



Department
for Transport

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16 November 2022

National Highways
Woodlands
Manton Lane
Bedford
MK41 7LW

Dear Sir/Madam,

Planning Act 2008

Application for the Proposed A57 Link Roads Development Consent Order

1. I am directed by the Secretary of State for Transport ('the Secretary of State') to say that consideration has been given to:

- The report dated 16 August 2022 of the Examining Authority ('ExA'), comprised of Stuart Cowperthwaite and Ian Dyer who conducted an Examination into the application made by National Highways Limited ('the

Applicant') for the A57 Link Road Development Consent Order ('the DCO') under section 37 of the Planning Act 2008 as amended.

- The consultation responses received in response to the further consultations of 2 September, 3 October, 24 October and 1 November 2022 undertaken by the Secretary of State following the close of the Examination in respect of the application; and
- Other late representations received by the Secretary of State following the close of the Examination.

2. The application was accepted for Examination on 26 July 2021. The Examination began on 16 November 2021 and was completed on 16 May 2022. The Examination was conducted on the basis of written and oral submissions submitted to the ExA and by a series of hearings. The ExA also undertook three unaccompanied site inspections.

3. The DCO as applied for would grant development consent for a new dual carriageway link road (Mottram Moor Link Road) from Junction 4 of the M67 to the north of Mottram in Longdendale, passing through a new underpass to a new at-grade signalised junction just south of the existing line of Mottram Moor and a new single carriageway link road (A57 Link Road) from there to Woolley Bridge, passing over the River Etherow on a new bridge – the elements of which (collectively referred to as 'the Proposed Development') are:

- A new offline bypass of 1.12 miles (1.8km) of dual carriageway road connecting the M67 Junction 4 to A57(T) Mottram Moor Junction;
- A new offline bypass of 0.81 miles (1.3km) of single carriageway connecting the A57(T) Mottram Moor to the A57 Woolley Bridge;
- Creation of two new junctions, Mottram Moor Junction and Woolley Bridge Junction and improvement works on the existing M67 Junction 4;
- Creation of five new structures (Old Farm Underpass, Roe Cross Road Overbridge, Mottram Underpass, Carrhouse Lane Underpass and River Etherow Bridge);
- Detrunking of the A57(T) from the M67 Junction 4 to Mottram Back Moor Junction; and
- Safety measures and improvements to the A57 from Mottram Moor Junction to Woolley Lane Junction.

4. The location of the Proposed Development lies within the administrative areas of Tameside Metropolitan Borough Council ('TMBC'), High Peak Borough Council ('HPBC') and Derbyshire County Council ('DCC') [ER 1.1.3]. DCC is the Local Highway Authority ('LHA') for the area that falls within HPBC's administrative area [ER 2.1.1].

5. The Secretary of State is content that the Proposed Development qualifies as a Nationally Significant Infrastructure Project under sections 14(1)(h) and 22(1)(a) of the Planning Act 2008 [ER 1.1.8].

6. Published alongside this letter on the Planning Inspectorate's website is a copy of the ExA's Report of Findings and Conclusions and Recommendation to the Secretary of State for Transport ('the Report'). All 'ER' references are to the specified paragraph in the Report. Paragraph numbers in the Report are quoted in the form 'ER x.xx.xx' as appropriate. References to 'requirements' are to those in Schedule 2 to the DCO as the ExA recommended at Appendix D to the Report (the 'rDCO').

7. This decision was delegated by the Secretary of State to the Minister of State for Transport, Huw Merriman. While this decision has not been taken by the Secretary of State, by law, it must be issued in the name of the Secretary of State. All references to the Secretary of State are therefore to the Minister of State on behalf of the Secretary of State.

Summary of ExA's Recommendation

8. The principal issues considered during the Examination on which the ExA reached conclusions on the case for development consent are set out in the Report under the following broad headings:

- The Proposal and the Sites (Chapter 2)
- Legal and Policy Context (Chapter 3);
- Issues Arising (Chapter 4);
- Consideration of Specific Topics (Chapter 5)
 - Transport Networks and Traffic
 - Air Quality
 - Climate Change
 - Noise, Vibration and Nuisance
 - Landscape and Visual, Design and Green Belt
 - The Historic Environment
 - Peak District National Park
 - Soils, Ground Conditions, Material Assets and Waste
 - The Water Environment
 - Biodiversity and Ecological Conservation
 - Land Use, Social, Economic and Human Health
 - Other Environmental Topics
- The Habitats Assessment Regulations (Chapter 6);
- Conclusion on the Case for Development Consent (Chapter 7);
- Compulsory Acquisition and Related Matters (Chapter 8); and
- Draft Development Consent Order and Related Matters (Chapter 9).

9. For the reasons set out in the Report, the ExA recommended that the DCO be made in the form set out in Appendix D to the Report.

Summary of Secretary of State's Decision

10. **The Secretary of State has decided under section 114 of the Planning Act 2008 to make with modifications an Order granting development consent for the proposals in this application.** This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the Planning Act 2008 and regulation 31(2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ('the 2017 Regulations').

Secretary of State's Consideration

11. The Secretary of State's consideration of the Report, responses to his further consultations of 2 September, 3 October, 24 October and 1 November 2022, representations received after the close of Examination and all other material considerations are set out in the following paragraphs. Where consultation responses and representations received after the close of Examination are not otherwise mentioned in this letter, it is the Secretary of State's view that these representations do not raise any new issues that were not considered by the ExA and also do not give rise to an alternative conclusion or decision on the DCO.

12. Where not otherwise stated in this letter, the Secretary of State can be taken to agree with the findings, conclusions and recommendations as set out in the Report and the reasons given for the Secretary of State's decision are those given by the ExA in support of the conclusions and recommendations.

13. The National Policy Statement for National Networks ('NPSNN') is the relevant national policy statement to be used by the Secretary of State for making decisions on development consent applications for nationally significant national networks infrastructure projects in England. In a Ministerial Statement issued on 22 July 2021, the Secretary of State for Transport advised that a review of the NPSNN would begin later in 2021 and would be completed no later than Spring 2023. While the review is undertaken, the NPSNN remains relevant government policy and has effect for the purposes of the Planning Act 2008. The NPSNN will, therefore, continue to provide a proper basis on which the Planning Inspectorate can examine, and the Secretary of State can make decisions on, applications for development consent.

14. The Secretary of State has also had regard to: the Local Impact Report submitted by TMBC, the joint Local Impact Report submitted by DCC and HPBC and the Local Impact Report submitted by the Peak District National Park Authority ('PDNPA') [ER 4.3 and throughout]; the Development Plans [ER 3.7 and throughout]; environmental information as defined in regulation 3(1) of the 2017 Regulations; and to all other matters which are considered to be important and relevant to the Secretary of State's decision as required by section 104 of the Planning Act 2008. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision.

15. The Secretary of State notes the approach taken by TMBC to the emerging Places for Everyone Joint Development Plan ('Pfe') which, for the reasons set out at ER 3.7.10, was that only a limited weight should be given to policies within the plan.

As the ExA suggested that the Secretary of State should satisfy himself about the status of the PfE [ER 3.7.11], this was raised in his consultation letter dated 2 September 2022. Transport for Greater Manchester ('TfGM'), in a response on behalf of the Greater Manchester Combined Authority ('GMCA') dated 15 September 2022, confirmed that the weight placed on the policies is unchanged. The Secretary of State is therefore satisfied that only a very limited weight should be given to policies within the plan.

Need for the Development

16. The Applicant set out that the purpose of the Proposed Development in conjunction with other proposed Trans-Pennine Upgrade works that were being taken forward separately, is to improve traffic flow, reduce congestion for Mottram and Hollingworth and to improve the flow at Junction 4 of the M67 ('Junction 4'). The Applicant considered that this would address longstanding issues of connectivity, congestion, reliability and safety between the M67 at Mottram and M1 Junction 36 and Junction 35A north of Sheffield [ER 4.5.3]. Further, the Applicant considered that the Proposed Development would provide additional capacity within Mottram and Hollingworth and improve journey time reliability which would assist in facilitating regeneration, development and economic growth both locally and regionally [ER 4.5.9] which TMBC's Local Impact Report ('LIR') recognised as a key long-term positive impact [ER 4.5.9]. Interested Parties ('IPs') stated that the Proposed Development should have road safety and climate objectives. With regard to the latter, the Secretary of State agrees with the ExA that although due regard should be paid to paragraph 4.60 of the NPSNN in relation to safety, it is not necessary for the Proposed Development to have a specific safety objective. Nevertheless, he also agrees with the ExA that the Proposed Development's safety should accord with current policy [ER 4.5.4] and gives highway safety further consideration below. Regarding the need for a climate objective, the Secretary of State again does not consider this is necessary but like the ExA is mindful of the application of paragraph 4.36 of the NPSNN [ER 4.5.5]. The implications of climate change are also considered further below.

17. The Secretary of State notes that concern was raised that the root causes of the problems to be addressed by the Proposed Development had not been properly identified and that the approach of the Proposed Development was 'piecemeal' rather than addressing the entire corridor between Manchester and Sheffield [ER 4.5.7]. The Secretary of State acknowledges the evolution of this scheme and agrees with the ExA that the Proposed Development has evolved in response to local problems, would contribute towards the overall improvement of the corridor between Manchester and Sheffield and would be deliverable within a foreseeable timeframe [ER 4.5.8].

18. The Secretary of State notes concerns raised about the economic assessment and monetised benefits assumed by the Applicant for the Proposed Development given increased costs and the effects of Covid-19 and notes the ExA's consideration of these and other matters [ER 4.5.10 - ER 4.5.19]. The Secretary of State agrees with the ExA that the costs and benefits of the Proposed Development have been assessed appropriately. Like the ExA, he is satisfied that economic changes since the

application was submitted are addressed within the parameters of sensitivity testing and that the economic assessment accords with paragraph 4.5 of the NPSNN [ER 4.5.20].

19. The Secretary of State notes that IPs expressed concern that the methodology used to justify the case for the Proposed Development in the Road Investment Strategy ('RIS') was biased towards road schemes but agrees with the ExA that as the RIS assessment process prioritises road schemes, this would be the inevitable result regardless of the methodology used. The Secretary of State notes that paragraph 4.6 of the NPSNN confirms that he does not need to be concerned with the national methodology and assumptions around the key drivers of transport demand [ER 4.5.18]. In line with this, the Secretary of State is satisfied that this is not a matter that needs to be considered further in relation to this application.

20. Overall, like the ExA, the Secretary of State is satisfied that the costs and benefits of the Proposed Development have been appropriately assessed and the Proposed Development would be likely to improve traffic flow and reduce congestion in Mottram and Hollingworth and at Junction 4 of the M67, improve journey times and reliability between Manchester, Sheffield and intervening settlements and release constraints on development to support the local and regional economy [ER 4.5.19]. Consequently, the Secretary of State agrees with the ExA's conclusion that the need for the Proposed Development has been established in accordance with the NPSNN and that the presumption in favour of development (NPSNN paragraph 4.2) is engaged [ER 4.5.21]. The Secretary of State notes that the ExA highlighted that it had left submissions on value for money for the Secretary of State to consider as necessary [ER 4.5.20] and similar concerns as those raised during the Examination about value for money were also raised post Examination. As set out above at paragraph 18, like the ExA, the Secretary of State is satisfied that economic changes since the application was submitted are addressed within the parameters of the sensitivity testing [ER 4.5.20] and the Secretary of State is satisfied that the costs and benefits of the Proposed Development have been properly assessed.

Consideration of Alternatives

21. Noting the considerable history to the identification and development of the preferred route of the Proposed Development as outlined in section 2.4 of the Report, the Secretary of State agrees with the ExA that the Proposed Development was subject to an iterative design process and responded to consultative feedback [ER 4.5.26], and that there has been an appropriate assessment of reasonable alternatives [ER 4.5.30]. He is satisfied that the Applicant has considered reasonable alternatives, demonstrated the main alternatives and provided a brief explanation of the reasons for choosing the preferred route taking into account the environmental effects in accordance with paragraph 4.26 of the NPSNN [ER 4.5.31 and ER 4.5.36]. Whilst the Secretary of State notes that CPRE suggested that the assessment of alternatives focussed on whether the strategic case for the Proposed Development should be reappraised, it is noted that the Applicant explained that there are a variety of policy documents supporting the Proposed Development and that it would support the

objective of providing a reliable and high-performing road network [ER 4.5.27]. The Secretary of State agrees with the ExA that whilst the Transport Decarbonisation Plan ('TDP') seeks to reduce carbon emissions it recognises that future transport will remain heavily dependent on roads, and that continued high investment in roads will be necessary to ensure the continued functioning of the nation and to reduce congestion which is a major source of carbon, and the Proposed Development would contribute towards this aim [ER 4.5.28].

22. Several IPs promoted a package of measures to provide low carbon travel alternatives [ER 4.5.32] including CPRE who submitted additional information for consideration in its representation dated 26 September 2022 including a report on Low Carbon Travel in Longdendale and Glossopdale. The Secretary of State notes that the ExA highlighted that several elements of CPRE's low carbon proposals have been incorporated into the Proposed Development, for example, improvements to Junction 4, traffic calming and the provision of pedestrian and cycling facilities. Although the Secretary of State notes that other measures were considered during development and optimisation of the Proposed Development, like the ExA, he is mindful of the NPSNN which sets out that relying solely on alternatives such as demand management and modal shift (or a combination of those alternatives) is not viable or desirable as a means of managing need [ER 4.5.33].

23. The Secretary of State notes that various IPs proposed alternative options to the Proposed Development including a long bypass encompassing Hollingsworth and Tintwistle [ER 4.5.34] and a gyratory using Hyde Road and other parts of the existing network together with a new link from Junction 4 to Roe Cross Lane to the north of Hyde Road [ER 4.5.35]. The ExA concluded that these alternatives were considered sufficiently during the development and optimisation of the Proposed Development, that there was no deficiency in the Applicant's consideration of alternatives and that the appraisal of alternatives was compliant with the NPSNN [ER 4.5.35]. The Secretary of State has no reason to disagree with this.

24. Overall, the Secretary of State agrees with the ExA that: in accordance with paragraph 4.26 of the NPSNN, the Applicant included within the Environmental Statement ('ES') an outline of the main alternatives studied and provided an indication of the main reasons for the choice of the preferred route, considering the environmental effects [ER 4.5.36]; the Proposed Development has been subject to a full options appraisal in achieving its status within the RIS in accordance with paragraph 4.27 of the NPSNN [ER 4.5.37]; and that the consideration of alternatives does not count against the DCO being made [ER 4.5.38].

Transport Networks and Traffic

Study Area and Baseline Conditions

25. The Secretary of State notes that IPs expressed reservations regarding the fitness of the Applicant's traffic modelling as regards the study area and baseline conditions [ER 5.2.54-5.2.58]. However, by the close of the Examination neither TMBC nor DCC as the LHAs had any concerns in this regard. The Secretary of State accepts

the ExA's conclusion that the data collected and the scope of the modelling is proportionate to the scale of the Proposed Development and adequate to provide a suitable baseline for the assessment [ER 5.2.59].

26. The Secretary of State acknowledges the concerns regarding whether the proposed Godley Green development was considered within the core scenario for traffic growth [ER 5.2.54]. He notes the agreed position regarding Godley Green as set out in the Applicant's Statement of Common Ground ('SoCG') with Transport for Greater Manchester ('TfGM') which confirms that developments like Godley Green are incorporated in the high growth scenarios. Both TfGM and TMBC were content with the approach to the assessment of effects of the Godley Green development [ER 5.2.56]. The ExA noted that as the Godley Green development would appear in both the Do Minimum and Do Something scenarios its inclusion or not would be unlikely to significantly affect the outcomes of the ES [ER 5.2.59]. The Secretary of State notes the representations made by CPRE and other IPs including Peter Simon in relation to the Godley Green development after the close of the Examination and that this was a matter raised by CPRE in the Examination [ER 5.4.65] and considered by the ExA in relation to various topics including Transport Networks and Traffic [ER 5.2.30]. The ExA was satisfied with the approach taken by the Applicant, in that the ES is adequate and meets the requirements of the 2017 Regulations [ER 4.6.20 - 4.6.21, ER 5.4.151 and ER 5.13.23], and the Secretary of State has no reason to disagree.

27. After the close of the Examination, CPRE and other IPs raised concerns regarding the cumulative impact of the Godley Green development with the Proposed Development on the Strategic Road Network ('SRN'). The Secretary of State issued a consultation letter dated 24 October 2022 to the Applicant requesting comments on the impact of the Godley Green development with the Proposed Development. The Applicant provided its response dated 31 October 2022 in which it set out that the planning application for the Godley Green development post-dated the application for the Proposed Development and consequently, any adverse impacts on the SRN arising from the proposed Godley Green development will require mitigation to be identified and secured as part of the Godley Green planning application process and should not delay the decision on the Proposed Development. Although the Secretary of State notes that further representations were made by CPRE and other IPs in response to the further consultation of the 1 November 2022, the Secretary of State is satisfied with the Applicant's response and is content that any adverse impacts arising from Godley Green, including in relation to air quality, and mitigation are matters that will be for consideration as part of the planning application for the Godley Green development.

28. In their letter dated 26 September 2022 CPRE also raised concerns that in the absence of the complete 'Highways England Future Work Programme' to inform PfE the Applicant would be unable to understand the impacts of Plan on the SRN. However, the Secretary of State notes from both the Applicant and TfGM's consultation responses dated 31 October and 8 November respectively, that the work to assess the potential impacts of the PfE plan upon the operation of the SRN is

complete and informed the SoCG agreed between the Applicant, GMCA, TfGM and the nine Local Authorities participating in the joint spatial plan. Accordingly, the Secretary of State is content with paragraph 3 of section 7(c) of the Applicant's consultation response dated 31 October 2022.

The Transport Model

29. The Secretary of State notes the concerns raised by many IPs regarding the reliability of the traffic modelling [ER 5.2.60 - ER 5.2.63, ER 5.2.65]. Some of these concerns were raised again in the responses to the Secretary of State's consultation. However, the Secretary of State agrees with the ExA that traffic modelling is not a precise science and is usually only a best estimate of the future operation of the network [ER 5.2.77]. The Secretary of State, like the ExA, is satisfied with the Applicant's explanation of perceived anomalies in flows [ER 5.2.66] and reasons for gathering data during 2020/21 and agrees that the reasons for which the data was gathered at that time or its limited use in modelling does not undermine its integrity [ER 5.2.77]. Taking into consideration the fact that TMBC and DCC found the traffic modelling acceptable, with TMBC advising that more detailed modelling for Manchester and Sheffield would not be appropriate [ER 5.2.74], like the ExA, the Secretary of State is satisfied that the traffic modelling is sufficiently robust and provides the best indication of how future traffic would use the road network in response to changes arising from the implementation of the Proposed Development [ER 5.2.78]. Further, considering the dialogue between the Applicant, TMBC, DCC and TfGM, the Secretary of State is content that NPSNN paragraph 5.204 is satisfied [ER 5.2.79].

Traffic flows, Congestion and Delay

30. The Secretary of State notes that concerns were raised regarding the impact of the Proposed Development on local traffic and journey times for users of the surrounding network, particularly on the A628 through Hollingworth and Tintwistle, the A57 through Glossop, within residential streets in Glossop [ER 5.2.91 – ER 5.2.93], settlements to the east of the A57 and the Peak District National Park ('PDNP'), the junction of Shaw Lane with Brookfield and Dinting Vale [ER 5.2.83] and for drivers making local journeys within the Glossop area not using the new link roads [ER 5.2.86]. The Secretary of State acknowledges the differing views regarding the extent to which traffic on the A57 would divert along alternative routes [ER 5.2.100 - ER 5.2.101, ER 5.2.125], but is satisfied that whilst the constraints on alternative routes appear not to have been modelled in detail, the traffic modelling is sufficiently robust and provides an appropriate basis for understanding how future traffic would be accommodated [ER 5.2.126] and that the constraints would not lead to significantly different journey times or traffic flows to those identified in the model [ER 5.2.127]. In reaching this conclusion, the Secretary of State notes that the ExA considered the alternative scenario where greater numbers of journeys are made through the centre of Glossop which would be likely to result in increased traffic and delays on that route [ER 5.2.128]. The ExA noted that more traffic might use Glossop High Street than predicted and alter the balance of benefits and disbenefits between the alternative routes and the A57 [ER 5.2.129]. However, like the ExA, the Secretary of State is satisfied that the overall traffic flows,

resultant congestion and journey times as modelled provide a reasonable basis for assessing the Proposed Development [ER 5.2.129].

31. The Secretary of State also agrees with the ExA that the Applicant's assessment is sufficient to demonstrate that the relief of congestion at specific junctions within the DCO boundary would result in overall time savings for journeys between Sheffield and Manchester and that the Proposed Development would reduce uncertainty for travellers and allow them to make better judgements about their overall journey times [ER 5.2.121].

32. The Secretary of State notes the concerns raised regarding the Proposed Development's impact on the capacity of the Brookfield/Shaw Lane/Dinting Vale junction ('the Shaw Lane junction') [ER 5.2.103] and the potential for traffic to be drawn into Glossop if the junction capacity was increased [ER 5.2.104] but agrees with the ExA that junction capacities have been appropriately assessed, and would provide sufficient capacity to accommodate traffic generated by the Proposed Development [ER 5.2.136] and that the approach identified by the Applicant and DCC appears to provide an appropriate way of addressing junction capacity through Glossop [ER 5.2.130].

33. The Secretary of State notes the many representations regarding the acceptability of the predicted increases in traffic through the PDNP [ER 5.2.106]. However, he concurs with the ExA that there is limited evidence to suggest that there would be any unacceptable increases in congestion and delay within the PDNP arising from the Proposed Development [ER 5.2.133]. Concerns were raised regarding the potential conflict the Proposed Development would cause with local and national policy [ER 5.2.109]. Like the ExA, the Secretary of State is satisfied that with respect to policy considerations, as no works are proposed within the boundary of PDNP, paragraph 5.152 NPSNN does not apply [ER 5.2.134]. Whilst the Secretary of State notes that the Proposed Development would not require works to be carried out within PDNP, he accepts that it would increase traffic on roads within PDNP and therefore be in tension with the Peak District National Park Core Strategy Development Plan Document (2011) [ER 5.2.135] that seeks to avoid increased vehicular movements within the PDNP and agrees with the ExA that this would count significantly against the Proposed Development being made [ER 5.2.303].

34. Concerns were raised that the Proposed Development does not address perceived issues in Hollingworth and Tintwistle, that a full bypass of Mottram, Hollingworth and Tintwistle is required [ER 5.2.114] and that the works in the vicinity of Mottram Moor of the scale proposed may not be required if a full bypass was to be provided [ER 5.2.116]. Whilst noting TfGM's comments that the Proposed Development should be delivered in a way which allows for a future Hollingworth and Tintwistle bypass [ER 5.2.113], the Secretary of State is mindful that the Proposed Development is a standalone scheme addressing issues for Mottram and, to a degree, Hollingworth and there is no delivery method identified for a longer bypass at the current time. Although the Secretary of State acknowledges that the Proposed

Development would involve construction of works that may be unnecessary should a longer bypass be constructed, he agrees with the ExA that the works required for the Proposed Development are relevant and necessary for its delivery and are not excessive [ER 5.2.137].

35. Overall, the Secretary of State agrees with the ExA that the Proposed Development would, by increasing network capacity between M64 Junction 4 and Woolley Bridge, address specific congestion points on the strategic road network and provide substantial net benefits by relieving journey times and improving journey time reliability between Manchester and Sheffield. Like the ExA, the Secretary of State agrees that the Proposed Development accords with the policy objectives set out in paragraphs 2.2, 2.3, 2.4, 2.6, 2.12, 2.13 and 2.14 of the NPSNN and gains support from paragraph 2.24 of the NPSNN as the Proposed Development deals with the issue of congestion in Mottram and the scale of the solution is sufficient without providing capacity for unrestrained growth [ER 5.2.138].

Traffic Management during the Construction Phase

36. The Secretary of State acknowledges the concerns regarding the potential for disruption during the construction of the Proposed Development [ER 5.2.142 - ER 5.2.143]. Whilst he acknowledges that a degree of disruption to traffic is inevitable during the construction of the Proposed Development, the Secretary of State is satisfied that the mitigation measures secured via requirement 4 of the DCO are adequate to mitigate these effects. Although residual adverse impacts would remain, the Secretary of State agrees with the ExA that given the scale of the works interfacing with the public and their duration, these effects are limited. He therefore concurs with the ExA that the overall residual impact from construction traffic would be slight adverse, and that the mitigation proposed is appropriate and proportionate to the scale of harm, but notwithstanding, a residual adverse effect would remain [ER 5.2.147 - 5.2.148].

Walkers, Cyclists and Horse Riders ('WCH')

37. The Secretary of State notes the proposed changes to WCH facilities [ER 5.2.150 - ER 5.2.154], including the provision of signal-controlled crossing facilities for pedestrians and cyclists. Whilst the Secretary of State notes the concerns that pedestrians would be subject to delays for a crossing phase at the signal-controlled junctions [ER 5.2.155], he is mindful that in the design of such junctions there must be a balance of competing needs, and some compromise is inevitable. Consequently, and considering the relatively low number of pedestrian trips in the modelled area, he agrees with the ExA that whilst pedestrians may encounter delays whilst waiting to cross, the crossings would enable them to cross safely, and that the proposed arrangements for crossing for pedestrians is therefore appropriate and is unlikely to significantly affect the overall monetised benefits of travel [ER 5.2.173]. Although the Secretary of State acknowledges that not all aspirations of equestrian users will be satisfied, like the ExA he is content that the Applicant has made appropriate provision [ER 5.2.172] such as at the new Mottram Moor junction which includes provision for horse riders [ER 5.2.153]. The Secretary of State is also satisfied that the Proposed

Development would link to existing WCH networks and where potential WCH links have not been provided, the Applicant has applied reasonable endeavours to secure alternatives [ER 5.2.172].

38. The Secretary of State notes the discussions regarding how the works proposed on Hyde Road, Woolley Lane and to the Gun Inn junction may lead to heavier use of alternative routes [ER 5.2.165] and regarding the effectiveness of traffic management in that the proposed works in combination with the Link Roads would effectively reduce use of Woolley Lane by motor vehicles [ER 5.2.166 - ER 5.2.167]. Although Secretary of State notes the doubts expressed by CPRE [ER 5.2.168], he is satisfied that there is no substantive evidence that the proposed measures would be ineffective, particularly because there would be limited incentive for drivers to use Woolley Lane to avoid the Mottram Moor Junction because any diversions would take them to the same junction via a longer traffic managed route and similarly for traffic travelling to M67 Junction 4 [ER 5.2.175]. Whilst he acknowledges that the proposals have yet to be finalised, like the ExA, he is satisfied that the proposals for Hyde Road and Woolley Lane would be likely to reduce the through flow of motor vehicles and manage the speed of those vehicles continuing to use these roads and considers that these roads would be likely to result in more pleasant and less threatening routes for WCH [ER 5.2.176].

39. The Secretary of State notes the Peak and Northern Footpaths Society's concern that the proposed underpasses through which the Public Rights of Way ('PRoW') would be diverted would be perceived as ugly and intimidating [ER 5.2.170], but agrees with the ExA that given the more rural location of the proposed underpasses, and as leisure pedestrians are more likely to use the underpasses during the day or early evening, the risk to safety would be more a perceived risk than an actuality [ER 5.2.177].

40. Whilst noting PDNPA's concerns that increased traffic on the A57 Snake Pass, and A628 Woodhead Pass would create an unwelcoming environment and deter leisure cyclists [ER 5.2.156], the Secretary of State notes that PDNPA have identified a parallel route to the A628 which would provide a reasonable and convenient alternative for leisure cyclists and in respect of the effect of the proposed increase in traffic in the A57 Snake Pass on cyclists where there is no alternative route, he agrees with the ExA that given its nature and the traffic on it, it is unlikely that cyclists would perceive a significant additional risk from the relative increase in vehicles and be deterred in significant numbers if they currently find the road is acceptable [ER 5.2.178].

41. Overall, the Secretary of State agrees with the ExA that the Applicant has made reasonable endeavours to address the needs of WCH and where this has not been possible, the Secretary of State is satisfied that this was for practical reasons and the solution would be disproportionate to the benefit. Noting the positive benefits for WCH regarding the proposals for Hyde Road and Woolley Lane and the practical opportunities which have been used to address historic shortcomings to provide

benefits for WCH [ER 5.2.180], the Secretary of State is content that the Proposed Development accords with paragraph 3.17 NPSNN [ER 5.2.179] and would be likely to provide significant benefits for WCH [ER 5.2.181].

Public Rights of Way ('PRoW')

42. Although the Secretary of State acknowledges that there will inevitably be disruption for PRoW users during construction, he concurs with the ExA, is satisfied that the proposed mitigation measures secured in the rDCO would minimise and manage risk to public safety and disruption in a proportionate manner [ER 5.2.195] and that the mitigation measures accord with paragraph 5.184 NPSNN and are appropriate, acceptable and necessary to address adverse effects for PRoW users [ER 5.2.199]. Further, in providing additional links to the existing PRoW network and improved crossing facilities, the Secretary of State agrees with the ExA that the Proposed Development will encourage and provide more opportunity for active travel [ER 5.2.196].

43. The Secretary of State notes the preference expressed by the Peak and Northern Footpaths Society for the provision of bridges rather than underpasses and that these should be provided closer to the line of the PRoW affected by the Proposed Development [ER 5.2.188] but agrees with the ExA that providing bridges would be likely to result in substantial structures which would be more visually intrusive. The Secretary of State is therefore satisfied that the proposed underpasses would appropriately maintain access whilst managing the visual impact of crossing points [ER 5.2.197] and that the proposed Carrhouse Lane underpass would maintain access for users to Carrhouse Lane/Pingot Lane [ER 5.2.198].

44. The Secretary of State accepts the ExA's conclusion that where PRoW would be extinguished, suitable practical alternatives would be provided that would avoid unreasonable inconvenience to future users and is therefore content that the Proposed Development accords with the requirements of NPSNN paragraph 5.185 [ER 5.2.200]. The Secretary of State notes that during the construction phase a degree of disruption for PRoW users is inevitable but given the scale of the works interfacing with the public realm and their duration, like the ExA he is satisfied that these effects would be limited and the overall impact from construction traffic would be slight adverse. The Secretary of State agrees that the proposed mitigation is appropriate and proportionate, but that a residual adverse effect would remain [ER 5.2.201]. However, the Secretary of State agrees that the increased connectivity and opportunity for active travel provided by the Proposed Development during the operational phase would be likely to provide a significant benefit [ER 5.2.202].

Public Transport

45. Whilst it is noted that there remains disagreement between IPs regarding the effect of the Proposed Development on the operation of bus services [ER 5.2.213], and that in the absence of a detailed analysis of bus patronage it is unclear how the use of bus services may be affected, the Secretary of State agrees with the ExA that it is reasonable to conclude that the number of existing bus journeys is relatively small

compared to the number of overall journeys made on the roads affected by the Proposed Development and the Proposed Development's effect on bus service provision is unlikely to be significant [ER 5.2.214]. Further, the Secretary of State agrees with the ExA that bus journeys would be likely to become more attractive because of an overall improvement to journey time reliability arising from the Proposed Development which would partially offset the increased journey times on some routes, and this is likely to be of significant benefit to bus passengers [ER 5.2.215]. The Secretary of State is content that appropriate mitigation is secured through the DCO to minimise effects on bus services during construction and that as the effects on buses would be short-term and temporary, there would be a minor adverse impact [ER 5.2.216].

Modal Choice

46. The Secretary of State notes the concerns raised by IPs that the Proposed Development would encourage increased private car usage and that this would undermine national and local policies encouraging more sustainable and active travel modes [ER 5.2.217]. The Secretary of State agrees with the ExA that policy documents such as Gear Change (2020), Bus Back Better (2021), the TDP and the Net Zero Strategy ('NZS') form part of an overall strategy to encourage the use of the most appropriate mode of transport for a journey and do not preclude road building [ER 5.2.231] and that this is reflected by TfGM's Greater Manchester Transport Strategy 2040 and Delivery Plan which identifies the Proposed Development as a scheme necessary to provide the environment in which sustainable transport and appropriate modal choice can be encouraged. Noting the views of TfGM, TMBC and DCC [ER 5.2.221, ER 5.2.223 - ER 5.2.224], the Secretary of State is satisfied that the Applicant has had due regard to the policies set out in local plans on demand management being undertaken at the local level in compliance with paragraph 5.203 of the NPSNN [ER 5.2.232].

47. The Secretary of State notes the strategies identified by DCC and HPBC to build on the benefits of the Proposed Development together with the suggestions provided by CPRE and agrees with the ExA that the Proposed Development would not preclude additional modal shift measures being implemented in the future, but should they be adopted would provide an additional benefit to the area in line with local and national policy [ER 5.2.234]. Considering that TMBC and DCC generally support the measures to improve modal choice within the Proposed Development [ER 5.2.235], like the ExA, the Secretary of State is satisfied that the Applicant has fulfilled the requirements of paragraph 5.205 of the NPSNN [ER 5.2.236] and is content that there is no conflict between the Proposed Development and local and national policies relating to modal choice [ER 5.2.237], and that the embedded mitigation and enhancements to active travel would provide a significant benefit to WCH users [ER 5.2.238]. The Secretary of State notes that the ExA found that there would be no unacceptable effect on bus service operation, meaning that this public transport would

remain available and contribute towards a modal shift which would be a positive benefit of the Proposed Development [ER 5.2.239].

Highway Safety

48. The Secretary of State is satisfied that as the arrangements are in place for safety auditing, the design of the Proposed Development accords with relevant technical guidance and standards and an appropriate assessment was made of the likely implications of the Proposed Development on highway safety, which accords with the requirements of paragraphs 4.61, 4.62 and 4.65 of the NPSNN [ER 5.2.276].

49. Although there would be a risk to the public during the construction phase due to the potential interaction with construction traffic, the Secretary of State agrees with the ExA that appropriate mitigation could be provided through requirement 4 of the rDCO [ER 5.2.277]. Whilst a residual risk would remain, like the ExA, he is satisfied that given the limited scale of the works within the public realm and their duration, the resulting adverse impact is unlikely to be significant [ER 5.2.278].

50. The Secretary of State notes the concerns raised by HPBC and DCC regarding the design of the Woolley Bridge junction [ER 5.2.273], but like the ExA, is satisfied that the Applicant and DCC have agreed that an acceptable design could be brought forward [ER 5.2.279], that TMBC and the Applicant are seeking to ensure that this appropriately addresses the concerns in relation to safe overtaking on the new road links [ER 5.2.280], and that the Woolley Bridge Junction would therefore be acceptable in safety terms [ER 5.2.279].

51. The Secretary of State acknowledges the concerns raised by parties regarding the methodology used by the Applicant to predict future accidents [ER 5.2.281] and the extent to which traffic from the A57 would divert along alternative routes [ER 5.2.282]. Noting that neither TMBC nor DCC as the LHAs raised concerns regarding the adequacy of the baseline data used to predict future accident rates nor the Applicant's assessment regarding how the alternative routes might be used, the Secretary of State is satisfied that that the Applicant's assessments in both these regards are adequate [ER 5.2.281- 5.2.282].

52. The Secretary of State is satisfied that the Applicant's traffic modelling is sufficiently robust and provides an appropriate basis for understanding how future traffic would be likely to use the road network in response to the Proposed Development [ER 5.2.283] and agrees with the ExA that it is reasonable to expect some through traffic from the A57 to divert onto alternative routes. Although the Secretary of State notes that restrictions on alternative routes have not been modelled in detail, he notes that the restrictions are typically at discrete points along the route and like the ExA, is not persuaded that these restrictions would deter the use of alternative routes. Accordingly, the Secretary of State is content that the use of alternative routes was adequately modelled and all implications for the prediction of accidents arising from the Proposed Development's operational phase have been considered [ER 5.2.284]. Should traffic remain on the A57 through Glossop, it is noted

that there is likely to be a proportionate increase in accidents due to the increased traffic flows and that traffic through Glossop is predicted to increase with potential for a corresponding increase in accidents [ER 5.2.285].

53. The Secretary of State notes that although the modelling suggests that there would be a small overall increase in accidents over the wider study area, there would be a very specific adverse impact on routes across the PDNP, particularly on the A57 Snake Pass with the potential to slow or reverse the current trend in accident reduction. The Secretary of State notes that potential mitigation has been explored, with DCC considering that the only mitigation appropriate would be to install speed cameras [ER 5.2.288], but the PDNPA were fundamentally opposed to the installation of average speed cameras due to their visual impact with the PDNP and accordingly, he concurs with the ExA that there is no obvious way of mitigating the predicted increase in accidents on the A57 Snake Pass [ER 5.2.289]. Accordingly, the Secretary of State notes that due to the small increase in the overall number of accidents and a significant localised increase in the number of accidents on the A57 Snake Pass, the Proposed Development would have an indirect adverse effect on highway safety [ER 5.2.290].

54. Overall, the Secretary of State agrees with the ExA that the Proposed Development would not contribute to an overall reduction in road casualties or reduce unplanned incidents, such reduction being urged by paragraph 4.64 of the NPSNN. However, like the ExA, the Secretary of State considers that the Applicant has taken and will take all reasonable steps to minimise the risk of death and injury arising from its development. The Secretary of State has noted the conclusions reached by the ExA that, whilst they were satisfied that the Applicant had made an overall improvement in the safety of the Strategic Road Network, there was nevertheless a forecast increase in accidents on the wider network, but they were however satisfied that the Applicant had made sufficient effort to minimise the risk of road casualties arising from the Proposed Development so as to allow for the grant of development consent [ER 5.2.301]. The Secretary of State agrees with the ExA that there would remain a moderate negative effect on highway safety [ER 5.2.291, ER 5.2.9].

55. In conclusion, the Secretary of State is satisfied that the Proposed Development would increase network capacity between M67 Junction 4 and Woolley Bridge, addressing specific congestion points and reducing overall congestion and journey times between Manchester and Sheffield which would also benefit bus passengers. It would also improve facilities and linkages to the existing PRow network to the benefit of WCH and improve connectivity and providing more opportunity for and encourage active travel and the Secretary of State agrees with the ExA that these benefits count significantly in favour of the DCO being made [ER 5.2.302]. However, the conflict with PDNPA's Development Plan which aims to avoid increased traffic within the PDNP and the conflict with NPSNN paragraph 4.64 in relation to road safety count significantly against the DCO being made [ER 5.2.303].

Air Quality

56. The Secretary of State has had regard to the NPSNN policies as set out at ER 5.3.3 - ER 5.3.8 in relation to the effect of the Proposed Development on air quality, together with the Air Quality Directive ('AQD'), the Air Quality Strategy, the Clean Air Strategy and relevant local plans and policies [ER 5.3.110]. The Secretary of State notes the development of the Greater Manchester Clean Air Plan which aimed to bring NO₂ levels on local roads within legal limits by 2024 and included a Greater Manchester Wide Clean Air Zone ('GM CAZ') which was due to be implemented on 30 May 2022, but the Government agreed this would not go ahead and a new plan is in development for the reasons set out in ER 3.8.19. The ExA recommended that the Secretary of State satisfy himself on the latest position on this plan [ER 3.8.20]. In response to the Secretary of State's consultation letter dated 2 September 2022, the Applicant, TMBC and TfGM on behalf of the GMCA confirmed that the case for a new Clean Air Plan had been submitted to the Government and its response is awaited. The Secretary of State is therefore satisfied that the position as set out at ER 3.8.20 remains unchanged.

Baseline Conditions and overall methodology

57. The Secretary of State notes the concerns raised regarding the exclusion of the GM CAZ in the traffic and air dispersion modelling [ER 5.3.33 - ER 5.3.34] and that this could create 'rat-runs' through Glossop to avoid the GM CAZ [ER 5.3.35]. However, the Secretary of State is satisfied that given the GM CAZ would not be targeted at cars and that it would include the A57 and A628, there is no compelling evidence to suggest a significant increase in the use of 'rat-runs' and agrees with the ExA that not including the GM CAZ in the traffic or air dispersion modelling was consistent with a reasonable worst-case assessment [ER 5.3.44].

58. The Secretary of State notes that the Applicant considered that the effects of climate change on air quality would be outweighed by a beneficial shift to electric vehicles [ER 5.3.40], but notes DCC's, HPBC's and TMBC's respective positions [ER 5.3.41 - ER 5.3.43]. The Secretary of State agrees with the ExA that due to the uncertainty surrounding the impact of climate change on air quality, no weight can be given to the Applicant's statement and that sufficiently convincing reasons have not been put forward to enable the conclusion that climate effects would be likely to make a substantial difference to the assessment of significant effects on air quality due to the Proposed Development. Like the ExA, the Secretary of State is therefore content with the consideration given to the effects of climate change in the air quality assessment [ER 5.3.45].

Construction Phase

59. The Secretary of State notes that TMBC and HPBC were satisfied with the Applicant's proposals in respect of construction dust and mitigation measures [ER 5.3.51]. The Secretary of State is content that there would be minimal potential for pre-commencement activities to result in significant effects, and that additional mitigation measures are not required [ER 5.3.56]. The ExA concluded that they were content that proper consideration had been given to pre-commencement effects, construction dust and construction traffic and that appropriate mitigation had been secured in the

DCO as well as provisions for monitoring and dealing with complaints during the construction phase [ER 5.3.114]. Further, like the ExA, noting that TMBC and HPBC had no outstanding concerns, the Secretary of State is content to accept the Applicant's explanation for why significant construction traffic effects on air quality would be unlikely [ER 5.3.58].

60. The Secretary of State notes the differing opinions regarding the extent to which traffic from the A57 would divert along alternative routes, including Shaw Lane and Dinting Road and away from the Glossop/Dinting Vale Air Quality Management Area ('AQMA') and the many concerns that insufficient consideration had been given to restrictions to traffic flow on the alternative routes and that these would be significantly less than assessed and the traffic through the AQMA would be greater. The Secretary of State, like the ExA, is satisfied that the traffic model is sufficiently robust and provides an appropriate basis for understanding how future traffic demand would use the road network [ER 5.3.95] and agrees with the ExA that it is reasonable to assume that some through traffic from the A57 would divert to alternative routes. Whilst the Secretary of State notes that restrictions on alternative routes have not been modelled in detail, he is mindful that these are on discrete points and is content with the ExA's conclusion that that they would not lead to significantly different journey times or traffic flows as identified within the modelling. Consequently, the Secretary of State agrees with the ExA that the Applicant has carried out a reasonable worst-case assessment of significant air quality effects and AQD compliance [ER 5.3.96], but that due to the uncertainties in traffic modelling and potential for materially new or materially different adverse effects from those identified in the ES, an additional requirement should be included for the monitoring of air quality in the Tintwistle and Glossop/Dinting Vale AQMAs together with mitigation measures to mitigate any exceedances of air quality limit values reasonably attributable to the operation of the Proposed Development all to be agreed with the Secretary of State in consultation with the relevant planning authority [ER 5.3.115].

61. The Secretary of State notes the concerns raised by Bamford with Thornhill Parish Council regarding the potential for increases in pollution arising due to traffic increases [ER 5.3.89] but agrees with the ExA that it is unlikely that any traffic changes attributable to the Proposed Development would lead to any significant adverse air quality effects in Bamford [ER 5.3.99].

62. The Secretary of State notes the concerns raised regarding the adverse effects of air pollution and particulate matter on health [ER 5.3.90] but is satisfied that the air quality assessment focuses on air quality criteria and acceptable thresholds for human health and agrees with the ExA that there is clear evidence that appropriate consideration has been given to particulates [ER 5.3.100].

63. The Secretary of State notes CPRE's concerns that the Proposed Development did not support GMCA's commitments to achieve World Health Organisation Standards aspirations for NO₂ and particulate matter by 2030 [ER 5.3.91].

64. The Secretary of State notes the concerns raised by HPBC regarding the consideration given by the Applicant to the compliance with the AQD at receptors on the A57 in Brookfield that were expected to show a large increase in NO₂ concentrations in the opening year [ER 5.3.104]. Consequently, a supplementary air quality assessment for Brookfield was provided by the Applicant [ER 5.3.105] to provide a targeted and more conservative assessment at the location of particular concern to HPBC [ER 5.3.109]. This assessment identified an increase in annual mean NO₂ of 8µg/m³ to 32.4µg/m³ in 2025 at a qualifying feature receptor, with a more conservative assessment suggesting an increase of 6.2µg/m³ to 40.1µg/m³ at the same receptor, resulting in a marginal exceedance of the AQD limit value [ER 5.3.105]. Given the 2018 monitored annual mean is 34.5µg/m³ and with the addition of the requirement (as outlined above), the Secretary of State agrees with the ExA that it is reasonable to conclude that the Proposed Development would be unlikely to result in the AQD limit value annual mean NO₂ concentration of 40µg/m³ being exceeded at this location [ER 5.3.108] and this supplementary air quality assessment for Brookfield does not enable the conclusion that the assessment of significant effects in Glossopdale was insufficient [ER 5.3.109].

65. Like the ExA, the Secretary of State is satisfied the Applicant adequately considered vehicle emissions, how tighter emissions standards are expected to reduce PM₁₀ and NO₂ emissions, air quality effects over the wider area, relevant statutory air quality thresholds and AQMA in compliance with the NPSNN [ER 5.3.112], and that the study area, selection of receptors, baseline conditions, the exclusion of the GM CAZ in traffic and air dispersion modelling and the consideration given to climate change were appropriate for the purposes of the air quality assessment [ER 5.3.113]. Further, he is satisfied that proper consideration was given to pre-commencement, construction dust and construction traffic and that appropriate measures are secured within the rDCO to address dust mitigation measures, monitoring and the processes of dealing with complaints during the construction phase [ER 5.3.114], that relevant pollution control authorities would be able to regulate potential releases in accordance with paragraph 4.55 of the NPSNN and that there is no reason to believe that any relevant control permits, licences or other consents would not be granted, in accordance with paragraph 4.56 of the NPSNN [ER 5.3.116].

66. The Secretary of State agrees with the ExA that satisfactory explanations were provided regarding the worst-case year, the use of DEFRA maps to identify background concentrations, and the verification of the air dispersion model and implications of road gradient. The Secretary of State further agrees that a reasonable worst-case assessment of significant air quality effects and AQD compliance was carried out in relation to traffic modelling and alternative routes and accepts the screening out of detailed qualitative assessment of the Tintwistle AQMA and the Glossop and Dinting Vale AQMA [ER 5.3.117].

67. Like the ExA, the Secretary of State is content with the overall approach for air quality assessment and mitigation for the operational phase, that appropriate consideration was given to the mitigation suggested in paragraph 5.15 of the NPSNN

and that appropriate measures have been secured in the rDCO [ER 5.3.118]. Further, the Secretary of State is content with the particular attention that the ExA has paid to the AQD and the NPSNN paragraphs 5.9 and 5.13, and he is satisfied with the ExA's conclusion that with the rDCO in place, the Proposed Development would be unlikely to cause any delays in non-compliant areas becoming compliant or to cause any compliant areas to become non-compliant [ER 5.3.119] and that appropriate measures have been taken to avoid, mitigate and minimise adverse impacts and where possible, to contribute towards improvements [ER 5.3.120].

68. Noting the Applicant's overall assessment of an improvement in air quality for human health receptors during the operational phase and that it considers that there would not be any significant air quality effects due to the Proposed Development [ER 5.3.121], the Secretary of State agrees with the ExA that subject to the provisions of the rDCO there would be beneficial air quality effects in some locations and adverse effects in others but that, on balance there would be unlikely to be any overall significant effects on air quality and that overall effects on air quality do not count significantly for or against the DCO being made [ER 5.3.122].

Climate Change

Introduction, national legislation, case law policies and vehicle emissions

69. Section 104 of the Planning Act 2008 states that the Secretary of State must decide an application for a national networks Nationally Significant Infrastructure Project in accordance with the NPSNN unless he is satisfied that one or more of the following applies: doing so would lead to him being in breach of any duty imposed on him by or under any enactment; doing so would be unlawful by virtue of any enactment; the adverse impact of the proposed development would outweigh its benefits; or doing so would lead to the UK being in breach of its international obligations [ER 5.4.11].

70. The UK's international obligations include its obligations under the Paris Agreement, which was ratified by the UK Government in 2016, after the NPSNN was designated in 2014 [ER 5.4.12]. In addition, the Climate Change Act 2008 (2050 Target Amendment) Order 2019 gave effect to a legally binding target for the Government to cut net carbon emissions to zero by 2050 against the 1990 baseline (the '2050 target'). The Climate Change Act requires five-yearly carbon budgets to be set 12 years in advance so as to meet the 2050 target. Six carbon budgets have been adopted. The time periods covering the third ('3CB'), fourth ('4CB'), fifth ('5CB') and sixth ('6CB') carbon budgets are 2018-2022, 2023-2027, 2028-2032 and 2033-2037 respectively. Achieving net zero will require future greenhouse gas ('GHG') emissions to be aligned with these and any future new or revised carbon budgets that may be set out by Government to achieve the 2050 target. Compliance with the Climate Change Act 2008 (as amended) would provide a route towards compliance with the Paris Agreement.

71. The Secretary of State notes the main sections of the Applicant's application documents that are relevant to climate change matters, as updated during the Examination, are those set out in ER 5.4.19. It is noted that the Applicant's assessment

of GHG emissions (assessed as carbon dioxide equivalent emissions and referred to here as carbon emissions) with regard to construction and operational effects of the Proposed Development is included in Chapter 14 of its ES.

72. The Secretary of State considers that the majority of operational emissions related to the scheme result from vehicle usage and that the Government's Transport Decarbonisation Plan ('TDP') includes a range of non-planning policies which will help to reduce carbon emissions over the transport network as a whole over time (including policies to decarbonise vehicles and radically reduce vehicle emissions) and help to ensure that carbon reduction commitments are met. Beyond transport, Government's wider policies around net zero such as the NZS published by Government in October 2021 sets out policies and proposals to decarbonise all sectors of the UK economy to meet the 2050 target. Like the ExA, the Secretary of State considers that given the strength and likely effect of these policies, the Applicant has made reasonable assumptions about the increasing electrification of vehicles [ER 5.4.124].

73. The Secretary of State acknowledges that since the close of the Examination, there has been a partially successful challenge relating to the NZS in the case of R (on the application of Friends of the Earth Ltd) v Secretary of State for Business, Energy and Industrial Strategy [2022] EWHC 1841 (Admin) (the 'Friends of the Earth Case'). The ExA noted that they were not able to address the implications of this judgement and that the recommendations made by the ExA were subject to the Secretary of State being satisfied about its implications [ER 5.4.125]. The Secretary of State has considered the judgment and notes that the NZS is to be updated to address some of the conclusions of the Court. However, the Secretary of State has no reason to consider that the matters raised in the judgment have any bearing on his overall conclusions on climate change in relation to the Proposed Development and the matters that he has to take into account under section 104 of the Planning Act 2008 in reaching his conclusions on it. The Secretary of State agrees with the ExA that the principle of constructing new roads does not conflict with the NZS in its current form [5.4.127] and considers that that position is highly unlikely to change in the light of the judgment and bearing in mind what the NZS currently says and its purpose. Furthermore, the Secretary of State has no reason to consider that the Proposed Development will hinder the delivery of either the TDP or any future updated NZS and agrees with the ExA's analysis of both the NZS and TDP [ER 5.4.128 - ER 5.4.129]. It is against this background that the Secretary of State has considered the Proposed Development.

74. The construction phase emissions for the Proposed Development were calculated at 38,970 tCO₂e with operational emissions over a 60-year period calculated at 401,206 tCO₂e [ER 5.4.25]. Contributions in any of the five carbon budgets were calculated to be a maximum of 0.0033% in the relevant carbon budget [ER 5.4.26]. The Secretary of State notes the many concerns raised by IPs in respect of the potential effects of the Proposed Development on climate change [ER 5.4.35]. Although the Secretary of State notes the comments made in relation to the inadequacy of the Applicant's traffic modelling [ER 5.4.45], like the ExA (and as

addressed above), he is satisfied that this was appropriate for the purposes of the climate change assessment [ER 5.4.126].

75. The Secretary of State notes the consideration given to the latest EFT v11 data along with a sensitivity test for the effects of the TDP policy measures. The EFT v11 included extended emission factors for carbon from 2030 to 2050 and included a greater uptake rate of electric vehicles. The operational emissions were recalculated for these new emission factors and the recalculations indicated a reduction in the operational emissions identified in the ES from 0.0163 to 0.0161mtCO₂e for 2023-2027, from 0.0292 to 0.0264mtCO₂e for 2028-2032 and from 0.0318 to 0.0259mtCO₂e for 2033-2037 [ER 5.4.46]. The Secretary of State notes that some IPs requested more detailed information on the consideration given to the EFT v11 and TDP sensitivity test [ER 5.4.44 - ER 5.4.45], but like the ExA, he is satisfied that the information provided was proportionate and sufficient [ER 5.4.132] and overall, is content that appropriate consideration has been given to the phasing out of petrol and diesel vehicles, the electrification of the fleet and the vehicle emissions considered in the assessment [ER 5.4.126].

76. Like the ExA, the Secretary of State is satisfied that the Applicant has assessed GHG emissions from the Proposed Development against UK carbon budgets, which are a means for the UK to achieve compliance with the Paris Agreement and is content that assessment against the carbon budgets is sufficient for consideration of compliance with the UK's international obligations [ER 5.4.131]. In considering section 104 of the Planning Act 2008, the Secretary of State agrees with the ExA that the Proposed Development would be unlikely to cause the UK to be in breach of its international obligations including the obligations contained in the Paris Agreement 2015, supplemented by the Glasgow Pact 2021. The Secretary of State is satisfied with this assessment, that it complies with the requirements of paragraphs 5.16, 5.17 and 5.18 of the NPSNN [ER 5.4.171] and, noting the predicted impact on carbon budgets as set out above, that the Proposed Development would be unlikely to materially impact the ability of the Government to meet the carbon reduction targets [ER 5.4.115].

Local and Regional Policy and Carbon Reduction Targets

77. The Secretary of State notes that the issue of compliance with local and regional policy and carbon reduction targets is one that was raised by many IPs during the Examination [ER 5.4.48 - ER 5.4.54]. The Secretary of State agrees with the ExA that neither the NPSNN nor the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ('the EIA Regulations') specify a requirement for local or regional carbon assessments and that the NZS is clear that there are currently no net zero statutory targets on local authorities or communities and there is no requirement in national legislation or policy for an assessment against local or regional carbon budgets [ER 5.4.133].

78. The Secretary of State notes there are a number of local policies in place which reflect net zero and the ExA's consideration of these [ER 5.4.135 - 5.4.138]. The ExA concluded that there was no evidence of increased GHG due to the Proposed

Development being excluded from the local policies to achieve net zero for the relevant areas [ER 5.4.139]. The ExA also concluded that local policies were important and relevant matters and compliance with local climate change policies needs to be considered [ER 5.4.134]. It concluded that although the Proposed Development includes measures to support alternative modes of transport other than private motor vehicles, the net effect would be to increase carbon emissions during the construction and operational phases which would conflict with local climate change policies [ER 5.4.140]. However, the Secretary of State concurs with the ExA that whilst regard must be had to the NPSNN and also to local policies if (as here) the Secretary of State thinks they are both important and relevant, section 104 requires the Secretary of State to decide the application in accordance with the NPSNN, subject to the exceptions described earlier in this section [ER 5.4.134].

Cumulative Assessment

79. The Secretary of State considers that the approach set out in the NPSNN continues to be relevant in light of international obligations and domestic obligations related to reducing carbon emissions that have been introduced since the NPSNN was designated and aligns with the approach to significance set out in the Institute of Environmental Management & Assessment ('IEMA') 2022 guidance on assessing Greenhouse Gas Emissions and Evaluating their Significance ('the IEMA Guidance'). This sets out that the crux of significance is not whether a project emits GHG emissions, nor even the magnitude of GHG emissions alone, but whether it contributes to reducing GHG emissions relative to a comparable baseline consistent with a trajectory towards net zero by 2050 (section 6.2) [ER 5.4.115].

80. The IEMA Guidance also addresses significance principles and criteria in section 6.3 and Figure 5 and advises (amongst other things) that: a project that follows a 'business-as-usual' or 'do minimum' approach and is not compatible with the UK's net zero trajectory, or accepted aligned practice or area-based transition targets, results in significant adverse effects; a project that is compatible with the budgeted, science-based 1.5 degree Celsius trajectory (in terms of rate of emissions reduction) and which complies with up-to-date policy and 'good practice' reduction measures to achieve that has a minor adverse effect that is not significant – such a project may have residual emissions but it is doing enough to align with and contribute to the relevant transition scenario to keep the UK on track towards net zero by 2050 with at least a 78% reduction by 2035 and thereby potentially avoiding significant adverse effects; and a project that achieves emissions mitigation that goes substantially beyond the reduction trajectory, or substantially beyond existing and emerging policy compatible with that trajectory, and has minimal residual emissions, is considered to have negligible effect that is not significant and such a project is playing a part in achieving the rate of transition required by nationally set policy commitments.

81. The Secretary of State notes that the carbon budgets are economy-wide and not just targets in relation to transport. The Secretary of State considers that the Proposed Development's contribution to overall carbon levels is very low, and that this

contribution will not have a material impact on the ability of Government to meet its legally binding carbon reduction targets. The Secretary of State therefore considers that the Proposed Development would comply with the NPSNN paragraph 5.18.

82. The Secretary of State notes the ExA's consideration of the requirements for cumulative effects assessment set out in the EIA Regulations [5.4.141] as well as paragraph 4.16 of the NPSNN [ER 5.4.142] and the guidance provided in the Planning Inspectorate's Advice Note 17 on cumulative impact assessment [ER 5.4.143]. The Secretary of State agrees with the ExA that there is no requirement in national legislation or policy for a cumulative assessment of GHG emissions in relation to the Road Investment Strategy 2 or against local or regional carbon budgets and also that information does not exist in a format which would enable these assessments to be reasonably undertaken [ER 5.4.144].

83. It is noted that the Applicant's assessment of significant effects included other development in both the baseline Do Minimum and Do Something scenario [ER 5.4.145] and that the ExA were satisfied with the consideration given to how the Proposed Development would combine and interact with the effects of other development and found this to be consistent with the NSPNN [ER 5.4.146]. The Secretary of State notes the concerns raised regarding the compliance of the ES with Advice Note 17 and the EIA Regulations [ER 5.4.65] but that the ExA considered that it is appropriate for 'other existing development' to be included in the baseline and that it follows that including other approved development in the baseline would not be inconsistent with the EIA Regulations. Further, the ExA considered that as the EIA Regulations are silent on any other development that is neither existing nor approved, they were satisfied that the Applicant's cumulative assessment does not conflict with the EIA Regulations [ER 5.4.147]. Regarding Advice Note 17, the ExA set out that this contains no definitive guidance on the inclusion of other development in the baseline but suggests that other projects can be included when their effects are fully determined and when they are expected to be completed before the construction of the Proposed Development. The ExA noted that the inclusion of other foreseeable developments likely to be developed in a similar timeframe to the Proposed Development and the inclusion of such projects in the baseline does not appear to be supported by the Advice Note 17 [ER 5.4.148] and could be interpreted as conflicting as more developments are included in the Do Minimum scenario than the guidance identifies [ER 5.4.151].

84. The Secretary of State notes that cumulative assessments for highways projects considered under the NPSNN tend to follow the same approach as the Applicant has taken for climate change, whereas for other environmental topics the cumulative assessments more typically exclude other developments from the baseline scenarios. The ExA suggested that the Secretary of State may wish to consider whether it is acceptable for different interpretations to be made for different environmental topics or projects [ER 5.4.149]. The Secretary of State considers that as there is no single prescribed approach to assessing the cumulative impacts of carbon emissions, there are several ways such an assessment can acceptably be

undertaken. The Secretary of State also notes that the impact and effect of carbon emissions on climate change, unlike other environmental impact assessment ('EIA') topics, is not limited to a specific geographical boundary and that the approach that needs to be taken to assess the cumulative impact of carbon emissions is different than for other EIA topics. Similarly, the Secretary of State does not consider that the approach taken by the Applicant in this case is invalid on the basis that applicants for other types of projects have taken a different approach or that a different approach is used for other EIA topics. Noting this and that there are no matters arising from new legislation, the Secretary of State concurs with the ExA that, on balance, the cumulative assessment methodology used is acceptable [ER 5.4.152] and he is satisfied with the identification of the carbon emissions due to the Proposed Development and the cumulative assessment [ER 5.4.170]. The Secretary of State also agrees with the ExA that the Applicant's cumulative assessment does not conflict with the EIA Regulations or the NPSNN and is therefore not unlawful and that Advice Note 17 is guidance only and, in this context, non-compliance with it carries little weight [ER 5.4.151].

Benchmarking and Mitigation

85. Paragraph 5.19 of the NPSNN requires evidence of appropriate mitigation measures and that the Secretary of State will consider their effectiveness in order to ensure that 'in relation to design and construction, the carbon footprint is not unnecessarily high' [ER 5.4.67]. In considering the adequacy of those measures, the Secretary of State agrees with the ExA that it is necessary to secure mitigation for GHG emissions during the construction phase [ER 5.4.154] and notes the intention of the Applicant to pilot the new PAS 2080 process for the Proposed Development [ER 5.4.75]. Whilst the Secretary of State is mindful that the setting and achieving of targets had not been fully quantified or tested for similar schemes [ER 5.4.79], he notes that TMBC and DCC felt the PAS 2080 process provided an appropriate systematic mechanism to manage carbon emissions [ER 5.4.80 and ER 5.4.82]. For the reasons set out in ER 5.4.154, and with the inclusion of a new requirement 12 requiring a carbon management plan to be submitted to and approved by the Secretary of State following consultation with the Local Authorities ('LAs') [ER 5.4.84], the Secretary of State agrees with the ExA that a well-executed, transparent PAS 2080 and carbon management plan constitute appropriate mitigation. Accordingly, the Secretary of State is content that paragraph 5.19 of NPSNN is satisfied [ER 5.4.172].

86. The Secretary of State notes the measures suggested by the LAs to mitigate carbon during the operational phase [ER 5.4.89 and ER 5.4.90] and agrees with the ExA that the secured use of PAS 2080 and requirement for consultation with the LAs would enable the consideration and delivery of further measures and therefore constitutes appropriate mitigation in this case [ER 5.4.156]. The Secretary of State notes the concerns raised by IPs that the operational emissions do not align with the NZS or TDP [ER 5.4.92] and that in accordance with the TDP, active travel measures would have a minimal impact on reducing carbon emissions and therefore should not be used in the planning balance as mitigation [ER 5.4.93]. However, the Secretary of State agrees with the ExA that the NZS, TDP and local policies refer to other

opportunities to mitigate operational emissions which fall outside what could reasonably be delivered by the Proposed Development and although other measures to promote other transport modes can be influenced by the Proposed Development, they would mainly be delivered through other initiatives. Overall, like the ExA, the Secretary of State is satisfied that the secured mitigation for the operational phase is consistent with current practice [ER 5.4.155].

Significant Effects

87. The Secretary of State notes the issue of significance of carbon emissions is one considered at length by the ExA during the Examination [ER 5.4.108 - ER 5.4.109]. The Secretary of State acknowledges that all emissions contribute to climate change but considers that there is no set significance threshold for carbon. The Secretary of State does not consider that net zero means consent cannot be granted for development that will increase carbon emissions. The Secretary of State considers that, as set out in NPSNN paragraph 5.18, it is necessary to continue to evaluate whether (amongst other things) the increase in carbon emissions resulting from the Proposed Development would be so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets and notes that the ExA, considered that this criterion for refusal sets an upper limit for the threshold for significance and accordingly, a definition of significance at a lower threshold used in the EIA would not conflict with it [ER 5.4.159].

88. The ExA concluded that they were satisfied that there was no legal requirement to assess carbon emissions on a local, regional, or sector basis and accepted that information does not exist in such a form that would allow it to reasonably undertake such assessments [ER 5.4.163]. The Secretary of State agrees with this conclusion and considers that the only statutory carbon budgets are those set at a national level. The Secretary of State notes that the ExA considered that the guidance in Design Manual for Roads and Bridges ('DMRB') is generally the most appropriate for highways projects [ER 5.4.165]. However, as the IEMA Guidance provides examples of significance criteria and the ExA considered its approach was consistent with legislation and policy to reduce emissions through improvements to current practice [ER 5.4.164], there was insufficient evidence to conclude that this guidance would be inappropriate for highways projects [ER 5.4.165]. Consequently, for the reasons outlined in ER 5.4.166 to ER 5.4.167, the ExA disagreed with the Applicant's assessment of significant effects against IEMA Guidance, considering that the effect would be more adverse than minor adverse which would be significant according to the IEMA Guidance [ER 5.4.168] and concluded that the adverse effect on climate change from increased carbon emissions due to the Proposed Development would likely be significant [ER 5.4.169]. The Secretary of State notes the ExA's conclusion but disagrees with their assessment of the project as being more adverse. The Secretary of State has taken account of the measures that the Applicant has adopted. In the construction phase the Applicant has identified good practice potential for the design to be improved to reduce those emissions. It is accepted that until the detailed design stage is reached, it is difficult for the Applicant to make any firm commitment to secure such reductions, and, in any event, this will be the subject of discussion in

line with the new requirement 12 which covers carbon management and is intended to mitigate climate change effects. In the operational phase the Applicant has set out measures that reflect what is current policy and so represents what the Secretary of State considers to be good practice. It is therefore the view of the Secretary of State that the Applicant's assessment under the IEMA Guidance is correctly assessed as having a minor adverse effect that is not significant.

Climate Change Resilience

89. The Secretary of State notes the consideration given to climate change resilience at ER 5.4.175 and agrees with the ExA that there has been an adequate assessment of the likely effects of future climate change on the Proposed Development in accordance with paragraphs 4.36 to 4.47 of the NPSNN and agrees with the ExA that the vulnerability of the Proposed Development to climate change does not count significantly for or against the DCO being made [ER 5.4.176].

Conclusion

90. The Secretary of State is content that the Applicant has adequately assessed the likely significant effects of the Proposed Development on climate and its cumulative impacts on climate taking account of both construction and operation as required by the 2017 Regulations and this information has been taken into consideration when assessing whether development consent should be granted. The Secretary of State is aware that all emissions contribute to climate change. Whilst the Proposed Development will result in an increase in carbon emissions, as set out above, Government is legally required to meet the carbon budgets which provide a pathway to net zero and the Secretary of State considers that the Proposed Development is consistent with existing and emerging policy requirements to achieve the UK's trajectory towards net zero. The Secretary of State therefore considers the Proposed Development's effect on climate change would be minor adverse and not significant and this assessment aligns with section 6.3 and Figure 5 of the IEMA Guidance. The Secretary of State is satisfied that that the Proposed Development will not lead to a breach of any international obligations that result from the Paris Agreement or the Government's own policies and legislation relating to net zero. As the Proposed Development would result in an overall increase of emissions and there is a need to reduce emissions, this weighs against the DCO being made. Nevertheless, due to the likelihood of the Government's legally binding targets decreasing carbon emissions over the lifetime of the Proposed Development, along with the mitigation measures secured in the DCO, the Secretary of State disagrees with the ExA that this weighs moderately against the DCO being granted and instead considers that limited weight is ascribed to this harm in the planning balance.

91. Overall, the Secretary of State agrees with the ExA that the adverse effect on climate change due to an increase in carbon emissions arising from the Proposed Development on climate change reduction targets count significantly against the DCO being made [ER 5.4.173]. The Secretary of State notes that the ExA's recommendation is subject to being satisfied about the implications of the Friends of

the Earth judgement [ER 5.4.174] but, as discussed at paragraph 73 of this letter, does not consider that this judgement has any impact on his conclusion.

Noise, Vibration and Nuisance

Construction Phase Noise and Vibration

92. The Secretary of State notes that the ExA raised concerns regarding the baseline noise levels identified using the DEFRA strategic noise mapping for 18 and 54 Woolley Bridge, which were substantially higher than figures derived from noise survey data used elsewhere [ER 5.5.55]. The Applicant explained that higher levels of noise were expected at 18 and 54 Woolley Bridge as they were within a Noise Important Area ('NIA') and so would be expected to be exposed to high levels of traffic noise. The Applicant set out that the implications of the lower baseline noise for the assessment resulted in three more activities exceeding the Significant Observed Adverse Effect Level threshold, none of which would take place for the required duration to result in a significant effect [ER 5.5.56]. The Secretary of State notes that the ExA found no fault in the Applicant's assessment, but he agrees with the ExA that whilst it may have been more consistent and preferable for all the baseline information to have been derived in the same way, the use of the two different sources of information was unlikely to have any consequences for the identification of significant effects [ER 5.5.77].

93. It is noted that HPBC recommended further monitoring to ensure sensitive receptors in the HPBC area were correctly assigned construction noise limit values, particularly in the vicinity of Woolley Bridge where specific and enforceable measures were requested for baseline monitoring [ER 5.5.57]. Noting the subsequent agreement between HPBC and the Applicant in relation to the Outline Noise and Vibration Management Plan [ER 5.5.58], the Secretary of State is satisfied that appropriate controls are in place in relation to noise during construction [ER 5.5.78].

94. The Secretary of State notes the agreement between the LAs and the Applicant that the pre-commencement activities would be minor with minimal potential for adverse noise or vibration effects [ER 5.5.63]. Like the ExA, the Secretary of State is therefore content with this assessment and concurs it is not necessary for additional mitigation measures to be secured [ER 5.5.81].

95. The Secretary of State notes that percussive piling may be required due to the geological fault line in the vicinity of the Mottram underpass and the use of percussive piling had the potential to cause substantially higher noise and vibration levels than rotary bored piling [ER 5.5.64]. As the assessment assumed the Applicant would use percussive piling at all locations, like the ExA, the Secretary of State is satisfied that this represents a reasonable worst-case scenario [ER 5.5.82]. The Secretary of State agrees with the ExA that the Applicant provided good reason why percussive piling may be required, but considers that, in accordance with paragraph 5.195 NPSNN, it is necessary to avoid significant impacts and mitigate other adverse impacts from noise [ER 5.5.84] and in the absence of any compelling reason from the Applicant regarding why there should not be a requirement for percussive piling to be used only

where rotary piling is not feasible [ER 5.5.83], agrees with the ExA's proposed new requirement 13 [ER 5.5.84].

96. Further, the Secretary of State agrees with the ExA that percussive piling would result in both significant adverse noise and vibration effects and that the adverse vibration effects at seven receptors in the vicinity of Mottram underpass should be considered in the planning balance together with the identified significant noise effects [ER 5.5.85].

97. The Secretary of State notes the Applicant considered that the Mottram Longdendale Aqueduct would be approximately 160m from piling and that vibration below 1mm/s was predicted. However, in view of the agreed Protective Provisions and SoCG between the Applicant and United Utilities Water Limited ('United Utilities'), the Secretary of State agrees with the ExA that piling would be unlikely to result in any serious detriment to United Utilities' undertakings in respect of the Mottram Longdendale Aqueduct [ER 5.5.86].

98. Like the ExA, the Secretary of State is content with the Applicant's assessment of the out of hours construction activities [ER 5.5.68] as night activities represent a reasonable worst-case scenario and is content that any one-off activities would not meet the required duration criteria for a significant effect [ER 5.5.87]. Additionally, through the inclusion of the agreed additional provision to requirement 4 of the rDCO [ER 5.5.71] the Secretary of State is also content that the process under section 61 of the Control of Pollution Act 1974 would not conflict with the ES [5.5.88].

99. The Secretary of State notes the concerns raised by TMBC and HPBC regarding the proposed complaints process and monitoring [ER 5.5.73] but, given the subsequent agreement between the parties, he is satisfied that these concerns have been addressed [ER 5.5.90].

100. Like the ExA, the Secretary of State is satisfied that the additions to the Outline Noise and Vibration Management Plan sufficiently address noise insulation and temporary re-housing [ER 5.5.90] with appropriate measures being secured for this to be considered further during the detailed design phase. Accordingly, the Secretary of State is content that the requirements of paragraph 5.199 of the NPSNN have been satisfied [ER 5.5.127].

Operational Noise and Vibration

101. The Secretary of State notes that, given the proximity of the Proposed Development to residential areas, the ExA queried whether the proposed 5m horizontal deviation had been properly considered [ER 5.5.91] and that following discussion during the Examination the Applicant updated the Works Plans to include areas where the mainline alignment horizontal limit of deviation would be reduced to $\pm 1\text{m}$ and article 7 was also updated as set out in ER 5.5.94. After consideration, the Secretary of State agrees with the ExA's suggested amendment to the wording of article 7 of the draft DCO ('dDCO') as set out at ER 5.5.104, and is satisfied this is

necessary due to the proximity of the carriageway to receptors, as the aggregate nature of assessment would otherwise leave the potential for increases in horizontal deviation to result in large increases in noise or vibration levels for individual receptors [ER 5.5.104] and because this would ensure consistency with the ES and control adverse effects on receptors [ER 5.5.105].

102. Noting that HPBC and TMBC stated that road traffic noise was the main issue for the NIAs, the Secretary of State is satisfied with the consideration given to this in the ES, and that mitigation has been secured for these effects [ER 5.5.106] and agrees with the ExA that the requirements of paragraph 5.200 of the NPSNN and paragraph 185 of the NPPF have been met [ER 5.5.128]. Whilst acknowledging that the Proposed Development will improve conditions for receptors in the NIA but in doing so will make conditions worse for some others [ER 5.5.107], the Secretary of State is content with the ExA's conclusion that opportunities to address the noise issues associated with the NIA have been considered [ER 5.5.106].

103. The Secretary of State is content with the consideration given by the ExA to the relevant policies and statutory requirements as outlined at ER 5.5.3 - ER 5.5.19 and is satisfied that the minimisation of noise and vibration effects was an important factor in the selection of design options and therefore complies with paragraph 5.194 of the NPSNN [ER 5.5.117]. The Secretary of State agrees with the ExA's summary of their conclusions as set out at ER 5.5.118 – 5.5.124.

104. Like the ExA, the Secretary of State is content that appropriate measures have been taken to avoid, mitigate and minimise adverse effects from noise and vibration and where possible, contribute towards improvements [ER 5.5.129]. Consequently, the Secretary of State is satisfied that appropriate consideration has been given to relevant policy for the Proposed Development, and that the likely significant effects have been identified in relation to noise and vibration [ER 5.5.130] and that beneficial noise effects at 374 dwellings and nine receptors count significantly in favour of the DCO being made [ER 5.5.131] with adverse noise effects at six receptors and adverse vibration effects at seven receptors during construction and adverse noise effects at 172 dwellings and two receptors during the operational phase count significantly against the DCO being made [ER 5.5.132].

105. Regarding nuisance, the Secretary of State notes the potential of the Proposed Development to create statutory nuisance but is content that appropriate mitigation has been provided and agrees with the ExA that any nuisance that may occur would be unforeseen, unavoidable and an inevitable consequence of the Proposed Development and would be unlikely to result in any significant effects. Accordingly, he concurs that there is a case for the project to be covered by a defence against statutory nuisance claims in accordance with paragraph 5.87 of the NPSNN and as provided for by section 158 of the Planning Act 2008 [ER 5.5.134] and agrees with the ExA that nuisance does not count significantly for or against the DCO being made [ER 5.5.135].

Landscape, Visual, Design and Greenbelt

Landscape and Visual

106. The Secretary of State notes the policy considerations set out in paragraphs ER 5.6.3 to ER 5.6.10. The Secretary of State notes that the NPPF was updated in July 2021, but the Applicant's ES referred to the February 2019 version [ER 5.6.32]. Considering the Applicant's comments and noting that no concerns were raised by the LAs in relation to this [ER 5.6.33], like the ExA, the Secretary of State is content that the Applicant used relevant design principles and the July 2021 updates to the NPPF have no material implications for the assessment [ER 5.6.63].

107. Whilst the Secretary of State notes the concerns expressed regarding the Applicant's description of some existing landscape and townscape characteristics as not being described accurately [ER 5.6.34] the ExA was satisfied that the Applicant demonstrated that this would not result in a material change to the assessment and on that basis was content that those matters have been addressed [ER 5.6.64].

108. Although it is noted that TMBC initially raised concerns that insufficient consideration was given to receptors not located near to the Proposed Development when selecting the viewpoints for the assessment of night-time effects [ER 5.6.30], the Secretary of State notes that these concerns were satisfactorily addressed by the Applicant [ER 5.6.40] and like the ExA, is therefore content with the representative viewpoints selected for the consideration of night-time effects [ER 5.6.65].

109. The Secretary of State is satisfied that the ExA were content that the Applicant's updates to the ES appropriately clarified the matters raised during the Examination [ER 5.6.66]. The Secretary of State acknowledges the concerns expressed regarding the proposed mitigation and planting [ER 5.6.50] but notes the amendments to the Outline Landscape and Ecological Management and Monitoring Plan and Design Approach Document made by the Applicant [ER 5.6.51 and ER 5.6.71] which satisfactorily addressed DCC, TMBC and HPBC's concerns. Although the Secretary of State agrees with the ExA that there is some merit in the suggestion that the proposed planting could draw attention to the linear nature of the Proposed Development, he is mindful of the difficulty of integrating the road into the existing landscape and the need to balance this against other considerations. Taking this into consideration, overall, the Secretary of State is content with the planting set out in the Environmental Masterplan [ER 5.6.72].

110. Although the Secretary of State acknowledges the concerns raised regarding the management of the proposed new structures and the potential for vandalism, he notes that these concerns were not shared by TMBC and DCC [ER 5.6.58] and agrees with the ExA that there is no evidence of unusual risks in relation to vandalism and, noting the general provisions for maintenance, he is satisfied that no additional mitigation is required [ER 5.6.69].

111. Whilst noting the concerns raised about the visual effects of the Proposed Development [ER 5.6.59 and ER 5.6.61], the Secretary of State agrees with the ExA

that this does not result in a conclusion that the assessment does not comply with guidance [ER 5.6.68].

112. With the measures set out in ER 5.6.73 in relation to landscaping, the Secretary of State agrees with the ExA that the rDCO secures appropriate mitigation measures [ER 5.6.74] and that due regard has been paid to paragraphs 5.157 and 5.160 of the NPSNN. Further, like the ExA, he is satisfied that the methodology used is robust and that the effects were properly considered in accordance with the relevant paragraphs of the NPSNN [ER 5.6.75]. Accordingly, like the ExA, the Secretary of State is content that appropriate consideration has been given to relevant policy for the Proposed Development, and the likely reasonable worst-case landscape and visual effects have been identified [ER 5.6.76]. The Secretary of State is also satisfied with the conclusion that the temporary adverse effects on ten landscape receptors and 64 visual receptors during the construction phase, adverse effects on six landscape receptors at year 1 of the operational phase reducing to no significant effects at year 15, adverse effects on 14 representative viewpoints at year 1 of the operational phase reducing to three at year 15 and adverse effects on 48 visual receptors at year 1 of the operational phase reducing to 11 at year 15 count significantly against the DCO being made [ER 5.6.77].

Design

113. The Secretary of State notes the applicable national policies set out at ER 5.6.79 - ER 5.6.80 together with the other relevant legislation, local plans and policies set out in Chapter 3 of the ExA's report [ER 5.6.78]. Further, he notes the agreement between the parties that the aesthetics of the Proposed Development were important in the context of potential impacts on landscape, visual amenity and the Green Belt [ER 5.6.101].

114. The Secretary of State is mindful that the Proposed Development is a linear development which is required to integrate with the existing network and landscape which constrains its siting and layout and that the settings of its three junctions vary from more urban to more rural environments. The ExA considered that the form of the Proposed Development responds reasonably positively to its setting and that the illustrative Environmental Masterplan shows embedded mitigation and enhancement measures to achieve further integration [ER 5.6.100].

115. The Secretary of State notes the ExA's consideration of the Applicant's approach towards design [ER 5.6.85 - ER 5.6.88] and the Design Approach Document produced by the Applicant [ER 5.6.88] together with the concerns raised by TMBC and DCC regarding the design [ER 5.6.89 - ER 5.6.92]. The ExA considered that as the submitted application left some details to be finalised, appropriate controls should be added to requirement 3 of the dDCO in the form of a design review by the Design Council, consultation with local authorities and other parties and approval of details of the Mottram Underpass, Roe Cross Road Bridge and River Etherow Bridge by the Secretary of State following consultation with LAs [ER 5.6.93]. The Secretary of State notes that this was accepted by the Applicant and is satisfied it is proportionate and

reasonable [ER 5.6.105] and ensures that key matters are addressed appropriately during detailed design [ER 5.6.103].

116. Noting that the LAs were satisfied or had no comments regarding the proposed mitigation, the Secretary of State like the ExA is content that the rDCO secures appropriate mitigation for the design matters and that the Proposed Development accords with the NPSNN requirements for good design. Further, the Secretary of State is content that the Proposed Development is compliant with the NPSNN in terms of general design and aesthetics [ER 5.6.106] and overall agrees with the ExA that design matters do not count significantly for or against the DCO being made [ER 5.6.107].

Green Belt

117. It is noted that the 22.28ha of the Proposed Development would be located within the Tameside Unitary Development Plan Green Belt designation [ER 5.6.120]. In addition to other relevant legislation and policy summarised in Chapter 3 of the ExA's report, the Secretary of State notes the applicable policy considerations as summarised in ER 5.6.109 - ER 5.6.117.

118. Whilst the Secretary of State notes CPRE's view that the dual carriageway section of the Proposed Development was not local transport infrastructure for the reasons stated in ER 5.6.127, taking into consideration the points made in ER 5.6.128 to ER 5.6.131, he agrees with the ExA that it would frustrate the aims of NPSNN policy regarding the importance of improving the SRN if the exception for local infrastructure provided by paragraph 150 of the NPPF did not apply to the Proposed Development. He is therefore satisfied with the consideration of the Proposed Development as local transport infrastructure [ER 5.6.151].

119. The appraisal of alternatives has been dealt with earlier in this letter (paragraphs 21 to 24) where it was concluded that this was sufficient to meet the requirements of the NPSNN. The Secretary of State agrees with the ExA that there is a requirement for a Green Belt location because the route of the Proposed Development is safeguarded in local policy and that the location in the Green Belt is unavoidable because it relates to the need to mitigate severe congestion of existing routes which are surrounded by Green Belt [ER 5.6.152].

120. The Secretary of State is content with the ExA's consideration of the Green Belt policy as set out in ER 5.6.153, particularly the consideration to be given to the preservation of openness in accordance with paragraph 150(c) of the NPPF. In this regard, he notes the concerns raised by CPRE in summary, that the Proposed Development would have a profound and substantial negative effect on the openness of the Green Belt [ER 5.6.139 - ER 5.6.140]. Whilst the Secretary of State notes the points made by the Applicant who considered that the openness of the Green Belt

would be preserved [ER 5.6.141 - ER 5.6.143], he also notes the ExA considered that the Proposed Development would cross the Green Belt and even with the secured mitigation, uncharacteristic elements would be introduced into the River Etherow Valley, which would be made more prominent due to their proposed elevation. Further, he acknowledges that the proposed new street lighting would be prominent, that in some locations the Proposed Development would create a substantial visual barrier between the areas of Green Belt and that some footpaths would have significantly reduced visibility to the Green Belt. Consequently, the Secretary of State concurs with the ExA that the Proposed Development would not preserve the openness of the Green Belt [ER 5.6.154] and therefore would be inappropriate development within the Green Belt, taking into account paragraph 150(c) of the NPPF [ER 5.6.155].

121. The Secretary of State notes that in accordance with paragraphs 5.170 and 5.178 of the NPSNN, the Proposed Development should only be approved in 'very special circumstances' which will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations, a matter which he addresses in the section headed 'Conclusions on the Case for Making a DCO' in this letter [ER 5.6.156 – ER 5.6.157]. In conclusion, he agrees with the ExA that there would be harm to the Green Belt and accords this substantial weight against the DCO being made [ER 5.6.158].

The Historic Environment

122. The Secretary of State notes the likely significant effects and harm likely to occur to the Historic Environment as a result of the Proposed Development as outlined at ER 5.7.32 – ER 5.7.37 and is satisfied that the Applicant's assessment identifies the significance of the heritage assets and their settings which would be potentially affected by the Proposed Development and includes sufficient information to allow the nature and value of the significance of the assets to be understood. Accordingly, like the ExA, the Secretary of State is content that the assessment provides the information which the Secretary of State requires in order to determine that the assessment accords with paragraphs 5.128 and 5.129 of the NPSNN [ER 5.7.67].

123. The Secretary of State notes the concerns raised by PDNPA in relation to the negative impact that the predicted increased traffic flow from the Proposed Development would have on the setting of Tintwistle Conservation Area and its reservations regarding the reliance on DMRB methodology for the assessment [ER 5.7.55]. Like the ExA, the Secretary of State is satisfied that DMRB methodology is generally appropriate for the assessment of the Proposed Development, particularly given the nature of highways-related impacts, and is therefore content that the forecast changes to traffic flows and noise levels would result in no perceptible change to the character, appearance or noise environment of Tintwistle Conservation Area [ER 5.7.65].

124. Although the Secretary of State notes that no opportunities for enhancement of the historic environment were identified by the Applicant other than suggested benefits of a reduction in stationary traffic in some locations [ER 5.7.38], he is mindful of the

likely scale of opportunities within the Order limits and on balance, agrees with the ExA that appropriate consideration has been given to opportunities for enhancement and that paragraph 5.137 of the NPSNN has been satisfied [ER 5.7.66].

125. Like the ExA, the Secretary of State has had regard to the desirability of preserving listed buildings or their setting and any features of architectural or historic interest which they possess, preserving or enhancing the character or appearance of conservation areas and preserving scheduled monuments or their setting as required by regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, and like the ExA the Secretary of State is satisfied with how those matters have been addressed [ER 5.7.69]. The Secretary of State notes matters between the Applicant and the LAs in relation to the setting of the scheduled monument Melandra Castle Roman Fort and the setting of the Mottram Old Hall are agreed and like the ExA, is satisfied that relevant mitigation measures are secured by the rDCO [ER 5.7.64].

126. The Secretary of State agrees with the ExA that with the mitigation measures in place, the permanent and irreversible harm to heritage assets described in Chapter 6 of the Applicant's ES would be less than substantial harm to the setting of the Church of St Michael and All Angels, Tara Brook Farm and eleven other designated heritage assets, substantial harm to eight non-designated assets and less than substantial harm to seven non-designated heritage assets [ER 5.7.71] and that temporary, short term and reversible harms to heritage assets could also be derived [ER 5.7.72]. Although effects of unknown significance were identified for five non-designated heritage assets, like the ExA, the Secretary of State is satisfied that these would be unlikely to be significant [ER 5.7.73].

127. The Secretary of State agrees with the ExA's findings that moderate adverse permanent and irreversible significant effects on the setting of Tara Brook Farm and moderate temporary, short term and reversible significant effects to the setting of Dial House, Ivydene Mottram Old Hall, Dial Cottage and Tara Brook Farm count significantly against the DCO being made [ER 5.7.76].

Peak District National Park

128. As the Order limits are wholly outside the PDNP, the Secretary of State is satisfied that the Proposed Development does not include development within a National Park for the purposes of the NPSNN and NPPF and accordingly that NPSNN paragraph 5.150 and NPPF paragraph 177 regarding the effects on PDNP do not apply [ER 5.8.74].

129. The Secretary of State acknowledges PDNPA's concerns that insufficient consideration has been given to NPPF paragraphs 176 and 177 and to the IEMA Guidance. In particular, PDNPA considered that the 'great weight' required by paragraph 176 was incorrectly applied and that the Applicant's assessment either underestimated or failed to adequately consider that slight or low magnitude adverse effects in a National Park should be material considerations with great weight applied [ER 5.8.30]. The Secretary of State also acknowledges CPRE's position that the entire

paragraph 176 of the NPPF should apply to all impacts on National Parks [ER 5.8.34]. The Secretary of State is satisfied with the ExA's interpretation of the application of the NPPF paragraph 176 and that their conclusion in respect of its interaction with the NPSNN is correct [ER 5.8.76]. Accordingly, on the basis that there is no differentiation in the first sentence of paragraph 176 NPPF between developments within designated areas and developments within their setting, the Secretary of State agrees with the ExA that this is intended to apply in a general sense both to developments within designated areas and those within their setting. The Secretary of State, like the ExA, is content that the relevant consideration regarding the effects on PDNP is that National Parks have the highest status of protection in relation to landscape and scenic beauty, and that development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas [ER 5.8.77].

130. The Secretary of State agrees with the ExA that the Proposed Development may have impacts within the PDNP and that NPSNN paragraph 5.154 is applicable [ER 5.8.75]. In the case of conflict between the NPSNN and NPPF, the Secretary of State agrees with the ExA that the NPSNN prevails because NPSNN paragraph 1.18 states that the NPPF is relevant only to the extent relevant to the project and as paragraph 5 of NPPF states, it does not contain specific policies for Nationally Significant Infrastructure Projects [ER 5.8.73].

131. The Secretary of State notes that the Applicant quantified changes in daily traffic flows due to the Proposed Development of up to 38% on the A57 Snake Pass and less than 10% on the Woodhead Pass with corresponding changes in one-hour noise at 10m from the kerb of +1.8dB and +0.3dB respectively [ER 5.8.46]. It is noted that PDNPA had concerns about the application of professional judgement to inform the expected change in vehicle numbers [ER 5.8.48 - ER 5.8.49] but had no reason to doubt the predicted changes in noise levels. Like the ExA, the Secretary of State has no reason to doubt the Applicant's quantification of traffic and noise on the A57 and A628 routes through PDNP [ER 5.8.82] and has no reason to disagree with the Applicant's inclusion within its noise assessment of the likely effect that vehicles would group together in a platoon due to the steep winding roads with limited opportunities to overtake or take alternative routes [ER 5.8.81].

132. Although the Secretary of State notes the concerns raised by PDNPA and CPRE regarding the Applicant's consideration of Landscape Character Types and the setting of PDNP [ER 5.8.48 - ER 5.8.49 and ER 5.8.51], he agrees with the ExA that these concerns would not change the Applicant's assessment of significant effect [ER 5.8.79]. In reaching this conclusion, the Secretary of State is satisfied with the relevance of the DMRB guidance for highway projects and is content with the Applicant's use of DMRB LA 104 Table 3.8.1 and the derivation of it in its ES tables 7.14 and 7.19 for the identification of significant effects in relation to PDNP and is content that they are accorded a 'very high' sensitivity in accordance with table 7.11 of the ES [ER 5.8.80].

133. The Secretary of State notes that the assessment of indirect effects in PDNP indicated no change to negligible adverse change with neutral to slight adverse effects for landscape character and no change and neutral effects for visual receptors [ER 5.8.43]. Although the Secretary of State notes the Applicant's position that 'no change' is defined as an imperceptible change from the baseline scenario [ER 5.8.50], he is mindful of PDNPA's concerns in this regard [ER 5.8.48] and like the ExA, agrees it is likely that receptors in PDNP would experience perceptible indirect effects from increased traffic, with associated noise increases which is likely to have adverse effects on tranquillity and there are also likely to be visual effects arising from more vehicles and the tendency for platooning. Accordingly, the Secretary of State agrees with the ExA that the predicted changes should not be considered as 'no change' [ER 5.8.85] as it is likely that the Proposed Development would cause adverse indirect effects on visual and landscape receptors in the vicinity of the A57 Snake Pass in the PDNP. In view of the likely magnitude of these effects, particularly as the PDNP has the highest status of protection in relation to landscape and scenic beauty, like the ExA, the Secretary of State considers that there would be material harm and that there would likely be harm to the tranquillity and the experience of quiet enjoyment of the PDNP. Further, he agrees that as there would likely be harm to the understanding and enjoyment of the special qualities of the PDNP, the National Park purposes would be likely to be compromised, contrary to NPSNN paragraph 5.154 [ER 5.8.86]. Consequently, the Secretary of State agrees with the ExA that the material harm in the PDNP in relation to landscape and visual effects, tranquillity and the understanding and enjoyment of the 'special qualities' of the PDNP, together with National Park purposes being likely to be compromised, count significantly against the DCO being made [ER 5.8.88].

134. The Secretary of State notes the proposed mitigation measures for direct effects as set out in section 5.6 of the Report and agrees that reasonable consideration has been given to mitigating indirect effects, including the consideration given to speed cameras. Accordingly, the Secretary of State agrees with the ExA that the Proposed Development has been designed sensitively in accordance with NPSNN paragraph 5.154 and NPPF paragraph 176 [ER 5.8.84].

Soils, Ground Conditions, Material Assets and Waste

135. Paragraph 183 of the NPPF seeks to ensure that sites are suitable for their proposed use taking account of ground conditions and any risks arising from land instability [ER 5.9.13]. The Secretary of State notes the baseline information methodology used by the Applicant on soils and ground conditions [ER 5.9.29 - ER 5.9.144] and the factors taken into consideration [ER 5.9.26 - ER 5.9.28, ER 5.9.145 - ER 5.9.146]. The Secretary of State concurs with the ExA that although the risks posed to the site by unexploded ordnance were not assessed in terms of environmental impact, given the nature of the site and previous historic uses, there is unlikely to be a significant risk of unexploded ordnance within the DCO boundary [ER 5.9.147].

136. The ExA was satisfied that appropriate, reasonable and proportionate safeguards were provided through the rDCO as outlined in ER 7.4.79 and subject to these provisions, the likely significant effects have been identified, and appropriate mitigation has been provided, in respect of material assets and waste [ER 5.9.177]. The Secretary of State concurs with this conclusion. Although the Proposed Development would permanently remove Grade 4 or 5 agricultural land from that currently used for agriculture the Applicant stated that no best and most versatile land would be taken to construct the Proposed Development [ER 5.9.71]. The ExA however noted that other land would be degraded from Grade 4 to 5 due to the creation of the flood compensation area [ER 5.9.72]. The Secretary of State agrees with the ExA that an appropriate balance has been struck between the competing need to protect agricultural land and the need to construct and mitigate the effects of the Proposed Development and he agrees with the ExA that the loss and degradation of agricultural land is not significant [ER 7.4.80].

137. The Secretary of State notes the concerns raised by Mr Jeff Brown regarding the potential effects of dewatering [ER 5.9.80], particularly that the modelling indicated that post-construction, long-term water drawdown at the location in question would be between 3.5-4m below levels before the Proposed Development with the risk that the well could dry out [ER 5.9.83]. The Secretary of State notes the discussions between the Applicant and Mr Jeff Brown regarding this [ER 5.9.84 - ER 5.9.88] and the involvement of the Environment Agency ('EA') [ER 5.9.89 - ER 5.9.91]. Like the ExA, the Secretary of State is satisfied that requirements 4 and 6 of the rDCO, in addition to the other measures proposed by the Applicant, would provide proportionate and reasonable safeguards by imposing a requirement on the Applicant to prepare a groundwater monitoring programme and detailed version of the Dewatering Management Plan which must be agreed by the Secretary of State in consultation with the EA, with monitoring and the EA providing independent oversight [ER 5.9.157].

138. On the issue of land stability, the Secretary of State notes concerns raised by National Trust ('NT') that increased traffic movements on the A57 Snake Pass would increase the frequency of closures for maintenance. The ExA investigated whether the frequency and/or duration of closures would increase as an indirect result of increases in traffic movements [ER 5.9.106 – 5.9.107]. It was noted by the ExA that in the early part of 2022 a landslip closed Snake Pass and the NT provided photographs of the affected area [ER 5.9.109]. The ExA found that the requirements of paragraph 183 of the NPPF were satisfied [ER 5.9.165] and considered that while there may be evidence linking traffic loading and vibration to ground instability in some circumstances, DCC stated that the issues on Snake Pass principally related to geology and weather. The ExA concluded that the additional traffic would be unlikely to significantly increase the number or duration of closures for maintenance [5.9.159] and the Secretary of State has no reason to disagree with this conclusion.

139. The ExA were satisfied that material resources would be managed appropriately, and quantities needed from primary resources use of materials would be minimised throughout the life of the Proposed Development [ER 5.9.169]. The

construction of the Proposed Development would consume material assets and without recycled content, these would be from primary sources [ER 5.9.121] with the Applicant stating a 30% target of use of recycled aggregates within the Proposed Development [ER 5.9.129]. Noting that the baseline requirements for material assets and waste were estimated using such information as the Bills of Quantities, like the ExA, the Secretary of State is satisfied that the quantities of materials were estimated appropriately and could be sourced locally [ER 5.9.168] and he is further satisfied that the outline versions of the Soil Resource Plan ('SRP'), Materials Management Plan ('MMP') and Design Approach document provide acceptable levels of certainty that the 30% regional recycled content target for materials is realistic and achievable [ER 5.9.170].

140. The Secretary of State notes the ExA queried the degree of certainty that the excavated material would be suitable for re-use within the works, thus managing the amount of soil to be imported or exported to the site. The ExA were concerned whether the aspirations for the re-use of materials on site and the minimisation of haulage of spoil away from the site could be achieved [ER 5.9.124]. The Applicant subsequently updated its ES, removing conflicting information it stated had been provided in error [ER 5.9.125]. The Applicant confirmed that based on the earthworks schedule data available, the target for 99% re-use of excavated material is expected to be achieved, although it stated that this position may change during detailed design or due to the impact of unforeseen circumstances with the potential to have excess material that cannot be used on site [ER 5.9.126]. Like the ExA, the Secretary of State is satisfied that appropriate measures are secured to ensure that on-site soils and aggregates would be stored, handled and processed appropriately to provide a reasonable degree of certainty for their re-use and to minimise the need for soils and materials to be imported or exported from the works. Accordingly, he is satisfied that the 99% target is realistic and achievable [ER 5.9.171].

141. Like the ExA the Secretary of State is satisfied that the arrangements set out by the Applicant for managing waste produced by the Proposed Development comply with paragraphs 5.40, 5.42, 5.43 of the NPSNN [ER 5.9.173], there is no evidence to suggest the Proposed Development would sterilise any Minerals Safeguarding Areas or peat resources and this is acknowledged in TMBC's LIR and accordingly, the requirements of NPPF paragraph 212 are also satisfied [ER 5.9.122 and 5.9.174]. The Secretary of State has taken account of the consideration given by the ExA to the outline versions of the SRP, Site Waste Management Plan, MMP and Design Approach document. The ExA considers that although these are high-level documents, they set out the principles of achieving sustainable use of material resources. The Secretary of State is satisfied that with the requirement for these documents to be updated through requirement 4 of the rDCO, the Environmental Management Plan ('EMP') and the Record of Environmental Actions and Commitments ('REAC'), material resources would be managed appropriately and that the quantities of primary resources would be minimised throughout the life of the Proposed Development to ensure both supply and use is reasonably sustained [ER 5.9.169]. The ExA acknowledged that negative residual impacts would occur due to

the use of finite material assets during construction and generation of waste but was satisfied that these impacts are slight adverse and do not count significantly for or against the DCO [ER 5.9.178]. The Secretary of State agrees with this conclusion.

142. Overall, the Secretary of State agrees with the ExA that there is no evidence of any material conflict with the Proposed Development and local plan policies on soil or ground conditions, or that there is any reason to doubt that the consideration of baseline conditions, study area, baseline assessments, ground water models, identification of receptors or assessment methodology is appropriate and that subject to the provisions of the rDCO, the likely significant effects have been identified in respect of soils and ground conditions [ER 5.9.163]. Further, he is satisfied with the consideration given to the requirements of the NPSNN and NPPF as set out at ER 5.9.164 - ER 5.9.165 and agrees that the loss and degradation of agricultural land counts against the making of the DCO. However, its impact is slight adverse and there would also be slight benefit through the exposure of the underlying geology in the cutting to the east of the Mottram Underpass which would provide scenic and educational opportunities [ER 5.9.166]. The Secretary of State therefore concurs with the ExA that matters in relation to soil and ground conditions do not count significantly for or against the DCO being made [ER 5.9.167]. The Secretary of State has had regard to the ExA being satisfied that appropriate consideration has been given to relevant policy for the Proposed Development and that subject to the provisions of the rDCO, the likely significant effects in respect of material assets and waste have been identified and appropriate mitigation provided [ER 5.9.177].

The Water Environment

Baseline Information

143. Whilst the Secretary of State notes the concerns expressed by the EA regarding shortcomings in the baseline information [ER 5.10.55, ER 5.10.58 and 5.10.59], he notes the subsequent discussions between the Applicant and the EA, the additional and updated information provided [ER 5.10.57 and ER 5.10.62] and that although the EA was still reviewing the ground investigation report at the close of the Examination, it was satisfied that the information provided was sufficient for the assessment at DCO stage on the basis that requirement 6 secured further updates and the refinement of mitigation [ER 5.10.63]. Accordingly, for the reasons set out at ER 5.10.141, like the EA, the Lead Local Flood Authorities ('LLFA') and the ExA, the Secretary of State is satisfied that the identified shortcomings in the baseline information can be satisfactorily addressed.

Drainage Strategy

144. In response to concerns regarding the absence of a drainage strategy, the Applicant provided a Drainage Design Strategy Report [ER 5.10.67] and whilst concerns were raised regarding some drainage aspects [ER 5.10.70], it is noted that DCC and TMBC as the LLFA for the Proposed Development agreed with the general principles set out in the Drainage Design Strategy Report including the emphasis on sustainable drainage [ER 5.10.142]. Like the ExA, the Secretary of State is satisfied that existing drainage systems would be accommodated within the overall drainage

design and that suitable arrangements would be in place to protect their operation through the REAC [ER 5.10.144]. Although the Proposed Development would run through an area containing natural artesian springs and concerns were raised regarding the impact of the Proposed Development on drainage [ER 5.10.69], like the ExA, the Secretary of State is satisfied that this is addressed within the Drainage Design Strategy Report, that it will be dealt with during the detailed drainage design and that adequate measures are in place to secure this through the REAC. Further the Secretary of State takes note that measures are in place to address existing land drains encountered during the work [ER 5.10.143].

The Water Framework Directive ('WFD') and effects on water quality and groundwater levels

145. The Secretary of State notes that the Applicant's WFD compliance assessment concluded that with mitigation and subject to the existing permitting system, the Proposed Development would be WFD compliant [ER 5.10.75] and that the EA indicated its satisfaction with the WFD assessment in terms of biodiversity, and in their SoCG with the Applicant expressed the view that actions secured through the REAC and first iteration Environmental Management Plan ('EMP1') would provide a net positive change in the riparian environment and that it would be seeking to control pollution through the environmental permitting regime. The Secretary of State agrees with the ExA that the conclusions of the assessment are reasonable, and that safeguarding and mitigation measures are secured in the DCO, in the outline management plans within EMP1 and the requirement to keep them updated throughout the life of the Proposed Development, and through the REAC [ER 5.10.145].

146. During the construction phase, the risk of contaminant release and the reduction of groundwater levels were identified [ER 5.10.78]. The Applicant proposed mitigation for these effects [ER 5.10.79], with the EA, TMBC and DCC confirming that they were satisfied that potential releases of pollution could be adequately controlled under the pollution control framework and there was no foreseeable impediment to the issue of any relevant operational pollution control permits [ER 5.10.80]. Whilst the EA raised various concerns [ER 5.10.81], the Secretary of State notes that these were addressed in the subsequent meetings held between the Applicant and the EA and the additional information provided and updated by the Applicant [ER 5.10.82, ER 5.10.83] and that the SoCG confirms that remaining concerns would be addressed at the detailed design stage, as secured through the REAC [ER 5.10.85]. Although the Secretary of State notes that there is likely to be an ongoing potential impact on water courses and groundwater from pollution and that the risk to changes to the level of groundwater would remain during operation of the Proposed Development [ER 5.10.86], he notes that the LAs and the EA were satisfied that the release of contaminants could be controlled by good design and measures within the EMP and the REAC [ER 5.10.88]. The ExA was content that the Proposed Development would not prevent the achievement of good status or result in deterioration of status of the Northwest River Basin Management Plan for the water bodies affected by the

Proposed Development [ER 5.10.145]. The Secretary of State has no reason to disagree.

147. The Secretary of State agrees with the ExA that the Proposed Development is unlikely to have a significant harmful effect on water quality and meets the requirements of paragraphs 5.222, 5.223, 5.226 and 5.227 of the NPSNN [ER 5.10.148]. Although the proposed mitigation and other measures to control pollution and groundwater levels are practicable and proportionate safeguards, like the ExA, the Secretary of State is mindful that mitigation can only minimise risk and cannot eliminate it completely and a small residual risk of detriment to water quality and groundwater levels would remain, albeit that risk would be small. However, he is satisfied that the overall effects on the water environment in terms of water quality, although negative, is unlikely to be significant [ER 5.10.149].

Flood Risk and the Sequential and Exception Tests

148. The Secretary of State notes that there was considerable discussion regarding the adequacy of the Flood Risk Assessment ('FRA') [ER 5.10.150], particularly regarding the use of revised climate change allowances that had not been included in the modelling and also in relation to the modelling for the River Etherow [ER 5.10.97, ER 5.10.100]. There were ongoing discussions to address these concerns between the Applicant, EA and LLFAs [ER 5.10.107] and the agreed position of the EA and the Applicant is set out in their SoCG, this being that resolution of several outstanding issues would only be possible once the final design parameters were known and the remaining issues need to be addressed through DCO requirements with consultation with the EA, requirements 4 and 9, the REAC, EMP1 and through environmental permitting [ER 5.10.108]. The EA suggested a conditional approach and the incorporation within the DCO of a requirement for consultation on requirements 4, 6, 8 and 9 and the need to update the Detailed Design flood model and the FRA through the REAC. This would allow the FRA to be accepted prior to development and ensure this was done based on the most-up-to-date information [ER 5.10.151]. There was general agreement between the Applicant, the EA and the LLFAs that this could provide a suitable safeguarding vehicle and the ExA were of the view that this approach would provide a means of ensuring the provision of mitigation of the flooding impacts for the Proposed Development provided that the scope of the necessary mitigation was shown to be feasible and deliverable [ER 5.10.152]. The Applicant informed the ExA that the proposed flood compensatory storage area would provide 6200m³ of flood storage which would provide sufficient compensatory storage to mitigate the 1600m³ of flood storage which would be lost on the existing floodplain [ER 5.10.106]. Noting the overprovision of the compensatory floodplain storage area and the agreement between the EA and the Applicant regarding the modelling of the River Etherow and the peak rainfall allowances, with only minor issues remained to be resolved between the Applicant and EA, the ExA concluded that there was sufficient assurance for the DCO to progress [ER 5.10.153]. The Secretary of State agrees with this conclusion.

149. The ExA found that the Proposed Development would provide adequate surface water storage and attenuation capacity to ensure that the peak rate and total volume discharge would not exceed the existing rates and volumes and as such the Proposed Development complies with paragraph 5.113 of the NPSNN [ER 5.10.154]. The Secretary of State agrees with this conclusion.

150. It is noted that construction activities have the potential to impact on flood storage and flood flows of the River Etherow and concerns were raised by the ExA and the EA regarding the effects of construction sequencing and how the essential criteria of the identified construction sequencing would be secured [ER 5.10.115]. In response to concerns, the Applicant explained that the criteria would be assessed through the REAC and the EMP1 but amended the REAC to ensure that the flood compensation measures would be completed before any other works are carried out [ER 5.10.116 – ER 5.10.117 and ER 5.10.155]. The EA welcomed this but considered that it would be appropriate to formalise this commitment as a separate further requirement to provide greater confidence in accordance with paragraph 167 of the NPPF [ER 5.10.118]. Like the ExA, the Secretary of State agrees that given the existing flood risk affecting properties on Woolley Bridge and the sensitivity of receptors on Woolley Bridge to flooding, it is prudent to secure that programming of the works is specifically included within the rDCO at requirement 9(3) [ER 5.10.156].

151. The Secretary of State notes the concerns regarding the impact of the Proposed Development on flood risk and the recent incidents of flooding [ER 5.10.113, ER 5.10.121]. This was considered by the ExA who concluded that there was no substantive evidence to demonstrate that the Proposed Development would directly affect or be affected by similar incidents, nor did the LLFAs express concerns in this regard. The ExA further concluded that the Applicant had demonstrated that the Proposed Development would instead have a beneficial effect on flooding on Woolley Bridge as the risk and severity of any future flooding would be reduced by the embedded mitigation provided by the compensatory floodplain storage area and improvements to flood defences on the left bank of the River Etherow which is a benefit in favour of the Proposed Development. Taking into account the overall reduction in the risk of the release of pollutants, damage to property and disruption to traffic, the ExA concluded that this would be a moderate beneficial effect of the Proposed Development that would be significant [ER 5.10.157]. The Secretary of State agrees with this conclusion and that with the proposed mitigation in place the Proposed Development would be likely to lead to a negligible increased risk of flooding and would therefore accord with paragraphs 5.99, 5.102 and 5.104 of the NPSNN [ER 5.10.158].

152. Paragraph 5.98 of the NPSNN requires that where flood risk is a factor in determining an application for development consent the Secretary of State should be satisfied that, where relevant, the application is supported by an appropriate FRA and the Sequential Test has been applied as part of the site selection and, if required, the Exception Test as set out in the NPPF [ER 5.10.9]. Paragraph 5.99 requires that when determining an application for development consent, the Secretary of State should be satisfied that flood risk will not be increased elsewhere and should only consider

development in areas at risk of flooding where (informed by a FRA, following the Sequential Test and, if required the Exception Test) it can be demonstrated that within the site, the most vulnerable development is in the areas of lowest flood risk unless there are overriding reasons to prefer a different location; and development is appropriately flood resilient and resistant, and that any residual risk can be safely managed, and priority is given to the use of sustainable drainage systems [ER 5.10.10]. Whilst most of the Proposed Development is in Flood Zone 1, part would fall within Flood Zone 3b and the NPSNN and the National Planning Practice Guidance ('NPPG') therefore require the Sequential and Exception Tests to be applied. The Secretary of State agrees with the ExA that the Proposed Development amounts to 'Essential Infrastructure' for the purposes of the NPPG which allows it to be located in Flood Zone 3 if it passes the Exception Test [ER 5.10.123].

153. Like the ExA, the Secretary of State is satisfied that the Applicant has provided an appropriate FRA and has taken steps to update it to the satisfaction to the EA and is further satisfied that the information accompanying the Proposed Development is sufficient to enable the necessary Sequential and Exception Tests to be carried out in accordance with the NPSNN [ER 5.10.161].

154. Due to the linear nature of the Proposed Development in linking Mottram Moor to Woolley Bridge any road alignment would need to cross the floodplain of the River Etherow, [ER 5.10.124] and no alternative route could be located in an area of lower flood risk and the ExA found that the Proposed Development met the Sequential Test [ER 5.10.160]. Like the ExA, the Secretary of State is also satisfied that the Proposed Development would be safe for its lifetime without increasing flood risk elsewhere and that the wider sustainability benefits to the community outweigh the flood risk [ER 7.5.17] and in accordance with NPSNN paragraph 5.108 therefore satisfies the Exception Test [ER 5.10.162].

155. With regard to Sustainable Drainage Systems ("SuDS"), the ExA noted that while the Development would make use of SuDS over the majority of its length, in some locations other solutions were necessary [ER 5.10.130]. The ExA accepted the limit to the extent to which SuDS are achievable and noted that further opportunities for their use would be sought by the Applicant as part of the Detailed Design phase. The ExA also noted that the LLFAs confirmed that they saw no impediment to the adoption of relevant structures and features in future. The Secretary of State is aware that the incorporation of the SuDS structures and features are shown on the Works Plans and Scheme Layouts, which are Certified Documents within the DCO. The ExA concluded that there was nothing to suggest that the design of the SuDS features would not comply with the requirements set out in paragraph 5.100 of the NPSNN, and that the Development accords with paragraphs 5.110, 5.111 and 5.230 of the NPSNN and paragraph 169 of the NPPF [ER 5.10.163]. Overall, the Secretary of State agrees with the ExA that the Proposed Development would lead to a negligible increased risk of flooding [ER 5.10.165], reduce the risk of flooding on Woolley Lane, and would be likely to reduce the spread of pollution, damage to property and disruption of traffic and this is a moderate beneficial effect which counts significantly in favour of the DCO being made [ER 5.10.168].

Biodiversity and Ecological Conservation

156. Paragraphs 5.20 to 5.38 of the NPSNN relate to biodiversity and ecological conservation. Paragraphs 5.34 and 5.35 indicate that proposals should take measures to protect species and habitats that have been identified as being of principal importance for the conservation of biodiversity and where appropriate, requirements or planning obligations may be used to deliver this protection. Consent should be refused where there would be harm to these habitats or species and their habitats unless the benefits of the development (including need) clearly outweigh that harm [ER 5.11.10]. The Secretary of State accepts the ExA's assessment of policy considerations that apply to this decision [ER 5.11.2-5.11.14].

157. The Secretary of State notes the ExA's consideration of the Proposed Development in relation to biodiversity and the natural environment as set out in ER 5.11 and the biodiversity and nature conservation issues considered during the Examination [ER 5.11.140 - 5.11.142].

158. With regard to assessment methodology, the Secretary of State is satisfied that the concerns raised during the Examination were dealt with to the satisfaction of the ExA. In the SoCG between the Applicant and Natural England ('NE'), the parties agreed that the assessments carried out were acceptable and no issue was raised with the adequacy of the methodology or scope of the ES regarding biodiversity by TMBC, DCC, HPBC or the EA [ER 5.11.145]. The Applicant's findings are set out at ER 5.11.134 - ER 5.11.139 with the Applicant concluding that the mitigation and compensation proposals demonstrated compliance with the requirements of the NPSNN by creating new habitats, minimising habitat fragmentation, and providing sufficient essential mitigation for protected species [ER 5.11.145]. The Applicant's overall approach to biodiversity and ecological conservation, including the scope of baseline surveys, was generally agreed by the most relevant authorities who for the most part did not raise substantive concerns regarding the Applicant's findings. Accordingly, like the ExA, the Secretary of State is satisfied that the application accords with paragraph 5.22 of the NPSNN in its consideration of the full range of sites, habitats species and potential impacts and paragraph 5.26 of the NPSNN in attaching appropriate weight to the range of sites, habitats and species [ER 5.11.198].

159. The Secretary of State notes the various representations and discussions regarding the effectiveness and monitoring of the proposed ecological mitigation [ER 5.11.147 - 5.11.166] and notes that this was explored in depth by the ExA.

160. The Secretary of State notes that the ExA asked NE and the EA to comment on the approach to mammal crossings, otter fencing and other measures within the water environment. In response NE indicated that it accepted that such mitigation measures could be considered further during the detailed design phase subject to updated surveys and stated that the Applicant should consult with them on the mitigation measures that may impact on protected species requiring a licence to ensure the measures are appropriate. The EA confirmed the Applicant's approach was acceptable subject to further consultation, which the EA noted was secured through

requirement 4 of the DCO as a requirement for consultation on the EMP, the Landscape and Ecological Management and Monitoring Plan ('LEMMP') in EMP2 [ER 5.11.152 - 5.11.153].

161. The Secretary of State notes that DCC, TMBC, EA and NE were asked to comment on the Outline LEMMP. DCC provided comments on the design mitigation and TMBC was broadly satisfied with the document at this stage, provided that the final planting mix was agreed with LAs. The EA had similar views and also found that the EMP was acceptable and noted that requirement 4 of the DCO secures consultation on the later iterations of the LEMMP [ER 5.11.155 - 5.11.156].

162. NE confirmed it had no further comments on EMP1 or the REAC requirements set out in the dDCO and that there were no remaining concerns regarding the effectiveness and monitoring of the proposed mitigation secured through the dDCO [ER 5.11.157, ER 5.11.196].

163. The Secretary of State notes and agrees with the conclusion made by the ExA that the overall impact of the construction works would be slight adverse in the short to medium term, which would not be significant. In the longer term, the mitigation, which includes measures to avoid and prevent adverse effects, would provide enhancements in some instances, resulting in a neutral to slight beneficial effect that would not be significant [ER 5.11.203].

164. The Secretary of State notes that DCC and HPBC sought clarity from the Applicant regarding the underlying calculations that supported its position that due to the short duration and relatively small area affected, the air quality impacts on Shire Hill Ancient Woodland from nitrogen deposition would not be significant. The Applicant clarified that the duration of the impact would be one year and provided an explanation for how this was derived from completed modelling. The Secretary of State notes that DCC confirmed that it had no further concerns regarding the impacts on the Ancient Woodland [ER 5.11.167]. The Secretary of State agrees with the ExA's conclusion that there is unlikely to be a significant effect on the Shire Hill Ancient Woodland [ER 7.4.99].

165. The Secretary of State notes the discussions which took place regarding invasive non-native species ('INNS') and the suitability of measures to control INNS within the outline LEMMP. The Applicant undertook to incorporate best practice measures, as outlined by the EA, into the outline LEMMP [ER 5.11.189]. The Secretary of State agrees with the ExA that the final SoCG between the Applicant and the EA indicates that there are no outstanding concerns over management of INNS [ER 5.11.190].

166. The Secretary of State notes the concerns raised by various IPs regarding the impact of the Proposed Development on mountain hare from visual and noise disturbance as a result of increased traffic and as a result of mortality due to vehicle collision [ER 5.11.170 - 5.11.171, ER 5.11.174 and ER 5.11.176] and the supporting evidence provided. In accordance with advice from NE, the ExA considered the report

prepared by Dr Bedson [ER 5.11.183] and concluded that increased traffic would likely result in increased mountain hare fatalities, but the extent of the increase was unclear [ER 5.11.207] for the reasons that there was a wide variation in the estimated total population of the mountain hare and there is no formal survey or monitoring by NE, but that a worst-case scenario using Dr Bedson's estimates of 200 hares being killed would result in a mortality rate of approximately 6% of the population per annum [ER 5.11.208]. The Secretary of State notes the careful consideration given by the ExA to this matter and the regard paid to the Natural Environment and Rural Communities ('NERC') Act 2006, given the mountain hare is a species of principal importance [ER 5.11.222]. The ExA concluded that whilst there is likely to be an impact on the population of mountain hare due to the Proposed Development, there was no evidence to demonstrate that this would have a significant effect on the mountain hare population and despite adopting a precautionary approach, the adverse effect on the overall mountain hare population is likely to be moderate at worst [ER 5.11.209] and for the reasons set out at ER 5.11.210, the ExA concluded that based on the available evidence on the likely scale and limited area of effects they were not convinced that specific mitigation was required. The Secretary of State is content with this conclusion.

167. The Secretary of State notes that the Proposed Development would necessitate the loss of nine small day or satellite bat roosts and four potentially present maternity roosts which lie within the DCO boundary [ER 5.11.88]. The ExA report sets out the proposed bat mitigation at ER 5.11.89 - 5.11.95, and that the Applicant will undertake pre-commencement surveys to update the current baseline [ER 5.11.96]. The Secretary of State notes the measures to mitigate adverse effects on biodiversity during the construction and operational phases are largely contained in EMP1, the REAC and the OLEMMP and which are secured by dDCO requirements [ER 5.11.118].

168. The Secretary of State notes that mitigation outlined by the Applicant is provided on a reasonable 'worst case' scenario for many species and therefore, there is certainty that the mitigation identified and assumed within the assessment is sufficient to ensure that the Proposed Development would result in no likely significant effects. The Secretary of State has had regard that any required changes to the proposed mitigation strategy would be outlined within the Environmental Management Plan (second iteration) and secured via the REAC [ER 5.11.161]. The Secretary of State notes that NE indicated that all protected species issues (including licencing requirements under the Conservation of Habitats and Species Regulations 2017 or the Wildlife and Countryside Act 1981 as amended) can be addressed by requirements in the dDCO, should it be granted. The Secretary of State agrees with the ExA and is satisfied that the requirements of paragraph 5.38 of the NPSNN have been suitably addressed [ER 5.11.199].

169. The Secretary of State notes that the main badger sett located within the DCO boundary would require closing under a NE licence and compensatory mitigation to be provided in the form of the creation of an artificial sett with the clan's respective territory [ER 5.11.97].

170. The Secretary of State notes that badger surveys continue to be undertaken to keep survey data updated and that a Draft Licence has been prepared and submitted to NE for review and comment [ER 9.6.4].

171. As recommended by the ExA [ER 9.6.5], the Secretary of State requested an update from the Applicant and NE regarding the status of a Letter of No Impediment (“LONI”) for badgers and bats in his consultation letter dated 2 September 2022. In response the Applicant confirmed it was unable to provide a LONI yet. The Secretary of State however notes that the SoCG between NE and the Applicant confirms the agreement of the badger and bat licence processes, and that NE did not foresee any problem that would prevent the issue of the protected species licence [ER 5.11.165]. The Secretary of State agrees with the ExA that given the final positions of the EA, NE and local authorities (including the responses to the consultation letter) finds no obvious impediments to the delivery of the Proposed Development arising from these consents [ER 9.6.5].

172. The Secretary of State notes that other mitigation would be provided as needed and that there is provision with the EMP and the REAC to ensure that the Applicant can review and refine mitigation in response to any change in need. The Applicant identified that mitigation measures such as artificial badger setts, bat structures and habitat planting had been widely used with high levels of success. The EA and TMBC considered that the design of the Proposed Development could be refined during detailed design. The ExA were reassured by the monitoring measures to be provided by with the EMP and based on the evidence before them it allowed them to conclude that the proposed mitigation measures are deliverable and would likely be effective. The Secretary of State does not disagree with that conclusion [ER 5.11.204]. The detailed content of those provided at Application stage has not attracted any notable objections which would be insurmountable to overcome in accepting the approach of reliance on requirements for more detailed stages of design.

173. Although concerns were raised regarding the effects of the Proposed Development of noise and visual disturbance on bird species, particularly in the Dark Peak Special Site of Scientific Interest (‘SSSI’) [ER 5.11.168 - ER 5.11.169], the Secretary of State agrees with the ExA that given the current levels of traffic and the likelihood that species have become accustomed to noise and visual disturbance from existing traffic, the Proposed Development would have a limited effect on ground breeding bird species and similarly with regard the behaviour of mountain hare [ER 5.11.206].

174. The Secretary of State has taken note of the objections raised regarding the impact of the Proposed Development on other species. However, it was noted that the ExA was satisfied that the Applicant’s baseline information and assessments of the effect of the Proposed Development were sound, and that NE did not raise any concerns in this regard. The Secretary of State is satisfied that the objections do not affect the findings of the ES [ER 5.11.212].

175. Regarding opportunities for biodiversity and ecological enhancement as considered at ER 5.11.191 – ER 5.11.196, the ExA concluded that the Proposed Development had the potential to achieve enhancements in biodiversity and that the mitigation measures required to achieve enhancements are set out in the EMP1 and had no reason to doubt that they would be deliverable and effective. The Secretary of State agrees with this conclusion [ER 5.11.218]. The ExA considered, however, that even with the proposed mitigation, there would be a slight adverse residual effect on Hurstclough Brook, which would be likely to experience a reduction in flow in its upper section, but this would be unlikely to result in any significant effects [ER 5.11.216]. The Secretary of State has no reason to disagree. Although a Biodiversity Net Gain ('BNG') is not currently a legal requirement, it is noted that the Proposed Development would result in a limited BNG which would have a slight beneficial effect. The ExA noted the commitment of the Applicant to seek further BNG in consultation with the LAs and others during the detailed design phase. However, the scale of the benefit is likely to be such that it does not count significantly for the DCO being made [ER 5.11.219]. The Secretary of State is satisfied with this conclusion.

176. In conclusion, the Secretary of State agrees with the ExA that the Proposed Development would have a moderate adverse effect and therefore significant effect on mountain hare which counts significantly against the DCO being made [ER 5.11.220] and this effect is taken forward into the planning balance [ER 5.11.221] as considered in the section headed 'Conclusions for making a case for a DCO' below. The Secretary of State is also satisfied with the consideration given by the ExA to the NPSNN and compliance with the requirements on conserving and enhancing biodiversity conservation interests and regarding mitigation measures [ER 5.11.214 - ER 5.11.215], and the regard paid to the NERC Act and the biodiversity duty in their consideration of the implications of the Proposed Development of mountain hare as a species of principal importance [ER 5.11.222]. The Secretary of State has had regard to the matters mentioned in regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010 and note that the ExA were content that the Proposed Development accords with the aims of the United Nations Environmental Programme Convention on Biological Diversity of 1992 [ER 5.11.223].

Land Use, Social, Economic and Human Health

177. Although concerns were expressed regarding the lack of detailed assessment of the effect the Proposed Development would have on the local economy [ER 5.12.62], the Secretary of State notes that following further explanation by the Applicant [ER 5.12.64 – ER 5.12.66], HPBC [ER 5.12.68] and TMBC [ER 5.12.70] had no further concerns and therefore agrees with the ExA that the methodology used for the economic assessment was appropriate and proportionate [ER 5.12.72].

Local Businesses

178. The Secretary of State notes the various representations regarding the impact of the Proposed Development on local businesses and farms [ER 5.12.73 - ER 5.12.75, ER 5.12.77] and whilst he accepts that some effects cannot be eliminated, [ER 5.12.78] like the ExA, he is content that there is appropriate mitigation to manage and reduce these effects and that there are measures in place to provide suitable

compensation for businesses affected by compulsory acquisition ('CA') and temporary possession ('TP') [ER 5.12.79]. Although the Secretary of State acknowledges that the Proposed Development may increase local journey times and that it is likely that because of the Proposed Development there would be some businesses that would experience beneficial effects while other businesses would be subject to adverse effects, he agrees with the ExA that overall, there would be likely to be longer-term benefits to both the local and wider area through improved journey time reliability and journey time savings that would provide a significant overall economic benefit both locally and in the wider area [ER 5.12.80].

Occupiers of Dwellings to be Acquired

179. The Secretary of State notes the concerns raised regarding the impact of the proposed CA of homes [ER 5.12.82]. Whilst he appreciates that these events can be traumatic and distressing for those involved, like the ExA, he also recognises that such events cannot always be avoided in all cases and that, where acquisition of a home is necessary the adverse effects cannot be eliminated, [ER 5.12.87] and in this regard, the Secretary of State is satisfied that there is suitable compensation provision. Although the Secretary of State notes the steps taken by the Applicant to minimise the impact caused by the proposed CA [ER 5.12.83 – ER 5.12.84, ER 5.12.89], he concurs with the ExA that there would remain a significant adverse impact on human health from the acquisition and demolition of property, including homes [ER 5.12.90].

Severance

180. The Secretary of State notes the concerns raised regarding the potential for the Proposed Development to increase severance of communities within Glossopdale, Tintwistle and routes crossing the PDNP due to increased traffic [ER 5.12.91] which he notes is forecast to increase by less than 10% on the A628 Woodhead Pass and up to 38% on the A57 Snake Pass [ER 5.12.95]. Whilst these increases are large, in absolute terms the Secretary of State notes that the total traffic would not be great because the increase in traffic would be relative to a low baseline [ER 5.12.98]. Although it is noted that there would be increased use of alternative routes avoiding the A57 through Glossop and the A628 through Tintwistle and the roads across PDNP, the Secretary of State agrees with the ExA that the increased volumes of traffic on these routes would not be so great as to result in severance at a level that would cause a significant adverse effect [ER 5.12.99]. Given the uncertainty regarding the use of alternative routes the Secretary of State notes that the ExA considered the possibility that additional traffic would flow through the High Street West and concluded that the likely increase in traffic flows is unlikely to be of such magnitude as to cause a significant adverse effect on patronage for businesses on High Street West [ER 5.12.100] and although it would increase the difficulty in crossing for pedestrians this would not be at a level requiring mitigation [ER 5.12.102]. The Secretary of State has no reason to disagree.

Mottram Agricultural Showground

181. The Secretary of State notes the concerns raised about Mottram Agricultural Showground [ER 5.12.104] which would be lost during the construction phase of the

Proposed Development. However, he notes that an alternative showground has been secured and is therefore content that the loss of the showground in its current location would not be a significant effect [ER 5.12.106].

Public Open Space and Sports Facilities

182. Regarding open spaces, the Secretary of State notes that although the Proposed Development would cause the permanent loss of the public open space behind the communal yard behind 2 to 15 Old Road [ER 5.12.110], this would be replaced by an equivalent landscaped plot of greater area which would be provided for public open space on the roof of the Mottram Underpass and he is therefore content that a suitable alternative has been provided in compliance with the requirements of paragraph 5.166 of the NPSNN [ER 5.12.114]. In respect of the land adjacent to Mottram Moor Farm this was categorised as open space through the Ordnance Survey records, the Applicant understood that it is an area of urban fringe within private ownership and if it was used as open space, it was not widely used within the community [ER 5.12.111]. The ExA agreed with the ExA that there is limited evidence that this land is used substantively by the community and therefore its loss counts neither for nor against the Proposed Development [ER 5.12.115]. Sport England raised concerns regarding the loss of the cricket pitch [ER 5.12.108]. However, the Secretary of State agrees with the ExA that the evidence of aerial photographs for the area indicate that the cricket pitch was no longer in use by September 2005 as the pitch was overgrown at that stage and scrub was developing [ER 5.12.113]. The ExA view was that in practical terms the evidence before them the pitch ceased to be used for some time, and there is a replacement cricket ground at Gorse Hall Road and given the history of the site and its current use, the inclusion of the land within the Proposed Development does not result in a significant effect [ER 5.12.116].

Local Job Market and Economy

183. The Applicant stated that the Proposed Development would generate wider economic benefits of £97 million [ER 5.12.117] which the ExA considered would constitute a significant benefit to the region [ER 5.12.122] and further, that the construction phase of the Proposed Development would employ between 200-270 people [ER 5.12.118] which the ExA concluded would provide temporary, moderate and therefore significant benefit to the local economy [ER 5.12.121]. The Secretary of State concurs with this conclusion. Although it is noted that TMBC recommended that conditions were attached to ensure local training, employment and apprenticeships were secured through the provisions of the DCO [ER 5.12.119], the Secretary of State agrees with the ExA that given the proactive steps taken by the Applicant in support of using a local workforce and suppliers [ER 5.12.120] and to provide the Applicant with a degree of commercial freedom in the delivery of the Proposed Development, it is more appropriate that this is achieved through contractual means [ER 5.12.121].

Life Expectancy

184. In view of the concerns regarding life expectancy in the area surrounding the Proposed Development [ER 5.12.123], the ExA carefully considered whether there was evidence to suggest that the Proposed Development would contribute towards

lower life expectancy in the area [ER 5.12.124]. Noting that both TMBC and HPBC stated there was no evidence to suggest this would be the case [ER 5.12.125 - ER 5.12.126] and considering the ExA's conclusion on air quality which stated that there were unlikely to be any significant overall effects on air quality [ER 5.3.122], the Secretary of State is satisfied that there is no evidence to suggest that overall, the Proposed Development would be likely to have a material effect on life expectancy in vulnerable groups of the general population [ER 5.12.130].

The National Trust ('NT') and its tenants

185. The Secretary of State acknowledges the concerns raised by NT that the Proposed Development would increase traffic on the A57 Snake Pass which would exacerbate ongoing land stability issues and pose a risk to its staff and tenants [ER 5.12.131]. Considering the ExA's previous conclusion [ER 5.9.159] the Secretary of State is satisfied that the Proposed Development is unlikely to have a significant effect on NT and its tenants [ER 5.12.133].

Potential Development Land

186. The Secretary of State notes the submissions made on behalf of Crossways Commercial Estates and Mr D Radford [ER 5.12.134], regarding the potential for approximately 27 acres of agricultural land on the western edge of Hollingsworth to be developed for housing in response to the emerging Greater Manchester Spatial Framework and PfE [ER 5.12.136]. Noting the lack of support for the removal of the land from the Green Belt or designation of the site for development from TMBC [ER 5.12.137], for the reasons set out at ER 5.12.89, the Secretary of State concurs with the ExA that there is no evidence to demonstrate that this land is developable and the effects on the potential for this land to be developed would be unlikely to be significant [ER 5.12.139].

Other Matters

187. The Secretary of State notes the concerns raised regarding the lack of consultation with residents of Mottram Moor regarding parking provision, the access road to properties on Mottram Moor and the Applicants tree planting proposals [ER 5.12.141]. Whilst the Secretary of State appreciates that the proposed layout may not satisfy everyone, like the ExA, the Secretary of State agrees that the Proposed Development would provide a reasonable balance between competing needs for access landscaping and safeguarding of LA interests and with regard to planting, is content that adequate mitigation and safeguarding of interests is provided and that this matter would be unlikely to result in a significant effect [ER 5.12.147].

Conclusions on Land Use, Social, Economic and Human Health

188. Overall, the Secretary of State is satisfied that the Proposed Development accords with requirements of the NPSNN and NPFF as set out at ER 5.12.148 - ER 5.12.152 and agrees with the ExA's conclusion regarding adverse and beneficial effects [ER 5.12.153 - ER 5.12.166]. The Secretary of State agrees that the beneficial effects [ER 5.12.169] count significantly in favour of the DCO and the adverse effects [ER 5.12.170] count significantly against the DCO being made.

Habitats Regulation Assessment

189. Under regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) ('the Habitats Regulations'), before granting any development consent, the Secretary of State (as the Competent Authority) is required to consider whether the scheme (which is a project for the purposes of the Habitats Regulations) would be likely, either alone or in combination with other plans and projects, to have a significant effect on a European Site ('LSE') [ER 4.6.2].

190. Where a scheme is likely to have such a LSE on a European Site, the Secretary of State must undertake an Appropriate Assessment ("AA") of the implications of the scheme for the integrity of the European Site and its conservation objectives. In the light of any such assessment, the Secretary of State may grant development consent only if it has been ascertained that the scheme will not, either on its own or in combination with other plans and projects, adversely affect the integrity of such a European Site, subject to the application of regulation 64 where relevant. The Secretary of State notes that the Proposed Development is not directly connected with or necessary to the management of a European Site [ER 6.1.15]. A screening assessment was undertaken to identify potential likely significant effects between the Proposed Development on the following European Sites: Peak District Moors (South Pennine Moors Phase 1) Special Protection Area ('SPA'); and the South Pennine Moors Special Area of Conservation ('SAC') [ER 6.1.24]. The Applicant's assessment of effects is set out in the Habitats Regulations Assessment ('HRA') Screening Report [APP-054] which draws on information contained in other DCO application documents [ER 6.1.17]. The Applicant also provided an assessment of LSE arising from changes to air quality at designated habitats set out in its ES Appendix 8.4 [APP-172] [ER 6.1.18]. Tables 6.1 and 6.2 of the Applicants HRA Screening Report detailed the consultation undertaken by the Applicant with NE as the Appropriate Nature Conservation Body in respect of the assessment. The Applicant stated that NE agreed with the methodology and results of the assessment in respect of both European Sites considered [ER 6.1.19]. In response to questions raised by the ExA the Applicant provided an updated HRA Screening Report [REP2-004] and a separate version of the screening matrices were submitted [REP2-044] at Deadline 2 (14 January 2022). Changes to the HRA Screening Report and screening matrices were made to clarify cross references to information contained in other application documents and to correct errors in data. [ER 6.1.20].

191. The Secretary of State notes the Report on the Implications for European Sites ('RIES') prepared by the ExA to compile, document and signpost HRA relevant information provided in the DCO application and Examination representations up to Deadline 7 (23 March 2022) and set out the understanding of the ExA on the HRA-relevant information and the position of the IPs in relation to the effects of the Proposed Development on European Sites at that point in time [ER 6.1.6]. The Secretary of State notes the updated versions of other DCO applications used to inform the HRA Screening Report and the update to Chapters within the Environmental Statement submitted during the Examination [ER 6.1.22] and agrees with the ExA finding that the

changes made during the Examination do not alter the assessment or the conclusions reached in the HRA Screening Report [APP-054] [ER 6.1.20].

192. Based on screening matrices the Applicant concluded that the Proposed Development would have no LSE on any of the European sites during construction or operation either alone or in combination with other projects or plans on any of the qualifying features of those European Sites [ER 6.2.2 – 6.2.14 and ER 6.4.4]. NE in its relevant representation confirmed it was satisfied that there would be no LSE on the European Sites and agreed with the Applicant's screening conclusions throughout the Examination [ER 6.2.12 and 6.4.5].

193. The methodology and outcomes of the Applicant's screening for LSE on Peak District Moors (South Pennine Moors Phase 1) SPA for all bird qualifying features and South Pennine Moors SAC for blanket bog and upland heath qualifying features were subject to discussion and scrutiny during the Examination following representations from other IPs, including CPRE, NT and PDNPA [ER 6.1.24]. These matters are described in Section 6.2 of the ExA's Report [ER 6.4.6].

194. The Secretary of State notes NE responses throughout the Examination and that NE agreed with the Applicant's screening conclusions. It is noted that NE did not dispute the Applicant's screening decisions or reasons used to screen out LSE from the construction phase of the proposed development. While the ExA observed that NE did not comment specifically on construction phase impacts, it stated in its written representation that it was satisfied that from the information submitted that the Applicant had demonstrated beyond reasonable scientific doubt that there would be no LSE on the integrity of the European sites from the construction and operation of the Proposed Development either alone or in combination [ER 6.1.26 and 6.2.25]. The Secretary of State agrees with this conclusion.

195. The Secretary of State notes the consultation undertaken during the Examination regarding the Nutrient Neutrality advice published by the Department for Environment Food and Rural Affairs (DEFRA) and NE in relation to nutrient levels in relevant river basin catchments on 16 March 2022 and its implications for the Proposed Development and its HRA. The Secretary of State notes that NE, HPBC and PDNPA confirmed that the advice had no implications or concerns for the Proposed Development and no further consideration of the advice published is required [ER 6.1.27].

196. The Secretary of State notes the ExA is satisfied that the Applicant has correctly identified the relevant European sites and qualifying features for the purposes of the assessment and that all potential impacts which could give rise to LSE have been identified [ER 6.4.7]. The findings made by the ExA are that LSE on the Proposed Development when considered alone or in combination with other plans or projects can be excluded for the impact-effect pathways assessed and that in reaching that conclusion the Applicant has not relied on mitigation measures to avoid effects that could otherwise be significant [ER 6.4.8]. The Secretary of State agrees with the ExA

HRA conclusion and is satisfied that there is no requirement to undertake an AA of the Proposed Development [ER 6.4.9].

Conclusions on the Case for Making a DCO

197. The Secretary of State agrees with the ExA that the need case for the Proposed Development has been made in that the Proposed Development would support the Government's vision and key strategic objectives set out in the NPSNN to deliver national networks that meet the country's long-term needs including supporting a competitive and prosperous economy as part of a wider transport system and would meet the critical need to improve the national networks [ER 7.3.7] and that the LA's have stated their strong support for the need for the Proposed Development and this is supported in their LIRs [ER 7.3.4 - ER 7.3.6].

198. The Secretary of State agrees with the ExA's conclusion that matters relating to air quality, the vulnerability of the Proposed Development to climate change, nuisance, design, soils and ground conditions, material assets and waste, water environment, security, major accidents and disasters, civil and military aviation and defence interests and decommissioning do not count significantly for or against the DCO being made [ER 7.5.3]. The Secretary of State agrees with the ExA's conclusion of matters that count significantly in favour of the DCO being made are: reduced congestion and improved journey time reliability through Mottram, Hollingworth and Tintwistle and also between Manchester and Sheffield and notes that the ExA gives substantial weight due to the scale of benefits to tackling specific congestion without constrained traffic growth; benefits to business trip drivers of £117 million by improving business connections in the Manchester and Sheffield regions and a further £97 million of wider economic impacts to which the ExA have given substantial weight due to the scale of benefits and the general emphasis on economic growth in the NPSNN; benefits to WCH through improved linkage to existing PRow, additional links and improved crossing facilities and related benefits to human health and social cohesion and which the ExA give substantial weight due to the scale of benefits and the support given to sustainable modes in the NPSNN; and the overall improvement of bus services and provision of opportunities for further improvement which the ExA has given moderate weight due to the combination of limited benefits with strong policy support for the increased use of public transport. Further, the Secretary of State agrees with the ExA that moderate weight should be ascribed to the beneficial noise effects at 374 dwellings and nine other receptors during the operational phase due to the number of receptors affected and magnitudes of effect; and local economy and human health outcomes from the creation of jobs during construction, reflecting the scale of effects and temporary duration; and limited weight to the reduced risk of flooding on Woolley Lane; and improved overall connection between local communities along the Trans-Pennine Route [ER 7.5.8].

199. The Secretary of State agrees with the ExA's conclusions regarding matters that count significantly against the Proposed Development which are: harm to the Green Belt; increases in traffic through the PDNP; increased likelihood of road casualties; and also the temporary adverse significant effects apportioned to the ten

landscape receptors and 64 visual receptors during the construction phase, adverse significant effects on six landscape receptors at year 1 of the operational phase reducing to no significant effects at year 15, adverse significant effects on 14 representative viewpoints at year 1 of operation reducing to three at year 15 and adverse significant effects on 48 visual receptors at year of operation reducing to 11 at year 15 to which the ExA give limited weight. The Secretary of State also agrees with the apportioning of limited weight against the Proposed Development to the moderate adverse permanent and irreversible significant effects on the setting of Tara Brook Farm, moderate temporary, short term and reversible significant effects to the setting of Dial House, Ivydene Mottram Old Hall, Dial Cottage and Tara Brook Farm, the adverse effects on mountain hare and cumulative combined visual, noise and vibration impacts on four properties [ER 7.5.9]. As mentioned above the Secretary of State also considers that adverse effects on climate change have limited weight against making the DCO.

200. The Secretary of State agrees with the ExA regarding the likely benefits of the Proposed Development [ER 7.5.12] and the adverse effects of the Proposed Development (ER 7.5.13) and taking these matters into account, that the matters in favour of the DCO being made outweigh the matters weighing against the DCO being made (either in isolation or combination) [ER 7.5.14] and noting the ExA's further consideration in relation to matters set out in the NPSNN on potential harm to the Green Belt; the public benefits of the Proposed Development; and the sustainability benefits to the community [ER 7.5.15 - ER 7.5.17] and their finding in relation to the Applicant's HRA screening report, the comments made by NE and the conclusions of no LSE are supported and that an AA is not required prior to making the DCO and that the ExA saw no reason for HRA matters to prevent the making of the DCO [ER 7.5.18] and the Secretary of State therefore considers there to be a case for development consent to be granted.

201. The Secretary of State has considered the Friends of the Earth case as recommended by the ExA [ER 7.5.19] (see the Climate Change section above) and is satisfied that it does not affect his view that there is a case for development consent to be granted.

Compulsory Acquisition and Related Matters

202. The Secretary of State notes that the submitted application includes proposals for the Compulsory Acquisition ('CA'), i.e., the acquisition of land (outright acquisition) or the acquisition of rights over land, and the Temporary Possession ('TP') of land during the construction and maintenance purposes [ER 8.1.1]. The Secretary of State notes sections 122 and 123 of the Planning Act 2008. Section 122 sets out the purposes for which CA may be authorised and the descriptions of land to which CA can relate [ER 8.2.2] and that there must be a compelling case in the public interest to acquire the land [ER 8.2.3]. Section 123 sets out that one of three procedural conditions must be met by the application proposal [ER 8.2.4].

203. The Secretary of State notes the purposes for which CA and TP land are set out in the Statement of Reasons and the Book of Reference and the main powers authorising CA in the rDCO and the provision that parties having an interest in land or the interest or right in the land may be entitled to compensation [ER 8.5] and accepts the description of the legislative requirements and national guidance as set out by the ExA at ER 8.2 The Secretary of State notes the ExA's examination of the case for CA and TP [ER 8.6].

Individual objections

204. The Secretary of State notes the ExA's consideration of individual objections at ER 8.9 and agrees with its reasoning and conclusions on these matters. Some objections are further considered below.

Valerie Bromley, Michaela Bromley and Hayley Simpson

205. Valerie Bromley occupies a dwelling proposed for CA of land at plot 3/6 for the construction of a new section of the A57 dual carriageway and the construction of the Mottram Underpass [ER 8.9.71 - 8.9.72]. The Secretary of State notes the concerns raised by Michaela Bromley and Hayley Simpson about the benefits and impacts of the Proposed Development and the family home being acquired particularly regarding the impact the proposed CA was having on both their own and Valerie Bromley's health and wellbeing [ER 8.9.74] and the further representations made following the close of the Examination. The Applicant said that it was fully aware of the family's request for the affected property to be retained and stated that if the risks could be managed and a solution found it would look to work with the family to retain the property [ER 8.9.75] and the Secretary of State accepts the ExA's conclusion that they are satisfied with the measures in place to ensure that the option of the home being retained continues to be explored whilst accepting that this may not be possible and that there are suitable compensation provisions in place [ER 8.9.76].

Special Category Land

206. Sections 131 and 132 of the Planning Act 2008 make provision for a special parliamentary procedure to be followed in certain circumstances when CA powers are sought in respect of open space land. To avoid these procedures, the Secretary of State must be satisfied that one of the exceptions set out in subsection (4) to (5) of that section applies [ER 8.10.3]. In this case, CA powers are sought in respect of open space land [ER 8.10.7]. The Applicant responded to questions raised by the ExA that the land would be returned to open space on completion of the works [ER 8.10.9]. The Secretary of State agrees with the conclusions reached by the ExA that the special parliamentary procedure does not apply because of the exemption contained in section 131(5) [ER 8.10.11], and that replacement land does not need to be provided as the land would be returned to open space on completion of the works [ER 8.10.10].

Crown Land

207. The Secretary of State notes the ExA's consideration in relation to section 135 of the Planning Act 2008 which precludes the compulsory acquisition of interests in Crown land and precludes a DCO from including a provision applying to Crown land

or Crown rights without consent from the appropriate Crown authority [ER 8.10.12 - ER 8.10.13] and the Applicant provided a letter which set out a detailed explanation and confirmed that the land does not form part of the Crown Estate and was therefore not Crown Land [ER 8.10.15]. The Secretary of State agrees with the conclusions reached by the ExA and is content that that compulsory acquisition and temporary possession powers sought do not affect Crown Land and that Crown consent is therefore not necessary [ER 8.10.16].

Statutory Undertakers

208. The Secretary of State agrees with the ExA's considerations regarding statutory undertakers and the consideration of section 127 of the Planning Act 2008 in relation to CA of land or rights over the land of statutory undertakers and that if representation has been made and not withdrawn then CA may only be authorised if there is no serious detriment to the carrying on of the undertaking [ER 8.10.17]. The Book of Reference listed a number of statutory undertakers as having either a category 1 interest or other interests [ER 8.10.19 – 18.10.20]. The Secretary of State notes the consideration by the ExA of matters regarding statutory undertakers [ER 8.10.25 – 8.10.59] and is satisfied that section 127 of the Planning Act 2008 is not engaged— and is satisfied, in accordance with section 138 of the Planning Act 2008, that the extinguishment of statutory undertakers' rights and removal of apparatus sought by the Applicant would be necessary for the purposes of the Proposed Development [ER 8.10.30, ER 8.10.36, ER 8.10.40, ER 8.10.46, ER 8.10.52, ER 8.10.58, ER 8.10.60]. The Secretary of State notes that in relation to National Grid PLC and United Utilities at the close of the examination the protective provisions and side agreement were yet to be agreed [ER 8.10.47 - ER 8.10.58]. In their respective consultation responses dated 14 September to the Secretary of State's consultation letter dated 2 September, both National Grid PLC and United Utilities confirmed that they had reached an agreement with the Applicant and had withdrawn their objections. The Secretary of State is therefore content to adopt the Protective Provisions relating to National Grid PLC and United Utilities.

Conclusions on CA and TP

209. The Secretary of State agrees with the ExA that:

- In accordance with section 123(2) of the Planning Act 2008, the application for the DCO included a request for the CA of the land to be authorised (ER 8.8.16);
- In accordance with section 122(2) of the Planning Act 2008, the land sought for the Proposed Development and subject to CA would be land required for the purposes of section 122(2)(a) and (b) of the Planning Act 2008 and that it meets the test set out in that section [ER 8.11.10];
- All reasonable alternatives to CA have been explored and that there are no alternatives which ought to be preferred [ER 8.11.10];
- Replacement open space is not required and in accordance with section 131 or section 132 of the Planning Act 2008, and special parliamentary procedures would not apply [ER 8.11.10];

210. In response the ExA's recommendation at ER 8.11.8, as stated above, the Secretary of State has considered the Friends of the Earth case and is satisfied that it does not affect his view that there is a case for development to be granted and therefore is satisfied that it has no implications on the case for the granting of CA and TP powers.

211. In response to the ExA's further recommendation at ER 8.11.8 the Secretary of State is satisfied that protective provisions in Schedule 9 to the rDCO and side agreements are agreed between the Applicant and National Grid Electricity Transmission plc and between the Applicant and United Utilities.

212. The Secretary of State notes that the ExA's recommendations are subject to no CA or TP powers being granted for plot 3/5 and are subject to the Book of Reference and Land Plans being updated accordingly [ER 8.11.9]. The Secretary of State will require that these changes are made in the certified copies of those documents.

213. The Secretary of State notes the ExA's conclusions that funding would be available to cover the Proposed Development's capital expenditure and the cost of CA and TP in light of the Government's commitment to the Road Investment Strategy 2, even though cost estimates are liable to have changed since the application [ER 8.8.22]. The Secretary of State therefore accepts that the Proposed Development would be fully funded.

214. The Secretary of State agrees with the ExA that, in relation to Article 1 of the First Protocol and Article 8 of the European Convention on Human Rights, the purpose sought for the CA of the DCO land is legitimate and the weight of national policy in favour of the Proposed Development and the wider public interest justifies the interference with the interests of those with an interest in the land affected and that any interference arising from the implementation of the Proposed Development would be proportionate and strike a fair balance between the right of the affected individuals and the public interest [ER 8.11.11].

215. The Secretary of State is satisfied that the CA powers sought by the Applicant would be justified and should be granted. The Secretary of State agrees with the ExA that taking all the factors together there would be a compelling case in the public interest for the land and interests to be acquired compulsorily [ER 8.11.12] and considers that there would be compliance with the CA Guidance and the requirements of the Planning Act 2008, most particularly sections 122, 131 and 132.

Draft Development Consent Order

216. The ExA's consideration of the draft Development Consent Order (dDCO) is set out in Chapter 9 of its report. The Applicant submitted a dDCO and Explanatory Memorandum ('EM') describing the purpose and effect of the provisions in the dDCO as part of the application for development consent (ER 9.1.2). The Secretary of State notes that a number of revisions to the dDCO and EM were submitted during the Examination [ER 9.3.4- ER 9.3.8].

217. Where not previously stated, the Secretary of State is satisfied with the recommended changes set out in Section 9.4. The modifications which the Secretary of State has decided to make to the recommended draft DCO at Appendix D to the ER are as follows (references to article numbers, paragraphs and requirements in this paragraph are to the same as numbered in the DCO as made):

- article 2 (interpretation) – the removal of the definitions of ‘Environment Agency’ and ‘Natural England’ which are statutory bodies and thus require no definition;
- article 2 (interpretation) – the definition of ‘tribunal’ has been deleted as the only reference to this defined term was in article 45 (arbitration);
- article 2 (interpretation) – amendment has been made to ‘United Utilities Water Limited’ in the defined term and in article 9(4)(b) and in Schedule 1 Work Nos. 58, 59, 60, 62 and 65;
- article 7 (limits of deviation) – while it is not the Secretary of State’s position regarding the use of wording of ‘materially new or materially worse’, he has noted the discussion and agreement of this wording during the Examination and so believes on this occasion it is appropriate to deviate from his usual position and allow the agreed wording in this and other provisions within the DCO;
- article 12(5)(b) – the wording suggested by the Applicant in their consultation response dated 14 October 2022 has been adopted by the Secretary of State;
- article 13 (classification of roads) – part of the provisions in paragraph (9) has been incorporated in a new paragraph (10);
- article 25 (compulsory acquisition of rights and restrictive covenants) – paragraph (6) is unprecedented and has been deleted. Paragraph (1) has been amended to include the wording ‘including rights and restrictive covenants for the benefit of a statutory under or any other person,’;
- article 28 (application of the 1981 Act) – Paragraphs (3), (5), (9) and (10) are unprecedented and the explanatory memorandum states that these provisions have been included to allow the option to acquire Order land by way of general vesting declaration but does not explain whether there is an issue and if so, how these provisions are intended to remedy it. The provisions have been removed;
- article 29 (modification of the 2017 Regulations) – this provision is unprecedented, and the Explanatory Memorandum does not explain why the provision is needed and has been removed.
- article 32 (temporary use of land for carrying out the authorised development) (now article 31) – paragraph (9) has been amended to remove subparagraphs (a) and (b) as the Secretary of State was concerned that the original drafting had the effect of permitting the creation of undefined new rights and for which the Secretary of State could not be sure that the tests set out in section 122 of the Planning Act 2008 have been satisfied. Further the Secretary of State was concerned on whether the persons with an interest had been appropriately consulted.
- Schedule 1 (interpretation) - the definition of ‘commence’ has been expanded to include a definition of preliminary works to Requirement 1 to include archaeological investigations and mitigation and Requirement 10(8) to establish that the Requirement 10 provisions for archaeological remains apply to preliminary works comprising intrusive ground works.

Equality Act 2010

218. The Secretary of State has complied with the public sector equality duty and has had due regard to the matters set out in section 149(1) of the Equality Act 2010 in accordance with section 149(3) to (5) concerning the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic or persons who do not [ER 3.3.17]. The Secretary of State notes the ExA's conclusion that they find no harm to the interests of persons with a protected characteristic nor any adverse effect on the relationship between such persons and persons who do not share a protected characteristic and found no breach of the public sector equality duty [ER 10.2.6]. The Secretary of State therefore does not consider that a decision to grant development consent would have significant differential impacts on any of the protected characteristics.

Natural Environment and Rural Communities Act 2006

219. The Secretary of State, in accordance with the duty in section 40(1) of the NERC Act must have regard to conserving biodiversity and in particular to the United Nations Environmental Programme on Biological Diversity of 1992 when deciding on whether to grant development consent. The Secretary of State notes that the ExA has had regard to the 2006 Act and biodiversity duty in the relevant sections of the Report. In reaching a decision to grant development consent, the Secretary of State has had due regard to conserving biodiversity.

Late Representations

220. The Secretary of State notes the representations and report prepared by CPRE regarding its view that the Applicant is acting in breach of its licence conditions, but is mindful that consideration of this is outside of this process.

221. In addition to the representations received in response to the Secretary of State's consultations during the decision-making stage, the Secretary of State also received a number of items of correspondence from IPs. This correspondence covered a range of issues including a petition against the Proposed Development and in support of adopting low carbon alternatives, sustainable transport, ground conditions, the expected benefits from the scheme, compulsory acquisition and the adequacy of the traffic modelling amongst other things. The Secretary of State has treated this correspondence as late representations and has published them as such alongside this letter. Unless addressed above, the Secretary of State considers that these late representations do not raise any new issues that are material to the decision on the Proposed Development. As such, the Secretary of State is satisfied that there is not any new evidence or matter of fact in these late representations that need to be referred again to Interested Parties under Rule 19(3) of the Infrastructure Planning (Examination Procedure) Rules 2010 before proceeding to a decision on the Application.

Secretary of State's overall conclusion and Decision

222. For all the reasons set out in this letter, the Secretary of State considers that there is a clear justification for authorising the Proposed Development. The Secretary of State is satisfied that the Friends of the Earth Case does not affect the justification for the Proposed Development and has therefore decided to accept the ExA's recommendation at ER 7.5.19 and grant development consent, subject to the changes in the rDCO mentioned in section 9.4 with the modifications referred to in the Draft Development Consent Order section above. The Secretary of State is satisfied that none of these changes constitute a material change and is therefore satisfied that it is within the powers of section 114 of the Planning Act 2008 for the Secretary of State to make the DCO as now proposed.

Challenge to Decision

223. The circumstances in which the Secretary of State's decision may be challenged are set out in Annex A of this letter.

Publicity for the Decision

224. The Secretary of State's decision on this application is being publicised as required by section 116 of the Planning Act 2008 and regulation 31 of the 2017 Regulations.

Yours faithfully,

Natasha Kopala

ANNEX A LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day after the day on which the Order is published. Please also copy any claim that is made to the High Court to the address at the top of this letter. The A57 Links Road Development Consent Order 2022 (as made) is being published on the Planning Inspectorate website at the following address:

[A57 Link Roads \(previously known as Trans Pennine Upgrade Programme\) | National Infrastructure Planning \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/a57-link-roads-previously-known-as-trans-pennine-upgrade-programme/)

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).