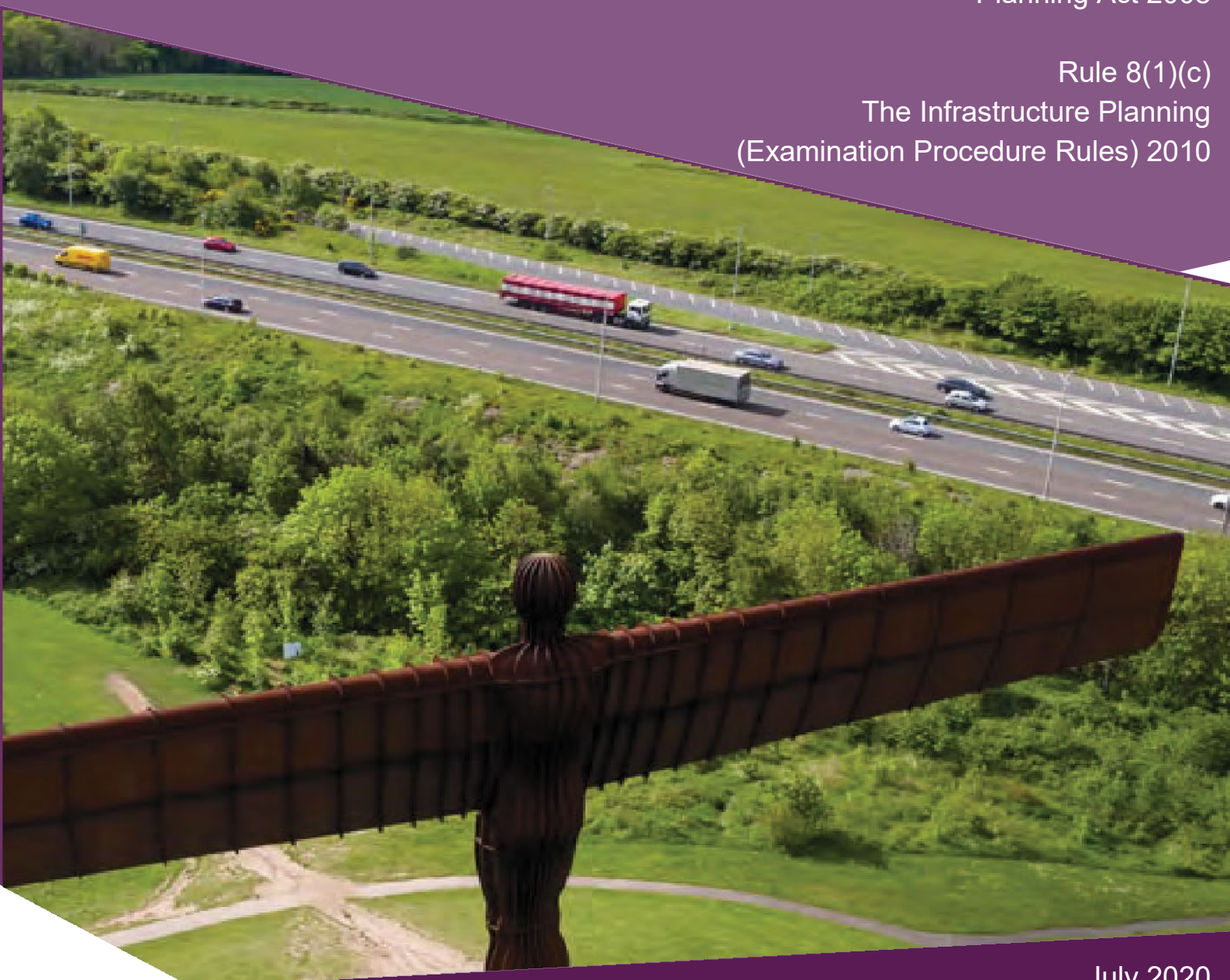


A1 Birtley to Coal House
Scheme Number: TR010031

Applicant's Response to Deadline 9 and 10
Submissions

Planning Act 2008

Rule 8(1)(c)
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 Response to Deadline 9 and 10 Submissions

Rule Number:	Rule 8(1)(c)
Planning Inspectorate Scheme Reference	TR010031
Application Document Reference	Applicant's Response to Deadline 9 and 10 Submissions
Author:	A1 Birtley to Coal House Project Team, Highways England

Version	Date	Status of Version
Rev 0	17 July 2020	For Issue

CONTENTS

1	Applicant's Response to Deadline 9 Submissions	1
	Table 1 – Environment Agency	2
	Table 2 - Gateshead Green Party	2
	Table 3 - Historic England	11
	Table 4 - Network Rail	17
	Table 5 - Northumbrian Water Limited	24
	Table 6 - Northumbrian Water Limited	26
	Table 7 - Royal Mail	26
	Table 8 - Ella Bucklow on behalf of Sir Antony Gormley	27
	Table 9 - Sunderland City Council	47
2	Applicant's Response to Deadline 10 Submissions	47
	Table 1 – Gateshead Council	48
	Table 2 – Natural England	52
	Table 3 – Ella Bucklow on behalf of Sir Antony Gormley	53

1 Applicant's Response to Deadline 9 Submissions

Table 1 – Environment Agency

Ref No:	Environment Agency's Response:	Applicant's Response:
Flood Risk		
	All matters regarding flood risk and the Development Consent Order (DCO) have been agreed with the Applicant.	The Applicant confirms that all matters are agreed.
Water Environment and Drainage Matters		
	All matters regarding the water and drainage matters have been agreed with the Applicant.	The Applicant confirms that all matters are agreed.
Protective Provisions		
	The Environment Agency will not be disapplying any Environment Agency consents/permits. Therefore, protective provisions will not be required in the DCO, and the Applicant will need to apply for Environment Agency consents/permits following the granting of the DCO. This includes a flood risk activity environmental permit(s).	The protective provisions have been removed from the DCO [REP9-003 and 004] as requested. The need for the contractor to secure consents/permits is noted in the Outline Construction Environment Management Plan REP9-007 and 008].
Compulsory Acquisition		
	The Environment Agency have no outstanding matters regarding the proposed compulsory acquisition.	The Applicant confirms that all matters are agreed.
Statement of Common Ground		
	The Statement of Common Ground has been updated to reflect that all matters have been agreed between the Environment Agency and the Applicant.	The Applicant confirms that all matters are agreed.

Table 2 - Gateshead Green Party

Ref No:	Gateshead Green Party's Response:	Applicant's Response:
ORAL STATEMENT from OPEN FLOOR HEARING1 22nd JUNE 2020		
1	Hello, my name is Thomas Newell and I am here today to represent and speak on the behalf of Gateshead Green Party. As our written directive states, we wholly object to the scheme of widening the A1 from Coal House junction to Birtley.	The Applicant notes the Green Party's objection to the Scheme but considers that the case for granting the Development Consent Order (DCO) is entirely made out in the Application and Examination submissions made by the Applicant. There is a compelling case in the public interest for the Scheme and the Green Party's objection should be afforded very limited weight.
2	We feel this scheme is a step in the wrong direction and indeed a whole step back in regard to the direction in which Gateshead should be heading. The UK and in turn the whole of the world is in the state of a climate emergency. Gateshead council declared that it wanted to be carbon neutral by 2030, by allowing this scheme to commence, it is very hard to see how that objective can be achieved. We should be putting all of our funds and energies into progressive new steps to try and achieve this goal as well as supporting creative methods of transport for large sectors of the public and encouraging an alternative method of transport than the fossil fuel vehicle. The widening of the A1 road will only encourage more cars, more traffic, more pollution and more noise.	<p>This Green Party Deadline 9 (08 July 2020) submission [REP9-027] is similar to the Green Party Written Representation [REP1-010] received at Deadline 1 (04 February 2020). The Applicant responded to the Green Party in the Applicant's Comments on Written Representations [REP2-061] at Deadline 2 (25 February 2020) within Table 1.11, Reference 1. The Applicant's response from Deadline 2 (25 February 2020) is included for ease of reference below:</p> <p><i>"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.</i></p> <p><i>Building a new road does not conflict with banning the sale of specific technologies or the 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</i></p>

Ref No:	Gateshead Green Party's Response:	Applicant's Response:
		<p>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> <p>In addition to the Applicant's previous response, further information is provided on this matter below.</p> <p>The Climate Change Act commits the UK to net zero carbon emissions by 2050, and Highways England, along with all sectors of the UK economy, must play its part in meeting this target. Highways England is pursuing a range of opportunities to support the vision for the Strategic Road Network (SRN) set out in the second Road Investment Strategy (RIS). This 2050 vision states: “the majority of all vehicles using the SRN, including almost all cars and vans, are zero emission at the tailpipe, transforming the impact of the SRN on air quality and carbon emissions”.</p> <p>In relation to the future ban on selling new petrol and diesel cars Highways England, in its last road period, met and exceeded a target to ensure 95% of the SRN is within 20 miles of an electric vehicle charging point. This is one measure by which the Applicant will help overcome possible range anxiety and support the transition away from petrol and diesel. The Applicant is continuing to prepare the SRN for evolving mobility demands”.</p>
3	<p>Any major civil engineering scheme such as this is going to cost lots of money, but this money can surely be re-directed into alternative green areas and the green recovery which is now needed more than ever. Green alternatives will give much longer term benefit as such as greater skilled employment, industry growth, helping the environment and raising wellbeing of the public.</p>	<p>This response contains examples of how the Scheme will secure, through planning, green areas (natural habitat), and how it will minimise impacts on a green recovery.</p> <p><u>Green Areas (Natural Habitat)</u> This Green Party Deadline 9 (08 July 2020) submission [REP9-027] is similar to the Green Party Written Representation received at Deadline 1 (04 February 2020) [REP1-010] and Deadline 8 (09 June 2020) [REP8-031]. The Applicant's response from Deadline 8 (09 June 2020), amended in response to this question, is now included for ease of reference:</p> <p>“As detailed in Chapter 2: The Scheme, paragraph 2.7.1, of the ES [APP-023], the Applicant acknowledges the importance of green spaces to people's health and wellbeing. Accordingly, the Scheme has been developed to minimise associated impacts through the following primary mitigation measures related to</p>

Ref No:	Gateshead Green Party's Response:	Applicant's Response:
		<p><i>bridleways, pathways, woods and local nature:</i></p> <ul style="list-style-type: none"> • <i>The A1 carriageway centreline has been moved further away (to the north) from the residential properties at Lady Park and a retaining wall has been included on the north bound on slip, which has enabled significant parts of the existing junction to be retained and has reduced land take and impacts on trees at this location.</i> • <i>The 'urban cross section', in accordance with the Highway England's design standard, has been adopted along the A1 northbound which has reduced land take along the Scheme length by a minimum of 2m.</i> • <i>A 2.5m high wooden close-board fence has been included at the footpath over Longbank Bridleway Underpass to shield horses from adjacent traffic on the A1 and ensure a standard 3.0m wide passage is available across the entire width of the headwall of the Underpass.</i> • <i>The new North Dene Footbridge will have a 3.5m (unsegregated) pedestrian/cycle path over the bridge deck and ramp and will have a 1 in 12 (minimum) gradient ramp to provide improved access for Walking, Cycling and Horse riding (WCH) users. Horse riders and cyclists would have to dismount to use the footbridge. Corduroy tactile paving to aid the movement of partially sighted WCH's.</i> • <i>The earthworks design has been revised from 1:3 to 1:2 slope to avoid land take from Longacre Wood. The proposed earthworks at this location, are all within existing land in the Applicant's ownership.</i> <p><i>The Scheme design has sought to address impacts on the surrounding environment by understanding areas of habitat loss and gain and implementing a strategy that seeks to improve habitat quality overall and provide additional connectivity. The Scheme mitigation was designed to follow the mitigation hierarchy as follows: 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.</i></p> <p><i>The avoidance measures included within the Scheme design have been taken to protect these natural areas, where possible.</i></p> <p><i>Chapter 8: Biodiversity of the ES [APP-028] identifies that during construction, the impacts associated with the Scheme would result in effects of neutral significance (not significant) for:</i></p> <ul style="list-style-type: none"> • <i>Bowes Railway Local Wildlife Site (LWS), Longbank Bridleway Underpass</i> • <i>Fish</i> • <i>Bat</i> • <i>Wintering birds</i> • <i>Great Crested Newt</i> • <i>Invasive species</i> <p><i>During construction, following the successful implementation of the mitigation</i></p>

Ref No:	Gateshead Green Party's Response:	Applicant's Response:
		<p><i>requirements, it is considered that the impacts of the Scheme would result in effects of moderate significance to Longacre Wood LWS and habitats.</i></p> <p><i>During operation the impacts associated with the Scheme would result in effects of neutral significance (not significant) for all identified receptors.</i></p> <p><u>Wellbeing</u></p> <p><i>Chapter 12: Population and Human Health of the ES [APP-033] details potential impacts likely to benefit community health and wellbeing as a result of the Scheme such as: improved journey times, a reduction in driver stress, improved noise environment once operational, and improved community connectivity due to improvements to WCH routes”.</i></p> <p><u>Green Alternatives</u></p> <p>Regarding green alternatives, the Applicant has taken this to mean the funding for the Scheme being invested in alternative schemes instead of in the Scheme itself.</p> <p>This Green Party Deadline 9 (08 July 2020) submission [REP9-027] is similar to the Green Party Written Representation received at Deadline 1 (04 February) [REP1-010]. The Applicant responded to the Green Party Written Representation at Deadline 2 (25 February 2020) [REP2-061] within Table 1.11, Reference 4 and Table 1.1, Reference 5. The Applicant's response from Deadline 2 (25 February 2020) is included for ease below:</p> <p><i>“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.</i></p> <p><i>“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”.</i></p> <p>In addition to the Applicant's previous response further information is provided on this matter below. The assessment within Chapter 12: Population and Human Health of the ES [APP-033] has identified the Scheme as having a beneficial impact on WCH users as a result of improvements to Public Rights of Way once the Scheme is operational. Benefits to human health would also result, in part, due to improved connectivity for WCH users.</p> <p><u>Green Recovery: Carbon Emissions</u></p>

Ref No:	Gateshead Green Party's Response:	Applicant's Response:
		<p>The National Networks National Policy Statement (NNNPS) paragraph 5.18, states “any increase in carbon emissions is not a reason to refuse development consent, unless the increase in carbon emissions resulting from the proposed scheme are so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets.”</p> <p>The estimated Green House Gas (GHG) emissions arising from the Scheme have been compared with the United Kingdom (UK) carbon budgets and the associated reduction targets, as outlined within Chapter 14: Climate of the ES [APP-035] (Section 14.10). Carbon emissions from the Scheme are relatively small when compared to the carbon budgets and the Scheme is expected to have a slight adverse effect (not significant) on climate. Whilst it is acknowledged that there would be an increase in GHG emissions, it is not possible to deduce that the Scheme will result in the UK Government missing its commitment to Net Zero by 2050 (climate change act 2008 amendment 2019), because commensurate decreases in emissions can be made within the carbon budgets. Carbon emissions associated with the Scheme have been minimised through the mitigation measures detailed in action [C2] of Table 3-1 Record of Environmental Actions and Commitments (REAC), of the Outline Construction Environmental Management Plan (CEMP) [REP9-007 and 008]. These comprise:</p> <ul style="list-style-type: none"> • Raw materials will be selected as far as practicable with the least GHG emissions intensity in reference to information published in Environmental Product Declarations (EPDs). • Vehicles, plant and processes will be specified to be best in class for efficiency. • Specification of best-in-class energy efficient systems for operations e.g. lighting and signage. • Adoption of efficient logistics management for transport of construction materials and excavated materials. This can include the use of Global Positioning System (GPS) to plan the most efficient route and schedule deliveries to maximise the volume being transported per trip and considering the use of logistics hubs”.
4	<p>We are greatly concerned that a great deal of wildlife and natural green areas are going to be destroyed and permanently affected not only in the short term but in the long term as a scheme of this size is implemented, chiefly Long Acre Wood, in and around Allerdene Burn and The Angel of the North.</p>	<p>This Green Party Deadline 9 (08 July 2020) submission [REP9-027] is similar to the Green Party Written Representation received at Deadline 1 (04 February 2020) [REP1-010]. The Applicant's response from Deadline 8 (09 June 2020) is included for ease below:</p> <p>“The Scheme design has sought to address impacts on the surrounding environment by understanding areas of habitat loss and gain and implementing a strategy that seeks to improve habitat quality overall and provide additional connectivity. The Scheme mitigation was designed to follow the mitigation hierarchy as follows: 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. As detailed in Chapter 2: The Scheme paragraph 2.7.1 of the ES [APP-023], this has included:</p>

Ref No:	Gateshead Green Party's Response:	Applicant's Response:
		<ul style="list-style-type: none"> • The A1 carriageway centreline has been moved further away (to the north) from the residential properties at Lady Park and a retaining wall has been included on the north bound on slip, which has enabled significant parts of the existing junction to be retained and has reduced land take and impacts on trees at this location. • The 'urban cross section', in accordance with the Highway England's design standard, has been adopted along the A1 northbound carriageway due to the existing 50mph speed limit in place and the highway alignment constraints. The use of the 'urban cross section' has reduced land take along the Scheme length by a minimum of 2m which in turn has reduced impacts to the surrounding environment. • The earthworks design has been revised from 1:3 to 1:2 slope to avoid land take from Longacre Wood 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 and therefore no permanent loss of natural areas in this section. <p><u>Woodland corridors and Longacre Wood LWS</u> To enhance the functionality of woodland habitats within the vicinity of the Scheme, improvements in habitat connectivity have been proposed and are detailed within Section 8.9, Chapter 8: Biodiversity of the ES [APP-029] and Figure 7.6: Landscape Mitigation Design of the ES [APP-061]. This includes:</p> <ul style="list-style-type: none"> • 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 corridors and improving retained woodland habitats enhances the effectiveness of the mitigation design and provides connected natural areas along the Scheme corridor. <p>The above improvements in habitat connectivity have been committed to within the action [B2] of Table 3-1 REAC of the Outline CEMP [REP9-007 and 008].</p> <p>Figure 7.6: Landscape Mitigation Design of the ES [APP-061] also includes areas of improvement of existing and newly created woodland thus improving the overall quality of woodland across the Scheme.</p> <p>Additionally, an area of planting has been added to the River Team banks providing further nature areas within the vicinity of the Scheme.</p> <p>The elements of mitigation design detailed above mitigate not only the habitat loss resulting from the Scheme but benefit wildlife within the local vicinity also.</p> <p><u>Green Belt</u> A Technical Paper entitled "Technical Note on the Green Belt" [REP4-081] was</p>

Ref No:	Gateshead Green Party's Response:	Applicant's Response:
		<p>submitted at Deadline 4 (20 April 2020) in response to the ExA's Second Written Questions, written question 2.0.1(b). This paper undertook an appraisal of the perceived harm of the Scheme upon the openness within the Tyne and Wear Green Belt and temporary buildings and structures identified during construction. The report concludes that:</p> <ul style="list-style-type: none"> • No permanent harm is predicted to arise as a result of the Chowdene Bank Facilities (Work No. 12). • Permanent harm on the sense of openness within the Tyne and Wear Green Belt would occur as a result of the presence of the Lamesley Road Facilities (Work No. 10). However, due to the presence of the existing and proposed features within the landscape, including a mature belt of planting to the west and the re-aligned A1 to the north, the perception of harm would not be significant, and would be confined to a highly localised area. • Harm arising as a result of the presence of gantries and the replacement of the North Dene Footbridge would be highly localised and considered within the context of the existing A1 and be largely confined by existing and proposed roadside planting, or in the case of the North Dene Footbridge, replacing an existing structure with a similar one on the same alignment. • Harm would arise on the perception of openness as a result of the construction compounds at junction 66 Eighton Lodge Compound and junction 67 Coal House Compound, due to a perceptible reduction in agricultural land that forms tracts of open countryside on the fringes of Gateshead, but this would be temporary".
5	<p>Not only will this affect the wildlife but also have a great effect on the residents of the area. Increased noise, disruptions, extra traffic, pollution as well as areas of natural beauty no longer being able to be enjoyed recreationally. Being able to enjoy our green spaces is absolutely vital, our health and well being must be supported and not affected.</p>	<p>This Green Party Deadline 9 (08 July 2020) submission [REP9-027] is similar to the Green Party Written Representation received at Deadline 1 (04 February 2020) [REP1-010]. The Applicant responded to the Green Party Written Representation at Deadline 2 (25 February 2020) [REP2-061] within Table 4, Reference 13. The Applicant's response from Deadline 8 is included for ease below:</p> <p><u>Air Quality</u> <i>Impacts on air pollution arising from the Scheme have been set out in Chapter 5: Air Quality of the ES [APP-026]. This chapter covers the impacts from increases in air pollution to both human health and ecology. The conclusions of the assessment are that the Scheme would not result in a significant air quality effect for both humans and ecology, and that ambient air pollution concentrations would likely return to pre-Scheme concentrations within less than six years (as set out in DMRB IAN17/13). A summary of the overall effects of the Scheme can be found in Section 5.11, Chapter 5: Air Quality of the ES [APP-026].</i></p> <p><u>Noise</u> <i>Potential noise impacts have been set out in Chapter 11: Noise and Vibration of the ES [APP-032]. The conclusions of the assessment are that the only long-term noise and vibration effects from the Scheme will be beneficial. The only</i></p>

Ref No:	Gateshead Green Party's Response:	Applicant's Response:
		<p><i>significant adverse noise impacts identified are short-term, temporary and localized in relation to out-of-hours working associated with the removal of the existing Allerdene Bridge and the construction of the new Allerdene Bridge. These adverse impacts will be minimised by the application of mitigation measures, which will include the Best Practicable Means (BPM), as set out in action [N5] of Table 3-1 REAC of the Outline CEMP [REP9-007 and 008].</i></p> <p><u><i>Biodiversity</i></u> <i>Impacts on the natural environment and wildlife have been identified within Section 8.10 of Chapter 8: Biodiversity of the ES [APP-029] which has assessed effects on LWS, including Longacre Wood LWS and Bowes Railway LWS, wildlife corridor north of Longacre Wood LWS, habitats of principal importance, the River Team, fish, bats, wintering birds, and Great Crested Newt.</i></p> <p><i>Suitable mitigation has been identified and included within the assessment to ensure that identified impacts will be mitigated successfully, which have been committed to within actions [B1] to [B27] of Table 3-1 REAC of the Outline CEMP [REP9-007 and 008].</i></p> <p><u><i>Impacts on local residents</i></u> <i>The Scheme has sought to minimise impacts on local residents as far as possible. As detailed in Chapter 2: The Scheme paragraph 2.7.1 of the ES [APP-023], this has included:</i></p> <ul style="list-style-type: none"> <i>• Between junction 66 (Eighton Lodge) and junction 65 (Birtley) the widening of the A1 to accommodate the additional lanes would be undertaken asymmetrically to the north. This has reduced land take to the south of the A1, thus minimising adverse impacts to residential properties especially at North Dene and Crathie.</i> <i>• The A1 carriageway centreline has been moved further away (to the north) from the residential properties at Lady Park and a retaining wall has been included on the north bound on slip, which has enabled significant parts of the existing junction to be retained and has reduced land take and impacts on trees at this location.</i> <i>• The new North Dene Footbridge will have a 3.5m (unsegregated) pedestrian/cycle path over the bridge deck and ramp and will have a 1 in 12 (minimum) gradient ramp to provide improved access for WCH users. Horse riders and cyclists would have to dismount to use the footbridge. Corduroy tactile paving to aid the movement of partially sighted WCH's.</i> <i>• A retaining wall has been included to retain the access road located adjacent to junction 65 (Birtley) southbound exit slip which is a single access point for three properties and a field land parcel on Northside, Birtley.</i> <i>• The earthworks design has been revised from 1:3 to 1:2 slope to avoid land take from Longacre Wood.</i> <p><i>Impacts on local residents have been identified in Chapter 12: Population and</i></p>

Ref No:	Gateshead Green Party's Response:	Applicant's Response:
		<p><i>Human Health of the ES [APP-033] which has assessed effects on motorised travellers, WCHs, community severance, local economy and employment, and human health.</i></p> <p><i>During construction effects on each of these aspects were identified as temporary, with temporary significant adverse effects identified for WCH, community severance and human health. Chapter 12: Population and Human Health of the ES [APP-033] identified that once the Scheme is operational, no significant adverse effects are anticipated for local residents. Permanent beneficial effects have been identified for driver stress, WCHs, local economy and employment, and human health.</i></p> <p><u><i>Biodiversity</i></u> <i>Impacts on the natural environment and wildlife have been identified within Section 8.8 of Chapter 8: Biodiversity of the ES [APP- 029] which has assessed effects on (LWS, including Longacre Wood LWS and Bowes Railway LWS, wildlife corridor north of Longacre Wood LWS, habitats of principal importance, the River Team, fish, bats, wintering birds, and great crested newt. Suitable mitigation has been identified in Section 8.9 of Chapter 8: Biodiversity of the ES [APP-029] and included within the assessment to ensure that identified impacts will be mitigated successfully, which have been committed to within actions [B1] to [B27] of Table 3-1 REAC of the Outline CEMP [REP9-007 and 008].</i></p> <p><i>During construction, the impacts associated with the Scheme would result in effects of neutral significance (not significant) for:</i></p> <ul style="list-style-type: none"> • <i>Bowes Railway LWS. Longbank Bridleway Underpass</i> • <i>Fish</i> • <i>Bats</i> • <i>Wintering birds</i> • <i>Great Crested Newt</i> • <i>Invasive species</i> <p><i>During construction, following the successful implementation of the mitigation requirements, it is considered that the impacts of the Scheme would result in effects of moderate significance to Longacre Wood LWS and habitats.</i></p> <p><i>During operation, the impacts associated with the Scheme would result in effects of neutral significance (not significant) for all identified receptors.</i></p>
6	<p>Gateshead is a very suburban and rural area and this whole scheme is going to create a great disturbance to all its inhabitants (individuals, families, wild life). We, the Gateshead Green Party, please request that the order for this scheme to proceed be rescinded. We hope that Gateshead as a whole can find a Green alternative path to help reach our Carbon Neutral deadline and invest in a greener healthier future.</p>	<p>The Applicant does not agree with the Green Party's submission that an alternative solution is needed to reach the Carbon Neutral deadline. There is no evidence that the Scheme would have a material effect upon the ability of the Government to meet its carbon reduction targets.</p> <p>The Applicant submits that the Order be made.</p>

Ref No:	Gateshead Green Party's Response:	Applicant's Response:
7	Addition (not communicated at the hearing): As the current world continues to change and evolve to a new working environment in response to the COVID-19 pandemic it is becoming clear that more and more of the working community will be able to work from home. This in turn will lead to less commuters on the road travelling to and from work. It is highly likely that the congestion once seen at certain areas is likely to drop considerably and the need for widening roads is less and less important.	The long-term effects of COVID-19 are currently unknown and there is no evidence before the ExA that road capacity will not continue to decrease in line with current estimates in a no scheme world. There is a range of views about whether the travel changes created by COVID-19 will increase or decrease vehicular travel. At present, the Department for Transport has not issued any revised forecasts for traffic growth as a result of COVID-19 as research is still on-going. Home-working is not applicable for a great number of jobs in manufacturing, education, retail etc (for example Team Valley and Metro Centre) and therefore in this location, the impact of greater uptake may not be as significant as suggested by the Green Party.

Table 3 - Historic England

Ref No:	Historic England's Position:	Applicant's Response:
3. DRAFT DEVELOPMENT CONSENT ORDER		
3.1	Historic England considers that, other than the issue highlighted below, i.e. with the phrase "substantially in accordance with" in Requirement 9(1), Highways England has broadly addressed the issues we have raised in relation to this document.	The Applicant confirms that all matters are agreed apart from the matter which Historic England refers to which is highlighted below.
3.2	Throughout the Examination we have engaged positively and proactively with the Applicant regarding the dDCO and raised amendments we considered were necessary. These discussions related to Requirement 9 and Schedule 10 in particular. In response to a question raised by the Examining Authority [see 2.0.13 in PD – 013] we also commented on Requirement 4. We set out in more detail below the issues raised.	The Applicant welcomes Historic England's engagement throughout the Examination period and acknowledges the further comments made on Requirement 4.
Requirement 9 – Archaeological Remains		
3.3	Discussions and negotiations over the wording of this Requirement evolved over the course of the Examination. In our Written Representations [REP1 – 012] we requested changes to this Requirement as we considered it was unclear as to the works affecting the scheduled monument. We proposed new wording and requested Historic England be included in 9(1) as a "consultation body". In addition, we noted that 9(3) required amendment to ensure that the reporting and analysis referred to in this section were carried out as per a Final WSI (not merely a WSI) and this would be in agreement with the Local Authority in consultation with Historic England. Finally, we requested that 9(4) be amended to ensure not only the reporting of new / unexpected remains, but also the provision to stop works, if required, pending any mitigation which might be necessary during the course of the operational works.	The Applicant confirms this is an accurate summary of the discussions. The changes that Historic England requested were drafted into Requirement 9 of the draft Development Consent Order (DCO) [REP4-012 and 013] at Deadline 4 (20 April 2020).
3.4	Discussions took place and the Applicant made changes to the dDCO (Rev 3a) which was submitted for Deadline 4 [REP4 – 013]. Requirement 9(3) was amended to reflect our request in previous submissions [REP1 – 012] and [REP3 – 007] that Historic England was included as a "consultation body". In addition, the reporting and analysis referred to in this section was amended to make clear it would be carried out as per the Final WSI.	The Applicant confirms this is an accurate summary of the discussions.
3.5	To provide overall clarity about the wording for Requirement 9, which we understood to be agreed, we appended the text to our Deadline 5 submission [REP5 – 015]. This was reflected in the dDCO (Rev4a) submitted at Deadline 5 [REP5 – 003]. We therefore confirmed in Deadline 6 submission [REP6 – 018] that the wording for	The Applicant confirms this is an accurate summary of the discussions.

Ref No:	Historic England's Position:	Applicant's Response:
	Requirement 9 matched the agreed wording and that Historic England were in agreement with Applicant as to the wording of Requirement 9.	
3.6	However, the Applicant made an unexpected change and revised the dDCO (Rev 5a) at Deadline 6 [REP6 – 003] by inserting “substantially” into Requirement 9(1) so that the provision now read: “...The FWSI shall be substantially in accordance with the mitigation measures included in the REAC and the outline written scheme of investigation and shall include a programme of archaeological reporting, post excavation and publication including a timescale for such reporting and publication...”	<p>The word ‘substantially’ was added to the wording of Requirement 9 (1) in the draft Development Consent Order (DCO) [REP6-003 and 04] at Deadline 6 (19 May 2020) of the examination process and remains in all subsequent versions. The wording was included to provide flexibility for the final versions of the documents to be able to take into account the implications of any changes at detailed design. The proposed wording has numerous precedents in statutory orders and achieves the desired aims of both parties by provided an appropriate amount of certainty and flexibility given the potential for slight variations at detailed design. Variations to detailed design in consultation with Historic England may be necessary, particularly in respect of designs not yet finalised such as the drainage at Bowes Railway and access to the monument. Achieving sufficient flexibility in the design process must be achieved in a scheme of this nature.</p> <p>The proposed wording enables the design to be finalised and any amendments necessary to bespeak the Final WSI to be made. This is in the interest both of the Applicant and Historic England and is properly overseen by the approval of the Secretary of State to which Historic England may contribute.</p>
3.7	The works which are the subject to the phrase "substantially in accordance" relate to archaeological remains, and more particularly for Historic England, the Bowes Railway Scheduled Monument. As heritage assets are an irreplaceable resource, we consider that all archaeological works should therefore be conducted in an appropriate manner. The Outline Written Scheme of Investigation (WSI) sets out the general overview of the standards and guidance under which the archaeological investigation and mitigation, including post-excavation analysis and publication would be undertaken. The Final Written Scheme of Investigation (FWSI) will follow on from this and can be drafted "in accordance with" these provisions. We consider that the inclusion of the phrase “substantially in accordance with” introduces uncertainty and a lack of clarity in expectation of what the FWSI will provide. It is important that the FWSI is in accordance with the Outline WSI to ensure that there is consistency as to how archaeological works are conducted; particularly in relation to the scheduled monument as the dDCO, in lieu of Scheduled Monument Consent, ensures that works to this designated heritage asset will be carried out as agreed.	The Applicant considers that inclusion of the words ‘substantially in accordance with’ allows for any changes necessitated from the detailed design to be included within the final WSI. The consultation process with the relevant statutory body, in this case Historic England, would allow Historic England to raise any concerns on the final WSI with the Secretary of State. In this way it can be highlighted at the necessary time if the final WSI is not in substantial accordance with the Outline WSI or is not to Historic England’s desired standard. The matter is precedent, relies upon perfectly straightforward planning judgement and appropriately overseen by the Secretary of State.
3.8	Whilst we understand that this phrase has been included in other Highways England DCOs, each case must be considered on its merits. It is also unclear the extent to which there would be any need for change necessitating inclusion of this phrase with regards this particular scheme, in this particular provision relating to archaeological remains. The positive engagement and discussions has led to the Outline WSI being drafted in a way which gives certainty as to the expectations, but is not so rigid as to prevent opportunities to accommodate potential implications of design change should this be appropriate. In our view, there should not therefore be a need for any further flexibility as has been proposed by the Applicant through the introduction of "substantially".	There are a number of elements of works outlined in Schedule 10 that are not yet at detailed design, specifically the drainage on the Bowes Railway and the reinstatement of access to the monument. There is the potential for detailed design to necessitate changes to the final WSI not currently noted in the Outline WSI.

Ref No:	Historic England's Position:	Applicant's Response:
3.9	Therefore, in relation to Requirement 9, other than the change to 9(1) with the insertion of "substantially", we welcome and are content with the other changes that have been made to the wording of Requirement 9.	The Applicant notes Historic England's position on the insertion of 'substantially' and have set out the position in the Statement of Common Ground (SoCG) with Historic England submitted at Deadline 11 (17 July 2020).
3.10	Whilst we note the Applicant's position and have exchanged e-mails regarding the point, we remain of the view that "substantially" should be deleted from Requirement 9(1). This particular issue is therefore unresolved. We would therefore respectfully recommend its deletion with the Examining Authority taking a view on its inclusion/deletion.	The Applicant notes Historic England's position on the insertion of 'substantially' and have set out the position in the SoCG with Historic England submitted at Deadline 11 (17 July 2020).
Schedule 10 – Scheduled Monuments		
3.11	This Schedule should set out the described works to be undertaken to the Scheduled Monument as per Article 39; however, the initial Schedule 10 in the dDCO [APP – 013] did not fully describe all the works which were proposed to impact on the Scheduled Monument. We therefore requested clarity in our Relevant Representation [RR – 006] so that there was no chance of misunderstanding what could and could not be done to the Scheduled Monument.	The Applicant confirms this is an accurate summary.
3.12	Our understanding at that time was that there would be demolition of the stone retaining walls and that this should be done in reference to and to reflect the Applicant's own drawing showing the demolition up to a maximum of 17m in length [REP1 – 012]. This was accepted by the Applicant at Deadline 3 [REP3 – 006] in their responses to consultee responses. However, following further discussion/review of Schedule 10, we noted it would need to be further amended to fully reflect the extent of works that were being proposed. Therefore, we set out in our Deadline 3 submission [REP3 – 007] at paragraph 6.9 the list of the works as we understood them. These were included in the Applicant's revised dDCO (rev 3a) at Deadline 4 [REP4- 013]. Some further points of clarification were sought and in our Deadline 6 submission [REP6 – 018] we confirmed that in so far as the wording of Schedule 10 as set out in the dDCO [REP5 – 003] was concerned it accurately reflected the works to the scheduled monument.	The Applicant considers that this is an accurate reflection of consultation and alterations to Schedule 10.
3.13	We consider that Schedule 10 is now a comprehensive list of works to the Scheduled Monument and are content with the wording which has been carried forward into the dDCO [REP8-003].	The Applicant notes that Historic England is in agreement with the wording in Schedule 10 of the dDCO.
Requirement 4 – Construction and handover environmental management plans		
3.14	In Examining Authority Written Questions 2 [PD – 13] (ref 2.0.13), the Examining Authority asked about "...paragraph 1.2.5 of the Outline CEMP [REP2-051] which states that the CEMP will be a living document that will be maintained and updated to take account of several factors... is it also intended that any subsequent changes would also be submitted for approval and what would be the mechanism for including any relevant consultation requirements?"	N/A
3.15	In response to this question, we requested in our Deadline 4 submission [REP4 – 066] that consideration be given to Historic England being consulted should changes to the outline CEMP have a bearing on the historic environment, so that we would be consulted on matters that related to our functions. The dDCO submitted at Deadline 5 [REP5 – 003/004] had an amended Requirement 4(1) to include consultation with Historic England in relation to the finalised CEMP and also made an amendment to Requirement 4(3) to include consultation with Historic England where there is a proposed amendment to the CEMP in matters related to our remit.	The Applicant confirms this is an accurate summary.
3.16	We welcome these amendments to Requirement 4 that have been made to include consultation with Historic	The Applicant notes that Historic England is content with the

Ref No:	Historic England's Position:	Applicant's Response:
	England and are content with the wording which has been carried forward into the dDCO [REP8-003].	wording of Requirement 4.
4. OUTLINE CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN		
4.1	Historic England considers that, other than the issue highlighted below, i.e. with REAC table Action Point CH2, Highways England has broadly addressed the issues we have raised in relation to this document.	Historic England's position is noted.
4.2	Our Relevant Representations [RR – 006] noted that some amendments were required to ensure that Action Points in the REAC table within the Outline Construction Environmental Management Plan (CEMP) reflected the dDCO.	N/A
4.3	In our Written Representations [REP1 – 012] we noted that some refinement of wording was required in the REAC table for CH2, CH3, CH5, CH6 and N8 to provide clarity, be enforceable, and, provide assurance that works to the Scheduled Monument would have the appropriate oversight of Historic England. As discussions progressed during the Examination it became clear that there was a need for additional Action Points in the REAC Table in relation to the temporary works compound, the installation of drainage from the adjacent field, and re-instatement of access for the PROW and Bridleway onto the monument	Agreed as set out in the Statement of Common Ground between the Applicant and Historic England.
4.4	CH3, CH5, CH6 and N8: The Applicant accepted our proposed amendments to these Action Point in their Deadline 2 submission [REP2 – 061] (paragraph 27). In our Deadline 3 submission [REP3 – 007] (paragraph 5.2) we noted and accepted that changes made to CH3, CH5, CH6 and N8 within the Outline CEMP [REP2 – 050] which broadly addressed our concerns to safeguard and mitigate impacts to the historic environment. However, we also noted that reference to methodology and timing of these works had not been fully incorporated into the Outline WSI. We subsequently understood from the Applicant in their Deadline 4 comments [REP4 – 057] (see paragraph 5.2) that these would be included in the approval of the Final WSI and that the Outline WSI would be amended accordingly.	The Applicant confirms this is an accurate summary of the discussions.
4.5	In our submission [REP5 – 015] we accepted the changes made for CH6 and N8 whereby the Outline WSI was updated to reflect the request for the timing and methodologies for works to repair an equal length of monument walling and piling works to be included.	The Applicant confirms this is an accurate summary of the discussions.
4.6	Historic England confirms that we are now content with the wording of CH3, CH5, CH6 and N8 which was initially set out in the Outline CEMP [REP2 – 050] and has been carried forward into the Outline CEMP [REP8- 007].	The Applicant notes that Historic England accepts the wording of actions [CH3], [CH5], [CH6] and [N8] of Table 3-1 Record of Environmental Actions and Commitments (REAC) of the Outline Construction Environmental Management Plan (CEMP) [REP9-007 and 008].
4.7	Two new Action Points CH7 and CH9 were added to the Outline CEMP submitted at Deadline 4 [REP4 – 022/23].	N/A
4.8	CH7: During discussion with the Applicant after Deadline 3 we became aware of a temporary works compound (Compound 4) which would impact on the scheduled monument. We requested the possibility of a new Action Point to be inserted to ensure Historic England had oversight of its design and construction to ensure no unmitigated harm could occur to the monument. The Applicant agreed and inserted CH7 into the Outline CEMP submitted at Deadline 4 [REP4 -023]. We noted and accepted this in [REP5 -015].	The Applicant confirms this is an accurate summary of the discussions.

Ref No:	Historic England's Position:	Applicant's Response:
4.9	Historic England confirms that we are content with the wording of CH7 which has been carried forward into the most recent Outline CEMP [REP8 – 007]).	The Applicant notes that Historic England is content with the wording of action [CH7] of Table 3-1 REAC of the Outline CEMP [REP9-007 and 008].
4.10	CH9: Action Point CH9 relates to drainage works on the land adjacent to the monument. We had understood that Gateshead Council had raised the issue of drainage and that there might be a need for scour protection for the monument as a consequence of water coming from the field to the North West of it. It was unclear what the potential impact would be to the monument should the drainage be inserted. Therefore, we requested clarification in [REP5 – 015] about this and requested any works to achieve CH9 which would impact on the scheduled monument should be agreed in consultation with Historic England.	The Applicant confirms this is an accurate summary of the discussions.
4.11	An updated Outline CEMP submitted at Deadline 6 [REP6 – 19] provided further revisions to action point CH9 and also included a new point CH10 (see below).	The Applicant confirms this is an accurate summary of the discussions.
4.12	CH10 – In discussions with the Applicant about the potential impact that the reinstated PROW and Bridleway access might have on the monument, clarity was requested. The provision of CH10 in the REAC table together with the addition of Figure 3 to the Outline WSI (showing the boundary of the Scheduled Monument) provided clarification that the reinstated access for the PROW and Bridleway back onto the Monument would be carried out in consultation with Historic England.	The Applicant confirms this is an accurate summary of the discussions.
Current Position on CH9 and CH10:		
4.13	In our Deadline 7 submissions [REP7 – 005] we stated there was a need for the wording for both CH9 and CH10 to be amended to include consultation with Historic England in relation to the design of the drainage and the reinstated accesses, due to the impact that these proposed works would have on the Scheduled Monument. The potential for the impacts on the scheduled monument to be mitigated through design and consultation with us will assist in informing this outcome. We requested that this change be made to both Action Points. These actions were amended in the draft Outline CEMP submitted at Deadline 8 [REP8 – 007] to say: "...The detailed design of the...drainage associated with the wall/any such works... will be produced in consultation with Historic England..."	The Applicant confirms this is an accurate summary of the discussions.
4.14	Further to these revisions, we are now content with the wording of CH9 and CH10 as set out in the most recently submitted Outline CEMP [REP8 – 007].	The Applicant notes that Historic England is content with the wording of actions [CH9] and [CH10] of Table 3-1 REAC of the Outline CEMP [REP9-007 and 008].
4.15	CH2 – With regards this specific provision, there are two issues that we would raise. The first is that the provisions of CH7, CH9 and CH10 need to be included within this Action Point to reflect the agreement that has been reached between us and applicant regarding these provisions. Also, for the sake of consistency CH8 should also be included here.	The Applicant confirms this is an accurate summary of the discussions.
4.16	The second issue is that the Applicant submitted a revised Outline CEMP at Deadline 4 [REP4 – 023] with unexpected amendments to CH2. The Action Point was amended to say that the Final WSI would be produced "substantially in accordance with" the Outline WSI.	The word 'substantially' was added to the wording of action [CH2] of Table 3-1 REAC of the Outline CEMP at Deadline 4 (20 April 2020) [REP4-022 and 023] of the examination process and remains in all subsequent versions. The wording was included to provide flexibility for the final versions of the documents to be able take into account

Ref No:	Historic England's Position:	Applicant's Response:
		the implications of any changes at detailed design. As described above, this is in the interest of both Historic England and the Applicant.
4.17	This issue relates to our similar concerns with the wording of Requirement 9 (see section 3 above). We consider it is important that the FINAL WSI is "in accordance with" the Outline WSI to ensure that there is consistency as to how archaeological works are conducted, particularly in relation to the scheduled monument, as the dDCO, in lieu of scheduled monument consent, ensures that works to this designated heritage asset will be carried out as agreed.	The Applicant considers that inclusion of the words 'substantially in accordance with' allows for any changes necessitated from the detailed design (which Historic England will be consulted on) to be included within the final WSI. This is entirely standard and has significant precedent in DCOs.
4.18	Historic England remains of the view that "substantially" in CH2 should be deleted, and this particular issue in relation to CH2 is unresolved. We would therefore respectfully recommend the deletion of the word "substantially" from CH2, with the Examining Authority taking a view on its inclusion/deletion.	The Applicant has not reached agreement with Historic England in regard to the wording 'substantially in accordance with.'
5. OUTLINE WRITTEN SCHEME OF INVESTIGATION (Outline WSI)		
5.1	Historic England considers that further discussion is required with regards to the need for clarification of some of the details in the Outline WSI. Further discussions are on-going with the Applicant, but we hope to be able to update the Examining Authority at the next Deadline.	Historic England has provided a number of amendments that they would like to see included in the Outline WSI. The Applicant confirms that discussions with Historic England have continued and have been resolved in the Outline WSI submitted at Deadline 11. All detailed methodologies will be included in the final WSI.
5.13	Finally, we note in the Applicant's response to our Deadline 5 submission [REP6 -011] (see paragraph 3.8) the Applicant referred to "awaiting a response" from Historic England regarding monitoring requirements in the Outline WSI for the reinstatement of access to the monument. As noted above, provisions for re-instatement of access to the monument have been dealt with in CH7. Section 2.2 of the Outline WSI does include "p. monitoring" and further discussion with the Applicant is required as to whether this is "oversight" monitoring by ourselves and the Local Authority Curator, or "archaeological" monitoring. For clarity, it might be helpful to list types of archaeological works (including archaeological monitoring amongst others) in the list of items to be included in the FINAL WSI – e.g. in point "g. Archaeological recording methodologies".	This is in reference to the potential for archaeological monitoring i.e. a Watching brief during possible works on the Scheduled Monument. Once a detailed design is in place a suitable form of archaeological monitoring will be agreed between the Archaeological Designer and Historic England, and the specific details of the monitoring will be included in the final WSI and will reflect the requirements of the action points in the Outline CEMP submitted at Deadline 11.
5.14	Further discussions between the Applicant and Historic England are required with regards to the Outline WSI document and are on-going. We hope to update the Examining Authority at the next Deadline regarding these.	Discussions with Historic England in regard to the contents of the Outline WSI have continued and have been resolved in the Outline WSI submitted at Deadline 11.
6. CONCLUSION		
6.1	As can be seen from the submissions that we have made during the course of this examination, there were a number of issues raised in relation to the historic environment. We have welcomed the opportunity to raise these matters and have been able to engage positively with Highways England. As a consequence, the revisions to the various documents have reflected and broadly addressed those issues; although issues remain unresolved regarding the Outline WSI, and the inclusion of "substantially" in requirement 9(1) of the dDCO and CH2 of the Outline CEMP.	The Statement of Common Ground between the Applicant and Historic England was submitted at Deadline 11 (17 July 2020) which states clearly the position of both parties on the outstanding matters.
6.2	We will continue in discussions with the Applicant and hope to provide a further update on the outcome of those	Discussions with Historic England in regard to the contents of the

Ref No:	Historic England's Position:	Applicant's Response:
	discussions on the Outline WSI in due course.	Outline WSI have continued and have been resolved in the Outline WSI submitted at Deadline 11.

Table 4 - Network Rail

Ref No:	Network Rail's Position:	Applicant's Response:
Introduction		
1	This document summarises the case put forward by Network Rail Infrastructure Limited (Network Rail) at the Development Consent Order Hearing [ISH5], which was held on 25 June 2020.	The Applicant's case in respect of the outstanding matters with Network Rail can be found at deadline 9 (08 July 2020) submission [REP9-029] Appendix H.
2	The agenda for ISH5 was published on the Planning Inspectorate's website. The summary below deals with those agenda items in order.	N/A
3	Network Rail was represented at the hearing by the following: <ul style="list-style-type: none"> • Roger Brighthouse, Senior Surveyor Property (North West and Central), Network Rail; and • Melissa Johnson of Addleshaw Goddard LLP. 	The Applicant was represented at the hearing by (<i>inter alia</i>) Howard Bassford, Michael Greig and Ross Corser of DLA Piper UK LLP.
4	Network Rail has also been asked by the Examining Authority, in its Action Points arising from ISH5, to provide alternative wording where there remain points of disagreement regarding the Protective Provisions for the benefit of Network Rail, to be included at Schedule 11 to the Order and this document also responds to the Examining Authority's request (Action Point 17).	The Applicant notes the request made of Network Rail, but recognises that outstanding matters have been advanced such that alternative drafting should no longer be necessary as the only outstanding matter is paragraph 32(4) of the protective provisions which is marked in square brackets. The parties respective positions are outlined in the statement of common ground with Network Rail.
Post-hearing submissions ISH5 Agenda Item 6(j) – Post-hearing submissions		
5	Network Rail confirmed to the Panel that while negotiations continued to progress with the Applicant regarding the acquisition by the Applicant of Network Rail's freehold interest by private treaty, in relation to the acquisition by the Applicant of Network Rail's leaseholder's estate (with the leaseholder being DB Cargo UK Limited (DB Cargo)), Network Rail's understanding is that the Applicant intends to acquire the interest compulsorily, by General Vesting Declaration, pursuant to the Order.	The Applicant's decision on the precise method of acquisition has not yet been determined but acquisition of DB Cargo's leasehold interest by compulsion pursuant to a vesting declaration or notices to treat/of entry remain, and must remain, open to the Applicant on the basis that DB Cargo have not objected to the scheme, have not engaged in the examination process and are a leaseholder with exclusive possession of their plots distinct from the corpus of Network Rail's estate in the statutory undertaking. It is necessary for the Applicant to be able to assemble this land without relying on DB Cargo's assent.
6	Network Rail confirmed that in relation to the acquisition of this leasehold estate there may be the need for a new Requirement, the detail of which could be addressed by the parties at a later point, to address Network Rail's concern that the related property documents are completed by the Applicant in the correct chronological order.	It is the Applicant's position that there is simply no need for a Requirement which addresses the order of compulsory acquisition; particularly when the parties are involved in extensive negotiations on a suite of private agreements at the request of Network Rail. The Applicant does not agree that it is necessary to acquire the freehold interest by agreement prior to the acquisition of the leasehold interest of DB Cargo, as in the alternative the Applicant would simply become Network Rail's leaseholder. Network Rail's concern here is the Applicant's occupation under a freight lease. However, the Applicant would have no interest in

Ref No:	Network Rail's Position:	Applicant's Response:
		<p>occupation of the site for anything other than the delivery of its scheme.</p> <p>The Applicant and Network Rail have since agreed a solution to address Network Rail's concern, which is reflected in the inclusion of references to DB Cargo's land in paragraph 21(1) of the Network Rail protective provision in the dDCO.</p>
7	Network Rail confirmed that it understood that there have been no negotiations between the Applicant and DB Cargo during the course of the Examination.	The Applicant has been consulting DB Cargo on the proposals, as recently as 13 May 2020. As DB Cargo did not object to the scheme, the Applicant has confined its negotiations to matters of compensation only.
8	Network Rail asked the Panel whether it wished to be provided with a brief explanation of how this land is used and the Panel said that this would be helpful.	The Applicant concurs that this is an accurate summary of Network Rail's submission at the hearing.
9	Highways England's lawyer, Mr Bassford, argued that Network Rail's oral submissions at the hearing referred to 'without prejudice' discussions and asked that Network Rail make no further submissions on these issues. Consequently, the Panel suggested that discussions occur between the parties following the hearing rather than during it and the parties agreed to do this.	The Applicant considered that Network rail had begun to trespass on to matters that went beyond the use of the land in question and to trespass on matters subject to without prejudice discussions. As such, the Applicant and Network Rail withdrew and have subsequently undertaken fruitful discussions in relation to this matter.
ISH5 Agenda Item 9(j) – Post-hearing submissions		
10	There was a discussion regarding the outstanding matters of disagreement in relation to Network Rail's protective provisions. The parties agreed to make post-hearing submissions in relation to these, which follow in this document under the next heading (ISH5 Action Point 17).	The Applicant concurs that this is an accurate summary of submissions at the hearing.
ISH5 Action Point 17 – Network Rail response		
11	Action Point 17 states: Schedule 11 (Protective Provisions) - Where there is disagreement with the Protective Provisions within the current draft DCO, provide suggested alternative drafting along with reasoning and justification	The Applicant concurs with the content of Action Point 17.
12	Network Rail confirms that there remain the following points of disagreement with regard to the Protective Provisions for inclusion at Part 3 of Schedule 11 to the Order and, where appropriate, proposes suggested alternative drafting.	The Applicant notes that since Network Rail's submission, some further progress in agreeing outstanding issues has been made.
13	Network Rail is seeking the following amendments to the Protective Provisions submitted by the Applicant at Deadline 4 [REP4-074], as follows:	The Applicant notes Network Rail's proposed amendments.
	Amendment 1 an amendment required to deal with the acquisition by the Applicant of DB Cargo's estate (new paragraph 21(6) of the Protective Provisions);	The Applicant and Network Rail have concluded the position in respect of Amendment 1 and this is suitably dealt with in the revised draft DCO at deadline 11 by the inclusion of drafting in the definitions of "specified work" and paragraph 21(1). The Applicant maintains that Network Rail's concern was unfounded, but the parties have reached a satisfactory

Ref No:	Network Rail's Position:	Applicant's Response:
		conclusion.
	Amendment 2 an amendment relating to article 20 of the DCO (discharge of water) to ensure that Network Rail will consent to the drainage water in the vicinity of the railway by the Applicant (amendment to paragraph 21 of the Protective Provisions);	The Applicant has conceded the position in respect of Amendment 2 and the amendment requested by Network Rail has been included in the draft DCO at deadline 11.
	Amendment 3 an amendment to ensure that the Applicant will indemnify Network Rail in respect of indirect and other consequential losses and ensure that Network Rail does not have to disclose the terms of commercially sensitive documents to the Applicant (deletion of paragraph 32(4) of the Protective Provisions); and	The Applicant's position in respect of Amendment 3 is included in deadline 9 (08 July 2020) submission [REP9-029] Appendix H and the statement of common ground with Network Rail [REP7-002].
	Amendment 4 an amendment to the definition of 'specified works'; Network Rail will update the Panel regarding this proposal at the next Examination deadline after it has concluded discussions with the Applicant (amendment to paragraph 19 of the Protective Provisions).	The Applicant has reached agreement with Network Rail on Amendment 4 and has updated the draft DCO which is submitted at deadline 11.
Amendment 1 - New Protective Provision 21(6) relating to the compulsory acquisition of the leasehold estate		
14	Amendment 1 relates to the acquisition of the DB Cargo leasehold estate by the Applicant.	The Applicant considers the concerns of Network Rail in respect of this element are unfounded, but has reached an agreed position with Network Rail on this provision and the parties have agreed that no amendment will be made in the draft Order submitted at Deadline 11.
15	Network Rail continues to co-operate with the Applicant to ensure that the necessary land and rights are provided to the Applicant to enable it to carry out the Scheme.	The Applicant has reached an agreed position with Network Rail on this provision and the parties have agreed that no amendment will be made in the draft Order submitted at Deadline 11.
16	As the Panel is aware, DB Cargo has a leasehold interest over some of Network Rail's estate within the Order limits.	The Applicant has reached an agreed position with Network Rail on this provision and the parties have agreed that no amendment will be made in the draft Order submitted at Deadline 11.
17	The acquisition of the DB Cargo leasehold estate by the Applicant can either happen by way of compulsory acquisition or by private treaty. Network Rail is happy for the Applicant to proceed by either acquisition method.	The Applicant has reached an agreed position with Network Rail on this provision and the parties have agreed that no amendment will be made in the draft Order submitted at Deadline 11.
18	The following amendment is requested to ensure that, in the event of the Applicant proceeding to acquire the DB Cargo estate compulsorily, the acquisition of the DB Cargo estate occurs prior to or simultaneously with the acquisition of Network Rail's related freehold estate.	The Applicant has reached an agreed position with Network Rail on this provision and the parties have agreed that no amendment will be made in the draft Order submitted at Deadline 11.
19	Network Rail seeks the inclusion of a new Protective Provision, at new paragraph 21(6), which has been provided to the Applicant for comments and which we hope will be agreed	The Applicant has reached an agreed position with Network Rail on this provision and the parties have agreed that no amendment will be made in the draft Order submitted at

Ref No:	Network Rail's Position:	Applicant's Response:
	<p>before the next Examination deadline: "The undertaker may not compulsorily acquire any leasehold estate over the land in respect of which a freehold estate is held by Network Rail or any easement over such leasehold estate unless provision has been made for the prior or simultaneous acquisition of any such freehold estate belonging to Network Rail or of any such easement over such freehold estate, as applicable, by the undertaker"</p>	<p>Deadline 11. As such, this drafting <u>should not</u> be included in the DCO if made.</p>
20	<p>This new Protective Provision ensures that, in the event of the Applicant proceeding to acquire DB Cargo's estate by compulsory acquisition, that this will occur prior to or simultaneously with the acquisition of Network Rail's freehold estate, which the parties are negotiating by private treaty.</p>	<p>The Applicant has reached an agreed position with Network Rail on this provision and the parties have agreed that no amendment will be made in the draft Order submitted at Deadline 11.</p>
21	<p>If the Applicant was to acquire the DB Cargo leasehold estate before acquiring Network Rail's freehold estate, the Applicant would effectively become Network Rail's tenant (of a freight lease) and the parties would have the complexity of dealing with the powers in the Order potentially conflicting with the covenants in the lease, which we understand the Applicant as well as Network Rail wishes to avoid. Therefore Network Rail asks for this protective provision to ensure the correct sequence of events, so that the compulsory acquisition will proceed smoothly for both Network Rail and the Applicant.</p>	<p>The Applicant has reached an agreed position with Network Rail on this provision and the parties have agreed that no amendment will be made in the draft Order submitted at Deadline 11.</p>
<p>Protective Provision 20(1) - Amendment submitted by the Applicant and welcomed by Network Rail</p>		
22	<p>If the DB Cargo leasehold estate is to be acquired by the Applicant by private treaty (rather than by compulsory acquisition), unless the lease has been acquired / surrendered prior to or simultaneously with the acquisition of Network Rail's freehold interest, Network Rail would need to obtain the consent of its leaseholder to the transfer of its freehold interest otherwise Network Rail would be in breach of the lease.</p>	<p>The Applicant considers the concerns of Network Rail on this matter to be unfounded. Nevertheless, it has reached an agreed position with Network Rail that has secured the removal of the final phrase in paragraph 20(1), and this amendment has been made in the draft Order submitted at Deadline 11.</p>
23	<p>Should the consent of its leaseholder be required in those circumstances, Network Rail naturally seeks to avoid being held to account for any delay to the transfer of its freehold estate to the Applicant occurring as a result of the Applicant or Network Rail first seeking consent from DB Cargo. Further, Network Rail notes that DB Cargo has its own land disposal procedures to follow.</p>	<p>The Applicant has reached an agreed position with Network Rail on the removal of 20(1) and this amendment has been made in the draft Order submitted at Deadline 11.</p>
24	<p>The Applicant has therefore inserted the following words to paragraph 20(1) (shown underlined) in the Protective Provisions included in the Development Consent Order submitted at Deadline 4 [REP4- 074] to account for this eventuality and Network Rail welcomes this amendment:</p> <p>"Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that NR complies with any relevant railway operational procedures and any obligations under its network licence or under statute and, if applicable, shall be subject to first obtaining the</p>	<p>The Applicant has reached an agreed position with Network Rail on the removal of 20(1) and this amendment has been made in the draft Order submitted at Deadline 11.</p>

Ref No:	Network Rail's Position:	Applicant's Response:
	consent and/or surrender of any leaseholder of the railway property"	
Amendment 2 - Protective Provision 21(1): Article 20 relating to the discharge of water		
25	As the Panel is aware, Network Rail wishes to include "article 20 (discharge of water)" in the list of Order powers to which Network Rail must give its consent at paragraph 21(1) of the Protective Provisions. Network Rail must be able to consent to the drainage of water into any watercourse or public sewer or drain and/or the taking up and altering of pipes in the vicinity of the railway.	The Applicant has reached agreement with Network Rail on the inclusion of Article 20 within protective provision 21(1) and this is included in the draft Order submitted at deadline 11.
26	Network Rail has not been given sufficient information by the Applicant to be satisfied that no such works will need to occur during the construction and maintenance of the Scheme and therefore requests that this reference remains in paragraph 21(1).	The Applicant has reached agreement with Network Rail on the inclusion of Article 20 within protective provision 21(1) and this is included in the draft Order submitted at deadline 11.
27	Network Rail understands that the Applicant is considering this amendment further and we hope to resolve this issue before the next Examination deadline.	The Applicant has reached agreement with Network Rail on the inclusion of Article 20 within protective provision 21(1) and this is included in the draft Order submitted at deadline 11.
28	An alternative, should the Applicant prefer, is to amend the definition of "specified work" as follows: "specified work" means so much of any of the authorised project as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property and for the avoidance of doubt includes the exercise of the powers conferred by article 20 (discharge of water)"	The Applicant has reached agreement with Network Rail on the inclusion of Article 20 within protective provision 21(1) and this is included in the draft Order submitted at deadline 11.
29	This alternative text would mean that the consent to any such works would fall within the remit of a specified work and would therefore be a matter for Network Rail's asset protection team to consent to.	The Applicant has reached agreement with Network Rail on the inclusion of Article 20 within protective provision 21(1) and this is included in the draft Order submitted at deadline 11.
Amendment 3 - Protective Provision 32(4): Indemnity provided by the Applicant to Network Rail		
30	Network Rail requests that paragraph 32(4) of the Protective Provisions be deleted from the DCO Protective Provisions. For an explanation of this request, Network Rail refers the Panel to its previous submissions relating to the indemnity [REP4-67 (section 5 (iii))]. Network Rail is continuing its discussions regarding this indemnity with the Applicant.	The Applicant requests that the provision is retained based on its deadline 9 submission [REP9-029] Appendix H and the statement of common ground with Network Rail [REP7-002].
31	Network Rail is concerned to ensure that the scope of its standard indemnity is not diluted by the inclusion of paragraph 32(4). Network Rail considers it essential that the Applicant provides Network Rail with a full indemnity for any losses arising from the Scheme; that indemnity should include consequential and indirect loss, which, in any event would need to be properly justified and meet the relevant common law tests.	<p>The Applicant notes that the scope of Network Rail's indemnity has been diluted on at least two separate occasions in recent years.</p> <p>The text proposed by the Applicant was included in the National Grid (Hinkley Point C Connection Project) Order 2016. The examining authority's recommendation report in relation to that application 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 Network Rail'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.</p>

Ref No:	Network Rail's Position:	Applicant's Response:
		<p>In addition, the examining authority took the same approach in relation to analogous provisions in the recent M42 Junction 6 Improvement Order 2020. At paragraph 5.15.8 and 5.15.9 of the examining authority's recommendation report, it was found that the provisions sought by Cadent in respect of an indemnity covering indirect and consequential loss were at variance with the tests set out in s.127 of the Planning Act 2008. It was specifically stated that whilst s.127 protects statutory undertakers from serious detriment, that protection did not extend to all the costs which might be incurred. Further, the examining authority stated that the benefits of the scheme would be enjoyed by the statutory undertaker and this should be taken into account. As such, there would be no serious detriment to Network Rail's undertaking as a result of the inclusion of a limitation upon the indemnity. In this case, Network Rail is benefitting through the replacement of the Existing Allerdene Railway bridge, which is reaching the end of its operational life. As part of the works, overhead lines are being removed from the bridge structure and replaced with modern apparatus and the disruption to the railway caused by bridge and overhead line maintenance is being managed.</p>
32	<p>As Network Rail referred during its verbal submissions at ISH5, only losses that can be reasonably foreseen by the parties as a result of the direct loss will be covered by the Applicant, if the Applicant is to be accountable for indirect as well as direct loss.</p>	<p>There is no basis for the Applicant to be liable for indirect loss as the position at common law is that loss must be reasonably foreseeable, be within the reasonable contemplation of the parties and not be too remote. An express provision requiring indirect and consequential loss is in direct conflict with the test at common law and there has been no justifiable reason or evidence put before the Examination why the Applicant should be subject to a higher burden and standard of loss than the established common law.</p> <p>The Secretary of State has since advised that he considers such an indemnity to be inappropriate in a further case as noted in the Applicant's previous submission [REP9-014].</p>
33	<p>Given the complex and extensive works proposed to the land abutting the railway and over sailing the railway in this Scheme, involving the following works:</p> <ul style="list-style-type: none"> • the demolition and construction of a road bridge over the East Coast Main Line; • excavation for new bridge abutments / bridge supports including excavation; • construction of new abutments / bridge supports; • installation of bridge deck beams and deck construction over the East Coast Mainline; • replacement of overhead line equipment, • the construction of a new access track; • the installation of fencing adjacent to Network Rail's railway boundary; • the modification of the existing overhead line equipment surrounding the new bridge and existing bridge; and • temporary diversion of Network Rail cables and ducts and the protection of Network Rail services; <p>the Scheme's works can in no way be considered by Network Rail to be minor.</p>	<p>The Applicant has never argued that the proposed works interfacing with Network Rail's land are minor in nature. Rather, it is necessary to acknowledge that the other works proposed However, they are not novel or unusual and are in fact the type of works that Network Rail itself and many other entities regularly perform to the railway network. The Applicant is not proposing that the works be unregulated or that Network Rail is not protected – they will be carried out with all due regard to railway safety and efficient operations. As such, there is no justification based upon the nature of the works to extend Network Rail's protection beyond what would be reasonable for a prudent and properly qualified party carrying out engineering works of this nature.</p> <p>The Applicant's position is that the recent Orders in which Network Rail (or other undertakers) have sought to rely on this standard of indemnity have been rejected by the Secretary of State on the basis that the requirement to indemnify undertakers for indirect and consequential loss goes far beyond that which is required by s.127 of the Planning Act 2008. This is particularly so in this case, the undertaker stands to benefit from upgrades to its own network as a result of the authorised works.</p>

Ref No:	Network Rail's Position:	Applicant's Response:
34	Business and technical clearance with extensive engineering conditions have been obtained by Network Rail (and continue to be obtained as the Scheme changes) to enable the works to proceed and there will be significant involvement of Network rail's asset protection team and railway engineers throughout the construction of the works to ensure the safety of the railway.	The Applicant makes no comment on the internal procedures of Network Rail. This is not relevant to whether Network Rail should receive an excessive indemnity not found to be justified by the Secretary of State elsewhere.
35	Network Rail considers that a full indemnity provision is vital given that the risk of there being a direct loss exists and that it is greater because of the complex nature of the works proposed over a mainline in constant use by high speed trains.	<p>Network Rail has not shown any especial exposure justifying an extraordinary indemnity, far less that it is in any way "vital".</p> <p>Under the Applicant's proposed drafting, it would be liable for direct losses to Network Rail. There has been no evidence of what indirect losses might be or how they are quantified. As a public sector organisation, the Applicant cannot accept open ended indemnity provisions and has repeatedly requested details from Network Rail that would enable it to consider the proposed drafting with the benefit of any understanding of potential exposure. Network Rail has not provided any evidence whatsoever of such potential financial exposure.</p>
36	As the Panel may be aware, Network Rail's standard indemnity provisions are included in almost all confirmed Orders.	The Applicant notes the growing trend away from what Network Rail considers to be its standard indemnity and refers back to its submission at point 31 above.
37	In relation to the very few Orders that deviate from Network Rail's standard, the Secretary of State has been clear to identify the special situation that requires this deviation. In relation to the Hinkley Point C DCO, the works proposed involved the over sailing of an electricity cable over the railway; entirely different in nature to the complex and extensive works proposed by the Applicant in this case.	<p>There is no wording in any decision which indicates that a "special situation" applies. Rather, it appears that there is an increasing anticipation that special protection for an unfounded fear of unspecified indirect and consequential loss should not attract protection for the purposes of s127 Planning Act 2008.</p> <p>There is no discernable difference from the perspective of risk to the railway or its users when comparing a live electricity cable with an oversailing carriageway. The Applicant considers that a live electricity cable is no more or less likely to cause damage as it is not supported by concrete abutments or galvanised steel beams. Network Rail have never justified why there is a difference which justifies deviation from the position in Hinkley.</p>
38	In relation to the M42 (Junction 6) DCO, where the undertaker in question was Cadent Gas rather than a railway undertaker, we are not aware of the full facts relating to this DCO and whether those facts are in any way applicable to this Scheme. We know that private agreements were entered into between Cadent Gas and the Applicant but we are of course not aware of the terms of those agreements	The Applicant does not consider that the identity of the undertaker or the type of undertaking is relevant when the drafting of the indemnity was the same. The principle here is that undertakers in general should not be entitled to claim unquantified indirect and consequential losses. Given the findings in Hinkley and M42, there is clear precedent in accepting that such a position is inappropriate.
39	There are many other DCOs where the proposed works more closely align with the works proposed in relation to the Scheme, and where Network Rail's preferred indemnity has been confirmed by the relevant Secretary of State	The type of works authorised by development consent is irrelevant. The matter before the examination is not fact specific and has general application.
Amendment 4 - Protective Provision 19: Definition of 'specified work'		
40	Finally, Network Rail and the Applicant are in discussions regarding the definition of 'specified work' in paragraph 19 of the Protective Provisions as Network Rail seeks to ensure that the definition addresses the extent of land to be subject to engineering	The Applicant has reached an agreed position with Network Rail on the definition of Specified Work and this is included in the draft Order submitted at Deadline 11.

Ref No:	Network Rail's Position:	Applicant's Response:
	approvals in this Scheme.	
41	Network Rail will update the Examining Authority at the next Examination deadline with regard to the amendment that it seeks; and is seeking to agree this with the Applicant before requesting this wording in written submissions.	The Applicant has reached an agreed position with Network Rail on the definition of Specified Work and this is included in the draft Order submitted at Deadline 11.
Conclusion		
42	Should the Examining Authority have any further questions regarding the contents of this document, Network Rail will be happy to provide further submissions.	
43	Network Rail will continue to liaise with the Applicant and provide the Panel with a final update at the relevant deadline before the close of the Examination.	
	Addleshaw Goddard LLP	

Table 5 - Northumbrian Water Limited

Ref No:	Northumbrian Water Limited's Position:	Applicant's Response:
	As you are aware, Northumbrian Water Limited will not be appearing at the ISH5 tomorrow and the Compulsory Acquisition Hearing on Friday, but it notes from the agendas that the protective provisions relating to NWL are due to be discussed. NWL therefore considers it may assist the Examining Authority and the Applicant to have the attached summary note of its current position to inform any relevant discussions at those hearings – Sam Woods.	The Applicant notes NWL's written submission.
Northumbrian Water Limited – Position Note for Issue Specific Hearing 5 on 25 June 2020 and the Compulsory Acquisition Hearing on 26 June 2020		
1	Northumbria Water Limited ("NWL") is the statutory water and sewerage undertaker for the area in which the A1 Birtley to Coal House Improvement Scheme works will take place. NWL does not have any operational land which is proposed to be acquired permanently or temporarily under the development consent order ("DCO"). However, NWL does have water and sewerage apparatus contained in land which is proposed to be acquired under or affected by the DCO and, therefore, has either rights of access or rights to place the apparatus within that third party land. For this reason, NWL does have compensatable interests in land included within the DCO.	The Applicant agrees with this summary of the status of operational NWL land and its apparatus in the context of the compulsory acquisition and temporary possession of land and rights required for the scheme. The extent to which NWL's apparatus (including which parts) will require diversion is still under technical discussion between the parties and this will continue after close of the examination. The Applicant does not accept that NWL has a compensatable interest in land, but it is open to NWL to seek compensation.
2	The DCO includes provision for Work No.22 to allow for the diversion of NWL's 37" Derwent main. NWL's starting position is that, in line with the Code of Practice for the New Roads and Street Works Act 1991, this main should remain in place, if it is safe to do so, as a key piece of NWL's apparatus. There are ongoing discussions at a technical level and NWL are undertaking ground investigations to determine whether or not this main can remain in situ with adequate protective works in place.	The Applicant concurs with NWL's position in respect of the 37" Derwent main and is engaged in ongoing technical discussions around diversions. However, a power to alter or otherwise carry out works to the main is needed in case this should be required following such investigations.
3	NWL has been in positive discussions with Highways England ("the Applicant") and its	The Applicant confirms that this is the case and that protective provisions have been

Ref No:	Northumbrian Water Limited's Position:	Applicant's Response:
	advisers in relation to the form of protective provisions to be included in the DCO in order to protect NWL's statutory undertaking during the construction and operation of the works.	agreed between the parties.
4	The parties are in broad agreement with the scope of the topics covered by the protective provisions which are included in the draft DCO, (such protective provisions taking a largely standard form) but has been engaging with the Applicant about the details to be included given the nature of the highway works proposed and NWL's apparatus likely to be affected. Although the parties are quite close to agreement there remain some outstanding issues, which are yet to be agreed between the parties.	Since the submission by NWL's representative, the parties have since reached agreement on the terms of the protective provisions.
5	NWL is optimistic that it should be possible to reach agreement on these remaining details with the Applicant. NWL is awaiting some technical input in relation to these points before it can respond to the Applicant but NWL considered it would be helpful to provide this submission to assist both the Examining Authority and the Applicant in understanding NWL's current position on the protective provisions in advance of ISH5 on the draft DCO and the Compulsory Acquisition Hearing, in which it is noted the protective provisions are to be discussed.	Since the submission by NWL's representative, the parties have since reached agreement on the terms of the protective provisions.
6	<p>The outstanding matters of detail to be agreed in relation to the protective provisions are as follows:</p> <ul style="list-style-type: none"> • The wording of a definition for emergency works; • Whether there should be additional obligations imposed in the paragraphs relating to apparatus in temporarily stopped up streets; • Wording relating to the circumstances in which the applicant can acquire NWL's apparatus; • Inconsistencies in timescales for the plan approvals process; • Relevant design standards to be referenced; and • Other minor outstanding drafting matters. 	Since the submission by NWL's representative, the parties have since reached agreement on the terms of the protective provisions.
7	Additionally, NWL is seeking from the Applicant further protections and some greater comfort on how the parties will work together to agree the practicalities of the removal or retention of apparatus during the construction and operation of the scheme. The aim of the protective provisions and the further protections is to facilitate appropriate engagement between the parties and give sufficient certainty about the impacts on NWL apparatus in order to enable suitable and timely diversions or other protective measures to be put in place.	Since the submission by NWL's representative, the parties have since reached agreement on the terms of the protective provisions. Ongoing discussion is taking place regarding the private measures of protection which NWL is seeking from the Applicant and we are discussing this with our technical team to understand implications to programme. The other matters are not before the ExA and it is not necessary for the ExA to consider them.
8	In NWL's view, the parties are reasonably close to agreement on measures to protect its apparatus and will work with the applicant to provide an update on the position by deadline 9.	Since the submission by NWL's representative, the parties have since reached agreement on the terms of the protective provisions.
9	Winckworth Sherwood 24 June 2020	N/A

Table 6 - Northumbrian Water Limited

Ref No:	Northumbrian Water Limited's Position:	Applicant's Response:
	Northumbrian Water Limited ("NWL") has agreed the contents of the draft Statement of Common Ground to be submitted by the Applicant at this deadline. In so far as there is any inconsistency between the SOCG and the Position Note for the Hearings submitted by NWL two weeks' ago, the SOCG reflects the current position as at today's date.	The Applicant concurs with NWL's submission and notes that the protective provisions have been agreed and the SOCG [REP9-011] is being updated for submission at Deadline 11.
	NWL considers that it is near agreement with the Applicant on the Protective Provisions and a side agreement covering other protective measures. It hopes to have agreed these documents by the end of the Examination process. At this stage, NWL does not, therefore, think it appropriate to submit to the Examining Authority any alternative wording for the Protective Provisions.	Since the submission by NWL's representative, the parties have since reached agreement on the terms of the protective provisions.
	In response to the Examining Authority's letter of 24 June 2020 in relation to the Unaccompanied Site Inspection, NWL would like to draw the Examining Authority's attention to the following locations at which NWL's large 37" Derwent main interacts with the Scheme. At location 6 on the Itinerary (Smithy Lane Bridge), the pipeline crosses the A1. At location 7 (Lamsey Village), the pipeline cross the corner of the additional land included for a site compound. - Sam Woods	N/A

Table 7 - Royal Mail

Ref No:	Royal Mail's Position:	Applicant's Response:
Royal Mail Examination Statement – Summary of Royal Mail's position as at Deadline 9 – 8 July 2020		
	Following negotiations between Royal Mail and Highways England, on 25 June 2020 Highways England's Solicitors proposed by email the following amendments to paragraph 2.8.1 of the draft Construction Traffic Management Plan at Appendix B to the Outline Construction Environmental Management Plan:	The Applicant confirms that the amendment to the CTMP within the Outline Construction Environmental Management Plan [REP9-007 and REP008] will be submitted at Deadline 11, in accordance with the agreed position with Royal Mail.
	"Advanced notifications of programmed diversions and closures will be issued to major road users in the vicinity of the scheme including Royal Mail. This will include providing major road users with not less than 7 working days' notice of any road closures, diversions or alternative access arrangements that may affect travel on those routes and (if available) in all cases the agreed hours of working. Where routes used by Royal Mail and other major road users are affected as a result of works or diversions to the highway, wherever possible alternative routes and/or access arrangements will be agreed with and provided for Royal Mail and other major road users. This will form part of a wider communications plan associated with the scheme. The method of communication will be agreed as part of the final CTMP. Highways England will consult with Royal Mail on the content of the final CTMP".	The Applicant confirms that the amendment to the CTMP within the Outline Construction Environmental Management Plan [REP9-007 and REP008] will be submitted at Deadline 11, in accordance with the agreed position with Royal Mail.

	Highways England's Solicitors have today confirmed by email that the above amendments will be incorporated into the final Construction Traffic Management Plan. On the basis of this confirmation, Royal Mail hereby withdraws its objection.	The Applicant welcomes the confirmation from Royal Mail that its opposition to the scheme is withdrawn.
	In reaching this agreement with Highways England, Royal Mail is not setting a precedent and the withdrawal of the objection in this case by Royal Mail should not be taken as such.	No position is offered by the Applicant in respect of the position which Royal Mail has reserved. Any future representations made on other schemes will be a matter for assessment of merits at the time and with the benefit of evidence on the detriment which Royal Mail alleges to be resultant from the scheme in question.
	Royal Mail has provided to Highways England by email today the relevant contacts at its local operational facilities for communication going forward. Royal Mail has requested confirmation that these contacts will be notified and consulted by Highways England or its contractor	The Applicant confirms receipt of these contacts and will act in accordance with the Outline Construction Environmental Management Plan [REP9-007 and REP008].
	Should the Examining Authority have any questions arising from this statement then Royal Mail will be pleased to respond in writing.	

Table 8 - Ella Bucklow on behalf of Sir Antony Gormley

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
	As requested, please find attached these images with accompanying dates and locations. Please also find attached a summary of Sir Antony's contribution to the hearing as listed in the Action Points.	The Applicant appreciates the information forwarded and welcomes the opportunity to respond to the observations made by Sir Antony Gormley. Specific responses to the images provided have been provided below.
	Finally, could you please clarify if the hearing on the 14th July will take place? A letter was published yesterday to say that an additional Issue Specific Hearing will be going ahead, but during the hearing of the 23rd June the Examiner stated that the additional dates were no longer needed.	N/A
Sir Antony Gormley and Antony Gormley Studio Submission for Deadline 9 – 8th July 2020 Letter of the 24th June from the Examining Authority relating to a Site Inspection		
	We would like to reiterate our thanks for the Examining Authorities time undertaking a further Unaccompanied Site Inspection on Thursday 16 July 2020. Sir Antony Gormley would like to request that the following locations or viewpoints are considered during this visit: - North Dene Footbridge – pedestrian user - A1 road user Northbound approach to the Angel of the North - A1 road user Southbound approach to the Angel of the North - The foot of the Angel of the North looking towards the North Dene Footbridge - The foot of the Angel of the North looking along the A1 Northbound - The foot of the Angel of the North looking along the A1 Southbound - Durham Road Northbound and Southbound approach to the Angel of the North (to place the landscaping scheme in its wider context)	The Applicant understands that the following locations identified by Sir Antony Gormley and Antony Gormley Studio will be included within the locations to be visited as part of the unaccompanied site inspections on Thursday 16 July 2020: <ul style="list-style-type: none"> The view from North Dene Footbridge - This viewpoint coincides with viewpoint 14 on Figure 7.4 Visual Effects Drawing of the ES [APP-057] and is further demonstrated in Appendix 5.2: North Dene Photomontage in the Applicant's Response to the Local Impact Report [REP3-005].

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
		<ul style="list-style-type: none"> • The foot of the Angel of the North looking south east towards the North Dene Footbridge – This viewpoint coincides with viewpoint 26 on Figure 7.4: Visual Effects Drawing of the ES [APP-057]. • The foot of the Angel of the North which will provide the Examining Authority (ExA) an opportunity to view the A1 northbound and southbound - This viewpoint coincides with viewpoint 26 on Figure 7.4: Visual Effects Drawing of the ES [APP-057] and the Applicant's Responses to ExA's First Written Questions - Appendix 1.5 E - Angel of the North Photomontage [REP2-023]. • Sir Antony Gormley and Antony Gormley Studio are not specific about the exact location on Durham Road, and how far south on Durham Road a viewpoint should be taken.
Highways England Responses to The Examiner's Third Written Questions		
3.6.1	<p>We are pleased to hear that the Applicant will continue to discuss a coordinated Landscape Design Mitigation Scheme with Gateshead Council, and that 'Option 3: Revealing the Angel' will be used as the basis for these discussions.</p>	<p>Gateshead Council and the Applicant continue to make progress on their discussions on how the Scheme could support the aspirations of Gateshead Council in making changes to the landscape around the Angel of the North, by removing some of the established trees and shrubs and increasing visibility of the Angel of the North within views from the A1.</p> <p>Further without prejudice discussions are required regarding the location of any off-site planting outside the Order limits, provision and standard of planting material, and ongoing management and maintenance requirements.</p> <p>Following a discussion on 03 July 2020 it was agreed that:</p> <ul style="list-style-type: none"> • Replacing removed planting within the Order limits and particularly within an area to the south of the Allerdene Bridge crossing was undesirable, due to the proposed location's suitability for wading birds. • An off-site location outside of the Order limits, proposed by Gateshead Council, is therefore preferred, subject to further without prejudice discussion and agreement; the mechanism for funding this is still to be investigated and agreed, but would need to be cost neutral for the A1 Birtley to Coal House Improvement Scheme. • The preferred option for Gateshead Council remains Option 3 within the Options Appraisal for Managing and Enhancing the Angel [REP9-021], prepared on

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
		<p>behalf of Gateshead Council by Southern Green, and the Applicant may support this aspiration, inasmuch as it does not increase costs to construct and manage the landscape within the Scheme, and that the findings of the Environmental Impact Assessment (EIA) are not affected.</p> <ul style="list-style-type: none"> The final agreement is unlikely to be achieved within the Development Consent Order (DCO) examination period and will be subject to further without prejudice discussions during the detailed design phase. The landscape mitigation design, as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061], remains the Applicant's preferred design. <p>It remains the case of the Applicant that if agreement cannot be reached, the landscape strategy, as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061] would remain acceptable in planning and environmental terms. However, the drafting of the dDCO enables account to be taken of the alternative options should agreement be reached.</p>
<p>3.6.3 a)</p>	<p>Thank you for the further details on the consideration of single span gantries with support legs in the central reserve as an alternative to the superspan gantries. We are particularly concerned by the gantries planned for Chainage 13515 at Eighton Lodge. As stated before, we would be keen to explore alternative placements or designs at this chainage. We do not feel that the Applicant's statement regarding the vegetation is relevant, as this vegetation will be partially removed as part of the Landscape Mitigation Design Scheme.</p>	<p>With regard to the further consideration of the gantry supports, it is proposed that the final gantry design should be approved by the Secretary of State in consultation with Gateshead Council in accordance with Requirement 7 of the dDCO [REP9-003 and 004]. It should be noted however that the Applicant considers that the Scheme as submitted represents an appropriate and acceptable proposal.</p> <p>The Applicant notes the concerns of Sir Antony Gormley and Antony Gormley Studio regarding the gantry proposed at Chainage 13515. However, the Applicant considers the provision of a gantry at this location is necessary to provide an adequate level of safety as per Appendix 3.6A: Gantry Details Report [REP8-022] and that whilst its provision does introduce a new prominent feature, it does not result in a significant visual impact within the transitory views experienced by the users of the A1.</p> <p>The Applicant maintains that vegetation in the existing landscape, and this includes vegetation that would be retained within the intervening view, does currently screen the view of the sculpture, and that whilst a support to a new</p>

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
		<p>gantry within the central reserve would introduce a new vertical element into the view from the A1 northwards, the overall impact would be a very marginal improvement in the views towards the Angel of the North.</p>
3.6.4	<p>We are reassured to hear that the Applicant is open to the final design of signage and gantries to be subject to further consultation.</p>	<p>We note Sir Antony Gormley and Antony Gormley Studio's reassurance at the Applicant's proposal that the final design of the signage and gantries should be the subject of a future submission to the Secretary of State pursuant to Requirement 7 of the dDCO [REP9-003 and 004] and following consultation with the relevant planning authority.</p>
<p>Outline Construction Environmental Management Plan TR0010031/APP/7.4</p>		
CH1	<p>Sir Antony welcomes the thinning of vegetation creating a less dense visual barrier and emphasises the need to work closely with Gateshead Council to develop a coherent scheme.</p>	<p>The landscape mitigation design as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061], remains the Applicant's preferred design, and this remains the case. During a meeting on the 3 July 2020, it was confirmed that Gateshead Council and the Applicant continue without prejudice discussions on how the Scheme could potentially accommodate the aspirations of Gateshead Council in making changes to the landscape around the Angel of the North, in removing some of the established trees and shrubs and increasing visibility of the Angel of the North within views from the A1.</p> <p>These discussions are on the understanding that doing so must not increase the costs to the Scheme and must not alter the findings within Chapter 8: Biodiversity of the ES [APP-029] and Chapter 7: Landscape and Visual of the ES [APP-028].</p>
L7	<p>We are encouraged to hear that the Applicant intends to work to integrate their landscaping scheme with the wider landscaping scheme developed by Gateshead Council.</p>	<p>As stated above, the Applicant is willing to continue without prejudice discussions with Gateshead Council on the understanding that that the landscape strategy, as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061], would remain the Applicant's preferred design. Any changes that are agreed following further discussions would be undertaken during the detailed design phase and be subject to consultation with Gateshead Council. This is on the understanding that any changes to the design must not increase the costs to the Scheme and must not alter the findings within Chapter 8: Biodiversity of the ES [APP-029]</p>

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
		and Chapter 7: Landscape and Visual of the ES [APP-028].
L8	We would support the Applicant's approach of scattered planting to allow greater awareness of the Angel of the North, however we would like further details on the proposed species of vegetation in each area.	At this stage the Applicant can confirm that planting will be native in origin, as identified in Table 7-2 - Relevant national planning policy of Chapter 7: Landscape and Visual of the ES [APP-028], and that the detailed design of the landscape strategy will be developed in consultation with Gateshead Council in accordance with Requirement 5 of the dDCO [REP9-003 and 004].
L14	Again, Sir Antony would support the thinning of vegetation to allow greater visibility of the Angel of the North.	<p>This clause has now been removed from Table 3-1 - Register of Environmental Actions and Commitments, of the Outline CEMP [REP9-007 and 008]. The Applicant acknowledges that the preferred option for Gateshead Council remains Option 3 within the Options Appraisal for Managing and Enhancing the Angel [REP4-086], prepared on behalf of Gateshead Council by Southern Green, and earlier discussions had identified the removal of some of this vegetation.</p> <p>However, whilst the Applicant may accommodate this aspiration, the inclusion of this would increase costs to the Scheme therefore until such time as an appropriate and acceptable funding mechanism can be identified this commitment has been removed. The mechanism to address the option is now contained in the dDCO.</p>
B2	As before, we feel that we need more information on the proposed species of trees, proposed locations, and confirmation that these species have been approved by an Ecologist.	Figure 7.6: Landscape Mitigation Design of the ES [APP-061] details the locations of all proposed locations of planting. Chapter 7: Landscape and Visual of the ES [APP-028] details that the woodland edge type mix will be designed to reflect local vegetation patterns and species, with the use of native species. This is in line with the requirements detailed within action [B2] of Table 3-1 Record of Environmental Actions and Commitments (REAC) of the Outline CEMP [REP9-007 and 008]. Species mixes utilised across the Scheme will be confirmed at detailed design and the landscape strategy, including the species mixes, will be consulted upon with Gateshead Council in accordance with Requirement 5 of the dDCO [REP9-003 and 004].
B19	As before, we feel that we need more information on the proposed species of trees, proposed locations, and	Figure 7.6: Landscape Mitigation Design of the ES [APP-

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
	confirmation that these species have been approved by an Ecologist.	061] details the locations of all proposed locations of planting. Chapter 7: Landscape and Visual of the ES [APP-028] details that the woodland edge type mix will be designed to reflect local vegetation patterns and species, with the use of native species. Species mixes utilised across the Scheme will be confirmed at detailed design and will be consulted upon with Gateshead Council in accordance with Requirement 5 of the dDCO [REP9-003 and 004].
B21	We feel that any replanting at Long Acre Wood should indeed be agreed with Gateshead Council.	Landscape planting proposals across the entire Scheme have been provided to Gateshead Council, including in and around Longacre Wood Local Wildlife Site (LWS), as indicated on Figure 7.6: Landscape Mitigation Design [APP-061] of the ES. The detailed design of the landscape strategy and species mixes utilised across the Scheme will be confirmed at detailed design and will be consulted upon with Gateshead Council in accordance with Requirement 5 of the dDCO [REP9-003 and 004].
B23	We would support the reintroduction of native grassland to the site surrounding the Angel of the North and are encouraged to know that these plans will be developed in consultation with Gateshead Council.	<p>Sir Antony Gormley and Antony Gormley Studio's support for the introduction of native grassland is noted. As stated above, the Applicant is willing to continue without prejudice discussions with Gateshead Council on the understanding that the landscape strategy, as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061], would remain the Applicant's preferred design, and this potentially includes areas of species rich grassland. This is on the understanding that any changes that are agreed following further without prejudice discussions would be undertaken during the detailed design phase and be subject to consultation with Gateshead Council. Any changes to the design must not increase the costs to the Scheme and must not alter the findings within Chapter 8: Biodiversity of the ES [APP-029] and Chapter 7: Landscape and Visual of the ES [APP-028].</p> <p>It remains the case that the Application landscaping scheme is entirely acceptable and appropriate in planning and environmental terms.</p>
PH3	We would be grateful if the Applicant could continue to share information with Antony Gormley Studio throughout the	As described in the Applicant's response to Deadline 8

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
	detailed design phase as the locations and designs of the gantries are finalised.	submissions [REP9-015] 3.6.4 a) the proposed signage strategy to be approved by the Secretary of State will be undertaken in consultation with the Local Planning Authority, in accordance with Requirement 7 of the dDCO [REP9-003 and 004]. Gateshead Council will therefore be a consultee to the future final design of the signage and gantries submission to the Secretary of State. Gateshead Council can request input from Antony Gormley Studio as part of this process.
Appendix 2.0C Schedule of Changes to the Outline CEMP Submitted D8		
	Again, Sir Antony is grateful for the opportunity for further consultation during the detailed design phase of the gantries and signage.	We note Sir Anthony Gormley's gratitude to the Applicant's proposal that the final design of the signage and gantries should be the subject of a future submission to the Secretary of State and following consultation with the Local Planning Authority in accordance with Requirement 7 of the dDCO [REP9-003 and 004]. Gateshead Council can request input from Antony Gormley Studio as part of this process.
	Sir Antony supports the Applicant working with Gateshead to create a coherent scheme – in both the landscaping and the design of the acoustic barrier.	As has been stated above, the Applicant is willing to continue without prejudice discussions with Gateshead Council on the understanding that that the landscape strategy, as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061], would remain the Applicant's preferred design, and information has been provided to date on the appearance of the proposed acoustic barrier (refer to Applicant's Responses to ExA's First Written Questions, Appendix 1.7 D - Photograph of Noise Barrier [REP2-030]). Any changes that are agreed following further without prejudice discussions would be undertaken during the detailed design phase and be subject to consultation with Gateshead Council. This is on the understanding that any changes to the design must not increase the costs to the Scheme and must not alter the findings within Chapter 8: Biodiversity of the ES [APP-029] and Chapter 7: Landscape and Visual of the ES [APP-028]
	Sir Antony agrees that the replanting of trees lost as a result of the widening of the A1 is essential and encourages a sensitive approach to this – mitigating any negative effects caused by the gantries and signage on views to the Angel of the North, and utilising planting to integrate the new structures such as the gantries and the replacement North Dene Footbridge into the landscape.	Whilst the landscape strategy, as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061] would remain the Applicant's preferred design, any further without prejudice discussion on the location of replacement planting would be undertaken with Gateshead Council, should this be required. However, currently this is unlikely to be achieved

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
		<p>within the Order limits, and therefore off site planting is likely to be the preferred solution, and preliminary discussions have identified sites within 2km of the Scheme.</p> <p>Further without prejudice discussions are required during the detailed design phase to confirm the details. However, this is on the understanding that any changes to the design must not increase the costs to the Scheme and must not alter the findings within Chapter 8: Biodiversity of the ES [APP-029] and Chapter 7: Landscape and Visual of the ES [APP-028]. The current landscape strategy, as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061], has within the design provided for additional planting around gantry locations and North Dene Footbridge to reduce their potential effects.</p>
Statement of Common Ground with Gateshead Council – document reference TR010031/7.5A		
	<p>We are delighted to hear that the Applicant has agreed in principle to a unified Landscape Design Mitigation Scheme with Gateshead Council, and that they will continue to work with Gateshead Council to develop and realise this over the coming years.</p>	<p>The Applicant and Gateshead Council have agreed that during the examination period, the landscape strategy, as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061], would remain the Applicant's preferred design. The Applicant remains willing to continue without prejudice discussions with Gateshead Council on how the Scheme could support the principle of a unified landscape design. These discussions are on the understanding that doing so must not increase the costs to the Scheme and must not alter the findings within Chapter 8: Biodiversity of the ES [APP-029] and Chapter 7: Landscape and Visual of the ES [APP-028].</p>
	<p>We would like to provisionally state our interest in further consultation during the Detailed Design Phase, noted from this document as likely to commence late Autumn this year.</p>	<p>The Applicant and Gateshead Council have agreed that for the time being for during the examination period, the landscape strategy, as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061], would remain the Applicant's preferred design. Subsequent further without prejudice discussions are likely to be held with Gateshead Council during the detailed design phase and Gateshead Council can request input from Antony Gormley Studio as part of this process.</p>
	<p>In response to the discussion of climate change considerations brought on by proposals to thin the vegetation, on page 18, we would like to make clear that Sir Antony is of course sensitive to the environmental concerns relating to tree</p>	<p>The Applicant notes Sir Antony Gormley's acknowledgement of the environmental concerns relating to tree clearance, and</p>

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
	<p>clearance. Sir Antony supports the work that Gateshead Council is doing to make sure that the proposed landscaping scheme is environmentally and ecologically responsible. We welcome the reintroduction of native species to the area.</p>	<p>the need to offset this through replacement planting. Whilst the landscape strategy, as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061], identifies appropriate replacement planting and would remain the Applicant's preferred design, the Applicant remains willing to continue without prejudice discussions with Gateshead Council on how the Scheme could support alternative locations for replacement planting, should a different design be agreed with Gateshead Council for the area around the Angel of the North, aligned with options 2 or 3 of the Options Appraisal for Managing and Enhancing the Angel [REP4-086], prepared on behalf of Gateshead Council by Southern Green.</p> <p>The basis for this is as set out above. This dDCO provides for this to be addressed at a later stage.</p>
	<p>Likewise, we support the Applicant in their commitment to replant lost trees. Sir Antony suggests that to mitigate negative effects of the gantries, the replanting of trees with lower maturity heights and thinner crowns on the edges of the existing woodland is preferable.</p>	<p>Figure 7.6: Landscape Mitigation Design of the ES [APP-061] details the locations of all proposed planting and notes the requirement to ensure that planting around the Angel of the North is designed to allow greater visibility of the Angel of the North. In addition, Chapter 7: Landscape and Visual of the ES [APP-028] details that the woodland edge type mix will be designed to reflect local vegetation patterns and species with the use of native species. Species mixes utilised across the Scheme will be confirmed at detailed design and will be consulted upon with Gateshead Council in accordance with Requirement 5 of the dDCO [REP9-003 and 004].</p>
<p>In relation to Table 3.2 Issues Relating to the Angel of the North, Environmental Statement, Chapter 6: Cultural Heritage: 6.8 – Potential Impacts:</p>		
	<p>We second Gateshead Council's request for post construction views to aid the Landscape Design development.</p>	<p>The Applicant has provided all the information that Gateshead Council has requested, with the exception of fully rendered drive through model, which the Applicant considers would be disproportionate in terms of the time and cost implications. To date, the Applicant has provided:</p> <ul style="list-style-type: none"> • Applicant's Responses to ExA's First Written Questions, Appendix 1.5 B - Gantry Assessment Schedule [REP2-020]; • Applicant's Responses to ExA's First Written Questions, Appendix 1.5 C - Banesley Lane Woodland Photomontage [REP2-021];

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
		<ul style="list-style-type: none"> • Applicant's Responses to ExA's First Written Questions, Appendix 1.5 D - Lamesley Road Photomontage [REP2-022]; • Applicant's Responses to ExA's First Written Questions, Appendix 1.5 E - Angel of the North Photomontage [REP2-023]; • Applicant's Responses to ExA's First Written Questions, Appendix 1.5 F - Chowdene Bank Photomontage [REP-024]; • Applicant's Responses to ExA's First Written Questions, Appendix 1.5 G - Kibblesworth Photomontage [REP-025]; • Applicant's Comments on Written Representations [REP-061]; • Applicant's Comments on Local Impact Report [REP3-005], particularly paragraph numbers 5.21 – 5.25 and 5.33, and appendices; <ul style="list-style-type: none"> ○ Appendix 5.1 – North Dene Footbridge Strategic Option Report; ○ Appendix 5.2 – North Dene Photomontage; ○ Appendix 5.3 – Approach to Photography and Photomontages; • Applicant's Responses to ExA's Second Written Questions, Appendix 2.5A - Angel of the North Sketch Proposal (Rev 0) [REP4-044];
	<p>In relation to Chapter 7: Landscape and Visual: 7.4 – Method of Assessment: We second Gateshead Council's request for further photo montages of embankments and cutting around the Angel of the North.</p>	<p>Please refer to the above response, to which the Applicant considers that it has provided all the necessary information to undertake the assessment of landscape and visual effects. No further information relating to additional montages of embankments and cuttings is considered necessary.</p>
<p>Revised Gantry Details – Appendix 3.6.A</p>		
	<p>We are grateful to the Applicant for taking on board our request for open truss designs and lighter structures.</p>	<p>The Applicant notes Sir Antony Gormley and Antony Gormley Studio's request for open truss designs and lighter structures. The options for the gantries are set out in the Applicant's Responses to ExA's Second Written Questions, Appendix 2.0L - Structure Options Report 9 - ADS Gantries (Rev 0) [REP4-039], which identifies the nature of the gantry structures as Long Span Truss Type Cantilever Gantries, for a span up to 19m, or Super Span Truss Portal Gantries, with supports positioned either side of the A1 verge.</p>
	<p>We would also like to thank Highways England for considering our proposed change in location for the Eighton Lodge</p>	<p>Notwithstanding any proposal for a changed design, as</p>

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
	<p>gantry and appreciate that road safety must take precedence over the visual sensitivities.</p>	<p>identified by Sir Antony Gormley and Antony Gormley Studio, the safe operation of the Scheme must take priority over aesthetics. This includes determining the location of the proposed gantry sign within Eighton Lodge. It is proposed that the final siting and design of gantries will be approved by the Secretary of State under Requirement 7 of the dDCO following consultation with Gateshead Council.</p>
	<p>We are thankful for the exploration of the possibility for single span gantries with foundations in the central reserve as an alternative option to the superspan gantries. We would be grateful if this option could be further interrogated. Sir Antony supports and is very appreciative of all the efforts to reduce the size and dominance of the gantries in the environs of the Angel of the North and is hopeful that light verge-supported gantries will be favoured in this part of the road improvement scheme. We would like to reiterate that our preferred design is a single span or verge mounted cantilever gantry. Any design considerations that will create a lighter and less dominant structure in the nearby vicinity to the Angel of the North would be greatly appreciated.</p> <p>https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010031/TR010031-001095-Appendix%203.6%20A%20-%20Revised%20Gantry%20Details%20Report%20(tracked%20changes)%20(WQ%203.6.2b).pdf</p>	<p>With regard to the further consideration of the gantry legs, it is proposed that the final gantry design shall be approved by the Secretary of State in consultation with Gateshead Council in accordance with Requirement 7 of the dDCO [REP9-003 and 004]. It should be noted however that the Applicant considers that the Scheme as submitted represents an appropriate and acceptable proposal. The Applicant notes Sir Antony Gormley and Antony Gormley Studio's suggestions for alternative designs for the gantries, and consideration of verge mounted designs over the use of superspan designs. The options for the gantries are set out in the Applicant's Responses to ExA's Second Written Questions, Appendix 2.0L - Structure Options Report 9 - ADS Gantries (Rev 0) [REP4-039], which identifies the nature of the gantry structures as Long Span Truss Type Cantilever Gantries, for a span up to 19m, or Super Span Truss Portal Gantries, with supports positioned either side of the A1 verge. The final design of the gantries is subject to Requirement 7 of the dDCO [REP9-003 and 004], requiring the Secretary of State to approve the design in consultation with Gateshead Council.</p>
<p>Appendix 3.0 A - Figure 1 AL - Site Compound Plan (WQ 3.0.2a)</p>		
	<p>We have no issue with the proposed location of the site compound to the North West in the nearby vicinity of the Allerdene Bridge.</p>	<p>The Applicant notes Sir Antony Gormley and Antony Gormley Studio's position on the proposed site compound to the north west, adjacent to the Allerdene Bridge.</p>
	<p>We have some concerns over the proposed location of the compound to the South East of Low Eighton roundabout/junction and how this will affect the approach to the Angel of the North. As this is a temporary compound our concerns are not great, but we would appreciate further reassurance on the anticipated height of any temporary site buildings etc.</p>	<p>The assessment of the temporary site compounds is set out in Chapter 7: Landscape and Visual of the ES [APP-028]. The proposed temporary compound identified close to Eighton Lodge Junction 66 is not anticipated to give rise to a significant visual effect. The proposed site compound layout is provided in Appendix A - Figure 1/AL Site Compound Locations of the Outline CEMP [REP9-007 and 008].</p>

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
	https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010031/TR010031-001086-Appendix%203.0%20A%20-%20Figure%201%20AL%20-%20Site%20Compound%20Plan%20(WQ%203.0.2a).pdf	N/A
Sir Antony Gormley contribution to the Issue Specific Hearing – Landscape and Visual, 23rd June 2020		
	Please find below a summary of Sir Antony Gormley's contribution to the Issue Specific Hearing – Landscape and Visual inserted into the Agenda:	N/A
	1. Welcome, introductions and arrangements for the hearing Firstly, Sir Antony Gormley would like to express his thanks to the Examining Authority for allowing him to participate in the Hearing. Sir Antony Gormley will be speaking on the Angel of the North and visibility.	N/A
	Sir Antony provides a summary of the images he has submitted: The first image is a photo of the completed Artwork in 1998 in relationship to the mound. Followed by two images, one taken in 2011, and one take a few days ago by Sir Antony Gormley. The final photographs show aerial views of the Angel of the North. These aerial views show the visual corridors from the A1 to the Angel of the North, and how these corridors appear when clear and when compromised.	The Applicant notes the submission of the photographs of the Angel of the North, and has responded below, refer to section 5. Landscaping proposals in the vicinity of the Angel of the North, Item C.
	Many thanks to the Examining Authority and the Applicant for accepting the late submission of images of the Angel of the North. They will be submitted formally at Deadline 9.	The Applicant notes that the images have been submitted at Deadline 9 (08 July 2020), and has responded below, refer to 5. Landscaping proposals in the vicinity of the Angel of the North, Item C.
2. Brief update and summary of positions since Deadline 8 (including any recent discussions between parties)		
	No change in Sir Antony's position	Noted.
3. Gantry signs		
A)	<p>a) Impacts of the proposed gantry signs Sir Antony agrees with Gateshead Council that the visual material supplied by the Applicant is insufficient to effectively assess the cumulative effect of the multiple gantries.</p> <p>Sir Antony agrees with Gateshead Council that the massing of several gantries will have a sequential and cumulative negative impact on the views and experience of the Angel of the North.</p> <p>Sir Antony is most concerned by the gantries at Eighton Lodge roundabout in the immediate approach to the Angel of the North</p>	<p>The Applicant has provided all the information that Gateshead Council has requested, with the exception of fully rendered drive through model, which the Applicant believes would be disproportionate in terms of the time and cost implications. In particular, the Applicant's Responses to ExA's First Written Questions, Appendix 1.5 A - Angel of the North Narrative [REP2—019] identifies that within northbound travelers views the "<i>combined impact of the gantries would in combination with woodland to the south east of the sculpture, intermittently obscure the view of the Angel of the North. The effect of the gantries and replacement North Dene footbridge, in combination with woodland planting would be a worsening of the views experienced by the occupants of vehicles using the A1.</i>" However, the Applicant considers that the combined effect of the gantries, on transitory views, would not result in a significant effect.</p> <p>Within the same document, it is also acknowledged that the gantry at Eighton Lodge is identified as breaking the horizon line similarly to the Angel of the North sculpture. However,</p>

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
		there remains a requirement for the gantry to be located in this location in order to ensure the safe operation of the Scheme.
B)	b) Justification for the number, location and size of the proposed gantries Sir Antony expresses his gratitude for the ongoing cooperation between the Applicant and Gateshead Council. Sir Antony of course accepts that gantries may be necessary for road safety and that the safety of road users must take precedence. However, Sir Antony would like to reinforce his belief that there will be undeniable formal impacts of the proposed gantries on the Angel of the North.	As outlined above, the Applicant recognises that there would be an impact on views of the Angel of the North, as a result of the proposed gantries, particularly within transitory ones, experienced by the users of the A1. However, whilst the effect of these would be a worsening of the views, the Applicant does not consider that this would represent a significant effect.
	Sir Antony would like to draw attention to the fact that the superspan gantry proposed at Eighton Lodge would be more than 1.5 times the width of the Angel of the North. Sir Antony agrees with the Applicant that the visual interference caused by the gantries will be temporary, in contrast to the more lasting shielding of views caused by the overgrown vegetation. Should the Applicant go ahead with a landscaping scheme in line with the plans developed by Gateshead Council, some of these trees will be thinned, and the gantries will become even more visible and have more of a relationship with the Angel of the North. Any mitigation against the massing of multiple gantries would be beneficial.	As identified in Applicant's Responses to ExA's First Written Questions, Appendix 1.5 A - Angel of the North Narrative [REP2—019], the proposed gantry at Eighton Lodge would break the horizon, in a similar way to the Angel of the North, as it emerges from behind existing vegetation. Were additional vegetation to be removed and greater awareness of the Angel of the North arise, the gantry would remain a prominent feature within the transitory view for the northbound travelling public. Measures to mitigate these potential effects as part of any development of the landscape proposals over and above those set out in the current landscape proposals (refer to Figure 7.6: Landscape Mitigation Design of the ES [APP-061]) would need to consider how the retention of some existing maturing planting could reduce intervisibility and reduce the effects on associated views. The Applicant remains willing to continue without prejudice discussions on how the Scheme could support the modifications to the landscape strategy; however, discussions are on the understanding that doing so must not increase the costs to the Scheme and must not alter the findings within Chapter 8: Biodiversity of the ES [APP-029] and Chapter 7: Landscape and visual of the ES [APP-028]. The final design of gantries and Requirement 7 of the dDCO are addressed above.
	We must interrogate the process for the justification of the number and location of these gantries and ask how closely the scheme has been designed to respond to the local environment.	The Applicant has, within the design of the gantries followed current guidance, at the time, and this is driven by the need for the safe operation of the Scheme and the corridor as a

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
		<p>whole. The Applicant has prepared the gantry details report [REP8-022] to provide the justification for the number and location of the signage gantries. The landscape strategy has identified appropriate mitigation measures to address potential effects and incorporated these within Figure 7.6: Landscape Mitigation Design of the ES [APP-061]. The Applicant will, during the detail design phase, seek approval for the final gantry design in accordance with Requirements 5 and 7 of the dDCO [REP9-003 and 004], which cover the landscape design and the design of gantries respectively, from the Secretary of State in consultation with Gateshead Council.</p>
<p>C)</p>	<p>c) Potential use of alternative sign designs</p> <p>Sir Antony would support the most pragmatic and least visually impactful design.</p> <p>We would support the possible replacement of superspan gantries with central reserve or verge mounted gantries.</p>	<p>The Applicant notes Sir Antony Gormley's support for the 'most pragmatic and least visually impactful design' and 'replacement of superspan gantries with central reserve or verge mounted gantries'.</p> <p>It should be noted that the Applicant has introduced Requirement 7 of the dDCO, necessitating a signage strategy in part to take advantage of developing standards and guidance to determine during detailed design whether the gantry mounted confirmatory direction signs can be replaced with verge mounted signs. This will potentially result in the removal of several of the larger gantries from the Scheme and the associated visual impacts. However, the assessment of visual impacts has identified that significant effects would not arise within the Applicant's preferred design in any event, as set out above. Also, the safety and way-finding considerations relating to signage design and strategy must take precedence over aesthetic performance.</p>
<p>D)</p>	<p>d) The Applicant's proposal for a 'Final Sign Strategy' to be submitted for subsequent approval via a Requirement</p> <p>As stated in our previous submission, we would be grateful to be consulted throughout the detailed design phase and the finalisation phase.</p>	<p>As described in the Applicant's response to Deadline 8 submissions [REP9-015] 3.6.4 a) the signage strategy to be approved by the Secretary of State, will be undertaken in consultation with the relevant planning authority. Gateshead Council will therefore be a consultee to the future final design of the signage and gantries submission to the Secretary of State. Gateshead Council can request input from Antony Gormley Studio as part of this process.</p>

Ref No: Sir Antony Gormley's Position:	Applicant's Response:
4. Impacts from and design of the replacement North Dene Footbridge	
<p>a) Including consideration of design flexibility and the proposal for future approval of details</p> <p>Again, we would favour an open lightweight structure for the North Dene Footbridge, as least visually imposing as possible.</p>	<p>The Applicant notes Sir Antony Gormley's preference for an open lightweight structure for the North Dene Footbridge. The Applicant has provided alternatives for the proposed structure, as set out in the Applicant's Responses to ExA's Second Written Questions, Appendix 2.01 - Structure Options Report 7 - North Dene Footbridge (Rev 0) [REP4-036]. The final design will be confirmed during the detailed design phase, and will be subject to consultation with Gateshead Council, in accordance with Requirement 12 of the dDCO [REP9-003 and 004].</p>
5. Landscaping proposals in the vicinity of the Angel of the North	
<p>A) a) Consideration of the Southern Green Report – Options Appraisal for Managing and Enhancing the Angel, including weight to be given to this document.</p> <p>Sir Antony feels that great weight should be afforded to the Southern Green Report. The returning of the fell to its natural state would make it available to the public. The linkage between the fell that is on the other side of the by-road to Gateshead, gives a high viewpoint down back from the North-East side of the Angel of the North revealing a wonderful opening of collective space. The enhanced visibility that Scheme 3 allows, would reveal this linkage of both sides of that by-road. I think it has enormous social and cultural positive effects.</p> <p>In response to the Applicant, Sir Antony would like to qualify the Applicant's assertion that the current vegetation cover is the result of a natural process – it is not. Immediately after having the commission granted, a scheme of planting was undertaken, and it is the planting scheme that we are looking at now.</p>	<p>The Applicant made submissions at the Issue Specific Hearing 2 [REP9-014] that the Options Appraisal for Managing and Enhancing the Angel [REP9-021], prepared on behalf of Gateshead Council by Southern Green, is not a policy document. Gateshead Council made submissions that this is a technical document.</p> <p>Both Gateshead Council and Sir Anthony Gormley consider that great weight should be attached to the Southern Green Report, principally because it was approved by executive officers at Gateshead Council and, in particular, to Option 3 – which is asserted to be the preferred option. In doing so, it should be borne in mind that this is a technical document providing options for modifications to the existing landscape and setting to the Angel of the North, and it should be considered in this context, as opposed to it being a policy document applicable to the current Application. Its weight is commensurately and materially lower. Option 3, which is only one option in the report, is also not a proposal which has been subject to public consultation or adopted by Gateshead Council on any formal basis – unlike the extensive and thorough consultation undertaken in relation to the Scheme.</p> <p>The Applicant considers that the Southern Green Report should be given very limited weight on the basis that it is a technical report and not an adopted policy document relevant to the Application. Furthermore, the report has not been the subject of consultation and therefore it would simply be inappropriate for more than limited weight to be given to it.</p>

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
		<p>Sir Antony Gormley refers to the returning of a hillside to the north-east of the Angel of the North, to its natural state as a "fell", affording elevated views west towards the Angel of the North and the A1 in the background. This area is outside the Order limits, and its future management is not relevant to this examination. It is the Applicant's view that the clearance of vegetation in line with Option 3 would be likely to result in greater awareness of the A1 beyond the Angel of the North.</p> <p>There is also a clear tension between Gateshead Council's desire for the thinning of vegetation and growth and the views expressed by the Green Party's representative at the open floor hearing.</p> <p>The presence of the planting scheme, within the been undertaken separate to the commission of the Angel of the North.</p> <p>Nevertheless, it is this planting that the Applicant is willing to continue without prejudice discussions with Gateshead Council on the understanding that that the landscape strategy, as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061], would remain the Applicant's preferred design, any changes that are agreed following further discussions, to include greater visibility of the Angel of the North and the desire to expose the bund, would be undertaken during the detailed design phase, and be subject to consultation with Gateshead Council. Any changes to the design must not increase the costs to Scheme and must not alter the findings within Chapter 8: Biodiversity of the ES [APP-029] and Chapter 7: Landscape and visual of the ES [APP-028].</p>
B)	<p>b) Has agreement been reached on the proposed landscaping scheme in the context of its impact upon views and the setting of the Angel of the North? If not, what further amendments and/or mitigation are sought? (Reference will be made to the revised landscape mitigation plan [REP5-005]).</p> <p>Sir Antony's main interest is that the mound should be visible, and any vegetation that remains along any of the key views of the Angel of the North should be shrub-like and therefore low lying.</p>	<p>As stated above, the Applicant is willing to continue without prejudice discussions with Gateshead Council on the understanding that that the landscape strategy, as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061] would remain the Applicant's preferred design, any changes that are agreed following further discussions, to include greater visibility of the mound, and the nature of any replacement planting, would be undertaken during detailed design phase, and be subject to consultation with Gateshead Council. Any changes to the design must not</p>

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
		<p>increase the costs to the Scheme and must not alter the findings within Chapter 8: Biodiversity of the ES [APP-029] and Chapter 7: Landscape and Visual of the ES [APP-028].</p>
<p>C)</p>	<p>c) The effects of proposed tree removal.</p> <p>Sir Antony describes the images shared via Powerpoint:</p> <p>First Image: Here is the Angel of the North as it was completed. It is very important to me that the mound that it sits on is part of the work, and it is the mound that the Angel of the North shares with the visitor. You can see a visitor here, above that lamppost, making it clear that it is an animated site. You can see the relationship between the wing and the curvature of the mound.</p> <p>Second Image: This is the Angel of the North as it was 10 years ago.</p> <p>Third Image: This is the Angel of the North as it was 4 days ago.</p> <p>Fourth Image: This is a further view of the Angel of the North as it was when it was built.</p> <p>Fifth Image: This shows you the Highways England planting scheme and the forest that was planted, called the Great Northern Forest at the time, has not begun, you can see the motorway side or byroad planting has already begun. At this point you can see the site is clear and the mound is still clear.</p> <p>Sixth Image: This image was taken almost ten years ago, and you can now see what has happened as a result of all of those plantings growing up, and there is great occlusion.</p> <p>Seventh Image: You can see how all of that planting, everything that we are discussing today, is now obscuring the Angel of the North from the A1.</p> <p>Eighth Image: This image was taken from a passing car at the time of the installation.</p>	<p>The Applicant would draw the ExA's attention to the Appendix A of the Applicant's Written Summary of Oral Submissions at Hearings [REP9-014], and specifically the response to the images provided by Sir Antony Gormley.</p> <ul style="list-style-type: none"> • The planting in the images taken in the period immediately following the erection of the Angel of the North in approximately 1999, shows that these were immature trees and shrubs potentially forming a stand of woodland within the highway boundary and were present when the Angel of the North was erected. The photographs show extensive blocks of establishing woodland across the highway slopes, the individual trees being spaced out, comprising a mixture of broadleaf and evergreen species. It would therefore have been reasonable to assume, at the time of the erection of the sculpture that this planting would mature to form a block of woodland, and this planting would over time reduce awareness of the Angel of the North and its associated mound. It should also be noted that Condition 1 for Application 815/94 which granted planning permission for the Angel of the North states that a landscaping and surfacing treatment scheme will be carried out by the end of the second planting season following commencement of development. Although the plans for this are not available, it is not clear that the sculpture, as consented, was envisaged to have had quite the open aspect that Sir Antony Gormley suggested. • The earliest images also include a hedge planted along the highway boundary at the top of the slope, delineating the Angel of the North site with the highway verge. This hedge is no longer discernible amongst the trees that have subsequently established. • The intermediate images, taken approximately 10 years ago, demonstrate the effect of the maturing woodland planting in limiting the view of the Angel of the North and the mound. The block of planting in the foreground, which has been removed in the last 5 years, is positioned closer to the A1, and as such raises the angle of view towards the Angel, further limiting the views experienced for the travelling public on the northbound A1.

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
		<ul style="list-style-type: none"> It is woodland planting that Sir Antony Gormley now identifies as screening the lower sections of the sculpture and the mound on which it is placed, and it is this planting that the Applicant has also correctly identified as similarly limiting awareness of the sculpture and the mound, in Applicant's Responses to ExA's First Written Questions, Appendix 1.5 A - Angel of the North Narrative [REP2-019]. This planting has the effect of screening and at times obscuring the Angel of the North within views from the A1.
D)	d) Any requirement for replacement planting in other locations to offset the loss of trees and vegetation.	<p>As has been stated above, the Applicant is willing to continue without prejudice discussions with Gateshead Council on the understanding that that the landscape strategy, as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061] would remain the Applicant's preferred design, any changes that are agreed following further discussions, to address the requirement for replacement planting to offset that removed by the Scheme or the adoption of a design that reflects options 2 or 3 of the Options Appraisal for Managing and Enhancing the Angel [REP9-021], prepared on behalf of Gateshead Council by Southern Green [REP9-021], would be undertaken during the detailed design phase, and be subject to consultation with Gateshead Council. In so doing the agreed design must ensure that any changes must not increase the costs to the Scheme and must not alter the findings within Chapter 8: Biodiversity of the ES [APP-029] and Chapter 7: Landscape and Visual of the ES [APP-028].</p>
6. Other landscape and visual matters		
A)	a) Replacement Allerdene Bridge No further comments on the Allerdene Bridge.	N/A
B)	b) Any outstanding matters regarding Longacre Wood No further comments	N/A
C)	c) Habitat Calculation Update (referred to in Table 3.4 of the Deadline 8 Statement of Common Ground with Gateshead Council) No further comments	N/A
D)	d) Any other matters No further comments	N/A
7. Any other business relevant to the Agenda Note: In circumstances where the ExA has been made aware of any technical difficulties around participation, it will provide an opportunity for persons who could not be heard on earlier agenda items to participate as necessary and appropriate.		
	No further comments	

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
8. Actions arising (including any procedural decisions if required) and next steps		
	<p>Sir Antony Gormley and Antony Gormley Studio will submit the Powerpoint, including dates and locations at Deadline 9 8th July.</p> <p>Again, we are very grateful to the Examining Authority and the Planning Team for accepting the late submission of these images for discussion during the Hearing.</p>	<p>The Applicant has previously commented on the Powerpoint presentation at Deadline 9 (08 July 2020) in Appendix A of Applicant's Written Summary of Oral Submissions at Hearings [REP9-014].</p>
Additional Summary of Current Position		
	<p>Sir Antony Gormley has always been concerned by the visual impact of the scheme on the experience of the Angel of the North. We seek further reassurance that everything possible will be done to minimise the negative impacts of the scheme.</p>	<p>The Applicant has appropriately assessed the likelihood of significant effects arising as a result of the Scheme, as set out in Chapter 7: Landscape and Visual of the ES [APP-028], and in the following supporting documents:</p> <ul style="list-style-type: none"> • Applicant's Responses to ExA's First Written Questions, Appendix 1.5 B - Gantry Assessment Schedule [REP2-020]; • Applicant's Responses to ExA's First Written Questions, Appendix 1.5 C - Banesley Lane Woodland Photomontage [REP2-021]; • Applicant's Responses to ExA's First Written Questions, Appendix 1.5 D - Lamesley Road Photomontage [REP2-022]; • Applicant's Responses to ExA's First Written Questions, Appendix 1.5 E - Angel of the North Photomontage [REP2-023]; • Applicant's Responses to ExA's First Written Questions, Appendix 1.5 F - Chowdene Bank Photomontage [REP-024]; • Applicant's Responses to ExA's First Written Questions, Appendix 1.5 G - Kibblesworth Photomontage [REP-025]; • Applicant's Comments on Written Representations [REP-061]; • Applicant's Comments on Local Impact Report [REP3-005], particularly paragraph numbers 5.21 – 5.25 and 5.33, and appendices; <ul style="list-style-type: none"> ○ Appendix 5.1 – North Dene Footbridge Strategic Option Report; ○ Appendix 5.2 – North Dene Photomontage; ○ Appendix 5.3 – Approach to Photography and Photomontages; <p>In addition to setting out the effects of the Scheme on landscape character and representative views, agreed with Gateshead Council, these documents consider the views</p>

Ref No:	Sir Antony Gormley's Position:	Applicant's Response:
		<p>from and to the Angel of the North, where the sculpture is a fixed element within the landscape.</p>
	<p>We feel that the Landscape Mitigation Design is now the best way to ensure that any negative impacts of the scheme are countered in the vegetation management plan. The types and locations of trees can play an important role in this, thus we need further details and reassurance on this.</p>	<p>The Applicant agrees that an update to the Landscape Mitigation Design during the detailed design phase is the best approach to resolving these matters, as set out the Statement of Common Ground with Gateshead Council [REP9-009 and 010]. This is secured through Requirement 5 of the dDCO [REP9-003 and 004].</p>
	<p>We hope that the strategic removal of trees will create improved visual corridors – opening up of the views to the Angel of the North and revealing the relationship between the Angel and the mound. Therefore, Sir Antony's preferred locations for re-planting – include the opposite roadside verge to the Angel of the North and at the edges of existing woodland.</p>	<p>Whilst the landscape strategy, as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061], would remain the Applicant's preferred design, any further discussion on the location of replacement planting would be undertaken with Gateshead Council should this be required. However, currently this is unlikely to be achieved within the Order limits, and therefore off site planting is likely to be the preferred solution, and preliminary discussions have identified sites within 2km of the Scheme. Further without prejudice discussions with Gateshead Council are required during the detailed design phase to confirm the details. However, this is on the understanding that any changes to the design must not increase the costs to the Scheme and must not alter the findings within Chapter 8: Biodiversity of the ES [APP-029] and Chapter 7: Landscape and Visual of the ES [APP-028].</p>
	<p>Sir Antony is of course aware of the sensitivity surrounding tree removal and supports the tree replacement initiative. Sir Antony is eager to encourage the return of native grassland, wildflowers, shrubs, and other smaller tree species.</p>	<p>The support for the introduction of native grassland, including wildflowers, shrubs and smaller tree species is noted. As has been stated above, the Applicant is willing to continue without prejudice discussions with Gateshead Council on the understanding that the landscape strategy, as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061], would remain the Applicant's preferred design, and this potentially includes areas of species rich grassland, shrubs and smaller tree species. This is on the understanding that any changes that are agreed following further discussions, would be undertaken during the detailed design phase, and be subject to consultation with Gateshead Council. Any changes to the design must not increase the costs to the Scheme and must not alter the findings within Chapter 8: Biodiversity of the ES [APP-029] and Chapter 7: Landscape and Visual of the ES [APP-028].</p>

Table 9 - Sunderland City Council

Ref No:	Sunderland City Council's Position:	Applicant's Response:
Please find below a written response to confirm Sunderland City Council's position following our participation in both ISH 4 and ISH 5 (morning session only).		
ISH 4 – Transport and Traffic		
	I can confirm that Sunderland City Council has been involved in ongoing discussions to address issues relating to the management of the proposed construction of the works with Gateshead Council, Highways England and the applicant's team. Sunderland City Council are interested given the proximity of the scheme to Sunderland's local authority boundary particularly in relation to temporary traffic management and diversion of any traffic onto Sunderland's road network during the course of the scheme being delivered.	The Applicant will continue to engage with Sunderland City Council following the close of the Examination.
	Discussions have focussed on the Outline CEMP and Construction Traffic Management Plan. I can confirm that the outline CEMP submitted at deadline 6 which includes the outline Construction Traffic Management Plan is considered to be acceptable. The issues raised to date through the examination process have been satisfactorily addressed.	The Applicant notes that Sunderland City Council considers the Outline Construction Traffic Management Plan to be acceptable.
	It is requested that Sunderland City Council be consulted in relation to the Outline CEMP as part of the discharge of requirements conditions, subject to the scheme obtaining a Development Consent Order.	Requirement 4(1) of the Development Consent Order (DCO) states that the CEMP will be subject to consultation with the 'relevant planning authority'. Sunderland City Council is not the relevant planning authority, but it is to be expected that Gateshead Council will consult with Sunderland City Council to the extent that it considers appropriate.
ISH 5 - Draft DCO		
	Article 7 – Limits of Deviation. Based on the current Land Plans (2.2 – APP-006) and Works Plans (2.3 – APP-007) submitted by the applicant for consideration. It is our understanding that the scheme will not cross into Sunderland City Council's boundary and therefore will not directly impact on any land or property within our interest.	The Applicant can confirm that the Scheme does not cross into Sunderland City Council's boundary.
Statement of Common Ground with Highways England		
	I can confirm that we are in agreement with Highways England regarding the content of the SoCG and arranging completion of the document.	The Applicant can confirm that a signed Statement of Common Ground was submitted at Deadline 11.

2 Applicant's Response to Deadline 10 Submissions

Table 1 – Gateshead Council

Ref:	Comment:	Applicant's Response:
4.0.1	The proposals referred to in the representation have been the subject of robust consideration through the formal planning application process. The existing conditions have been fully assessed and mitigation secured (subject to the signing of a s106 agreement) where deemed necessary and in accordance with local and national planning policy. This includes, for example, some £1.7 million of works associated with the new housing scheme at Kibblesworth.	<p>As detailed in the Applicant's response to the Examining Authority's (ExA's) fourth written questions [REP10-002], Written Question (WQ) 4.0.1, it was noted that the Applicant considers that no updates to Chapter 15: Cumulative and Combined Assessment of the Environmental Statement (ES) [APP-036] are required to take account of the new housing scheme at Kibblesworth. For ease of reference, this text is also provided below:</p> <p><i>"With regards to the new housing scheme at Kibblesworth -planning application (DC/20/00009/OUT), as per the methodology set out in Chapter 15: Cumulative and Combined Assessment, Section 15.4 [APP-036] of the ES, this planning application was not assessed as the application was 'awaiting decision' at the time when the assessment was conducted. The Applicant notes that the planning application was granted on 7 May 2020, however the site area is below 0.5ha and it would not therefore have been included on the 'short list' for the cumulative assessment.</i></p> <p><i>In summary, this development did not meet the criteria for consideration as part of the cumulative assessment in line with the methodology detailed above."</i></p> <p>Therefore, the Applicant considers that no updates to Chapter 15: Cumulative and Combined Assessment of the ES [APP-036] are required in respect of the other schemes referred to in the representation.</p>
	The Council works closely with Highways England on planning and development matters. This collaboration takes place throughout the process, from the strategic local plan stage through to advice on detailed planning applications;	The Applicant welcomes Gateshead Council's engagement throughout the Examination period.
	Cumulative impacts are taken into consideration both at a strategic level, as part of the local plan process, and in relation to individual planning applications, where applicants are required to take into account impacts of committed as well as existing development;	Cumulative impacts for the Scheme have been assessed and reported in Chapter 15: Cumulative and Combined Assessment of the ES [APP-036].
	Comments relating to the regional hub (DC/20/00123/FUL) are no longer relevant. Following discussions with the applicant concerning the highway impacts of this scheme together with other planning issues the planning application has been withdrawn. It is understood a possible alternative site in Blaydon has now been identified for this facility;	As detailed in the Applicant's response to the ExA's fourth written questions [REP10-002] WQ 4.0.1, it is understood that the planning application for a regional hub at Hags Lane has been withdrawn and that an alternative facility has been proposed in Blaydon that will provide the same function.
	There is reference to vacant plots on Team Valley. A number of these are already subject to ongoing planning discussion to allow the sites to be brought back into use	As detailed in Chapter 15: Cumulative and Combined Assessment of the ES [APP-036], Section 15.4, paragraph 15.5.3 states <i>"any planning applications, status updates or additional information published since the time of writing have not been included within the assessment"</i> . Therefore, these vacant plots on Team Valley have not been taken into consideration within the cumulative assessment. Further, it would not be appropriate to do so.
4.2.1	(b) The Council agrees that North Farm should be classed as a non-designated heritage asset. It retains the plan layout of the farm and outbuildings, within much of its original setting (the main intervention being the A1 itself and railway line). The buildings themselves are altered i.e. rendered, plastic windows, different window design etc. but this does not	North Farm is included in the Tyne and Wear Historic Environment Record (HER) as a non-designated heritage asset (HER Ref. 5081). As such it was already included in Appendix 6.1: Historic Environment Desk-based Assessment of the ES [APP-118]. Paragraph 6.10.15 of Chapter 6: Cultural Heritage of the ES [APP-027] identified that the significance of effects was slight adverse and therefore not significant. The assessment has also extended to the inclusion of the ES Addendum: Additional Land [REP4-058]).

Ref:	Comment:	Applicant's Response:
	detract from its function as a farm and layout. In addition, it positively contributes to the significance of Lamesley Conservation Area.	
	(c) The proposed scheme will not have any permeant effects on the significance of the form as a non-designated heritage asset. The impacts on views and setting are limited to the period of construction and will be reversed upon reinstatement of the landscape at the end of the scheme. The NPPF is clear that regard should be had to the scale or any harm or loss and the significance of the heritage asset. In this instance the harm is reversible and temporary in nature.	The Applicant agrees with assessment of impact/harm outlined by Gateshead Council.
4.2.2	The Council agrees with REP4-058 chapter 3.	The Applicant notes that Gateshead Council agrees the REP4-058 Chapter 3.
4.3.	The proposed additional land identified for temporary stockpiling of material is situated within a designated Wildlife Corridor and less than 500m of several Local Wildlife Sites including the River Team.	<p>The Applicant has undertaken an assessment of the impacts on biodiversity associated with the use of the additional land for stockpiling, as reported within the ES Addendum: Additional Land [REP4-058]. The designated Wildlife Corridor and Local Wildlife Sites (LWS) within 500m of the site have been considered within this assessment. The assessment concluded that following successful implementation of mitigation, there would not be significant effects on biodiversity (including the designated Wildlife Corridor and LWS) as a result of the use of the additional land and that the assessment as reported in Chapter 8: Biodiversity of the ES [APP-029] remains unchanged and valid.</p> <p>Measures to mitigate the impacts associated with the use of the additional land for stockpiling material have been identified in the ES Addendum: Additional Land [REP4-058] Appendix F and have been subsequently included in Table 3-1 Register of Environmental Actions and Commitments (REAC) in the Outline Construction Environmental Management Plan (CEMP) submitted at Deadline 8 [REP8-007 and REP-008]:</p> <ul style="list-style-type: none"> • The formation of earth bunding to provide a buffer to construction noise. The bund would comprise the first stockpiled material to be deposited and the last to be used so that it is effective for the lifetime of the depot use . • Siting of noise generating plant and equipment to minimise noise at sensitive receptors • Adherence to working hours. • Minimise dust generating activities, particularly near residential receptors/sensitive ecosystems during prolonged dry, dusty weather and use dust suppression measures including damping down with water.
	The site is dominated by short grazed pasture prone to seasonal localised flooding. A mature hedgerow extends approx. 160m north west from Smithy Lane. Habitats within and immediately adjacent the site have the potential to support statutorily protected and priority/notable species.	The Applicant is in agreement with Gateshead Council's description of the site.
	The site forms part of a complex of predominately open habitats within the Team Valley which supports an important assemblage of breeding, passage and wintering waders and wildfowl.	A summary of the bird surveys of the additional land was provided in the Applicant's response to the ExA's fourth written questions [REP10-002] WQ 4.3.1. For ease of reference, this text is also provided below:

Ref:	Comment:	Applicant's Response:
		<p><u>Breeding Birds</u> <i>In summary, a total of 31 species were recorded on or over the additional land during the breeding bird survey; of these nine are considered to breed on the additional land.</i></p> <p><i>Of the species recorded, 13 species are of elevated legal protection or species of conservation concern, of which two are considered to breed on the additional land. It should be noted that categories are not exclusive, and a species can be listed in more than one conservation category (for example, listed as a Species of Principal Importance (SPI) and as either a Red or Amber list Bird of Conservation Concern (BoCC). The number of birds recorded within each category is summarised below:</i></p> <ul style="list-style-type: none"> <i>• Two species listed as Species of Principal Importance (also UK Biodiversity Action Plan species). Song thrush and house sparrow were probable breeders on the additional land.</i> <i>• Six Bird of Conservation Concern red list species. Song thrush and house sparrow were probable breeders on the additional land. Four species: curlew, lapwing, mistle thrush and starling were not considered to breed on the additional land.</i> <i>• Seven Bird of Conservation Concern amber list species. All seven species - Common gull, house martin, kestrel, lesser black backed gull, mallard, oystercatcher and swift - were not considered to breed on the additional land.</i> <p><i>The breeding bird community within the additional land is of low conservation value due to the relatively low number of species using the additional land to breed, most of which are common and widespread, with only two having a notable conservation status.</i></p> <p><i>The breeding bird community present within the additional land accords with the results of the baseline as presented with Appendix 8.9: Breeding Bird Report of the ES [APP-131] and is not a constraint to the Scheme. The survey confirms that the assessment, proposed mitigation and compensation presented in Section 8.9 of Chapter 8: Biodiversity of the ES [APP-029] for breeding birds is proportionate and valid for the additional land.</i></p> <p><u>Wintering Birds</u> <i>The wintering bird surveys were completed between February and March 2020 (inclusive) and the wintering bird report was issued as Appendix G of the ES Addendum: Additional Land [REP4-058] at Deadline 4 (20 April 2020). Therefore, there are no further updates in relation to wintering birds.</i></p> <p><i>During the wintering bird surveys, a total of 25 species were recorded on or over the additional land. This included nine species which are legally protected or species of conservation concern. It should be noted that the categories are not exclusive, and a species can be listed in more than one conservation category (for example, listed as a SPI and as either a red or amber list BoCC).</i></p> <p><i>The number of birds recorded on or over the additional land as detailed in the Wintering Bird Report assessment [REP4-058], within each category is summarised below:</i></p> <ul style="list-style-type: none"> <i>• One species listed under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended): redwing.;</i> <i>• Three species listed as SPI: herring gull, lapwing and starling;</i> <i>• Four BoCC red list species: herring gull, lapwing, redwing and starling; and</i>

Ref:	Comment:	Applicant's Response:										
		<ul style="list-style-type: none"> • <i>Five BoCC amber list species: black-headed gull, kestrel, lesser black-backed gull, common gull and greylag goose.</i> <p>In addition to the above text, it should be noted that due to the relatively low number of species using the additional land, most of which are common and widespread, with few having a notable conservation status, the bird assemblage recorded are not considered to be a constraint to the Scheme and are of no more than Local importance within the context of the Scheme. Therefore, the bird assemblage recorded within the additional land is of Local value.</p> <p>The importance of the assemblage of breeding, passage and wintering waders and wildfowl within the wider complex of predominately open habitats within the Team Valley has been noted by the Applicant within Section 8.7 of Chapter 8: Biodiversity of the ES [APP-029]. This importance of the additional land was also taken into consideration within the ES Addendum: Additional Land [REP4-058].</p>										
	<p>Use of the land for the temporary stockpiling of material has the potential to result in a range of direct and indirect adverse impacts on biodiversity, including designated sites, priority habitats, protected and priority species, and ecological connectivity</p>	<p>The Applicant has carried out an assessment of the impacts on biodiversity associated with the use of the additional land for stockpiling and this is reported within the ES Addendum: Additional Land [REP4-058]. The ecological features identified within the baseline assessment of the additional land, along with the potential construction impacts for this area, are provided within Table 5-3 of the ES Addendum: Additional Land [REP4-058] and this is reproduced below for ease of reference.</p> <table border="1" data-bbox="1320 1014 2086 1528"> <thead> <tr> <th data-bbox="1320 1014 1546 1056">Ecological-Feature-□</th> <th data-bbox="1561 1014 2086 1056">Description-of-potential-impacts□</th> </tr> </thead> <tbody> <tr> <td data-bbox="1320 1066 1546 1171">Lamesley-Meadows-LWS/Lamesley-Pastures-SNCI□</td> <td data-bbox="1561 1066 2086 1171"> <ul style="list-style-type: none"> → Degradation resulting from disturbance of key species (e.g. noise) during construction phase.¶ → Degradation resulting from airborne pollution during the construction phase. □ </td> </tr> <tr> <td data-bbox="1320 1182 1546 1255">Habitats of Principal Importance□</td> <td data-bbox="1561 1182 2086 1255"> <ul style="list-style-type: none"> → Direct loss of a section of hedgerow to allow access during the construction phase.¶ </td> </tr> <tr> <td data-bbox="1320 1266 1546 1402">Bats □</td> <td data-bbox="1561 1266 2086 1402"> <ul style="list-style-type: none"> → Direct habitat loss (loss of sub-optimal foraging and commuting habitat) during the construction phase.¶ → Disturbance (noise) to bats during the construction phase, in habitats associated with the recorded bat boxes and adjacent buildings. □ </td> </tr> <tr> <td data-bbox="1320 1413 1546 1528">Wintering Birds □</td> <td data-bbox="1561 1413 2086 1528"> <ul style="list-style-type: none"> → Direct loss (mortality and injury) during the construction phase.¶ → Direct habitat loss during the construction phase.¶ → Disturbance (noise) during construction phase. □ </td> </tr> </tbody> </table> <p>The assessment concluded that following successful implementation of mitigation there would not be significant effects on biodiversity as a result of the use of the additional land and that the assessment as reported in Chapter 8: Biodiversity of the ES [APP-029] remains unchanged and valid.</p>	Ecological-Feature-□	Description-of-potential-impacts□	Lamesley-Meadows-LWS/Lamesley-Pastures-SNCI□	<ul style="list-style-type: none"> → Degradation resulting from disturbance of key species (e.g. noise) during construction phase.¶ → Degradation resulting from airborne pollution during the construction phase. □ 	Habitats of Principal Importance□	<ul style="list-style-type: none"> → Direct loss of a section of hedgerow to allow access during the construction phase.¶ 	Bats □	<ul style="list-style-type: none"> → Direct habitat loss (loss of sub-optimal foraging and commuting habitat) during the construction phase.¶ → Disturbance (noise) to bats during the construction phase, in habitats associated with the recorded bat boxes and adjacent buildings. □ 	Wintering Birds □	<ul style="list-style-type: none"> → Direct loss (mortality and injury) during the construction phase.¶ → Direct habitat loss during the construction phase.¶ → Disturbance (noise) during construction phase. □
Ecological-Feature-□	Description-of-potential-impacts□											
Lamesley-Meadows-LWS/Lamesley-Pastures-SNCI□	<ul style="list-style-type: none"> → Degradation resulting from disturbance of key species (e.g. noise) during construction phase.¶ → Degradation resulting from airborne pollution during the construction phase. □ 											
Habitats of Principal Importance□	<ul style="list-style-type: none"> → Direct loss of a section of hedgerow to allow access during the construction phase.¶ 											
Bats □	<ul style="list-style-type: none"> → Direct habitat loss (loss of sub-optimal foraging and commuting habitat) during the construction phase.¶ → Disturbance (noise) to bats during the construction phase, in habitats associated with the recorded bat boxes and adjacent buildings. □ 											
Wintering Birds □	<ul style="list-style-type: none"> → Direct loss (mortality and injury) during the construction phase.¶ → Direct habitat loss during the construction phase.¶ → Disturbance (noise) during construction phase. □ 											
	<p>The site should be subject to an appropriate level of ecological survey and assessment to determine the likely impacts of the proposals on biodiversity and ecological connectivity; and to allow an appropriate scheme of avoidance, mitigation, compensation and enhancement measures to be developed; and measurable biodiversity net gains to be achieved in accordance with national and local planning policy</p>	<p>The survey effort completed for the additional land was provided to Gateshead Council via email on 28 February 2020. Gateshead Council confirmed, via email on 06 July 2020, its acceptance that the Applicant had completed an appropriate level of survey effort.</p> <p>An ecological impact assessment has been carried out and reported within the ES Addendum: Additional Land [REP4-058]. This ecological impact assessment informed an appropriate scheme of avoidance,</p>										

Ref:	Comment:	Applicant's Response:
		<p>mitigation and (to the extent appropriate) compensation. These measures include all of those detailed within Section 8.9 of Chapter 8: Biodiversity of the ES [APP-029], which are secured through the Outline Construction Environmental Management Plan (CEMP) [REP9-007 and 008], an updated version of which has been submitted for Deadline 11 (17 July 2020). Measures to mitigate the impacts associated with the use of the additional land are reported in the ES Addendum: Additional Land [REP4-058] and include:</p> <ul style="list-style-type: none"> • The formation of earth bunding to provide a buffer to construction noise. The bund would comprise the first stockpiled material to be deposited and the last to be used so that it is effective for the lifetime of the depot use. • Siting of noise generating plant and equipment to minimise noise at sensitive receptors. • Adherence to working hours. • Minimise dust generating activities, particularly near residential receptors/sensitive ecosystems during prolonged dry, dusty weather and use dust suppression measures including damping down with water. <p>As the Scheme is a Nationally Significant Infrastructure Project (NSIP), there is no requirement to provide a net gain or no net loss of biodiversity within the Scheme. However, as stated within the Applicant's comments on Written Representations [REP2-061] in response to Gateshead's written representation [REP1-005] and the Applicant's comments on Local Impact Report [REP3-006] in response to the Local Impact Report [REP2-075]; the Applicant has provided a robust mitigation and compensation design for the Scheme.</p> <p>With reference to the desire for the Scheme to provide compensation habitat, in biodiversity terms the aim of the Scheme is to mitigate its effects. The measures to do so would be secured through reference to action [L15] of Table 3-1 Register of Environmental Actions and Commitments (REAC) of the Outline CEMP and Figure 7.6: Landscape Mitigation Design of the ES [APP-061]. There is no need for compensation in relation to the Scheme as applied for with or without the additional land.</p> <p>In terms of the habitats within the additional land, the majority of the hedgerow will be maintained and protected. The use of the additional land will result in the temporary loss of a section of hedgerow to allow access for earth moving vehicles. However, as all habitats lost will be reinstated, following the successful implementation of the mitigation requirements detailed within section 5.9 of the ES Addendum: Additional Land [REP4-058] and Section 8.9 of Chapter 8: Biodiversity of the ES [APP-029], the significance of effects of the loss of the habitats within the additional land would be neutral (not significant).</p> <p>All other habitats are of low conservation importance if assessed as a habitat alone; however, grassland is acknowledged to support some bird species of notable conservation status and will therefore be reinstated post-construction. The ES Addendum: Additional Land [REP4-058] paragraph 5.9.5 details that <i>the use of the additional land will result in an extended area of temporary loss of suitable lapwing habitat south of Allerdene Bridge. However, the temporary loss of habitat only represents a small proportional loss of suitable habitat when placed in context with the wider environment. Therefore, the wintering bird assessment within Section 8.10 of Chapter 8: Biodiversity of the ES [APP-029] remains unchanged and valid. Following the successful implementation of the mitigation requirements, it is considered that the impacts of the Scheme would result in effects of neutral significance (not significant).</i></p>

Table 2 – Natural England

Ref:	Natural England's Response:	Applicant's Comments:
2. CONSERVATION DESIGNATIONS, FEATURES AND INTERESTS THAT COULD BE AFFECTED BY THE PROPOSED PROJECT		

Ref:	Natural England's Response:	Applicant's Comments:
2.1. International conservation designations		
2.1	a. There are no international conservation designations that could be affected by this proposal.	The Applicant agrees that this is accurate.
2.2. National conservation designations		
2.2	a. There are no national conservation designations that could be affected by this proposal.	The Applicant agrees that this is accurate.
2.3. European Protected Species		
2.3	a. The proposal has the potential to impact upon a European Protected Species – Common Pipistrelle Bat. Natural England have worked with the applicants, and their consultants, to ensure that all necessary information has been provided, and a Letter of No Impediment has been issued.	The Applicant agrees that this is accurate.
2.4. Nationally Protected Species		
2.4	a. There are no nationally protected species likely to be affected by the development, including the proposed additional working area.	The Applicant agrees that this is accurate.
2.5. Non-designated interests and features of concern		
2.5	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, including the proposed additional working area.	The Applicant agrees that this is accurate.
	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.	The Applicant notes that Natural England is content with the measures in the Construction Environmental Management Plan (CEMP) [REP9-007 and 008].
3. NATURAL ENGLAND'S CONCERNS AND ADVICE		
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.	N/A
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, and previous Written Representations to this proposal, WSP (Ecological consultants for Highways England) have submitted further information to support the draft Protected Species Licence submission. Natural England has assessed this information, and has issued a Letter of No Impediment.	The Applicant agrees that this is accurate.
3.3. Conclusions		
3.3.1	Based on the information provided, Natural England is satisfied that all environmental impacts resulting from the proposal, including the proposed extended working area, can be adequately addressed to ensure no residual impacts arise from the development.	The Applicant notes that Natural England is satisfied that impacts can be adequately addressed to ensure no residual impacts arise from the Scheme.

Table 3 – Ella Bucklow on behalf of Sir Antony Gormley

Ref:	Comment:	Applicant's Response:
Outline CEMP: Table 3-1 REAC		
L8	L8 – Sir Antony is grateful to the Applicant for updating the wording from “woodland edge planting” to “scrub and woodland clearance”. We support any measures that will create a greater awareness of the Angel of the North.	<p>The Applicant's position is that the current landscape strategy is set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061], which shows the area as being planted with shrubs and trees, which would improve the awareness of the Angel of the North. Nevertheless, the Applicant remains willing to discuss the implementation of a revised landscape strategy for the area around the Angel of the North, following further without prejudice discussions with Gateshead Council. These discussions will be based on any landscaping solution being subject to the following agreed principles:</p> <ul style="list-style-type: none"> • Replacing removed planting from the Scheme elsewhere within the Order limits and particularly within an area to the south of the Allerdene Bridge crossing is undesirable, due to the proposed location's suitability for wading birds. • An off-site location outside the Order limits, proposed by Gateshead Council, is therefore preferred, subject to further without prejudice discussion and agreement; the mechanism for funding this is still to be investigated and agreed, but must be cost neutral for the A1 Birtley to Coal House Scheme. • The preferred option for Gateshead Council remains Option 3 within the Options Appraisal for Managing and Enhancing the Angel [REP9-021], prepared on behalf of Gateshead Council by Southern Green, and the Applicant may support this aspiration, inasmuch as it does not increase costs to construct and manage the landscape within the Scheme, and that the findings of the Environmental Impact Assessment (EIA) are not affected. • The final agreement is unlikely to be achieved within the Development Consent Order (DCO) examination period and will be subject to further without prejudice discussions during the detailed design phase. The landscape mitigation design as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061] remains the current design. <p>If agreement cannot be reached, the Applicant considers that the landscape design contained within the Application remains acceptable in environmental and planning terms. The drafting of the dDCO now enables flexibility as to the solution pursued, subject to agreement as described.</p>
L14	In response to the Landscape Mitigation Design we would support “thinning and pruning” of vegetation to allow for greater visibility of the Angel of the North.	This clause has now been removed from Table 3-1 - Register of Environmental Actions and Commitments (REAC), of the Outline Construction Environmental Management Plan (CEMP) [REP9-007 and 008]. An updated version will be submitted for Deadline 11 (17 July 2020). The Applicant acknowledges that the preferred option for Gateshead Council remains Option 3 within the Options Appraisal for Managing and Enhancing the Angel [REP9-021], prepared on behalf of Gateshead Council by Southern Green, and earlier discussions had identified the removal of some of this vegetation. However, whilst the Applicant may support this aspiration, the inclusion of this would increase costs to the Scheme. Therefore, until such time as a funding mechanism can be identified, this commitment has been removed. The general position is as set out above.
PH3	As stated in our previous submissions, we would support any steps taken to	The Applicant notes Sir Antony Gormley and Antony Gormley Studio's comment and

Ref:	Comment:	Applicant's Response:
	minimise the visual impact of the gantries on the Angel of the North.	confirms that the final design of the signage and gantries will be the subject of a future submission to the Secretary of State pursuant to Requirement 7 of the draft DCO (dDCO) [REP9-003 and 004] and following consultation with the relevant planning authority.
Statement of Common Ground with Gateshead Council: Doc. Ref. TR010031/7.5A		
	We are encouraged by the recent meeting between Highways England and Gateshead Council held on the 3rd July.	The Applicant notes this comment relating to recent discussions with Gateshead Council.
Gateshead Council Deadline 9 Submission: Proposed Amendment to the Statement of Common Ground, Dated 6th July 2020		
	Sir Antony Gormley is delighted to hear that in recent meetings between Highways England and Gateshead Council that the Applicant has agreed in principle to use Option 3 of the Southern Green landscaping report as the basis for the Landscaping Scheme.	<p>Gateshead Council and the Applicant continue to make progress on their discussions on how the Scheme could support the aspirations of Gateshead Council in making changes to the landscape around the Angel of the North, by removing some of the established trees and shrubs and increasing visibility of the Angel of the North within views from the A1.</p> <p>The Applicant has previously stated during the Issue Specific Hearing (refer to Applicant's Written Summary of Oral Submissions at Hearings [REP9-014]) that its preferred option would be Option 1 or Option 2 of the Options Appraisal for Managing and Enhancing the Angel [REP9-021], prepared on behalf of Gateshead Council by Southern Green. However, the preferred option for Gateshead Council remains Option 3 and the Applicant may accommodate this aspiration, inasmuch as it does not increase costs to construct and manage the landscape within the Scheme, and that the findings of the EIA are not affected. This is the extent of the agreement in principle.</p>
	We understand that discussions relating to the Landscaping Scheme will continue throughout the Detailed Design Phase and would be grateful to remain involved in these conversations	The Applicant has stated that it is willing to continue discussions on how the Scheme could support the aspirations of Gateshead Council, in making changes to the landscape around the Angel of the North, by removing some of the established trees and shrubs and increasing visibility of the Angel of the North within views from the A1.
	We would support the proposition made by Gateshead Council for offsite replanting and the proposed location at Beggars Wood, by Lobley Hill, seems to be a very suitable location.	<p>During the discussion between the Applicant and Gateshead Council on 3rd July 2020, it was agreed that further without prejudice discussions would be held during the detailed design phase, and this would likely involve potential off site planting. The sites subsequently identified by Gateshead Council (refer to email and drawings provided at Deadline 9 [REP9-024]), will form part of these discussions. However, the mechanism for funding and providing this is still to be investigated and agreed.</p> <p>If agreement cannot be reached, the Applicant considers that the landscape design contained within the Application remains acceptable in environmental and planning terms. The drafting of the dDCO now enables flexibility as to the solution pursued, subject to agreement as described.</p>
	We are encouraged by the news that Gateshead Council's Ecologist has been consulted in identifying these potential locations, and that the planting would involve locally native broadleaved trees and shrubs.	The Applicant would refer the ExA to the previous response above in that agreement on locations and species will form part of the future discussions to be held with Gateshead Council.

Ref:	Comment:	Applicant's Response:
Highways England Comments on any Additional Information/Submissions Received by D8:		
Article 7 – Limits of Deviation	We agree with Gateshead Council that 1m deviation is excessive and could add substantial height to structures such as the gantries and consequently have a significant negative impact on views to the Angel of the North.	<p>The Applicant considers that 1 metre is not excessive and is a usual provision for vertical Limits of Deviation in a highway DCO, including A303 Stonehenge and A38 Derby junctions. The following features of this Scheme determine that a 1 metre vertical Limit of Deviation is appropriate:</p> <ul style="list-style-type: none"> • The fundamental nature of the Scheme which is primarily an online widening which extends over multiple junctions, significantly undulating ground, and an offline bridge replacement. • This Scheme incorporates long bridge / viaduct options over an area with unstable ground conditions. • The proposed carriageways incorporate up to six lanes, which includes carriageways at different levels in cross-section as well as longitudinally. • The preliminary design reflects a network rail aspiration to have 1 metre clearance from bridge soffits to the top of Overhead Line Equipment poles (this aspiration may be altered during the detailed design process); and • There are sections of “erroneous crossfall” (i.e. sloping) within the existing carriageway which could be changed during detailed design development. <p>As detailed in the Applicant's Written Summary of Oral Submissions at Hearings during ISH5, Appendix C – ISH5 Hearing Actions [REP9-014], a vertical 1m (+/-) Limit of Deviation (LoD) is not considered to materially affect the assessment of landscape and visual impacts as the sensitivity of the receptors would not change and it is considered that the LoD would not result in a change to the magnitude of impact. As such, the significance of effects as assessed in the ES remains valid.</p>
R5 (2) – Landscaping	We are encouraged to hear that Highways England will continue to work with Gateshead Council to develop the Landscaping Scheme.	The Applicant's position is that the current landscape strategy, as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061], is acceptable. Nevertheless, the Applicant remains willing to discuss the implementation of a revised landscape strategy for the area around the Angel of the North, following further without prejudice discussions with Gateshead Council.
Updated Explanatory Memo: Schedule 2 Requirements		
Design of gantries iii, Requirement 3(6)	We are very grateful for the additional wording in relation to the Sign Strategy and the potential impact on the Angel of the North. We are grateful that the height and design of the gantries will now be considered in direct relation to the Angel of the North and the impact on views.	The options for the gantries are set out in the Applicant's Responses to ExA's Second Written Questions, Appendix 2.0L - Structure Options Report 9 - ADS Gantries (Rev 0) [REP4-039], which identifies the nature of the gantry structures as Long Span Truss Type Cantilever Gantries, for a span up to 19m, or Super Span Truss Portal Gantries, with supports positioned either side of the A1 verge. The final design of the gantries is subject to Requirement 7 of the dDCO [REP9-003 and 004], requiring the Secretary of State to approve the design in consultation with Gateshead Council.
e) Requirement 5	Again, we are grateful that the Applicant will continue to work with Gateshead Council during the development of the Landscaping Scheme. We would still like to receive further details on the species and locations of trees to be removed and replanted.	During the discussion between the Applicant and Gateshead Council on 3rd July 2020, it was agreed that further without prejudice discussions would be held during the detailed design phase, and this would discuss potential changes to the landscape strategy but would likely involve potential off site planting. The sites subsequently

Ref:	Comment:	Applicant's Response:
		identified by Gateshead Council (refer to email and drawings provided at Deadline 9 [REP9-024]) will form part of these discussions. However, the mechanism for funding this is still to be investigated and agreed. The Applicant would suggest that continued discussions with Gateshead Council would be an appropriate forum to continue involvement in the design development.
I) Requirement 12	Likewise, we are grateful that the Applicant will share the details of the final design of the North Dene replacement Footbridge.	The Applicant notes the comment regarding the details of the final design of the North Dene Footbridge which will, within Requirement 12 of the dDCO [REP9-003 and 004], require approval by the Secretary of State in consultation with Gateshead Council, who will have an opportunity to provide comments on the design.
Applicant's Written Summary of the Oral Submissions at the Hearing		
	As stated in our Written Summary, we welcome discussion between Gateshead Council and the Applicant in relation to the Landscaping Scheme. We thank Highways England for the offer of a group workshop and will be in touch with Gateshead Council to progress this during the Detailed Design Phase.	The Applicant's position is that the current landscape strategy, as set out in Figure 7.6: Landscape Mitigation Design of the ES [APP-061], is acceptable. Nevertheless, the Applicant remains willing to discuss the implementation of a revised landscape strategy for the area around the Angel of the North, following further without prejudice discussions with Gateshead Council.
	Again, our preferred gantry design is the cantilever verge mounted design.	The Applicant notes the preference of Sir Antony Gormley and Antony Gormley Studio for verge mounted cantilever signs. However, the Applicant considers the proposed gantry provision, including portal gantries, is justified to provide an appropriate level of safety as per Appendix 3.6A: Gantry Details Report [REP8-022 and 023], and that whilst their provision does introduce a new prominent feature, it does not result in a significant visual impact within the transitory views experienced by the users of the A1.

If you need help accessing this or any other Highways England information, please call **0300 470 4580** and we will help you.

© Crown copyright 2019.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/

write to the Information Policy Team, The National Archives,

Kew, London TW9 4DU, or email

psi@nationalarchives.gsi.gov.uk.

This document is also available on our website at www.gov.uk/highways

If you have any enquiries about this document A1BirtleytoCoalhouse@highwaysengland.co.uk or call 0300 470 4580*.

*Calls to 03 numbers cost no more than a national rate call to an 01 or 02 number and must count towards any inclusive minutes in the same way as 01 and 02 calls.

These rules apply to calls from any type of line including mobile, BT, other fixed line or payphone. Calls may be recorded or monitored.

Registered office Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ
Highways England Company Limited registered in England and Wales number 09346363