

A428 Black Cat to Caxton Gibbet improvements

TR010044

Volume 9

9.75 Applicant's Comments on Deadline 5 Submissions

Planning Act 2008

Rule 8 (1)(k)

Infrastructure Planning (Examination Procedure) Rules 2010

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Infrastructure Planning

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

**A428 Black Cat to Caxton Gibbet
improvements
Development Consent Order 202[]**

9.75 Applicant's Comments on Deadline 5 Submissions

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1 Introduction

- 1.1.1 The Development Consent Order (DCO) application for the A428 Black Cat to Caxton Gibbet improvements scheme (the Scheme) was submitted by National Highways (the Applicant) to the Secretary of State for Transport via the Planning Inspectorate on 26 February 2021 and accepted for Examination on 23 March 2021.
- 1.1.2 The purpose of this document is to set out the Applicant's comments on submissions made by Interested Parties at Deadline 5 of the Examination.
- 1.1.3 The following representations submitted at Deadline 5 are addressed in this document:
- a. REP5-023 – Deloitte LLP on behalf of the Church Commissioners
 - b. REP5-024 – East West Railway Company
 - c. REP5-025 – Transport Action Network
- 1.1.4 REP5-023 also contained information relating to Procedural Deadline D which has not been commented upon in this document.

2 Applicant's Comments on Deadline 5 Submissions from Interested Parties

REP5-023 – Deloitte LLP on behalf of the Church Commissioners

Comments on responses to the Examining Authority's Second Written Questions (WQ2)

Reference Number	Interested Parties Submission/Applicant's Comments
REP5-023a	<p>Q2.5.3.8 b) NH response to the concerns raised regarding Plot 13/10c and 13/10d (now renumbered 13/14c and 13.14d) and CCE not being able to identify which land will be affected or assess the impact on its land (page 38).</p> <p>3.1 CCE reiterates the points made in its Deadline 4 (D4) Submissions [REP4-064], namely:</p> <p>3.1.1 NH has failed to establish that the temporary land take and permanent rights in Plots 13/14c and 13/14d are needed for the development and are no more than is reasonably required. NH should explain why it is promoting a DCO where the scheme has not been sufficiently designed to establish land requirements.</p> <p>3.1.2 CCE notes NH's response to REP3-044G on the lack of certainty as to the locations in which the acquisition of rights are actually required in its comments on Landowner Submissions at Deadline 3 [TR010044- 001337] at page 8, namely that NH has factored in "lessons learnt" from the A14 to avoid acquiring land unnecessarily. CCE would welcome clarity on how those lessons learnt have been incorporated into the draft DCO.</p> <p>3.1.3 NH's response states that the landowner will be consulted on the proposals at the appropriate time, especially as the electricity cable connects to the farm. However, NH has indicated in discussions that the next "formal" consultation will be when notices are to be served in order to acquire rights/land. As stated in CCE's D4 Submissions, there is no formal requirement in the DCO to engage with landowners on the detailed design. Absent an agreement in place, CCE would like such engagement/consultation with landowners to be secured in the DCO.</p>
Applicant's comments	<p>3.1.1 The Applicant confirms that plots 13/14c and 13/14d are required for Statutory Undertakers utility diversions. The Applicant has established the temporary land take boundary in line with Statutory Undertaker's work estimates. Statutory Undertakers are to develop the detail at C4 stage, taking account of their respective network requirements and land constraints. Where possible, the Applicant will encourage Statutory Undertakers involved to propose solutions which minimise land take and impact and thus maximise future land development opportunities. Plot 13/14d is required for undergrounding of an existing over head power line and plot 13/14c for water and power diversions as well as temporary works associated with road junction realignment.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
	<p>3.1.2 The lessons learnt that the Applicant has taken on board include the following:</p> <ul style="list-style-type: none"> a. Early discussions with land owners from an acquisition of rights point of view. b. Greater certainty over any statutory utility diversions. c. A greater degree of design certainty and therefore greater confidence in the land to be acquired for the Scheme which will limit land take. d. Work will be undertaken earlier to define the boundary of the Strategic Road Network which impacts on the land taken. <p>3.1.3 Throughout the process of detailed design the Principal Contractor's stakeholder engagement team will liaise with landowners as the design is refined. Refinements develop from changes resulting from the DCO and from the detailed understanding of the preliminary design, further investigation and value engineering. Within this liaison process, landowners will be included in discussions concerning matters affecting them, including the timing of land acquisition whether temporary or permanent. The Applicant would further note that should the landowner wish any specific design elements considered then they should provide comment on the design principles document.</p>
REP5-023b	<p>Q2.6.2.1 Borrow pits (page 41)</p> <p>3.2 Again, CCE reiterates its response to Q.2.6.2.1 in its D4 Submissions and has expressed concern to NH regarding the current level of detail in the Borrow Pits Excavation and Restoration Report.3.0 and the need for further engagement on a detailed specification for works/restoration</p> <p>3.3 Biodiversity. In response to the submissions from the Cambridgeshire authorities on incorporating biodiversity and green infrastructure enhancements into the borrow pit restoration schemes to produce biodiversity net gain, CCE agrees with NH's position (pages 44 and 45 of [TR010044- 001352]) and restates its strong objection to this.</p> <p>3.4 Compulsory acquisition of land to provide biodiversity net gain is not required for the development and therefore retaining this land for biodiversity net gain would fail to satisfy section 122 of the Planning Act 2008. CCE acknowledges NH's comments (on landowner submissions at Deadline 3 [TR010044-001337] at page 8) that it has always been the intention of the NH to return the land used for the borrow pits back to agricultural use on completion of the works.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
Applicant's comments	<p>3.2 As detailed design of the borrow pits develops, liaison with landowners will establish the required specifications of restoration and future use of the land. These decisions will be recorded as part of the liaison process. Liaison continues throughout the construction period and landowners will be continually updated on programme and progress. Section 1.8 of Annex R Borrow Pit Management Plan of the updated First Iteration Environmental Management Plan [TR010044/APP/6.8v2] sets out the anticipated process that would be undertaken by the Principal Contractor for the restoration of each borrow pit.</p> <p>3.3 and 3.4 The Applicant notes and welcomes these comments from the Church Commissioners for England.</p>
REP5-023c	<p>3.5 Status of the Borrow Pits Excavation and Restoration Report (the Report).</p> <p>Although CCE considers that the Report lacks sufficient detail as stated in its D4 Submissions, it contains significantly more detail than Annex E to the First Iteration EMP, particularly in regards to excavation methodology and mitigation measures, which would not be secured under the DCO (because compliance with the report is not secured under the DCO). Paragraph 2.5.1 of the Report states that restoration will be completed to a condition to enable agricultural use as illustrated in the Environmental Masterplan and secured via Requirements 6 and 12 of the DCO. However, the Environmental Masterplan simply states that the proposed borrow pits will be returned to agricultural use – there is no detail at all as to how restoration will be undertaken and to what level e.g. whether the borrow pits will be restored to their previous agricultural land class.</p>
Applicant's comments	<p>The Applicant has submitted an outline Borrow Pit Management Plan (BPMP) at Deadline 6, which forms part of the updated First Iteration Environmental Management Plan [TR010044/APP/6.8v2]. The BPMP sets out the relevant environmental controls that are contained in the First Iteration Environmental Management Plan [TR010044/APP/6.8v2] and also includes anything additional that is set out in the Borrow Pits Excavation and Restoration Report [REP3-011]. The BPMP is a certified document and its development as part of the Second Iteration Environmental Management Plan is secured through Requirement 3 of the draft Development Consent Order [TR010044/APP/3.1v4].</p> <p>The Borrow Pit restoration to agricultural land will be in accordance with principles set out in the Soil Handling and Management Plan in the First Iteration EMP [TR010044/APP/6.8v2].</p>

Reference Number	Interested Parties Submission/Applicant's Comments
REP5-023d	<p>3.6 CCE notes NH's comment on landowner submission at Deadline 3 [TR010044- 001337] at page 8 that the survey results for current condition will set out the specifications for restoration and as outlined in the Soil Handling Management Plan, these will be developed for individual land parcels, subject to landowner agreement to the surveys being completed. CCE consider a specific obligation on NH to ensure that land is restored to the same Agricultural Land Class (or better) as prior to the borrow pit use is required.</p>
Applicant's comments	<p>As stated in the Applicant's comments to Written Representations [REP3-008], the Applicant is committed to restoring the borrow pits to a condition that would be suitable for agriculture. All topsoil and subsoils from the areas of the borrow pits will be stripped, stored in landscaped bunds and re-used for restoration. Agricultural Land Classification (ALC) is a system used primarily for assessing how the development proposals affect agriculture. Chapter 9, Geology and soils [APP-078] of the Environmental Statement has considered and reported upon this matter.</p> <p>Annex E: Soil Handling and Management Plan in the First Iteration Environmental Management Plan (FIEMP) [TR010044/APP/6.8v2] outlines the measures that would be implemented to strip, store and reinstate agricultural soils to ensure the existing depths, profiles and characteristics of these resources are maintained and protected.</p> <p>The restoration of the borrow-pits is secured through Requirements 6 and 12 of the draft Development Consent Order (dDCO) [REP4-006], which states that the landscaping scheme and the detailed design of the Scheme must accord with the principles of the Environmental Masterplan [APP-091]. Requirements 3 and 4 of the dDCO [REP4-006] also secure the Second and Third Iteration Environmental Management Plan, which must be produced substantially in accordance with the FIEMP [TR010044/APP/6.8v2]. The FIEMP is being updated for submission to the Examination at Deadline 6. The Deadline 6 edition of the FIEMP will contain an outline borrow-pit environmental management plan (OBPEMP).</p> <p>The Applicant does not consider that an obligation to ensure the land is restored to the same ALC (or better) for the borrow pits would be necessary; nor would it be enforceable or practical to deliver, as the ALC is a system primarily designed for assessing undisturbed soil quality <u>prior</u> to development and, whilst the original soil resources will be used in the restoration, soil structures, which influence the ALC grade, will take some time to re-establish once the soil has been re-instated. Instead, the Applicant is committed to restoring soils for agricultural use; these matters are adequately secured through the requirements of the dDCO and the relevant EMPs.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
REP5-023e	<p>3.7 Update on possibility of plots affected by borrow pits to be secured by lease. As noted above, following Deadline 4, CCE and NH met on 12 November 2021 to discuss the proposed Heads of Terms for an agreement for lease of Plot 14/21h to be used as a borrow pit. It is proposed that negotiations progress in November/December, with a view to settling the documents before 24 December.</p> <p>3.8 CCE supports the comments of Davison & Company to Q2.5.3.7 at Deadline 4, namely that the fact that the borrow pits may be materially changed is no justification for the proposed compulsory of such land which the NH concede is required for a temporary period only for the purposes of the construction phase of the DCO scheme.</p>
Applicant's comments	<p>A meeting was held with the CCE on 3 December 2021 to discuss the latest amendments to the Heads of Terms. Draft Transfer and Option Agreements were shared with the CCE on 8 December 2021. The Applicant is awaiting comments from the landowner's conveyancing solicitor regarding these documents. There has been further correspondence between the Applicant and the landowner's agent regarding the Heads of Terms for the lease agreement. Draft lease agreements will be shared with the landowner by the end of 17 December 2021. A revised draft timetable has been drafted by the landowner and was received by the Applicant on 14 December 2021. The intended completion date for the agreements is 19 January 2022.</p>
REP5-023f	<p>Q2.6.3.1 Agricultural Liaison Officer (ALO) (page 54)</p> <p>3.9 CCE welcomes the inclusion of an ALP in the Community/Stakeholder Engagement team to act as the dedicated point of contact for the farming community throughout the duration of the Scheme construction and looks forward to receiving further details regarding the responsibilities of the ALO.</p>
Applicant's comments	<p>The Applicant notes and welcomes this comment from the Church Commissioners for England.</p> <p>The details of the Agricultural Liaison Officer are set out in Table 2-1 of the updated First Iteration Environmental Management Plan [TR010044/APP/6.8v2] submitted at Deadline 6.</p>
REP5-023g	<p>Q2.7.3.10 and Q2.7.3.11 – Notice period in respect of Article 23 and 40 (page 68)</p> <p>3.10 In relation to the proposed extension of the notice period in Articles 23 and 40 from 14 days to 28 days, CCE reserves the right to comment on NH's response if required at Deadline 6.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
Applicant's comments	The Applicant notes this comment from the Church Commissioners for England and refers to its previous responses to these questions as submitted to the Examination in the Applicant Response to the Examining Authority's Second Round of Written Questions [REP4-037].
REP5-023h	<p>Updated Outline Construction Traffic Management Plan (OCTMP)</p> <p>3.11 CCE notes that following its comments, the reference to Customer Plan and Stakeholder Engagement and Communications Plan has been removed from the OCTMP. Page 25 of the OCTMP states that "those people affected by more localised limitations to vehicle movements will be engaged directly to minimise disruption to them and provides an example of making arrangements with a works team to enable farm vehicles to safely cross a haul route or working space during planting or harvest periods, or rescheduling a work package to enable farm work to take place unhindered during certain periods." CCE would like a firmer commitment by NH on how they will engage/communicate with those affected by the DCO, given NH has indicated that there is no guarantee that existing accesses can be maintained open at all times.</p>
Applicant's comments	3.11 The Applicant confirms that the Principal Contractor's stakeholder engagement team will liaise with any party affected by the Scheme to keep them informed and to respond to questions. In the event that an access to property will be temporarily affected, the party will be consulted in advance, and any possible mitigation measures will be put in place. The engagement team will share and discuss such plans with landowners so that they experience minimum disruption and inconvenience.
REP5-023i	<p>Updates to the Book of Reference</p> <p>3.12 The Book of Reference should be updated to reflect the fact that CCE have interests in Plots 13/12a, 13/12b, 13/10f, 13/10g, 14/6a and 14/6e pursuant to an option agreement dated 27 January 2021. The Book of Reference should also be updated to reflect that CCE has asserted ownership to the centreline of the ditch which abuts its land (Plots 13/11a and 13/11b) and to the centre line of the road to be stopped up on Plot 13/2c which should be reflected in the Book of Reference. This has been notified to NH by CCE.</p>
Applicant's comments	The Applicant notes the comments made and will address the changes in the final version of the Book of Reference to be submitted at Deadline 10.

REP5-024 – East West Railway Company

Responses to Deadline 4 Submissions

Reference Number	Interested Parties Submission/Applicant's Comments
<i>EWR Co's response to the Applicant's comments on Deadline 3 submissions [REP4-036]</i>	
REP5-024a	<p>Response to EWR Co's REP-048a on page 65 of REP4-36</p> <p><i>"The Applicant notes the conceptual drawings submitted into the Examination showing potential interfaces between the EWR and A428 schemes. However the Applicant does not consider that the information received to date from EWR Co is sufficient to fully understand the implications for the A428 Scheme. The Preferred Route Announcement for the EWR Scheme is still to be made and for the emerging preferences horizontal and vertical alignments remain uncertain."</i></p> <p>Details of the potential engineering interfaces have been provided in EWR Co's response to Q1.17.4.1 (b) [REP1-074], EWR Co's Deadline 2 submission regarding the draft itinerary for the Accompanied Site Inspection [AS011] and Appendix 1 to EWR Co's responses to WQ2 [REP4-048].</p> <p>While it is to be noted that EWR Co has yet to confirm its preferred route alignment for the EWR Project and discussions held with NH are based upon the emerging preferences as presented at non statutory consultation, based on the information provided by EWR Co to date, there is no reason why the Applicant cannot take account of the EWR Project at this stage.</p> <p>In particular, EWR Co issued draft protective provisions to the Applicant's legal team on 15 October 2021. These provide for the management of key interfaces to ensure the efficient delivery of both the Scheme and the EWR Project. In addition, they provide for the adaptation of the Scheme by way of works to integrate the Scheme and the EWR Project, protective works and amendments to construction programming. This mechanism is subject to an exclusion of works or matters would give rise to any materially new or materially different environmental effects from those reported in the environmental statement. This provides for the management of key interfaces without the need to amend the Scheme during the course of the Examination.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
Applicant's comments	<p>The Applicant notes this response from EWR Co and would refer to its previous responses provided at Deadline 5 [REP5-015 in response to Q2.10.1.1 and Q2.10.2.1 and REP5-014 in response to REP4-066] together with its response to Action Point 7 contained within document 9.75 the Applicant's Response to actions arising from Issue Specific Hearing 5 submitted at Deadline 6.</p> <p>The previous responses and the response to Action Point 7 in particular, maintains the Applicant's view that the EWR Scheme is too far behind the design development of the A428 Scheme and as such it is not possible or appropriate for the A428 Scheme to consider including protective provisions of the type sought by EWR. Further it is not possible or appropriate for the A428 Scheme to make allowances for any changes to its design for the EWR Scheme which has not yet selected its preferred route, not undertake statutory consultation and not submitted an application for development consent.</p>
REP5-024b	<p>Response to EWR Co's REP3-048b on page 65 of REP4-036</p> <p><i>"As noted within 4.4 of REP3-043, the EWR Project has not announced a Preferred Route Alignment nor applied for a Scoping Opinion from the Planning Inspectorate. The Applicant concurs with the statement made by EWR Co that "at this stage, it is not considered that the EWR Project is a development that at this stage is of sufficient certainty to be relevant to the cumulative assessment for the Scheme."</i></p> <p><i>The Applicant therefore assumes that the statement made within 5.4 as detailed above, relates to 'other' committed development with the potential for cumulative impacts with the Scheme, but that does not include the EWR Project.</i></p> <p><i>Noting this, the Applicant has undertaken a comprehensive cumulative and in-combination effects assessment as presented within Chapter 15, Assessment of Cumulative Effects [APP-084]."</i></p> <p>The Applicant is correct that, consistent with 4.4 of REP3- 048, the statement made at 5.4 of REP3-048 relates to 'other' committed development with the potential for cumulative impacts with the Scheme.</p> <p>As stated at 4.4 and 5.4 of REP3-048, it is for the Applicant to assess cumulative impacts and climate impacts in respect of the Scheme, while EWR Co will address cumulative impacts with the Scheme and climate impacts as part of the environmental impact assessment undertaken for the EWR Project.</p> <p>EWR Co will continue to engage with the Applicant to ensure that the EWR Project is appropriately reflected in the assessment of the Scheme.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
Applicant's comments	The Applicant notes this response from EWR Co.
REP5-024c	<p>Response to EWR Co's REP3-048c on page 65 of REP4-036</p> <p><i>"The Applicant refers East West Rail Company to the response given above to REP3-048b."</i></p> <p>EWR Co's position in relation to cumulative impacts in respect of the Scheme is set out at item 2, above.</p>
Applicant's comments	The Applicant notes this response from EWR Co.
<i>EWR Co's comments on the Applicant's response to the Examining Authority's Second Round of Written Questions [REP4-037]</i>	
REP5-024d	<p>Page 142 of REP4-037 Q2.17.4.1 (a) and (b) East West Rail</p> <p><i>"a) For East West Rail to respond.</i></p> <p><i>b) The Application is not currently proposing any design changes as a result of the information that has been provided by East West Rail Company to date. As set out in previous responses, the Applicant understands that the horizontal and vertical alignment of the East West Rail scheme are still in development (paragraph 5.3 of REP1-074) and that it is not known which route will be selected or whether the railway will go over or under the Scheme at any possible engineering interface. The Applicant's position therefore remains unchanged, in that there remains too much uncertainty on the preferred alignment for the Applicant to consider any specific provision for any new infrastructure which may be required as part of the East West Rail scheme."</i></p> <p>Details of the potential engineering interfaces have been provided in EWR Co's response to Q1.17.4.1 (b) [REP1-074], EWR Co's Deadline 2 submission regarding the draft itinerary for the Accompanied Site Inspection [AS011] and Appendix 1 to EWR Co's responses to WQ2 [REP4-048].</p> <p>Whilst it is to be noted that EWR Co has yet to confirm its preferred route alignment for the EWR Project and discussions held with NH have used in the emerging preferences as presented at non statutory consultation, based on the information provided by EWR Co to date, there is no reason why the Applicant cannot take account of the EWR Project at this stage.</p> <p>In particular, EWR Co issued draft protective provisions to the Applicant's legal team on 15 October 2021. These provide for the management of key interfaces to ensure the efficient delivery of both the Scheme and the EWR Project. In addition, they provide for the adaptation of the Scheme by way of works to integrate the Scheme and the</p>

Reference Number	Interested Parties Submission/Applicant's Comments
	<p>EWR Project, protective works and amendments to construction programming. This mechanism is subject to an exclusion of works or matters would give rise to any materially new or materially different environmental effects from those reported in the environmental statement. This provides for the management of key interfaces without the need to amend the Scheme during the course of the Examination.</p>
Applicant's comments	<p>The Applicant notes this response from EWR Co and would refer to its previous responses provided at Deadline 5 [REP5-015 in response to Q2.10.1.1 and Q2.10.2.1 and REP5-014 in response to REP4-066] together with its response to Action Point 7 contained within document 9.75 the Applicant's Response to actions arising from Issue Specific Hearing 5 submitted at Deadline 6. The previous responses and the response to Action Point 7 in particular, maintains the Applicant's view that the EWR Scheme is too far behind the design development of the A428 Scheme and as such it is not possible or appropriate for the A428 Scheme to consider including protective provisions of the type sought by EWR. Further it is not possible or appropriate for the A428 Scheme to make allowances for any changes to its design for the EWR Scheme which has not yet selected its preferred route, not undertake statutory consultation and not submitted an application for development consent.</p>

REP5-025 – Transport Action Network

Responses to the Examining Authority's Second Written Questions (WQ2) and comments on the Proposed Development

Reference Number	Interested Parties Submission/Applicant's Comments
REP5-025a	<p>2 Is there an accepted and appropriate way of drawing parallels between different impact assessments?</p> <p>2.1 The answer to this question (Q2.4.1.1e) is that there is not an accepted way, as far as we are aware, of comparing impact assessments of different environmental or other factors. This is not normally something that is done as each feature is assessed on its own merits, relative to the environment it exists in. The point we were making by doing this was to highlight that the impact of carbon emissions is being treated uniquely compared to any other environmental or heritage asset. No other environmental factor, or indeed social or economic factor, is treated in this way and this would appear to be perverse. This is even more so in the current environment post COP26 and the declaration by Parliament of a climate emergency.</p> <p>2.2 As we have already stated [REP1-097], the economic benefits deriving from the scheme, when compared to GDP, come out at a smaller percentage than to the scheme's carbon emissions compared to the UK's carbon budgets. This would suggest that the carbon impacts are more damaging than the economic benefits are beneficial. Assessing money and finance in this way is perhaps more appropriate as money, like carbon emissions, isn't necessarily tied to a specific geography.</p>
Applicant's comments	<p>The Applicant notes and agrees with the response from TAN that there is not an accepted and appropriate way of drawing parallels between different impact assessments.</p> <p>An assessment of greenhouse gas emissions (GHG) is presented in Chapter 14, Climate of the Environmental Statement [APP-083]. This assessment has been undertaken in line with requirements of the National Policy Statement for National Networks (NPSNN) and guidance in the Design Manual for Roads and Bridges (DMRB) Climate (LA 114). NPSNN does not require a specific test against the economic benefits of the Scheme in the context of GHG emissions.</p>
REP5-025b	<p>3 Failure to produce a proper assessment of carbon emissions</p> <p>3.1 As we flagged up in [REP4-073] guidance on EIR addresses the problematic nature of assessing climate change impacts at a global level and the need to assess carbon emissions against local and regional targets. Yet National Highways appear blind to this guidance and the need to do a proper and full EIR. This needs to happen regardless of the ridiculous carbon test set in the NPSNN.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
	<p>3.2 Paragraph 4.15:</p> <p><i>"The Directive specifically requires an environmental impact assessment to identify, describe and assess effects on human beings, fauna and flora, soil, water, air, climate, the landscape, material assets and cultural heritage, and the interaction between them. Schedule 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 sets out the information that should be included in the environmental statement including a description of the likely significant effects of the proposed project on the environment, covering the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the project, and also the measures envisaged for avoiding or mitigating significant adverse effects." [our emphasis]</i></p> <p>3.3 In paragraph 5.17 states:</p> <p><i>"Where the development is subject to EIA, any Environmental Statement will need to describe an assessment of any likely significant climate factors in accordance with the requirements in the EIA directive." [our emphasis]</i></p> <p>3.4 The EIA guidance also has a specific section on climate change mitigation¹ which states: <i>"The assessment should take relevant greenhouse gas reduction targets at the national, regional, and local levels into account, where available."</i></p> <p>3.5 Slightly more detail was given in earlier EIA guidance² which states:</p> <p><i>"The complexity of climate change and biodiversity should not deter you from analysing direct and indirect impacts the proposed project could have on trends in key issues."</i></p> <p>and</p> <p><i>"Judging an impact's magnitude and significance must be context-specific. For an individual project — e.g. a road project — the contribution to GHGs may be insignificant on the global scale, but may well be significant on the local/regional scale, in terms of its contribution to set GHG-reduction targets." [our emphasis]</i></p> <p>3.6 National Highways have failed to provide any assessments as to how the new road's emissions will impact on any local and regional targets. They have only estimated some of the carbon emissions linked to the new road and then only assessed these against totals at a UK level. The EIR guidance clearly states that they should do more than this, but this aspect of the assessment is completely missing.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
Applicant's comments	<p>As explained in the Applicant's Comments on submissions made at Deadline 4 [REP5-014] in response to REP4-073g, the Applicant has undertaken an evaluation of the significance of the carbon dioxide (CO₂e) impacts associated with the Scheme in line with advice set out in the DMRB Climate (LA 114)¹, and in line with the NPSNN. The NPSNN places a requirement to test the impact of a Scheme against national carbon budgets.</p> <p>Currently the only legally binding carbon reduction targets are set at a national level. There are no sectoral, regional or local budgets for greenhouse gas emissions that are recognised in policy or are legally binding. Furthermore, there is no recognised methodology for assessing a Scheme against such budgets.</p> <p>If there were any sectoral, regional or local budgets these would in any case have to ultimately roll up under the national budgets. The Applicant does not therefore believe it would be appropriate or feasible to assess the impact of the Scheme against other budgets.</p> <p>The Applicant uses the following definitions for direct and indirect emissions and cumulative effects of the Scheme:</p> <ul style="list-style-type: none"> • Direct emissions - direct emissions to the atmosphere from relevant activities (e.g. tailpipe emissions from road users or construction vehicles). • Indirect emissions - indirect emissions resulting from the purchase of electricity (e.g. for infrastructure operation) and/or any relevant downstream activities by third parties within the supply chain (e.g. embedded carbon from the manufacturing of construction products such as concrete). • Cumulative effects of the scheme - The consideration of the GHG emissions impact of the scheme with other relevant committed developments included within the traffic model for the scheme. <p>The assessment completed in Chapter 14, Climate [APP-083] of the Environmental Statement sets out the direct CO₂e emissions attributed to the Scheme (see section 14.9).</p> <p>The consideration of the cumulative effects of the Scheme with other existing and/or approved projects is inherent within the methodology followed in the Environmental Statement through the inclusion of the Scheme and other locally committed developments within the traffic model (see Sections 3 and 4). This is in line with the Department for Transport (DfT) Transport Appraisal Guidance (TAG) which specifies how external developments are to be incorporated in traffic models. The modelled core scenario assumes growth in line with the latest TEMPRO v7.2 forecasts for the Do Minimum (DM) and Do Something (DS) scenarios. This clearly demonstrates that a reasonable and robust assessment of the cumulative effects of the Scheme has been undertaken and is in line with Government's published advice.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
REP5-025c	<p>4 Comment on National Highways' responses to Q2.4.1.1</p> <p>4.1 The applicant's response to Q2.4.1.1a [REP4-037] is confusingly presented but relies on ignoring EIR guidance which sets out issues around significance and the need to assess at a local and regional level (see paragraphs 3.5 above and in REP4-073). National Highways relies on DMRB guidance LA114 which was published in October 2019 to defend its position. However, LA114 was written to conform to the NPSNN which has now been determined to be in need of review, especially with regards to climate change and need. Neither conforms to EIR guidance and predetermines what "significant" represents, in an apparent attempt to remove the ability to properly assess a scheme's carbon in its full context.</p> <p>4.2 As National Highways has failed to produce an Environmental Statement (ES) in line with EIR guidance, it is unable to answer Q2.4.1.1c satisfactorily. It avoids assessing local and regional impacts, relying on comparing the emissions of new roads to UK carbon budgets to be able to dismiss them as inconsequential. So, it is not surprising it can list no other schemes where carbon impacts have been deemed significant.</p> <p>4.3 National Highways' response to Q2.4.1.1g about the cancellation of the Oxford to Cambridge Expressway states that this was based on value for money reasons. As the value of carbon was updated by BEIS in September 2021 and the Government wants analysts "to account for these values in all relevant scheme analysis at the earliest opportunity", these new values should be used to update the scheme's economic calculations. Given that the rises in the value of carbon are quite substantial and the scheme's carbon emissions are particularly large, the scheme's financial assessment could be significantly impacted upon. We recommend the ExA ask the Applicant to resubmit its economic appraisal for the scheme, using the new carbon values, with an adjusted BCR.</p>
Applicant's comments	<p>The NPSNN remains the current policy statement against which the impacts of road schemes should be tested. The greenhouse gas assessment presented in Chapter 14, Climate [APP-083] of the Environmental Statement has been undertaken in line with the requirements of the NPSNN.</p> <p>As set out in the Applicant's response to REP5-025c above there is no requirement in the NPSNN to test the Scheme in the context of local or regional carbon budgets. Furthermore, the Applicant notes that there are no legally binding sectoral, regional or local budgets against which a scheme can be robustly tested against.</p> <p>A High Carbon Sensitivity analysis was undertaken by the Applicant in anticipation of the future changes to the greenhouse gas assessments being made by the Department of Transport. The results of the High Value Carbon Sensitivity test were based upon values issued by the Department of Transport and included in the 'route map for updating TAG in uncertain times' published in July</p>

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	<p>2020. The sensitivity test gave a net disbenefit for carbon emissions of -£196.4M, thereby reducing overall benefits by £69.4 million. As shown in Table 5.21 of the Combined Modelling and Appraisal Report [APP-250] (and only on the basis of the sensitivity test) this resulted in a reduction of the adjusted Benefits to Cost Ratio (BCR) from 1.9 to 1.8. A more detailed breakdown of the results is provided in Table 4-23 of the Appendix D of the Combined Modelling and Appraisal Report [APP-254].</p>
REP5-025d	<p>5 Comment on construction emissions</p> <p>5.1 National Highways has produced a spreadsheet with updated values for land use change and clearance [REP4-048]. This is helpful to see more of the detail behind the negative 13,061 tCO₂e being the new total for land use change and clearance. However, this is slightly misleading because it hides the significant impact that the scheme will have in the 3rd or 4th carbon budgets. That's because 17,553 tCO₂e will be released into the atmosphere when the land is cleared and with land use change. This will happen during construction and needs to be included then and not hidden by carbon gains that are expected to happen over the 60 year lifetime of the project. In any event, it is unlikely that there will be significant carbon sequestration for quite some time, particularly for woodland, which could take 10 years or more to really start to capture carbon in any significant quantity. We raised this issue in REP1-097. It represents further carbon emissions that will impact on local and regional targets in the early stages of the project that are currently being both hidden and ignored.</p> <p>5.2 It is also worth noting that this calculation is likely an underestimate as it assumes no soil loss [REP4-042]. This may be true, but soil movement releases carbon and so even if the soil is not lost, carbon is likely to be lost due to the disturbance. This is as true for planting as it is for removal of habitat.</p> <p>5.3 Therefore, the construction emissions as stated in REP4-042 should be recalculated as follows: the amount removed for sequestration should be added back onto the construction emissions total as this carbon capture won't happen during the construction period. Then the amount NH calculate will be lost due to land clearance and land use change should also be included. This gives a new total of at least 201,170 + 13,061 (amount taken off for sequestration over 60 year period) + 17,553 (amount of CO₂e lost due to clearance and land use change during construction) = 231,784 tonnes CO₂e lost, or emitted, during construction. This is the short-term loss of carbon that will happen during the 3rd or 4th carbon budgets (depending when construction starts) and is some 15% higher than acknowledged by NH. Even then this is likely to be an underestimate.</p> <p>5.4 National Highways claim [REP3-007] that the method they have used does not allow them to cater for any temporal aspects of land use change, but as we have demonstrated above, it is perfectly possible to at least assess emissions associated with construction in a more realistic way.</p>

Reference Number	Interested Parties Submission/Applicant's Comments
Applicant's comments	<p>The Applicant acknowledges in the report on Construction Phase Greenhouse Gas Emissions [REP4-042] that <i>“any post-work habitats that are created through landscaping or remediation will have carbon values that represent their final intended habitat state. In reality, some above-ground carbon stocks in these new habitats may take a number of years to reach their final state.”</i> The assessment has been taken on a lifecycle approach.</p> <p>The Applicant also acknowledges that there will be some temporary losses of habitats acting as carbon sinks, however, as noted by TAN, the Scheme results in a net increase in carbon stocks. It is further acknowledged that there are precision and accuracy temporal issues within the method used, however the temporary loss of carbon sinks represents a small fraction of the total emissions for the Scheme.</p> <p>The Construction Phase Greenhouse Gas Emissions [REP4-042] report states that the Applicant had to assume that <i>“Changes in below-ground pools of carbon contained in the soils were not included in this calculation as it was advised by the buildability contractor that soils would not be lost.”</i></p> <p>While there will be disturbance of soils during construction that may result in the carbon content of the soils to reduce, this is not something that could be quantified with any accuracy due to insufficient information being available on how the soils are managed. It is anticipated that this is not likely to have a material impact in terms of overall construction emissions. Further the impact will be temporary.</p>