planted to replace any removed. Within the woodland east of Lady Park, replacement trees would be a selection of native species planted as standard or feathered nursery forms.</p> <p>It should be noted that the area of mature trees that are subject to a TPO would benefit from management intervention to ensure their long term success as a group and individually, to that end proactive management works to the betterment of the group may be considered part of appropriate mitigation. This of course would need to be agreed in partnership with Gateshead council who are responsible for the administration of the TPO at this location. It is not possible to confirm the exact number and location of trees that may be impacted until detailed design has been completed.</p>
7	We feel that the sound barrier should be extended along the A1 north slip road as this will encroach further onto the village	The proposed extent and height of the noise barrier has been designed to achieve the optimum benefit in terms of noise reduction for sensitive receptors. Extending the barrier further along the slip road would be challenging in engineering terms and provide little benefit to receptors.
8	Concerns over increased traffic through villages during construction	The Construction Traffic Management Plan contained at Appendix B of the Outline Construction Environmental Management Plan (CEMP) [APP-174], indicates no HDV construction traffic will use Banesley Lane to access the Scheme or construction compounds. Heavy Goods Vehicles (HGV) traffic will use Lamesley Road between the A1 and the compound site access, however, additional traffic on Lamesley Road south of the compound site access and through the village will be limited to Large Good Vehicle (LGV) movements largely associated with workers commuting to the Scheme. No HDV traffic will pass through the villages of Lamesley or Lady Park.

1.13 Written representation from Northern Gas Networks Limited

	Written Representation from Northern Gas Networks Limited	Response from Highways England (the "Applicant")
Summary 1	Northern Gas Networks Limited (" NGN ") is committed to working with Highways England (" HE ") so that the A1 Birtley to Coal House Improvement Scheme (the " Scheme ") can be delivered.	The Applicant notes the comments of Northern Gas Networks (NGN) Limited and are grateful for their commitment to the delivery of the Scheme. In this response where any point is not addressed specifically it should be considered to be not accepted.
Summary 2	NGN has sought to work with HE to enable the construction of a Compressed Natural Gas station (" CNG Station ") within Plot 3/6c. The CNG Station will form part of a national network of such stations which will significantly reduce the environmental impact of heavy goods vehicles and may also provide a platform for the transition of road transport to a hydrogen as a fuel source, therefore decarbonising road transport.	The Applicant is grateful for the acknowledgement that discussions have already taken place. The Applicant has sought to engage with NGN over a protracted period, and an Objection Schedule submitted at Deadline 2 (Appendix 1.3A of the Applicants Response to the ExA Written Question) sets out the current status of negotiations with NGN. The Applicant confirms that as shown on the Land Plans [APP-006] Plot 3/6c, in which NGN is a Freeholder, is required temporarily during construction. The entirety of this plot is required for the purposes of the Scheme on the basis set out in the application documents. It is not the case that only part of the NGN land subject to temporary acquisition might be required. The justification for each plot of land required (and all parcels required from any party) is included in Annex A of the Statement of Reasons [APP-016]. The use of Plot 3/6 is shown in figure 1 contained in the outline CEMP [APP-174].
Summary 3	There are very few sites which are suitable for a CNG Station, due to the requirements for (a) access to a higher-pressure gas network, (b) accessibility from major arterial routes and HGV Volumes and (c) land availability for development. For this reason, NGN is seeking an amendment to the Scheme so that the CNG Station is not adversely affected.	NGN's request for an amendment to the Scheme is noted and is addressed below.
Summary 4	NGN welcomes the dialogue that has taken place with HE to date, particularly regarding potential amendments to the Scheme. However, NGN has found it difficult to obtain details regarding the proposed use and duration of occupation of Plot 3/6c within the Scheme <i>in the form which is currently under consideration by the Planning Inspector</i> . For that reason, NGN does not consider that HE has made a clear and compelling case in the public interest for the acquisition of NGN's land at plot 3/6c, and in particular the proposed site of the CNG Station.	The Applicant is grateful for the acknowledgement that discussions have already taken place. The Applicant has sought to engage with NGN over a protracted period, and an Objection Schedule submitted at Deadline 2 (Appendix 1.3A of the Applicants Response to the ExA Written Question) sets out the current status of negotiations with NGN. The Applicant considers that section 122(2) and 122(3) of the Planning Act 2008 have been satisfied. The justification for the compulsory acquisition and temporary possession powers sought can be found in the Statement of Reasons [APP-016]. Annex A of the Statement of Reasons sets out why compulsory acquisition powers are necessary in relation to each individual parcel of land with reference to the relevant DCO works numbers and the nature of the works. It is considered that the land included in the draft DCO [APP-013] is the minimum land-take required to construct, operate, maintain and mitigate the Scheme and in this context, the limits of deviation have been drawn as tightly as possible to avoid unnecessary land take. In the event that less land proves to be required in a particular area following the detailed design stage, the Applicant would only seek to acquire that part of the land that is required and, in all events, will seek to minimise effects on landowners. As set out above, the use of the land is shown on figure 1 contained in the Outline CEMP [APP-174].

	Written Representation from Northern Gas Networks Limited	Response from Highways England (the "Applicant")
		Further, there are no reasonable alternatives to the Scheme that would reduce the amount of land that would be subject to compulsory acquisition. The selection of the working area and the alternatives considered is addressed in response to the Examining Authority's Written Questions 1.3.9 and 1.3.14 [PD-008].
Summary 5	NGN also has concerns about the protective provision contained within the draft DCO, which are detailed in NGN's Written Representations.	The Applicant's responses to NGN's proposed changes to the Protective Provisions are set out below.
	INTRODUCTION	N/A
1	Northern Gas Networks Limited (" NGN ") makes these Written Representations further to the Relevant Representation which NGN submitted on 11 November 2019.	The Applicant notes the comments of NGN contained within the written representation. The Applicant's responses to these comments are set out in this table. The Applicant has responded to NGN's Relevant Representation in the Responses to Relevant Representations [RR-004].
2	Compressed Natural Gas (" CNG ") refuelling stations, although a recent introduction into the UK, have been commonplace in Europe for the last 20 years. There are around 4000 stations across Europe, which are located in a range of different scenarios from public highway stations, bus depots and refuse truck depots. The network in the UK is less well developed, particularly in the North East of England.	
3	NGN in association with ENGIE, have identified the need to bring the UK transport sector up to speed with its European counterparts. The importance of reducing the UK's carbon emissions is widely accepted across national and local government. In response, NGN has identified a sweet spot in the network where a CNG fuelling system would not only aid in decarbonisation, but would allow for cleaner, more efficient connectivity between the North and South.	
4	NGN has gone through a detailed process to select a preferred partner in July 2019. The opportunity brief which NGN shared with the market is attached at Annex B. ENGIE was subsequently selected for that role, and we attach a letter at Annex C which ENGIE has provided to NGN in support of NGN's Written Representations.	The Applicant's responses to ENGIE's supporting letter are set out below.
5	NGN has made it clear to Highways England (" HE ") that in order to carry out its proposal for a CNG filling station (the " CNG Station "), it will require a small area of the land which HE wishes to temporarily acquire for a construction compound to assist in the A1 Birtley to Coal House Scheme (the " Scheme "). However, as raised in the Relevant Representation dated 14 November 2019, NGN objects to the amount of land being acquired by HE and submits that insufficient reasoning has been provided by HE. NGN would now like to take this opportunity to expand on the Relevant Representation in the following ways: Provide reasoning as to why NGN wishes to retain a small portion of Plot 3/6c, emphasising the environmental benefits of the project Highlight the lack of co-operation from HE, specifically to the fact that they have not engaged in any meaningful conversation in the hope of reaching any agreement in relation to Plot 3/6c, despite the best efforts of NGN. We understand that this may be	Whilst noting these points, the Applicant considers that the Scheme is supported by a compelling case in the public interest. As such, it is justified in its own right, fully designed and capable of implementation. As matters stand, the CNG Station is not the subject of a design sufficient to allow an application for planning permission. Indeed, the acceptability of a CNG Station in this location has not been assessed in terms of its effect upon the A1. As such, particularly given the occupation of Plot 3/6c is temporary only, the Scheme is to be preferred to the CNG Station. The Applicant has responded to NGN's Relevant Representation in the Responses to Relevant Representations [RR-004]. Addressing NGN's numbered points: The Applicant's response to NGN's request to retain part of Plot 3/6c is addressed below. The Applicant has engaged with NGN since 2016, and has sought to accommodate

	Written Representation from Northern Gas Networks Limited	Response from Highways England (the "Applicant")
	<p>because of the late appointment of a contractor, but nevertheless NGN has not had the opportunity to review HE's plans. Explain why HE are over-acquiring the land, in particular detailing why the plans submitted in the DCO to date are insufficient and show a clear lack of consideration for the site as a whole.</p>	<p>NGN's requirements, such as incorporating the relocation of an existing AGI station within the Scheme, subject to NGN's contribution to the cost. Crucially, no issues were raised by NGN with regard to the use of their land ahead of the application for the Scheme being submitted. NGN has only recently appointed external legal advisers in order to advance negotiations, which the Applicant welcomes. However, as such the Applicant cannot be criticised for a lack of cooperation or engagement. An Objection Schedule submitted at Deadline 2 (Appendix 1.3A of the Applicants Response to the ExA Written Question) sets out the current status of negotiations with NGN. Despite having engaged with NGN over a protracted period, the Applicant was not informed of the proposal for the CNG station until 20 August 2019, six days after the application for the Scheme was submitted.</p> <p>The details of all works to be carried out are found in the Works Plans [APP- 007], the Engineering Section Drawings [APP-009], the Structures Engineering Drawings and Sections [APP-011], the General Arrangement Plans [APP-010] and Schedule 1 of the draft DCO [APP-013].</p> <p>It is considered that the land included in the draft DCO [APP-013] and the plots identified in the Book of Reference [APP-018] represent the minimum land-take required to construct, operate, maintain and mitigate the Scheme and in this context, the limits of deviation have been drawn as tightly as possible to avoid unnecessary land-take. In the event that less land proves to be required in a particular area following the detailed design stage, the Applicant would only seek to acquire that part of the land that is required and, in all events, will seek to minimise effects on landowners. NGN's comments relating to the plans submitted with the DCO are addressed below.</p>
	BACKGROUND TO CNG PLANTS	N/A
6	CNG refuelling technology is well understood, low in complexity and has clearly defined industry safety standards by which it is installed and operated.	
7	<p>The benefit of a CNG station is that it limits the storage of hazardous fuels on site as it takes natural gas from the grid and stores a relatively low quantity of gas for daily usage. The station does not require hazardous substance consent and typically the safety distances that apply to the station will fall within the area of land allocated to site the station. CNG stations are generally designed, constructed, maintained and operated in accordance with these specifications below;</p> <p>ISO 16923:2016 Institution of Gas Engineers and Managers (IGEM): IGEM/UP/20 British Compressed Gases Association (BCGA): Code of Practice 41</p>	
8	The station will be fitted with a range of industry standard safety features to ensure that all relevant safety requirements are complied with. It is not envisaged that the presence on the station will impact the work on the rest of the land in any way. The station has been designed to be installed in busy operational environments and all activities will be entirely within the compound area allocated for the station with the land around the station	Whilst NGN has provided some additional information in respect of its proposals, these are not supported by other verified information. The Applicant notes that the proposal which NGN refers to has not yet been submitted for consideration by the local planning authority or to the Applicant itself. No assessment has been carried out which demonstrates that the NGN proposal is similarly supportable on a policy basis or

	Written Representation from Northern Gas Networks Limited	Response from Highways England (the "Applicant")
	providing a natural buffer to other activities onsite.	acceptable in environmental terms. No assessment has been carried out which demonstrates that the NGN proposal could operate in tandem with the Scheme and indeed, the predicted traffic modelling which has been provided suggests a substantial increase in heavy goods vehicles at Plot 3/6c. As the Scheme is of national significance and is supported by policy, both local and national, the delivery of the Scheme should not be adversely affected by a proposal which may or may not be consented by the relevant planning authority and may not even be delivered.
NGN'S PROPOSED SCHEME		N/A
9	The location of the proposed CNG Station is shown at Annex B, Fig 1 (the "CNG Site").	
10	Although the project is in its early stages, NGN does not anticipate any difficulties in obtaining planning permission for the CNG station. In addition, despite HE being aware of the proposal for a number of months, no concerns or objections have been raised.	<p>As stated above and in the Responses to Relevant Representations [RR-004], the Applicant notes that the proposal has not yet been submitted for consideration by the local planning authority. Full details have not been submitted to the Applicant. As such, the acceptability of the CGN Station remains to be proven. It is not for the Applicant to object to its location until it has received appropriate detail of the proposal. The Applicant raised concerns in relation to the proposed CNG station by email on 16 October 2019. In that email, it was confirmed that the DCO application had been submitted and that the Inspector would be assessing the application as it stood. It was also confirmed that if additional land was required to accommodate NGN's request, this could require further environmental assessments and public consultation to be undertaken, which would have a cost implication for the Scheme. It was acknowledged that a plan had been sent to the Applicant showing the plot, but clarity was sought on the plan's accuracy and the timescale for the development. Further information was also sought as to how this plot would be used and if there would be a conflict between traffic entering and leaving the CNG site and the construction traffic related to the Scheme. The Applicant asked that a meeting was held with NGN so that the CNG station proposal and the application for planning permission relating to it could be discussed further.</p> <p>NGN responded to acknowledge the concerns raised and confirmed that these had been passed on to the team involved in the CNG station.</p> <p>Further to the above, a meeting between the Applicant and NGN was held on 21 October 2019, and Applicant's concerns about the land required and the impact on the Scheme (in particular in relation to interaction with the Scheme during construction) were reiterated. The Applicant made clear that if a planning application for the CNG station was submitted this would be reviewed by the Applicant's planning team.</p>
REASON FOR LOCATION OF PROPOSED SCHEME		N/A
11	In developing the proposal for the CNG station, a suitable location has been of key importance to ensure that the project is able to deliver high environmental benefits whilst remaining economically viable. This is because a number of features all need to be present:	
11a	Access to a higher-pressure gas network.	

	Written Representation from Northern Gas Networks Limited	Response from Highways England (the "Applicant")
	<p>CNG stations require a connection to the gas transportation network, and they require gas to be delivered at a high pressure. The cost of connecting to a higher pressure gas pipeline is, by nature of the engineering required, an expensive operation. For this reason, unless a potential CNG site is situated close to a high pressure gas main, the costs of creating a new connection will be prohibitive.</p> <p>The Scheme requires NGN to divert the existing gas supply to a plot of land owned by NGN south of the carriageway. As a result, the higher-pressure gas pipes would run within a few metres of the proposed CNG site, meaning easier connection and lower costs.</p>	
11b	<p>Accessibility from major arterial routes and HGV Volumes To deliver the greatest environmental and economic benefit, a CNG site should be placed in an area where there is a high volume of HGV activity to enable as many vehicles to utilise the natural gas as possible. It needs to be easily accessible and, with the low number of CNG fuelling stations already in the UK, the proposed site will not only provide large environmental benefits, it will allow greater connectivity to the North of England and Scotland.</p>	The acceptability of this location for CNG use has not yet been demonstrated.
11c	<p>Land availability The proposed CNG site is located on land which is not only suitable due to the close proximity of higher pressured gas pipes and its connectivity to a main arterial transport route, it is also land which is already owned by NGN. As a result, no third party consent needs to be obtained which is a major benefit to the deliverability of the project.</p>	
IMPACT ON THE SCHEME IF LAND IS OCCUPIED BY HE		N/A
12	<p>NGN understands that it is HE's intention to occupy Plot 3/6c for up to four years, which would result in significant delay to the delivery of the CNG Station. This would delay construction of the CNG Station, and consequently the realisation of the environmental benefits delivered by the CNG Station for a period of up to four years, resulting in higher levels of pollution during that time. Furthermore, given that CNG is an emergent technology, and given the scarcity of suitable sites as NGN has outlined above, there is a risk that the delay of the CNG Station at Lamesley could have the effect of delaying the transition to cleaner fuels across the North of England.</p>	<p>The Applicant has identified the duration of construction as being three years. As stated above, NGN's proposal has not yet been submitted for consideration by the local planning authority or to the Applicant itself. Therefore, the Applicant has not had the opportunity to review the detailed plans for the proposed CNG station and is currently unable to comment on the supposed impacts outlined in paragraph 12 of NGN's written representation. In the absence of any substantive assessment provided by NGN, the Applicant does not accept that a delay to the delivery of the proposed CNG station (if, indeed, such a delay would occur as a result of the Scheme) would have the effect of delaying the transition to cleaner fuels across the North of England.</p>
13	<p>CNG is also predicted to play an important role in the transition of road transport from petrol/diesel fuels to hydrogen as a fuel, which would effectively decarbonise road transport. Delays to the establishment of a viable CNG network in the North of England could therefore have the second-order effect of delaying the decarbonisation of road transport.</p>	<p>As set out above, in the absence of any substantive assessment provided by NGN, the Applicant does not accept that a delay to the delivery of the proposed CNG station (if, indeed, such a delay would occur as a result of the Scheme) would have the effect of delaying the decarbonisation of road transport.</p>
ENGAGEMENT WITH HIGHWAYS ENGLAND TO DATE		N/A
14	<p>From the offset, NGN has maintained open and honest communication with HE in every aspect of the deliverability of the Scheme. This includes the matter of the CNG filing station, which HE is fully aware of and has been for a number of months. NGN has repeatedly requested the opportunity to work closely with HE to allow the CNG Station to</p>	<p>As stated above, the Applicant has sought to engage with NGN over a protracted period, and Annex B of the Statement of Reasons [APP-016] submitted in updated form at Deadline 2 sets out the current status of negotiations with NGN. Additional information regarding the engagement with NGN is set out below:</p>

	Written Representation from Northern Gas Networks Limited	Response from Highways England (the "Applicant")
	<p>be accommodated. The following timeline indicates the lines of communication which NGN have opened with HE in relation to the CNG site, and unfortunately show the unwillingness of HE to respond to the proposal put forward by NGN and the further failure to provide NGN with any information as to how to move forward with the project. In contrast, NGN has been extremely forthcoming in giving detailed plans and information regarding the proposed site and has asked on various occasions for HE to clarify what further information they require, yet such requests have been ignored, delaying any meaningful headway being made.</p> <p>21st August 2019 – NGN held a meeting with HE/CJP to inform them that NGN wished to retain 8,904.m2 of land – sketch issued to HE/CJP. Following this meeting, NGN immediately provided HE with a plan of the proposed CNG site, followed by a further detailed plan which was provided without hesitation.</p> <p>21st October 2019 – Meeting held with HE and NGN (Derfel Owen, Ian Whitehead and David Gill in attendance) to discuss NGN retaining land for the CNG Station. Following this meeting, NGN provided HE with further detailed plans of the CNG site, along with information regarding traffic flow and a proposed time line, as had been requested by HE.</p> <p>11th November 2019 – Following a lack in any further communication from HE, NGN submits Written Representations (via National Infrastructure Planning website) to HE retaining all of NGNs land for the temporary construction compound. Following discussions with ENGIE and in an attempt to maintain a good working relationship with HE, NGN submitted that they would be able to reduce the footprint of the land required for the CNG compound by a significant amount – from 8,904.m2 to 5463.m2. This was issued to HE/CJP with no response.</p> <p>6th January 2020 - NGN contacted HE requests a meeting to discuss the CNG site in relation to the construction compound as detailed in the draft DCO. After a delay of 4 days, HE responded saying that a meeting would not be able to take place and that the planning team at HE would be unable to give any definitive answers about the CNG filing station.</p> <p>10th January 2020 – Another telephone held between HE and NGN to discuss NGN retaining land for the CNG station.</p> <p>21st January 2020 – NGN and HE discussed the accommodation of the CNG land within HE's revised scheme. NGN also requested more detailed information about the current scheme.</p> <p>29th January 2020 – Meeting with HE and HE's main works contractor. HE was forthcoming about how the CNG Station could be accommodated within the revised redline plan. However, despite NGN's request more detail was not received regarding the existing Scheme.</p>	<p>17 April 2019 - The Applicant's legal team first contacted NGN to discuss and negotiate protective provisions.</p> <p>20 August 2019 – The Applicant received an email from NGN requesting a teleconference to discuss the layout of the temporary construction compound and informed the Applicant that NGN wish to retain approximately 9,000m2 of land for the construction of a CNG filling station.</p> <p>21 August 2019 - As requested a teleconference was arranged with NGN, and NGN made the Applicant aware of their requirement to retain a plot of land to accommodate the proposed CNG station. No plans or further details were submitted on 21 August 2019.</p> <p>26 September 2019 - NGN submitted a plan to the Applicant via email, which NGN confirmed was a rough plan designed to show potential developers the size of land available. The email also stated that at this stage NGN did not have any detailed information as to the appearance of the CNG station.</p> <p>16 October 2019 – As detailed in the Applicant's above response to paragraph 10, the Applicant emailed NGN to detail its concerns relating to the proposed CNG station, request further information (including a detailed plan and timetable) and to request a meeting with NGN. This email followed an initial telephone conversation between the Applicant and NGN where these concerns were raised.</p> <p>21 October 2019 – During the meeting between the Applicant and NGN, the Applicant again confirmed their willingness to work with NGN to try to resolve the issue and provide benefit for both sides. Concerns were raised by the Applicant about the impact on the Scheme of NGN retaining this land, and the implications of seeking further land outside the redline boundary were detailed (including the requirement for additional environmental assessment, public consultation and cost implications). Concerns were also raised in relation to the interaction of the proposed CNG station with Scheme construction traffic. NGN confirmed that they would not be involved in the CNG scheme and all detailed design and planning permission would be sought by the CNG developer who would be delivering this scheme. NGN confirmed they had no further detail at this stage that could be provided. The Applicant requested further information with regards to the programme for the CNG works and the anticipated traffic that would use the site, so that the Applicant could consider further the impact on the Scheme.</p> <p>25 October 2019 - NGN sent an email confirming: that the size of the plot for the proposed CNG station had been reduced; an indication of the number of vehicles using the proposed CNG station daily over 5 years; that there was no firm construction date/programme, but it was expected that the works would run in parallel with the NGN diversion works; that their only involvement was in leasing the land and providing the connection for the CNG station; and that planning permission would be sought by the CNG developer, not NGN. This email was acknowledged by the Applicant on 29 October and it was confirmed that the information provided by NGN would be considered further. However, no further detailed plan, confirmation of programme dates or demonstration of how NGN would ensure usage of the proposed CNG station would not impact on the Scheme</p>

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		<p>during construction have been subsequently provided by NGN. This information was required by the Applicant in order to be able to assess the impacts of the proposed CNG station on the Scheme.</p> <p>6 January 2020 – Following further discussions between the Applicant and NGN, NGN emailed the Applicant on 6 January 2020 to request a teleconference on 10 January 2020. The Applicant acknowledged this email on 7 January 2020 and confirmed that the information previously sent to the Applicant had been sent to the Applicant's planning team, to whom a request had been sent to attend the teleconference. NGN responded by email on 8 January 2020 to acknowledge that a further meeting could be held if not all the Applicant's attendees were available on the 10 January 2020. The Applicant emailed NGN on 10 January 2020 to confirm that the Applicant's planning team were unavailable for the teleconference. In addition, the Applicant confirmed that the advice from its planning team was that they would be unable to give a definitive answer as to the Applicant's position without further detailed information. The Applicant offered to rearrange the meeting for a date when its planning team was available and, in the absence of the Applicant's planning team, the Applicant's Project Manager offered to dial in to the meeting on 10 January 2020.</p> <p>10 January 2020 – As stated above, the HE PM dialed in to a telephone call with NGN to discuss the CNG station and land requirement. HE acknowledged again the desire to work collaboratively with NGN to resolve this issue. However, HE stated that it still had concerns about the land required, and the interaction with the CNG station during the construction and operational phases of the Scheme. HE confirmed that further detail would be required before the HE planning team would be able to consider the impacts on the Scheme. HE confirmed that they were still willing to arrange a meeting between the HE planning team and NGN, but highlighted that the provision of further detail by NGN would be beneficial to the discussion.</p> <p>21 January 2020 – it is acknowledged that a discussion was held with NGN about the CNG station.</p> <p>29 January 2020 – it is acknowledged that a meeting was held between Applicant, the contractor for the Scheme and NGN. The Applicant confirmed that, subject to the additional land request being accepted within the DCO, NGN may very well be able to retain the plot identified by NGN as being the site of the proposed CNG station. The Applicant also confirmed that, should the variation relating to the additional land not be accepted, the Applicant would require all the land for the construction compound. A copy of the plan of the construction compound as detailed in the Outline CEMP [APP-174] was given to NGN. The Applicant confirmed that the Secretary of State's decision on the DCO is not expected until January 2021, and that the variation would not be confirmed until this point. NGN confirmed that they would need to consider their position further, including discussion with their CNG developer. NGN confirmed that they did not require a meeting with the Applicant's planning team until this had been considered. NGN also advised the Applicant that they were considering a separate access track to the proposed CNG station which would keep the traffic away from the Scheme's construction traffic. The Applicant had not previously been advised of this option and awaits further details.</p>

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	HIGHWAYS ENGLAND IS OVER-AQUIRING	N/A
15	In the Relevant Representation submitted on 14 November 2019, NGN raised its objections in relation to HE's acquisition of Plot 3/6c stating that they are not satisfied that HE needs to acquire the amount of land requested for use as a construction compound and that an insufficient effort has been made to negotiate the plot of land prior to submission of the DCO.	The Applicant has responded to NGN's Relevant Representation in the Responses to Relevant Representations [RR-004].
16	In addition to this Representation, NGN does not consider that HE has made out its case for why it needs to occupy the site of the proposed CNG Site.	As stated above, the justification for the compulsory acquisition and temporary possession powers sought can be found in the Statement of Reasons [APP-016], while Annex A of the Statement of Reasons sets out why compulsory acquisition powers are necessary in relation to each individual parcel of land with reference to the relevant DCO works numbers and the nature of the works.
17	Any compulsory acquisition or occupation of land is the exercise of a public power to interfere with the property rights of a private individual. Such powers should only be exercised where there is "a compelling case in the public interest".	As stated above, the Applicant considers that section 122(2) and 122(3) of the Planning Act 2008 have been satisfied. The justification for the compulsory acquisition and temporary possession powers sought can be found in the Statement of Reasons [APP-016]. Annex A of the Statement of Reasons sets out why compulsory acquisition powers are necessary in relation to each individual parcel of land with reference to the relevant DCO works numbers and the nature of the works. It is considered that the land included in the draft DCO [APP-013] is the minimum land-take required to construct, operate, maintain and mitigate the Scheme and in this context, the limits of deviation have been drawn as tightly as possible to avoid unnecessary land take. In the event that less land proves to be required in a particular area following the detailed design stage, the Applicant would only seek to acquire that part of the land that is required and, in all events, will seek to minimise effects on landowners. Further, there are no reasonable alternatives to the Scheme that would reduce the amount of land that would be subject to compulsory acquisition.
18	Despite NGN continually pressing HE for its justification of the land requirements, NGN has not received a detailed justification from HE explaining why it needs to occupy the CNG Site, or a timetable which clearly demonstrates the duration of the intended occupation. There is only one plan which purports to show the way in which HE will use the land at the Junction 67 Compound, which can be found on page 68 of the Outline Construction and Environmental Management Plan (the "Outline CEMP").	As stated above, the justification for the compulsory acquisition and temporary possession powers sought can be found in the Statement of Reasons [APP-016], while Annex A of the Statement of Reasons sets out why compulsory acquisition powers are necessary in relation to each individual parcel of land with reference to the relevant DCO works numbers and the nature of the works. The Applicant contacted NGN in order to ascertain the nature of the information which it required, and subsequently provided further information and plans detailing the proposed use of Plot 3/6c. The Applicant will continue to engage with NGN on the proposals for the Scheme but does not accept that at this stage it is necessary to provide a detailed siting plan for the construction area.
19	This drawing shows the CNG Site as being occupied by a topsoil screening bund and a staff carpark. NGN does not consider that this drawing reflects the results of a detailed study of HE's requirements. NGN considers this drawing to be a rough schematic, which may not reflect the final use of the Works Compound. For example it would be unusual if the land requirements for the Plant Store (I), the Material Store (J) and the Subcontract Store (K) were precisely equivalent, which they appear to be on this drawing. We also	The plan at page 68 of the Outline CEMP [APP-174] is an indicative plan to show the likely uses and layout which a contractor may choose to adopt. However, the precise use and layout of the site would be determined by the contractor. The Applicant's analysis of alternative sites for a construction compound is set out in its reply to Written Question 1.3.14 and the supporting report by Morgan Sindall annexed to the Statement of Common Ground with NGN.

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	suggest that the positioning of a site office (which we presume would be installed by a crane) beneath a pair of high voltage power lines demonstrates the provisional nature of the drawing and a clear lack of care and consideration for the site compound, despite repeated objections to its use.	The Applicant contacted NGN in order to ascertain the nature of the information which it required, and subsequently provided further information and plans detailing the proposed use of Plot 3/6c. The Applicant will continue to engage with NGN on the proposals for the Scheme.
20	There is other land in the vicinity of the Junction 67 Compound which HE could have sought to acquire in the months following NGN making clear its requirement, particularly to the South of the compound. HE could and should have had regard to NGN's representations, and could have submitted revised redline plans. We are aware that HE is doing this now, and we are grateful that efforts have been made to accommodate NGN within the new scheme. Depending on the detail of the revised redline, NGN would be minded to support such a move by HE. However currently this proposal has not been accepted by the Inspector as forming part of the Scheme, so we do not address it in detail in this representation.	As stated above, despite having engaged with NGN since 2016, the Applicant was not informed of the proposal for the CNG station until 20 August 2019, six days after the application for the Scheme was submitted. Despite this, as highlighted by NGN, the Applicant is in the process of applying for a variation in order to acquire additional land to the south of the compound. If granted, this variation may very well enable a proportion of Plot 3/6c to be retained by NGN.
	PROTECTIVE PROVISIONS	N/A
21	NGN is in ongoing contact with HE's solicitors regarding the Protective Provisions with the draft DCO. NGN's principle concerns are around the following areas:	The Applicant is grateful for the acknowledgement that discussions are ongoing, and will continue to engage with NGN. The Applicant's responses to NGN's concerns relating to the Protective Provisions contained within Part 1 of Schedule 11 of the draft DCO [APP-013] are set out below.
21a	Paragraph 7(6) of Schedule 11 of the draft DCO which gives the Highways England the power to construct or remove gas apparatus. NGN objects to the inclusion of such a provision as such interference with NGN's assets would pose a risk to the gas supply to NGN's customers. There are very limited circumstances under which NGN permits third parties to carry out works on its network, and this is always subject to stringent terms and conditions, and vigilant supervision by NGN. We therefore object in the strongest possible terms against granting any power to HE to carry out works on NGN's network, and we would always seek instead to work with HE to achieve the outcomes envisaged by the DCO.	Despite NGN's assertion that there are very limited circumstances under which NGN permits third parties to carry out works on its network, the ability of the undertaker to execute work in connection with the construction or removal of apparatus was included in the A19/A184 Testo's Junction Alteration Development Consent Order 2018 at paragraph 7(6) of Schedule 9. NGN have not provided a justification for the departure from this precedent in respect of the Scheme.
21b	Paragraph 9 of Schedule 11 of the draft DCO authorises HE to carry out works in the vicinity of NGNs apparatus. Whilst NGN is committed to working with, HE in the delivery of the scheme, NGN has serious concerns about the mechanism within paragraph 9(3) which assumes NGN's approval of any proposed works after a period of 21 days of having been notified by HE. For health and safety reasons, and to ensure that the supply of gas is not interrupted to its customers, NGN requires that its explicit approval be sought for works in the vicinity of its apparatus and would urge that the draft DCO is modified to reflect this requirement.	Paragraph 9 of Schedule 11 of the draft DCO [APP-013] contains protections for utility undertakers where works are to be carried out in, on or under any land purchased, held, appropriated or used under the DCO that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker. The protective provision requires the undertaker to submit to the utility undertaker in question a plan of the works to be executed. Paragraph 9(2) provides that the works must be carried out in accordance with any requirements imposed by the utility undertaker. The mechanism under paragraph 9 is not a question of the approval of the utility undertaker. Rather, it allows requirements to be imposed on the undertaker prior to the works in question being carried out. To this end, paragraph 9(3) does not assume approval of the works after a period of 21 days. Instead, it provides that any requirements to be imposed on the works must be requested within this period. In addition, it is noted that paragraph 9 has precedent in the A19/A184 Testo's Junction

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		Alteration Development Consent Order 2018. NGN's request for the inclusion of a requirement for explicit approval to be sought from the utility undertaker for works in the vicinity of its apparatus is not accepted. The ability of the utility undertaker to impose requirements allows the utility undertaker to address any health and safety or interruption risks and, in addition, paragraph 9(2) states that the utility undertaker is entitled to watch and inspect the execution of the works. Therefore, the concerns as to health and safety and interruption of supply are already addressed by paragraph 9. In addition, in previous DCOs where NGN have been a utility undertaker (such as the A19/A184 Testo's Junction Alteration Development Consent Order 2018) no such requirement for explicit approval of works in the vicinity of apparatus has been included.
	COMPENSATION	N/A
22	HE will have to pay compensation to NGN for its temporary acquisition of NGN's land. Given the strategic value of this CNG Site, and its demand on the open market, the value of the CNG Site could be considerable. NGN considers that there is land available in the vicinity of the Junction 67 Compound which HE could acquire which would represent better value to the taxpayer than the CNG Site.	As stated above: The justification for the compulsory acquisition and temporary possession powers sought can be found in the Statement of Reasons [APP-016], while Annex A of the Statement of Reasons sets out why compulsory acquisition powers are necessary in relation to each individual parcel of land with reference to the relevant DCO works numbers and the nature of the works. The value of land and compensation payable is not a matter for the Examination. The consideration of alternatives to the temporary occupation of parcel 3/6c for a working site is addressed in the response to Written Question 1.3.7[PD-008]. The Applicant is in the process of applying for a variation in order to acquire additional land to the south of the compound. If granted, this variation may very well enable a proportion of Plot 3/6c to be retained by NGN.
ENGIE's supporting letter dated 4 February 2020 (Annex C to NGN's written representation)		
1	On behalf of ENGIE, I am writing to offer our support for your written representation to appeal the DCO to enable access to a small area of land at your Lamesley site for the deployment of a Compressed Natural Gas (CNG) station and in the future a multi-use green mobility hub. ENGIE are the preferred partner for the development of this scheme and this letter outlines our view on the importance of this project in demonstrating and encouraging growth in the investment of low emission vehicles, refueling infrastructure and the supporting supply chain in the UK	The Applicant notes that ENGIE are NGN's preferred partner for the delivery of the proposed CNG station and that they offer their support to NGN's written representation. The Applicant's responses to NGN's written representation are set out above. NGN have not notified the Applicant of the proposal relating to the 'multi-use green mobility hub' and have not mentioned it in their written representation. In light of the content of the written representation and the reference at paragraph 2 of ENGIE's letter, it is assumed that the amendment to the Scheme sought by NGN (and referred to at 'Summary 3' above) relates solely to the CNG station and not to the 'multi-use green mobility hub' referred to by ENGIE.
2	The project at Lamesley is to develop a green mobility hub offering a choice of low and zero emission fuels to different user groups and to offer complimentary services. In the 1st phase the objective is for ENGIE to invest, own and operate a Bio-CNG refueling station with the possibility of also installing electric vehicles charges points.	As set out above, the acceptability of this location for CNG use has not yet been demonstrated.
3	ENGIE believes that the Lamesley CNG project is a critical demonstration in the UK of this refueling technology for low emission vehicles especially on the heavy truck segment	As set out above, the acceptability of this location for CNG use has not yet been demonstrated.

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	where rapid transformation is needed for cities and business to tackle climate change. The location of the Lamesley has a combination of unique features that presents the site as an important platform for demonstrating and encouraging greater investment in the low emission sector across the UK.	
4	Specifically, the Lamesley location presents the following key benefits: - Proximity to a high pressure, high volume grid connection point adjacent to one of the most traffic dense main arterial routes in the region. The section of the A1M captures both local and trans regional heavy-duty traffic Close to the team valley estate, extending the availability of low/zero emissions to local businesses The Lamesley development is also close to large housing estates of Gateshead and would contribute to a reduce in local emissions as well as regional emissions from traffic travelling longer distances	As set out above, the acceptability of this location for CNG use has not yet been demonstrated.
5	The first development planned at Gateshead/Newcastle is in an area that has no existing gas refueling infrastructure and has a large population of heavy vehicles passing through the area contributing to emissions. Over 5000 heavy trucks per day pass along the section of the A1M where the station is planned to be developed. This section is near areas of business and housing. As the location is also near an important interchange it would refuel vehicles travelling north, south and east contributing to emissions reductions across the region.	As set out above, the acceptability of this location for CNG use has not yet been demonstrated.
6	The deployment should not impinge on any other activities on the land. The construction work required will be entirely contained in the allocated space and can be scheduled to minimize any disruption. ENGIE would seek to work collaboratively with other site users during the station deployment phase and in ongoing operation of the station.	As set out above, the acceptability of this location for CNG use has not yet been demonstrated.
7	ENGIE hopes that this station will act as a lighthouse project, demonstrating the use of natural gas in the UK and to be the catalyst for further investments across the region and the country encouraging industry to invest to deploy stations that would create a UK wide network and encourage rapid take up natural gas vehicles. This will not only contribute to improvements in air quality and carbon emissions reduction but also the inward investment will create jobs, expertise and skills in low emission fuel technologies and development of associated supply chains and services.	As set out above, the acceptability of this location for CNG use has not yet been demonstrated.
8	To date both ENGIE and Northern Gas Networks have invested significant time to develop the project and have generated interest from a range of local business who are seeking to decarbonize their transport operations. In 2019 the UK government declared a climate change emergency to acknowledge the rapid transformation needed to address emissions. Over 60% of local authorities including Newcastle, the North East Combined Authority and Gateshead have now declared a climate change emergency and set net zero carbon targets mostly to be achieved by 2030.	As set out above, the acceptability of this location for CNG use has not yet been demonstrated.

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9	This project is aligned to supporting these objectives and, in our view, rapid change is required to enable the required reductions by 2030. In this respect a delay in the deployment of low emission refueling technology will strongly limited emission reductions and fail to capture the interests and ambitions of businesses in the Newcastle/Gateshead and national fleet operators with fleet travelling to and through the region.	As set out above, in the absence of any substantive assessment provided by NGN or ENGIE, the Applicant does not accept that a delay to the delivery of the proposed CNG station (if, indeed, such a delay would occur as a result of the Scheme) would have the effect of "strongly limiting emission reductions". The relevance of the interests and ambitions of businesses and fleet operators to NGN's written representation is not made clear in ENGIE's letter.

1.14 Written representation from Craig Robson

	Written Representation from Craig Robson	Response from Highways England (the "Applicant")
1	<p>Post Hearing submission</p> <p>I attended the meeting at the Marriott hotel on the 21/1/20 some observations and questions arising from the meeting. The meeting that took place a.m. unfortunately was not correctly advertised as can be seen by the notice. I will go further those living next to long acre wood have not been informed at all no street signs.</p> <p>Written Rep: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010031/TR010031-000723-DL1%20-%20Craig%20Robson%20-%20Deadline%20Submission.pdf</p>	<p>The statutory requirements for notification of a preliminary meeting are different from those for a hearing. The Planning Inspectorate is responsible for the advertisement of preliminary meetings whereas the Applicant is responsible for notification of hearings. In both cases, as far as the Applicant is aware, the correct notifications and advertisement was carried out.</p> <p>The Planning Inspectorate advertised the preliminary meeting in the normal and prescribed manner through its letter under Rule 6 of the Infrastructure Planning (Examination Procedure) Rules 2010 (2010 Rules), which was published on the Planning Inspectorate website. Notice was also sent by them to Interested Parties, Statutory Parties and Other Persons interested in the Scheme.</p> <p>The Applicant advertised the Issue Specific Hearing that was held in the afternoon of the 21st January 2020 and will also advertise any subsequent hearings in accordance with Rule 13 of the 2010 Rules.</p> <p>The Issue Specific Hearing was advertised as follows: Through the Rule 6 letter published on the Planning Inspectorate webpage for the Scheme and sent to Interested Parties, Statutory Parties and Other Persons interested in the Scheme by the Planning Inspectorate. The Issue Specific Hearing Notice published in the Newcastle Evening Chronicle and the Newcastle Journal on the 20 December 2019 The Issue Specific Hearing Notice was attached to over 30 lampposts in the local area on 19 December 2020. They were checked on the 2nd, 8th and 16th January 2020 to ensure they were still attached and replaced if required and were taken down on 23rd January 2020. The areas chosen for the Issue Specific Hearing Notice were identified to ensure a wide area was covered close to residential areas or near local schools and community hubs. It was not feasible to attach a notice to every lamppost/street in the local area.</p> <p>It is unfortunate if some members of the public were unaware of the meetings which</p>

	Written Representation from Craig Robson	Response from Highways England (the "Applicant")
		took place on the 21 st January. However, the procedures for publicity are prescribed in Regulations and these were followed by the Applicant and Planning Inspectorate.
2	Taking into consideration the announcement that a stockpile was going to be put in place, and it was just announced, this goes against the advice note 8 para 9.	<p>It is understood that this comment refers to the Applicant's proposal to expand the compound area to the south of Allerdene Bridge. The application already provides for material storage and a working area to be located off Lamesley Road, South of Allerdene Bridge. However, the Applicant's proposals to expand this area do not currently form part of the application. As advised by the Inspector, the Applicant is following the guidance in "Advice Note 16: Requesting Changes" which sets out the process in the event that the Applicant for a DCO wishes to make changes to the order before the application is determined.</p> <p>Consultation will be undertaken on these proposed changes and the Inspector will make a decision in due course on whether to accept them for examination. Mr. Robson will be able to participate in this process and make representations.</p>
3	I asked about the "Kemp" as I believe it is called and told that I can find it on the website unfortunately I am unable to find.	<p>It is understood that the question here is about Outline CEMP [APP-174]. This was submitted with the DCO application can be found here:</p> <p>https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010031/TR010031-000596-7.4%20Outline%20Construction%20Environmental%20Management%20Plan.pdf</p> <p>An updated version of the Outline CEMP has been submitted by the Applicant at Deadline 2.</p>
4	Article 21 Protective Work to buildings, we were told everything would be fine due to modern building methods. However, article 37/38 the highways agency stated that some trees might get knocked down accidentally or killed due to the work. If that is the case how can the highways be so sure there will be no problems with the buildings or the health of those living next to the works.	<p>Article 21 of the draft DCO [APP-013] is a standard provision included within development consent orders to provide power to safeguard buildings which may be adversely affected by works. It is a precautionary power and its inclusion does not mean that it will be used. Rather, it is an emergency power to safeguard the safety of the general public from damage caused to buildings by the works. The environmental assessment has examined potential impacts on humans and buildings and there is nothing to suggest that this power will require to be used but is necessary in order to protect the public and properties against unforeseen events.</p> <p>Article 37/38 of the draft DCO [APP-013] provide powers to fell or lop trees where these obstruct the construction, maintenance or operation of the development or where the trees constitute a danger to the public, The power is restricted to these purposes and is necessary in order to construct the Scheme, describes the powers to fell/lop trees and hedgerows again this is limited to where the tree/shrub/hedge is going to cause damage or a safety issue.</p> <p>In relation to the wider question of Health, this has been assessed in Chapter 12 Population and Health of the ES [APP-033]. Paragraph 12.10.51 concludes that, during</p>

	Written Representation from Craig Robson	Response from Highways England (the "Applicant")
		<p>construction, there is predicted to be a temporary moderate effect on human health from impacts on amenity and noise from night time works. Importantly, this does not mean that any particular health condition is or can be predicted. A degree of temporary impact of this nature is inevitable from a major construction scheme such as this but, as this is a linear road scheme, properties will not be affected throughout the construction period. The impacts will not continue throughout. The Outline CEMP [APP-174] contains various measures to protect residents including limits on night time working.</p> <p>Paragraph 12.10.52 of the ES [APP-033] concludes that, once the Scheme is operational, there is likely to be a permanent slight beneficial impact on local population health.</p>
5	I was pleased to hear from someone from the highways in the interval that building traffic would be minimal from the A167 to "North Dene Bridge" however when speaking with Gateshead MBC they stated they were not aware of any traffic going to travel up that road. At the present time due to the width of the road and the amount of cars parked even the grittar doesn't even try to get up the bank and if it was term time at the local school it would be impossible.	It is intended that the construction of the new North Dene Footbridge will be undertaken from the existing A1 thereby removing the need for construction traffic to access the site for the footbridge works via the A167, Highfield and Crathie.
6	Ref. The coal house road bridge and it going to be able to take 6 lanes of traffic instead of 4 will this comply with the swl of the bridge, with in effect a third more weight which could actually be on the bridge.	When designing/assessing bridge structures, notional lanes are used to calculate vehicle loads in lieu of lanes represented by the line markings on the road. Notional lane widths are based on a theoretical limit of the maximum number of vehicles which can 'physically' fit onto the structure. e.g. the design/assessment of the bridge structure is always carried out using a higher number of lanes. In short, the structure is designed to sustain loads far in excess of that which it is required to carry on a day to day basis. Furthermore, as part of the Scheme, a full structural assessment has been carried out to confirm the structure's ability to sustain the extra traffic lanes as proposed
7	Once again it was mention the information was available from the Hub in Birtley the hub have computers they do not hold the hard copies.	The Applicant is submitting electronic copies of DCO documents only and this approach has been agreed with the Planning Inspectorate. These are available for inspection electronically at deposit locations and accessible by internet enabled devices such as smart phones, tablets and computers.
8	Finally, in the submissions it states under Economic and social effects "effects on on local residents and communities, due to non disclosures previously of a building site that I believe was going to be 40 hectares which is 40 football pitches could that not effect residents.	The Applicant is not clear on what documentation or information the representation is referring to when it refers to submissions "under Economic and social effects". However, the assessment of economic and social effects, in particular effects on local residents and communities are contained within Chapter 12: Population and Human Health of the ES [APP-033].

1.15 Written representation from Northumbrian Water

	Written Representation from Northumbrian Water	Response from Highways England (the "Applicant")

<p>1</p>	<p>Following the Planning Inspectorate's preliminary meeting concerning this scheme, I wish to register Northumbrian Water Ltd as an Interested Party.</p> <p>Northumbrian Water has a number of assets (both Public Sewers and Water mains) within the scheme working area, some of which are of strategic importance.</p> <p>The applicant is invited to arrange for his engineering team to liaise with Northumbrian Water, to ensure all of our assets are protected or diverted (as appropriate), to maintain services to our numerous customers in the area.</p> <p>Written Rep: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010031/TR010031-000757-DL1%20-%20Northumbrian%20Water%20Limited%20-%20Deadline%20Submission.pdf</p>	<p>The Applicant recognises the assets of Northumbrian Water are within the proposed Order limits shown on the Works Plans [APP-007]. It is further acknowledged that Work No.22 comprises the diversion of Northumbrian Water's main beneath the A1 between Junction 67 (Coal House) and Smithy Lane Overbridge.</p> <p>To ensure the operational protection and ongoing maintenance of the assets of Northumbrian Water, the Applicant has proposed protective provisions for the benefit of Northumbrian Water, which are set out at Part 1 of Schedule 11 to the draft DCO [APP-013].</p> <p>The Applicant is already fully engaged in dealing with Northumbrian Water and most recently met with them on the 8th November 2019. Initial discussions with Northumbrian Water were in regard to a 37" water main at Smithy Lane. There is a small risk that this main would need to be diverted as part of the works and therefore the Applicant requested Northumbrian Water carry out investigatory works to establish the exact location and depth of the pipe to confirm that this diversion is not required. It is expected that this investigatory work will start within the next few months and is expected to be complete by Summer 2020.</p> <p>There is no reason to suppose that with the application of standard engineering techniques services will not be maintained to Northumbrian Water's customers.</p>
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