

M3 Junction 9 Improvement

Scheme Number: TR010055

8.17 Applicant Response to Examining Authority's Second Written Questions (ExQ2)

APFP Regulations 5(2)(q)

Planning Act 2008

**Infrastructure Planning (Applications: Prescribed Forms and
Procedure) Regulations 2009**

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**The Infrastructure Planning
(Applications: Prescribed Forms and
Procedure) Regulations 2009**

M3 Junction 9 Improvement
Development Consent Order 202[x]

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1 Introduction

- 1.1.1 The purpose of this document is to set out the Applicant's response to the Examining Authority (ExA)'s second written questions. The written questions were published on the Planning Inspectorate website on 25 August 2023. The Applicant's response to the second written questions can be found in Chapter Applicant Response to the Examining Authority's Second Written Questions (ExQ2) Chapter 2 of this report.
- 1.1.2 For defined terms and abbreviations, please refer to **Section 12** of the **Introduction to the Application (1.3, Rev 5)**.

2 Response to written questions

2.1 General and Cross-topic Questions

ExQ2	Question to:	Question
Q1.2.1	Mitigation The Applicant	In light of various comments and concerns from a number of Interested Parties (IP), especially the South Downs National Park Authority (SDNPA) and also in light of well documented landscape and planting failings seen in completed major National Highways schemes, can the applicant comment fully as to whether a longer post construction management plan would be more relevant than the 5 years currently included in the dDCO.
Applicant Response		
<p>The Applicant disagrees with the statement that there are well documented landscape and planting failings seen in completed major National Highways schemes. There has been no evidence presented to the examination of any National Highways DCO schemes where there has been landscape or planting failures.</p> <p>If the ExA question is referring to the unsubstantiated assertions by interested parties about the purported failure of chalk grassland to establish in respect of the Twyford Down project the Applicant notes that there has been no information or evidence put before the ExA setting out the details of the landscaping and planting scheme that was to be implemented for that project and how that has been breached. Furthermore, if there had been failings in any such scheme, it would have been a matter for the local planning authority to enforce of which there is no information before the examination. Nevertheless, the Twyford Down project is one which was built out more than 20 years ago under a different consenting regime at a time when the biodiversity and the environment were considered differently.</p> <p>The Applicant considers that provisions for a management plan beyond a 5-year period are already provided for within the Application. As stated within Appendix 7.6 (Outline Landscape and Ecological Management Plan) of the ES (6.3, APP-</p>		

102), 'the duration of management and monitoring for each landscape/ecology element created or enhanced is 25 years from completion of the authorised development'.

A response to the provision of a longer establishment period and how landscape and planting 'failures' are to be resolved is covered in response to **ExQ2 9.2.16** below.

ExQ2	Question to:	Question
Q1.2.2	General The Applicant	Please provide a plan or set of plans which clearly shows the existing road layout and the proposed scheme, the South Downs National Park (SDNP) and its boundary and the existing and anticipated highway boundaries. Please highlight and detail the length of carriageway to be constructed within the SDNP and the anticipated change in area of highway land between the existing and proposed highway boundaries within the SDNP.

Applicant Response

As set out in **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) Appendices (Appendix A ExA WQ2 1.2.2. – Figures) (Document reference 8.17.1)**, submitted at Deadline 5, a series of plans have been prepared to identify the relationship of the Scheme to the South Downs National Park. At this time, it is not possible to define the anticipated highway boundary however to provide a comparison, a range of proposed land uses have been set out for the existing, retained, modified and proposed new scenarios. All figures are based on the current design and are approximate.

Figure 1 (Application Boundary Relationship to South Downs National Park) shows that the area of the Application Boundary located within the South Downs National Park is 68.04hectares (ha).

Figure 2 (Land Acquisition Analysis within South Downs National Park) shows that within the Application Boundary, 41.95ha of the land within the South Downs National Park, is to be acquired permanently, with 17.15ha to be acquired temporarily.

Figure 3a (Existing Highway) shows that within the Application Boundary, 19.59ha of land within the South Downs National Park is within the existing highway boundary, and of this, 8.68ha is existing carriageway.

Figure 3b (Proposed Carriageway) shows that within the Application Boundary, 2.25ha of the existing carriageway within the South Downs National Park will be modified, and a further 2.46ha of new carriageway is proposed within the South Downs National Park. It also shows that the length of the proposed new carriageway within the South Downs National Park is 2,235.7m. The new carriageway to be constructed within the South Downs National Park comprises of the new southbound links between the A34, the M3 and the Junction 9 gyratory, the A33 roundabout, the M3 northbound on-slip and southbound off-slip.

In addition to the modified and new carriageway proposed, **Figure 3c** (Analysis of Difference Between Existing and Proposed Carriageway) shows that within the Application Boundary, 5.51ha of the existing carriageway within the South Downs National Park will be retained and 0.89ha of the existing carriageway will be removed. In addition to the information shown in Figure 3c, Figure 4 (Proposed Land Use Analysis within South Downs National Park) shows that within the Application Boundary and the South Downs National Park:

- 17.15ha of the land will be temporarily acquired and returned to its previous land use following construction
- 9.18ha of the land will be associated with highway infrastructure, defined as areas such as verges, drainage features, and engineered earthworks
- 11.27ha of existing habitat is retained
- 28.02ha is for proposed environmental measures (comprising mitigation and enhancement)

From the information provided in **Figure 4** it can be determined that within the Application Boundary, 13.89ha of the land within the South Downs National Park will be required for the provision of new or modified permanent infrastructure (2.25ha of modified carriageway, 2.56ha of new carriageway and 9.18ha of land associated with highway infrastructure), and 39.29ha of land will be associated with existing habitats or proposed environmental proposals.

Within the Application Boundary, 9.33ha of the land within the South Downs National Park will comprise of carriageway associated with the Scheme. This is an additional 0.65ha when compared to the existing 8.68ha of carriageway.

ExQ2	Question to:	Question
Q1.2.3	General The Applicant	Please provide detailed engineering cross sections at 20m intervals along string CH-HML-E_M3SB between chainages 3000 and 4300. The cross sections should detail the existing and proposed highway and features and also clearly detail the boundary of the SDNP with sufficient distance measurements to allow the ExA to understand the changes to carriageways and highway boundaries as they impact the SDNP.
Applicant Response		
Please see Engineering Sections at 20m Intervals - ExA WQ2 1.2.3 (Document reference 2.15) submitted at Deadline 5.		

2.2 Agriculture, Geology and Soils

The Applicant did not receive any questions for this topic.

2.3 Air Quality

ExQ2	Question to:	Question
Q3.2.2	PM 2.5 The Applicant	Please can the applicant detail why the PM2.5 data which was part of the Preliminary Environment Information Report (PIER) and used as part of the statutory consultation exercise, and referenced by Mr Gadd in his Written Representation [REP1-038] was not shown in the ES as submitted in the application. Please comment on how this data may or may not have contributed to the assessment of PM2.5.
Applicant Response		

The PM2.5 data presented in the Preliminary Environment Information Report (PEIR) consisted of maps of predicted background concentrations of NO2, PM10 and PM2.5 in 2020 and 2026. This data provided context to the background (and future background) concentrations (from the Department of the Environment, Food and Rural Affairs (Defra) modelled data at 1km x 1km resolution) of pollutants across the study area.

At the time of submission of the PEIR the traffic modelling had not been completed and therefore it was considered that these background maps, alongside historic monitoring data, were the most useful data available to facilitate understanding of the baseline and future baseline air quality conditions.

Subsequent to the completion of the traffic and air quality modelling, the concentrations of air pollutants (NO2, PM10 and PM2.5) were predicted at a selection of representative receptor locations across the study area. These predictions included not only the modelled contribution from road traffic but also the background concentrations from the same Defra mapping dataset (for the relevant year) as presented in the PEIR.

In summary therefore, this mapping data was used in the assessment of PM2.5 within **Chapter 5 (Air Quality)** of the **Environmental Statement (ES) (6.1, Rev 2)** (to demonstrate that concentrations did not approach the current legal limit (of 20micrograms per cubic metre (ug/m3)). These actual predicted concentrations of PM2.5 at representative receptors reported in the **Table 1.4 of Appendix 5.2 (Human Receptors Backgrounds and Operational Phase Results)** of the **ES (6.3, APP-086)**, are considered to reflect a more accurate impact assessment of the Scheme than illustrations of modelled background concentration (at 1km x 1km resolution).

The Applicant therefore confirms that the PM2.5 data presented in the PEIR has been incorporated into the assessment of PM2.5 within **Chapter 5 (Air Quality)** of the **Environmental Statement (ES) (6.1, Rev 2)**.

2.4 Alternatives

ExQ2	Question to:	Question
Q4.2.1	Construction Compounds	The Deadline 4 response from Thomas Rogers [REP4-048] raises a number of outstanding concerns in relation to the prospect of the R & W Environmental Yard,

	The Applicant	<p>Four Dells Farm, Winchester being a reasonable alternative to taking additional land from the SDNP to provide a construction compound.</p> <p>(i) Please provide details of any assessment made of this site for that purpose, the reasons for its rejection and an explanation as to why it is not considered to provide a reasonable alternative.</p> <p>(ii) Please clarify the position as to whether this site is already within the Applicant's ownership or control?</p>
Applicant Response		
<p>(i) During the first sift of the compound assessment the Applicant undertook in Summer 2020, the R&W yard had an area of 1.3 ha and as such was not taken any further as an option. Following the reduction in compound size to 3ha since the initial assessment the R&W yard is still too small. The yard would also have safety concerns relating to access from the A272 as there is no room on the A272 for a dedicated queue lane to access the yard and no room on the R&W yard for a holding area prior to its gated entrance for vehicles exiting and joining the highway.</p> <p>Four Dells Farm is a separate site to the R&W yard. Four Dells Farm was outside of search area (see response to ExAQ2 4.2.2) and is further away at 11km oneway on the road network to the works Site. The issues regarding proximity to the Site that applied to Badger Farm and Area B would also apply to Four Dells Farm with the increased journey times exacerbating its negative factors. Therefore, Four Dells Farm does not offer a benefit over any of the areas the Applicant has previously assessed.</p> <p>(ii) The Applicant confirms that the R&W yard is not under its ownership or control. The Applicant has had further discussions with R&W to confirm that it is still an ongoing business with no intention to move.</p>		
ExQ2	Question to:	Question
Q4.2.2	<p>Construction Compounds</p> <p>The Applicant</p>	<p>The ES Chapter 3 Assessment of Alternatives (Rev1) submitted at Deadline 4 [REP4-008] Table 3.4 reveals that the sifting process at that stage took into account proximity to the site, utility connections and SDNP. Paragraph 3.13.19 explains the outcome of that stage of the assessment process and states that although the</p>

		<p>preferred Area A would be sited within the SDNP it has a number of other benefits including very good access and utility connections.</p> <p>(i) Please explain how the relevant criteria were chosen and whether they were given equal weight in the assessment.</p> <p>(ii) Why was the exercise not principally landscape led at all stages and why was greater weight not afforded to the impact on the SDNP in the light of the NPSNN paragraph 5.150 recognition that great weight should be given to conserving landscape and scenic beauty in nationally designated areas?</p>
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Applicant Response

(i) The primary purpose of a construction compound is to facilitate the safe and efficient construction of the development, Consequently plot size was a prerequisite before progressing to the next stage of assessment. The main construction compound must be of sufficient size to facilitate the safe and efficient construction of the Scheme. This includes removing the need for double handling of materials and minimising potential conflicts on the highway network by keeping all plant, machinery and materials as close to the construction operations as possible.

Once the size had been established considerations moved to those requirements which are fundamental to the setup, operation and reinstatement of a construction compound. The sifting process gave weight to the various sites by the staged approach. The weighting order was as follows:

- Priority 1 – Site is located outside of a Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) – if within a SSSI or SAC the site was rejected and not taken forward any further due to the need to secure additional consents and the damage which would be caused to a protected habitat
- Priority 2 – Highway access to the site. This is a fundamental pre-requisite for a main construction compound as it is where all deliveries of plant and materials will enter the construction site. The size of a number of construction plant required for a project such as the Scheme means that access along arterial roads is the only viable option. Plant of this size travelling along country lanes would be considered unacceptable to the highway authority. A main

construction compound is also the place where workers and staff arrive and leave the construction site. Therefore good access to an appropriate highway is essential.

Following that, the remaining criteria of travel time between the compound and worksite, landscape impacts and utility connections were considered with equal weighting.

Landscape was not afforded higher weighting in this process, due to the short term temporary and reversible nature of the effects arising from the use of this site as a construction compound.

Once construction of the Scheme is complete the land temporarily possessed for the construction compound will be reinstated leaving no permanent imprint on the landscape.

As there is no requirement to remove any trees for the construction compound, and no specific soft landscape elements (trees) proposed, the reinstatement of the land use to arable farmland, which is subject to land management activities such as ploughing and seed drilling, is expected to be relatively quick.

- (ii) Great weight has been given to conserving landscape and scenic beauty in the South Downs National Park. The South Downs National Park has been identified as a key constraint from the outset of the Scheme, as the M3 around Junction 9 is bound by, and is in part located within, the South Downs National Park. The local landscape has been substantially altered by the existing highways estate development and urbanisation. The local character is dominated by roads and associated infrastructure including bridges, cuttings, slips and signage.

The Scheme area lies on the periphery of the South Downs National Park, and whilst the Scheme does include areas of the designation, the presence of the M3 was noted in these areas in which the Scheme is located when it was designated. At the time of designation the Inspectors Report for Park Designation (2006), stated opportunities to experience this exposed and elevated landscape are limited thus making it less sensitive to change.

The sensitivity of the landscape has been determined according to the landscape quality, condition and value and the ability or ease with which the landscape can accommodate the type of change proposed. It is therefore considered this

area does not represent a core part of the South Downs National Park where levels of tranquillity and openness would typically be higher.

As can be seen from the assessment of alternative locations for the main construction compound there were limited locations to consider. None of the alternatives considered benefitted from being adjacent to the location of the works required to construct the Scheme.

Given the necessary adjacency to the Scheme for certain elements and the anticipated construction activity at this location, and the resulting effects from this on the South Downs National Park, the Applicant considered that the resulting effects from the uses of the construction compound at this location would not materially increase the effects on the South Downs National Park when compared to those resulting from the main construction activity of the Scheme.

The extent of the direct and indirect effects on the South Downs National Park will be temporary, relatively small and localised, in comparison to the considerably large extent of the South Downs National Park, particularly considering this area of the South Downs National Park is in an area of transition adjacent to the M3 Motorway and Junction 9.

The Applicant considers that this policy does not apply to every individual element of the Scheme in isolation but is the collective development as a whole. As a result, greater weight was not afforded to the impact on the South Downs National Park from the construction compound in isolation given the context of the existing Junction, the proposed Scheme and the construction activity proposed at this location (which partly lies within the boundary of the South Downs National Park). Effects on the designated landscape from the construction compound are limited to the short term, and removing the construction compound from this location would unlikely result in a material reduction of the reported short term landscape effects on the South Downs National Park. Effects arising from presence of the construction compound in the landscape will be completely removed once the construction of the Scheme is completed and the land reinstated.

ExQ2	Question to:	Question
Q4.2.4	Construction Compounds The Applicant	The ES Chapter 3 Assessment of Alternatives (Rev1) submitted at Deadline 4 [REP4-008] paragraph 3.13.25 indicates that further work was undertaken after statutory consultation. The exercise was principally landscape led and resulted in,

		<p>amongst other things, the addition of advanced planting to screen the haul road to the main construction compound from the Spitfire Link from the wider SDNP.</p> <p>(i) Please identify the locations of this advanced planting and explain when it is intended to be provided and how it would be secured through the draft DCO.</p> <p>(ii) Is there scope for the provision of any further areas of advance planting in this location that would serve to mitigate any adverse visual impact?</p>
Applicant Response		
<p>(i) Advanced planting is identified in Appendix C (Proposed advanced planting locations and the rationale for each) of Applicant Comments on Local Impact Reports (8.9, REP3-023). Advanced planting would be secured through discharge of Requirement 5 of the draft Development Consent Order (3.1, Rev 4). This will comprise of a detailed landscape scheme including the location, number, species sizes and density of all soft landscape works. This would require approval by the Secretary of State including details of the implementation timetable for all landscaping works and would set out the timetable / programme for planting including those for the advanced planting.</p> <p>(ii) No. The maximum extent of proposed planting has been identified already, given the position of the access road, and lack of planting to the perimeter of the construction compound. Planting at that location would create further subdivision in the landscape pattern along this temporary boundary.</p>		
ExQ2	Question to:	Question
Q4.2.5	<p>Construction Compounds</p> <p>The Applicant</p>	<p>The ES Chapter 3 Assessment of Alternatives (Rev1) submitted at Deadline 4 [REP4-008] paragraph 3.13.3 states that a compound to the north of the scheme at Christmas Hill (located outside the SDNP) was considered in earlier iterations of the scheme but this was reconsidered when all aspects of the scheme were reviewed by the newly appointed contractor. Please provide further details as to why this was the case and the nature of the concerns raised by the new contractor in relation to the use of that compound for the scheme.</p>

Applicant Response

For clarification, the Christmas Hill site is 'Area B' referenced within **Chapter 3 (Assessment of Alternatives)** of the **Environmental Statement (ES) (6.1, Rev 1)**.

Area B was first considered as a potential main construction compound location in the 2019 Consultation Brochure **i**. When VolkerFitzpatrick and Stantec were instructed to progress the Scheme in May 2020, the exercise to confirm the site compound location had not been concluded.

Subsequently and as part of the redesign of the Scheme including a material change in the earthworks required to deliver the Scheme, the compound location needed to be reconsidered. There was significant concern about the distance of the main construction compound from the Site and its accessibility. It also didn't fulfill the key requirements of a main construction compound (as set out in **ExAQ2 4.2.2** above). Consequently, a review of potential locations was undertaken (see **Chapter 3 (Assessment of Alternatives)** of the **Environmental Statement (ES) (6.1, Rev 1)**. and included an assessment of the feasibility of each location.

ExQ2	Question to:	Question
Q4.2.6	Construction Compounds The Applicant	<p>The ES Chapter 3 Assessment of Alternatives (Rev1) submitted at Deadline 4 [REP4-008] paragraph 3.13.19 refers to the fact that as part of the consideration of Badger Farm in May 2023, a sensitivity check was undertaken to review whether any other land parcels outside the South M3 Junction 9 Improvement project were now available, but no new 3ha land parcels were identified during this survey.</p> <ul style="list-style-type: none"> (i) Please explain the review process in relation to other 3ha land parcels considered, the area under review and the criteria utilised. (ii) Please identify any other land parcels that were considered as part of this review. (iii)

Applicant Response		
ExQ2	Question to:	Question
<p>(i) The review process used the results of the initial assessment to filter out any obviously unacceptable locations, for example those with ecological designations or inappropriate access to the highway. It was considered that if access to a potential 5ha site was inappropriate it would not be suitable for a 3ha site either. A desk-based review of land in the immediate vicinity was also undertaken using google maps and ordinance survey mapping. No new 3ha land parcels were identified as a result.</p> <p>(ii) No other land parcels were considered for the construction compound as part of this review as no new land parcels were identified.</p>		
Q4.2.7	Construction Compounds The Applicant	<p>The ES Chapter 3 Assessment of Alternatives (Rev1) submitted at Deadline 4 [REP4-008] paragraphs 3.13.27 and 3.13.30 explain that since the cancellation of the Smart Motorway Programme by the Government in April 2023, that included the All Lane Running (ALR) M3 Junction 9 to 14 upgrades, the Badger Farm site is currently being utilised as a construction compound for the M3 Junction 9 to 14 Safety Barrier Improvement Scheme. However, it is expected to become available for occupation from October 2023.</p> <p>(i) Please explain why this site was chosen and considered suitable for the Smart Motorway scheme.</p> <p>(ii) Given that it is currently being utilised for the M3 Junction 9 to 14 Safety Barrier Improvement Scheme, please explain the different considerations that apply in relation to its use for M3/J9 scheme?</p> <p>(iii) If land within the SDNP was not available would the Badger Farm site provide a practicable, suitable, and obvious alternative?</p>

		(iv) Please provide details of the proximity of the Badger Farm site to construction site for the Smart Motorway scheme compared to the M3/J9 site.
Applicant Response		
<p>(i) The Applicant obtained clarification from the Smart Motorway Contractor (Balfour Beatty) on its chosen criteria for Badger Farm as a construction compound for the smart motorway project. Badger Farm was chosen for the smart motorway project as it was central to the 14km length Scheme.</p> <p>The Smart Motorway project progresses linearly with sequential work activities undertaken in distinct phases along the linear route of the project. The project would have restricted workspace associated with working adjacent to a live carriageway. The workforce numbers in each workspace is small, as such mobile welfare units are suitable. This means that a large construction compound is not required to accommodate static welfare units within the main working areas. Smart motorway schemes do not have bulk earthworks or involve the construction or demolition of bridges and underpasses and therefore the staff resource and hence welfare locality are not comparable. As such the considerations for the Smart Motorway Contractor were entirely different to those being considered by the Applicant in this instance.</p> <p>(ii) The two schemes are fundamentally different. The Junction 9 to 14 Safety Barrier Improvement scheme is a 14km linear project working from a starting point to an end point or in multiple sections. The M3 Junction 9 Improvement Scheme is a project where bulk earthworks and significant structures are being constructed offline from the main carriageway with some carriageway upgrades in a defined area. The Safety Barrier Scheme will have been planned accounting for a mobile workforce who would be transported to and from the work location with mobile welfare that is changing location on a frequent basis. The M3 J9 Improvement Scheme requires the construction of significant structures which last for multiple weeks and requires an accessible / nearby location for the scheme to be supported from.</p> <p>(iii) Badger Farm does not provide a practical, suitable and obvious alternative for the following reasons.</p>		

Workforce Welfare

The Construction (Design and Management) Regulations 2015 (CDM Regulations 2015) made pursuant to sections 15, 80 and 82 of the Health and Safety at Work etc. Act 1974 places requirements on construction welfare facilities.

The CDM Regulations 2015 apply to all construction work where the detailed definitions in regulation 2(1) provide that 'Construction work' means 'the carrying out of any building, civil engineering or engineering construction work' and a 'construction site' includes any place where construction work is being carried out to which workers have access.

Regulations 4(2)(b), 13(4)(c) & 15(11) by reference to Schedule 2 of the CDM Regulations state that a construction site must provide:

- Sanitary conveniences
- Washing Facilities
- Drinking water
- Changing rooms and lockers
- Facilities for rest

In all clauses of the schedule referenced above in Schedule 2 of the CDM Regulations, the facilities must be '*Suitable and sufficient ...*' and '*must be provided or made available at readily accessible places ...*'

Guidance published by the HSE on their website ([Construction: Welfare - Managing occupational health risks in construction \(hse.gov.uk\)](https://www.hse.gov.uk/construction-welfare)) gives guidance as to how to interpret "*Readily accessible places*", including:

- access for cleaning and maintenance
- encouraging the use of washing facilities by positioning them near to rest / eating areas
- the distance from the furthest part of the site to the nearest facilities and how long it takes someone to get there (either walking or by vehicle). This time should be as short as possible. You may need additional toilets and washing facilities for workers in more remote parts of larger sites

- Central compound – workers should be able to access this easily and quickly. Take into account any likely delays due to traffic / distance. You may need 'satellite' compounds for more remote workers.

Other requirements of one or more of the individual clauses of Schedule 2 listed above are that facilities must be:

- Adequately ventilated and lit
- There must be a supply of clean hot and cold, or warm, water (which must be running water so far as is reasonably practicable)
- Changing Rooms must- include, where necessary, facilities to enable a person to dry any special clothing and any personal clothing or effects

Rest rooms and rest areas must:

- be equipped with an adequate number of tables and adequate seating with backs for the number of persons at work likely to use them at any one time;
- where necessary, include suitable facilities for any woman at work who is pregnant or who is a nursing mother to rest lying down; Schedule 2 Health and Safety Executive Managing health and safety in construction Page 65 of 90
- include suitable arrangements to ensure that meals can be prepared and eaten;
- include the means for boiling water; and
- be maintained at an appropriate temperature.

The basic requirement for welfare provision in Regulation 4(2)(b) does not place a test of Practicability, or reasonable practicability and is an absolute requirement. Although the requirements of Schedule 2 introduce a test of reasonable practicability in some cases, for a project of this size and duration it is clear that requirement of the regulations can only be met with an on-site welfare facility.

For the reasons above the main construction compound cannot be located elsewhere. The other elements of the construction compound, and the reasons for their location is described below but the Applicant notes that as there is a base level of welfare facilities that are required to be in this location, the addition of the elements set out below is not

considered to result in any material increase in impact to the South Downs National Park; equally it is not considered that their removal will result in a material decrease of impacts. However, their removal would create impacts elsewhere as the space and activities are required for the delivery of the Scheme and they would be relocated elsewhere and it would be detrimental to the delivery of the Scheme for them to be outside the location identified for the main construction compound.

Material Storage

The compound would act as principal material reception area to facilitate the distribution of materials to their required locations across the project.

Pre-cast manhole rings would be stacked at no higher than 2m to minimise the requirement to work at height and reduce the likelihood of slips, trips and falls which is the most common cause of injury on construction sites. This would require a large footprint to store the manhole rings and provide clear access to the materials for equipment to safely load and offload. The drainage pipes would be twin wall plastic pipes and be delivered in packs that would be 6m long and approximately 2m wide and 1.5m high. These packs would be single stacked to minimise work at height and stored so that clear access is provided for equipment to safely access for loading and unloading. Also, areas to store trench boxes and other safety systems would be required for the drainage operation.

Communication ducts will require to be stored and will be delivered in similar size packs as the drainage pipes and would require well managed access for loading and offloading. The communication chambers would be plastic and easily moved but are fragile and would need to be carefully stacked and stored. Steel vehicle restraint systems are made up of posts and corrugated rails. This would also require the rails to be at maximum double stacked due to their weight and reduce working at height. As other materials good equipment access is required to load and offload.

Similar storage areas for boundary fencing, scaffold, formwork & falsework, pedestrian guard rails and other items of edge protection and safety systems would be required at different stages of the project.

Areas to store rolls of geotextile materials for earthworks and liners for ponds would be required.

An area for waste management is also required to allow the segregation of waste material and this would be in the form of bulk 20 yard to 40 yard 'roll on roll off' skips as well as smaller skips to transfer from around the project.

Secure storage would be required for a double bunded Diesel tank of approximately 50,000litres, AdBlue and COSHH as well as high value materials that are easily transportable.

Area A means that a large amount of material distribution is undertaken off the public road network. If Badger Farm is used for material storage that this increases the public interface as material transport is on the public road network.

Operational Staff

(iv) Operational Staff are required to be readily available on site for safety, quality and environmental assurance and well as being able to react efficiently to unforeseen events. Although the digitisation of processes has improved the portability of large volumes of information, the need for a work station to produce key documentation remains, so if the operational staff were located in Badgers Farm they would be making a minimum of 3 round trips per day and with expected traffic volumes this would approximate to 2 hours of travel time to support the project. This time impact is more than just the operational staff, as for some items the workforce may have to stop until the operational staff have resolved the problem. The distance from Badger Farm to the Barrier Safety Scheme construction entrance is approximately 1km. The distance to the main construction compound is approximately 6km.

ExQ2	Question to:	Question
Q4.2.8	Construction Compounds The Applicant	<p>The ES Chapter 3 Assessment of Alternatives (Rev1) submitted at Deadline 4 [REP4-008] Table 3.5 indicates that the Badger Farm site performs well against the criteria of accessibility, utility connections and the SDNP. It only performs poorly in relation to its proximity to the construction site as it is located 6km from the central site. Paragraphs 3.13.33 and 3.13.34 provide further details in relation to transportation issues.</p> <ul style="list-style-type: none"> (i) Please explain why this site would require the transportation of certain construction equipment to the construction area using low loaders. (ii) What types of construction equipment would require transportation in this way and how has the average of 30 low loader movements each day, each

		<p>way, on the road network resulting from the use of the Badgers Farm site been calculated.</p> <p>(iii) What would be the frequency of any additional staff journeys and welfare trips and why would these be necessary.</p> <p>(iv) Why would this not be required for the Area A site and how are these issues currently accommodated for the M3 Junction 9 to 14 Safety Barrier Improvement Scheme?</p>
Applicant Response		
<p>(i) The Applicant's submission at Table 3.5 of the Chapter 3 (Assessment of Alternatives) of the Environmental Statement (ES) (6.1, Rev 1) related to plant not being on site. As construction plant such as excavators and dump trucks are not road legal if they are stored on an offsite compound they would need to be transported on low loaders to the site when they are required.</p> <p>(ii) Whilst the Applicant has not completed its detailed design, the average number of plant that is used for earthworks of the size proposed is as follows:</p> <ul style="list-style-type: none"> ▪ 45t Excavator x 4 (Prime Movers) ▪ 25t Excavator x 2 (Trimming and profiling) ▪ 30t ADT x 12 ▪ 22t Dozer x 2 ▪ 16t Self Propelled Roller x 2 ▪ Dust Suppression Unit x 2 (Tractor & Bowser) ▪ Stabilisation Mixer x 1 ▪ Grader x 1 ▪ 16t Self Propelled Roller x1 <p>This equates to 27 items of plant that require low loader movements. Several low loader movements would be required to collect the smaller items of plant that would be employed on the project but cannot be driven on the public roads which</p>		

would take the count to 30 movements in each direction, each day. This is the estimated average requirement and will be greater at times of peak production.

(iii) The anticipated frequency would be as follows:

- Workforce and operational staff – Three Return Journeys per day consisting of a return journey to and from the worksite at the start and end of each shift, a return journey mid morning and another one at lunchtime to welfare for food and toilet breaks. The CDM regulations as covered in response **ExAQ2 4.2.7 (iii)** cover why these journeys to Welfare are necessary. Further trips may also be required for some people who require more frequent toilet breaks.

(iv) Please refer to the Applicant's response **ExAQ2 4.2.7 part (i)**.

ExQ2	Question to:	Question
Q4.2.9	Construction Compounds The Applicant	<p>The Applicant's written summary of oral submissions for ISH1 [REP4-008] states that the Applicant's contractor will also have to consider the health and safety of its workers, thus requiring welfare units at the construction compound. This is stated to be necessary as workers will be working in wet conditions and will need an area to ensure that they can leave the site clean and dry.</p> <ul style="list-style-type: none"> (i) Given the distance between the construction site and the Badgers Farm site and the anticipated travel time between the two, please explain in further detail why it would not be acceptable to transport workers to an offsite welfare facility on that site. (ii) Please provide further justification for the assertion that the construction compound needs to be within the red line boundary of the scheme, and it cannot be located anywhere but within the SDNP.
Applicant Response		

- (i) Please refer to the Applicant's response **ExAQ2 4.2.7**.
- (ii) Regardless of location if the construction compound was not included in the red line boundary for the scheme there would be no certainty that the Scheme could be delivered. Further proprietary agreements would be required to secure the land, which would not be guaranteed due to the lack of compulsory acquisition powers. Planning permission would be needed to secure the use of the land as a construction compound and there would be no certainty that it would be secured. In addition the time taken to secure these additional requirements would at best add significant cost and delay to the delivery of the Scheme. In respect of the justification for the proposed location please see the Applicant's response in **ExAQ2 4.2.7**.

ExQ2	Question to:	Question
Q4.2.10	Construction Compounds The Applicant	The ES Chapter 3 Assessment of Alternatives (Rev1) submitted at Deadline 4 [REP4-008] paragraph 3.13.35 states that Area A would also provide welfare facilities for the eastern part of the site, as part of the main construction compound. Please explain why, in the event that the main construction compound was not sited at Area A, location welfare facilities would still be required to be provided on the eastern part of the site. What is the extent of the area that would be required for this purpose and why would it need to be in the position sought?

Applicant Response

The extent of the area required if only welfare facilities were provided on the east side of the M3 would be approximately 0.5Ha. This would include the static cabins, septic tank and vehicle parking for the welfare cabins including provision for emergency vehicles.

A high proportion of the workforce will be operating on the east side of the M3 and therefore the main welfare facilities have been sited on the east side of the M3. To locate them elsewhere would mean that workers would have to cross the gyratory to visit welfare facilities. The east side is also where the main access to the construction site is and it is therefore a logical place to have all facilities. It should be noted that the welfare facilities being provided on the west side of the M3 are not of a

sufficient size and scale to meet the CDM Regulations. The provisions on the west side are the equivalent of mobile welfare facilities which contain toilets, hand washing facilities and a small seating area.

The Workplace (Health, Safety and Welfare) Regulations 1992 made pursuant to sections 15, and 82 of the *Health and Safety at Work etc. Act 1974* makes specific reference to the minimum requirements of sanitary facilities, washing facilities, facilities for storage of clothing, facilities for changing Clothing and Facilities for rest and eating meals. All of these facilities should be 'Suitable and sufficient' and 'Sanitary & Washing facilities, including showers if required by the nature of the work or for health reasons, shall be provided at readily accessible places. It is expected that at peak a workforce of 250 will be on the project and that will require, 6 male toilet cubicles, 6 urinals, 6 wash basins and 3 showers, 4 female toilet cubicles, 4 wash basins and 2 showers, seating and facilities to warm food and make hot drinks for 150 as shifts will be staggered. Drying / changing rooms for males and females are to be provided to allow changing from dirty to clean clothing and suitable provision to dry wet clothing.

The National Highways depot at Winnall has facilities for approximately 20 people and would not be able to support the construction team.

ExQ2	Question to:	Question
Q4.2.11	Construction Compounds The Applicant	<p>The ES Chapter 3 Assessment of Alternatives (Rev1) submitted at Deadline 4 [REP4-008] paragraph 3.13.32 states that the distance between Badger Farm and the central site will incur increased costs compared to Area A and will also cause an adverse impact on productivity due to increased travel time. Paragraph 3.13.34 also makes reference to Area A resulting in less disruption to the existing road network</p> <ul style="list-style-type: none"> (i) Has any assessment been made of the increased costs, impact on productivity and level of disruption to the existing road network that would result. If so, please provide details. (ii) Please indicate the weight that was attached to these factors in reaching the review conclusion set out in paragraph 3.13.36.

		(iii) Please provide a comparison of the anticipated cost and carbon savings that Area A would achieve compared to Badger Farm in the context of the overall cost and carbon emissions of the scheme.
Applicant Response		
<p>(i) The impact on productivity due to travel time (in person hours) to and from the main construction compound to the site is approximately 2 hours per day as set out in ExAQ2 4.2.7, which is an extra 96 days on site if a compound 15 minutes away from the site is used. As set out in the response to ExAQ2 4.2.8, non road legal plant would need to be transported on low loaders resulting in approximately 30 additional movements a day. No traffic modelling has been undertaken for these journeys. This has a resulting cost impact as it extends the budgeted construction period by approximately 3 months.</p> <p>(ii) The approach to the assessment of construction compound locations is set out in ExAQ2 4.2.2.</p> <p>(iii) A carbon emission comparison for Area A and Badger Farm was undertaken using the same assessment method set out in the Environmental Statement (which did not include for plant being moved by Low Loader between the compound and the worksite). It is as follows:</p> <ul style="list-style-type: none"> ▪ Area A = 1.5 tonnes CO2 over 3 years ▪ Badger Farm = 161 tonnes CO2 over 3 years 		
ExQ2	Question to:	Question
Q4.2.13	Construction Compounds The Applicant	The Applicant's written summaries of oral case for Issue Specific Hearing 3 (ISH3) – Appendix A [REP4-036] provides further information regarding alternatives. As requested, this includes a note on the relevance of the specific judgment of R (<i>on the application of Save Stonehenge World Heritage Site Ltd</i>) v Secretary of State for Transport ("Stonehenge") and its application of common law principles relating to the consideration of alternatives. The Applicant asserts that the micro-siting of the scheme or the alternatives assessment of the scheme in the context of a road based scheme has not been challenged to date and has been considered adequate

		by the local planning authorities. However, does the Stonehenge judgment have any relevance to the siting of different aspects of the scheme such as the location of the main construction compound and the consideration of the Badger Farm site?
Applicant Response		
<p>The aspects of the Stonehenge judgement that have been set out at Issue Specific Hearing 3 (ISH3), Appendix A (Further information regarding alternatives) within Applicant written summaries of oral case for Issue Specific Hearing 3 (ISH3) (8.15, REP4-036) sets out relevant aspects for the consideration of alternatives. This would apply to any part of the Scheme including the location of the main construction compound and the consideration of the Badger Farm site. However, the Applicant has set out its consideration of the viability and relative advantages and disadvantages of the Badger Farm site in Chapter 3 (Assessment of Alternatives) of the Environmental Statement (ES) (6.1, Rev 1).</p> <p>The landscape and visual impact to the South Downs National Park is not the only factor in consideration, and other elements including carbon emission from increased travels, welfare facilities, increased use of local road networks need also to be balanced.</p> <p>It also needs to be considered that whilst the Applicant has reduced the compound size in the South Downs National Park considerably already, even if part of the remaining compound were to be relocated there would remain a requirement to have welfare facilities in the currently proposed location. This means any benefit of the reduced landscape and visual impacts of removing certain elements from the current location to another location are of limited value as there would remain an impact from the static welfare facilities. The '<i>alternative</i>' solution therefore in Badger Farm would not remove the impacts from the South Downs National Park but increase impacts on other receptors, including the local road network.</p>		
ExQ2	Question to:	Question
Q4.2.14	Modal Alternatives The Applicant	The Applicant Written Summary of Oral Case for ISH3 [REP4-036] Appendix A at section 1.3 explains the Applicant's assessment of viable modal alternatives. The NPSNN paragraph 4.27 test is set out including bullet point three. Whilst the NPSNN does not, as a matter of policy, require the ExA to reconsider the proportionate option consideration of alternatives it must be satisfied that this

		<p>assessment has been undertaken. Appendix A states that other modal alternatives were considered and appraised during National Highways Project Control Framework (PCF) 'Options Phase'.</p> <ul style="list-style-type: none"> (i) Whilst paragraph 1.3.4 again confirms that the Department for Transport would have considered alternative modes of transport before including the scheme within RIS, please indicate the basis for that conclusion. Does the Applicant know whether this was done or has that been assumed to be the case as it is required to be done in all cases. (ii) If the latter, please explain why that represents a reasonable assumption to make and the reliance that can be placed upon it, together with the consideration of modal alternatives post RIS at PCF Stage 0, to be satisfied that an appropriate assessment of the viable modal alternatives to the scheme in accordance with paragraph 4.27 of the NPSNN has been carried out. (iii) how alternatives were reported to decision makers to result in their exclusion from further consideration
Applicant Response		
<ul style="list-style-type: none"> (i) The Applicant has been unable to source documentary evidence that would report on the assessment of modal alternatives undertaken by the Department for Transport prior to the inclusion of the Scheme within RIS. The Applicant understands from its dealings with the Department for Transport that this assessment would have been made as a matter of course. The modelling approach used by the DfT ensured that alternative modes of transport were taken into account before schemes were included in the Road Investment Strategy. The DfT used data from the National Transport Model (NTM) to inform their decision making. The NTM is a multi-modal model meaning that it considers: vehicles (including car and HGV), rail, pedestrian, cycling and bus use. Furthermore, the NTM is informed by the Great Britain Freight Model which forecasts freight flows for future years, taking account of competition between modes of transport and ferry routes. 		

The NTM forecasts travel demand from the modes of transport detailed above and accounts for shifts between the different modes over time. For the purposes of the RIS, the demand was applied to the transport network to determine where congestion was forecast to occur which then informed scheme prioritisation.

- (ii) The Applicant's view is that the combination of the assessment undertaken by the Department for Transport (DfT) and the work undertaken by the Applicant at PCF Stage 0 satisfies the requirement of paragraph 4.27 of the *National Policy Statement for National Networks*. The DfT considered alternative modes of transport within their assessment before including M3 Junction 9 in the Road Investment Strategy 1 (RIS1). The Applicant as part of PCF Stage 0 assessed whether an alternative mode of transport could solve the identified problems at Junction 9. It was concluded that the high level of congestion at Junction 9 and the expected growth in freight traffic could only be solved with a Junction improvement that provided free flow movement between the M3 and the A34.

The Stage 0 assessment recognised that investment in rail could provide a viable alternative to help manage travel demand associated with housing growth. On balance however, a Junction improvement was concluded to be necessary to solve the complex congestion and safety issues at the Junction and to facilitate economic growth in the region.

- (iii) The Road Investment Strategy 1 (RIS1) and associated evidence was reviewed and approved by ministers prior to publication. The decision to include M3 Junction 9 in the RIS was agreed by the Secretary of State. Additionally, the Applicant's governance processes require senior decision makers to approve the progression from one PCF stage to the next. At the end of Stage 0 project documentation, including the alternative modal assessment, was reviewed and the decision was made to progress the Scheme as a Junction improvement.

ExQ2	Question to:	Question
Q4.2.15	Modal Alternatives The Applicant	The Applicant's Written Summary of Oral Case for ISH3 [REP4-036] Appendix A at section 1.3.16 comments on the relevance of the Stonehenge judgment in relation to the consideration of modal alternatives. Please explain further, in the light of the submissions on this topic made by various IPs why the consideration of modal alternatives should not be considered an " <i>obvious material consideration</i> ".

Applicant Response

The phrase 'obviously material consideration' was considered by Holgate J in of *R (on the application of Save Stonehenge World Heritage Site Ltd) v Secretary of State for Transport* ("Stonehenge"). This held that when considering the lawfulness of a decision it is relevant to consider whether legislation mandates either expressly or impliedly that a consideration be taken into account; if it does not then a decision maker is only required to take a consideration into account which was so "obviously material" that failure to take it into account would be irrational, see paragraph 63 of the *Stonehenge* judgment. These were referred to as the three "limbs" against which a decision could be judged.

R (on the application of Friends of the Earth Ltd and another) v Secretary of State for Transport [2020] UKSC 52 sets out clearly the scope of what is an "obvious material consideration" between paragraphs 116 and 121 where it sets out that within this limb of those matters requiring consideration by a decision maker, there are two sub-categories of decision. The first is that a "decision maker may not advert at all to a particular consideration falling within that category. In such a case, unless the consideration is obviously material according to the *Wednesbury* irrationality test, the decision is not affected by any unlawfulness". The second is that a "decision maker may in fact turn their mind to a particular consideration...but decide to give the consideration no weight...in normal circumstances the weight to be given to a particular consideration is a matter for the decision maker, and this includes that a decision maker might (subject to the test of rationality) lawfully decide to give a consideration no weight."

The Applicant sets out at the Applicant's Written Summary of Oral Case for ISH3 [REP4-036] Appendix A at section 1.3.16 that modal alternatives set out should not be considered "obvious material considerations" as following its options appraisal they are *vague, inchoate and have little possibility of coming about*. These three factors were set out due to the case law established by *R (Mount Cook Land Limited) v Westminster City Council* [2017] PTSR 116 at [30] as considered in *Stonehenge*. The Applicant has discharged its duty under the NPS NN to consider *viable modal alternatives* in an options appraisal, and following the conclusion of that options appraisal it was decided by the Applicant that the existing congestion and reliability issues at M3 Junction 9 required a highway intervention as opposed to any other modal intervention.

ExQ2	Question to:	Question
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Q4.2.16	<p>Modal Alternatives</p> <p>The Applicant</p>	<p>The Post Hearing submission of Winchester Action on Climate Crisis [REP4-049] in relation to Modal alternatives including the possibility of investing in a rail-freight based scheme submits that the decision not to opt for a rail freight option appears to be contrary to Solent to Midlands Route National Highways policy for the Solent to the Midlands corridor including Objective D. Please comment on the consistency or otherwise of the scheme with this aspect of policy and the weight to be attached to that factor.</p>
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Applicant Response

Route strategies are a rolling programme setting out National Highways' plan for the strategic road network (SRN). They're a key research element underpinning the Road Investment Strategy (RIS), which informs the process of future road investment. National Highways is required to produce route strategies as a condition of their operating licence. The 2023 Route Strategies will underpin the next Road Investment Strategy 3 (RIS3 2025-2030).

The *Solent to Midlands Route Strategy (2023)* is not a planning policy document with which the Scheme is assessed against, but it will inform decisions made as part of RIS3. Objective D titled 'Enable more efficient freight movements along the corridor, M3 and A27 to and from key gateways' states:

'Encourage access to freight-based multimodal interchanges in addition to recognising the importance of lorry parking facilities in strategically important locations for freight and logistics, particularly Southampton, Portsmouth and the wider Solent Freeport'.

The supporting text on Page 83 goes on to say:

'The major ports of Southampton and Portsmouth rely on the A34 as the key route for the transfer of freight goods north to the Midlands and along the M3, M4 and M40 and linking with the rest of the UK SRN...'

The future growth and expansion of the Port of Southampton is outlined in the Port of Southampton master plan and multiple warehousing and freight developments have been planned along the M27. The Solent Freeport will also support future growth in the region by creating tax advantages that allow businesses to pay little or no tax on imported and exported goods. This

region is a major economic driver, therefore the M27 and M271 are key links for enabling growth. The SRN will be a key element in supporting sustainable growth.

This is reflected in the National Highways regional traffic model forecasts, which show a relatively large proportion of freight traffic compared to other A-roads. This large proportion is present for the full length of the Solent to Midlands route'.

Objective D makes specific reference to supporting the Strategic Road Network to better manage the future growth of the ports. The Scheme is consistent with this objective, to have improved access to freight-based multimodal interchanges, in this case the Solent Ports. The decision not to opt for a rail freight option in order to alleviate congestion between the M3 and A34 is consistent with Objective D. The Route Strategies for Solent to Midlands published in 2015, 2017, and in 2023 identify issues within the strategic road network and include reference to M3 Junction 9. The Scheme is consistent with these strategies taken as a whole. As these documents form the basis for investment decisions made as part of the Road Investment Strategies their overall weight in the planning balance is limited.

ExQ2	Question to:	Question
Q4.2.17	Modal Alternatives The Applicant	The Post Hearing submission of Winchester Action on Climate Crisis [REP4-049] in relation to Modal alternatives is critical of the information provided in relation to the consideration of such alternatives including the reference to appraisal of rail-freight-based alternative schemes National Highways Project Control Framework (PCF) Stages 0. Please respond to the criticism that it has not been shown that a meaningful appraisal of a rail freight option at Stage 0 was carried out and that rejection of the option would have been inappropriate in policy terms.

Applicant Response

The Post Hearing Submission from Winchester Action on the Climate Crisis (REP4-049) make reference to the rejection of the rail freight option as inconsistent with Objective D and H of the *Solent to Midlands Route Strategy (2023)*. Our response to **ExAQ2 4.12.16** is provided above and addresses the status of Route Strategies. The Applicant's position remains that there is no conflict between the *Solent to Midlands Route Strategy (2023)* and the Scheme.

It is important to consider that the *Solent to Midlands Route Strategy (2023)* is used as a forward planning tool by National Highways to help identify investment opportunities for enhancements, as well as to support decisions around operating and maintaining the Strategic Road Network (SRN). The issues identified with the performance of M3 Junction 9 have been identified historically in the 2015, and 2017 Route Strategies (and earlier supporting documents) and improvements to the Junction included within the RIS1 and RIS2 programme.

Table 2 'Evidence used to inform objectives' of the *Solent to Midlands Route Strategy (2023)* provides commentary of the objective against: Chapter 3, 'Views raised by our customers and neighbours; Chapter 4 'Integration with our partners' strategies and priorities'; and Chapter 5 'Challenges and issues identified'. Under Chapter 4 it states:

'Transport for the South East aim to provide An affordable, accessible transport network for all that promotes social inclusion and reduces barriers. They also aim to create a seamless, integrated transport network with passengers at its heart, making it simpler and easier to plan and pay for journeys and to use and interchange between different forms of transport. Network Rail strategy includes helping to transfer more journeys onto rail which can help relieve congestion on the SRN and improve the environment by increasing the use of more sustainable modes. Network Rail and train operators aim to find opportunities to better integrate the road and rail network; both in terms of freight – by improving the strategic road networks capacity for new rail freight terminals and by planning freight corridors together, and for passengers– by seeking opportunities to place parkway stations in strategically important locations with easy access to the strategic road network.'

Under Chapter 5 it states:

'Car travel remains the primary mode. The M3/M27/M271 are the main roads commuters use to travel to key employment centres such as Southampton and Portsmouth and Winchester. Bus connectivity, and in some cases rail connectivity, is available however the slow journey times and lack of direct connectivity. Planned developments will further add to delay along the existing network, making the need for modal shift greater.'

Whilst this objective is recognised as important to the improvement of the Solent to Midlands Route (M3, M27, and M271) it highlights the role of other transport partners such as Network Rail and Transport for South East for delivering increased rail freight and passenger capacity. Furthermore, the supporting text to objective H states *'There are several junctions in this section of the route that provide access to major public transport hubs. For instance, Junction 11 on the M3 near Winchester*

provides access to four park and ride hubs'. Taking the objectives of the Route Strategy as a whole the Scheme is consistent with the Solent to Midlands Route Strategy (2023).

Bullet 2 and Bullet 3 of the same paragraph in the Post Hearing Submission from Winchester Action on the Climate Crisis (REP4-049) refers to the rejection of modal alternatives at Stage 0 as contrary to the draft *National Policy Statement for National Networks*, specifically that it would be counter to the draft *National Policy Statement for National Networks* focus on expanding rail freight mode and its priority of delivering a 75% reduction in emission by transferring freight tonnage to rail.

The Applicant's position is that the Scheme is consistent with the draft *National Policy Statement for National Networks* and an assessment against the specific policies has been provided at Deadline 2 within the **Draft National Policy Statement for National Networks Accordance Table (8.7, REP2-053)**. With respect to the 75% figure quoted it is understood this is referring to row two of Table 1: Options to address need of the draft *National Policy Statement for National Networks*. It states in the last sentence that 'rail freight emits approximately 75% less CO2 than equivalent transport by road'. This section of the draft NPS NN is focused on the government's policy for addressing need for strategic rail freight infrastructure.

The assertion that the rejection of rail freight option at Stage 0 is counter to this aspect of the draft *National Policy Statement for National Networks* does not recognise the other aspects of the draft NPS NN (notably paragraphs 3.22 and 3.46) which recognise that the need to improve and enhance the Strategic Road Network includes junction improvements, and that the government has, at a strategic level concluded that there is a compelling need for development of the national networks.

Section 1.3 of the Applicant written summaries of oral case for Issue Specific Hearing 3 (ISH3) (8.15, REP4-036) provides additional information with respect to the assessment of modal alternatives at PCF Stage 0.

ExQ2	Question to:	Question
Q4.2.18	Appraisal of Alternatives The Applicant	Please explain why, during appraisal of alternatives, it was not a key scheme requirement to minimise the impact and encroachment into the SDNP. Please also comment on why in paragraph 4.6.1 of the Stage 1 Technical Appraisal Report [APP-080] the SDNP was only referenced along with other environmental designations as a 'constraint'. (please note that the hyperlinks within the Technical

	Appraisal report have expired therefore it is not possible to access the detailed reports in paragraph 1.3.1 which may give more detail)
Applicant Response	
<p>The South Downs National Park has been identified as a key constraint from the outset of the Improvement project, as the M3 around Junction 9 is bound by, and is in part located within, the South Downs National Park.</p> <p>The Scheme is located in a transitional landscape where the Winchester downland merges into the Itchen River valley. The local landscape has been substantially altered by the existing highways estate development and urbanisation. Local character is dominated by roads and associated infrastructure including bridges, cuttings, slips and signage. The sensitivity of the landscape has been determined according to the landscape quality, condition and value and the ability or ease with which the landscape can accommodate the type of change proposed.</p> <p>The significance of the constraint that the South Downs National Park imposes on the Scheme has also been acknowledged in the assessment of its special qualities. The nationally designated landscape of the South Downs National Park is characterised by a diverse range of landscapes including chalk valleys and open downland which had the potential to be affected by the Scheme options. However, the presence of the existing motorway (5km of which passes through the South Downs National Park) diminishes these qualities. This suggests that the Scheme options would not be entirely incongruous within the local landscape.</p> <p>In addition, the Scheme area lies on the periphery of the South Downs National Park, and whilst the Scheme does include areas of the designation the presence of the M3 was noted in these areas in which the Scheme is located when it was designated. At the time of designation the Inspectors Report for Park Designation (2006), stated opportunities to experience this exposed and elevated landscape are limited thus making it less sensitive to change. It is therefore considered this area does not represent a core part of the South Downs National Park where levels of tranquillity and openness would typically be higher.</p>	

Furthermore, the extent of the direct and indirect effects on the South Downs National Park will be relatively small and localised, in comparison to the considerably larger extent of the South Downs National Park where chalk valleys and rolling landscapes are more prevalent than in the transitional landscape adjacent to the M3 Motorway and Junction 9.

Paragraph 4.6.1 of Appendix 3.1 (Stage 1 Technical Appraisal Report) of the **ES (6.3, APP-080)** provides a (non-exhaustive) list of some of the environmental constraints and designations associated with the Scheme, that would be given further consideration during option appraisal. This statement therefore confirms that the South Downs National Park (amongst other constraints) was fully and appropriately considered as part of the multi-disciplinary assessment of the Scheme, during development through option appraisal.

During preliminary design, the Applicant has continued to work with the South Downs National Park Authority to further reduce the extent of the Scheme within the South Downs National Park, such as the reduction in the construction compound size, and removal of the spoil deposition areas.

2.5 Biodiversity, Ecology and Natural Environment (including Habitats Regulations Assessment (HRA))

ExQ2	Question to:	Question
Q5.2.1	Wider Enhancements The Applicant	Can further explanation be given as to why the use of 'Designated Funds' to enhance the application cannot be considered to be included in the DCO and if there is clear guidance from DfT or National Highways regarding this. If there is a legal explanation, please detail this including any case law that is relevant.
Applicant Response		
At Issue Specific Hearing 2 (ISH2), there was discussion about two designated fund projects, one in respect of the River Itchen and one for chalk grassland. Neither of these projects are required to mitigate any adverse effects of the Scheme and therefore are not secured through the Development Consent Order. Both are standalone projects, with separate sources of funding, and both include land situated outside the Application Boundary.		

The Application Boundary for the Scheme represents the least amount of land required to construct the Scheme and mitigate significant adverse effects appropriately.

Both designated fund projects seek to provide environmental enhancements; and, in the case of the chalk grassland project, the land would need to be purchased for that project to progress. It is not possible to use compulsory acquisition powers to acquire land for enhancement purposes as this would not meet the tests set out in Section 122 of the Planning Act 2008.

In the event that there is certainty about the Designated Funds projects being delivered, if the Scheme was delivered, it would be possible for the Secretary of State to take either or both of these projects into account as a material consideration. The weight to be attached to those would be a matter for the Secretary of State, but it is likely to be limited by the fact that neither Designated Funds projects would be secured by the Development Consent Order.

However, at the current stage there is no certainty that either project will come forwards, hence the Applicant does not consider that they can be taken into account. If the situation changes before the Examination closes the Applicant will update the ExA so that one or both of these Designated Fund's projects can be taken into account.

ExQ2	Question to:	Question
Q5.2.2	Wider Enhancements The Applicant	At ISH3, IPs suggested that the provision of enhancements could potentially be achieved by means of contributing funds to local wildlife groups already working within the SDNP and surrounding area. This was rejected by the Applicant on the grounds amongst other things that it was unnecessary and could result in the need to exercise powers of CA outside of the Order Land. However, provided that the groups are already operating on the land in question and have permission to do so from the landowners, please explain why this would involve CA and provide further explanation as to why such enhancement measures could not or need not be provided in connection with the application.

Applicant Response

The provision of funds to create additional ecological enhancements outside the Application Boundary is not necessary in view of the significant efforts taken to ensure that ecological mitigation and enhancements can be successfully provided within the Application Boundary. These are set out in the Environmental Statement which has been prepared in accordance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

The Applicant has provided comment on each of the enhancement areas within **Appendix C** of the **South Downs National Park Authority Local Impact Report (REP2-071)** in **Applicant Comments on Written Representations (REP3-022)** at Deadline 3, which demonstrate the Applicant's contribution to natural capital.

None of the enhancements provided within **Appendix C** of the **South Downs National Park Local Impact Report (REP2-071)** are required to mitigate any adverse effects of the Scheme and therefore are not secured through the Development Consent Order. These are standalone projects and are located outside the Application Boundary. The Applicant's view is that if they were to contribute towards them it would be by way of enhancements offered by the Scheme. The Applicant considers that there is no need or justification to offer further enhancements in order to secure consent for the Scheme. The Applicant is a government, and consequently tax-payer, funded organisation and the Scheme will not generate an income or profit which would enable additional, but not necessary, enhancements to be offered.

For clarity the Applicant accepts that compulsory acquisition powers would not be required if a financial contribution was made to a third-party organisation to undertake enhancement measures on land over which they have control. The Applicant is unable to use compulsory acquisition powers to permanently acquire land for plots 5/3c and 6/4d to provide additional chalk grassland (as suggested by SDNPA) as the Applicant does not consider this necessary to mitigate the impacts of the Scheme. Consequently, the Applicant does not consider that it could satisfy the test in section 122 of the Planning Act 2008 if it sought to acquire land for enhancement purposes.

ExQ2	Question to:	Question
Q5.2.3	Surveys The Applicant	Can an update be provided to inform the ExA of the latest position regarding the submission of further wildlife survey information, in particular relating to dormice, birds and badgers.

Applicant Response

The Applicant considers that the baseline and the subsequent assessment of potential impacts and effects presented in the **Environmental Statement (ES) (6.1-6.3, APP-042-APP153)** is valid. However, with construction unlikely to commence until 2025, baseline surveys have continued to be updated to ensure that data remains current and is sufficient to inform the ongoing design development, mitigation strategies, and licencing (where required).

Copies of updated ecological survey reports have been requested by Winchester City Council during consultation meetings in early 2023, and latterly by South Downs National Park Authority during ISH3.

Winchester City Council and South Downs National Park Authority have been provided with the following updated ecological survey reports:

- Badger bait marking survey report 2022
- Bat tree surveys (ground level assessments and aerial inspections) 2022
- Reptile surveys spring 2023
- Breeding bird surveys spring 2023

Updated dormouse surveys were undertaken in 2022 to inform the draft dormouse licence application submitted to Natural England in December 2022. During 2023 the Applicant has been consulting with Natural England on the detail of the licence application. At a meeting between Natural England and the Applicant on 24 August 2023 Natural England indicated they are comfortable with the draft licence application and should be in a position to issue a Letter of No Impediment prior to Deadline 5. Following this, the Applicant will share the 2022 dormouse survey results and the draft licence application with Winchester City Council and South Downs National Park Authority.

ExQ2	Question to:	Question
Q5.2.4	Habitat Regulations Assessment	Please update the ExA on progress with ongoing discussions regarding the HRA outcomes that were detailed in Natural England’s response ExQ question Q5.1.22

	Natural England	[REP2-069] and if the updated Appendix 8.3 (Assessment of Operation Air Quality Impacts on Biodiversity) submitted at Deadline 4 addresses remaining issues.
Applicant Response		
<p>As set out in the Statement of Common Ground with Natural England (7.12.5, REP2-048), Natural England agrees in principle with the HRA screening and much of the proposed mitigation outlined at appropriate assessment. Natural England has no outstanding comments on the majority of issued assessed with the HRA. Natural England has had some residual comments on air quality, and National Highways has been engaging with Natural England on this matter.</p> <p>The Applicant received comments from Natural England on 6 September 2023 in relation to the updated Appendix 8.3 (Assessment of Operation Air Quality Impacts on Biodiversity) of the ES (6.3, Rev 1) submitted at Deadline 4 and the updated Habitats Regulations Assessment (7.5, Rev 2) submitted at Deadline 4. The HRA has been updated to respond to the specific comments received on the 6 September 2023, and resubmitted at Deadline 5 to inform the Examining Authority's Report on the Implications for European Sites (RIES). The Applicant considers the updated HRA submitted at Deadline 5 is sufficient to address the recent comments from Natural England.</p>		

2.6 Climate Change and Resilience

ExQ2	Question to:	Question
Q6.2.1	Carbon Plan(s) The Applicant	During ISH3, the Applicant detailed the intention to produce a Carbon Reduction Plan. In their response to Deadline 4, the applicant signposted Appendix A of the Applicant Comments on Deadline 3 submissions [REP4-037] to a 'Carbon Budget Delivery Plan'. Please confirm if this is in addition to a 'Carbon Reduction Plan' as discussed at ISH3. Please provide further information to allow a clear understanding of how recording and reporting on carbon savings will lead to targeted reduction in carbon emissions and GHGs from construction. For example, please detail any proposed performance indicators or contractual

		obligations for the supply chain that will ensure all reasonable measure can and will be undertaken.
Applicant Response		
<p>The Carbon Budget Delivery Plan (CBDP) is a government published document (March 2023) and sets out the Government's detailed proposals to enable the delivery of Carbon Budgets 4, 5 and 6 (that is, to the end of 2037) in accordance with the UK's 2050 Net Zero carbon commitment under the Climate Change Act 2008. The CBDP is not an M3 Junction 9 Improvement Scheme document. It does not relate to recording or reporting greenhouse gas emissions for the Scheme and is separate from the Carbon Management Plan discussed at Issue Specific Hearing 3 (ISH3). Appendix A (Carbon Budget Delivery Plan) to the Applicant Comments on Deadline 3 Submissions (8.16, REP4-037) provides a contextualisation of the Scheme's emissions against the projected sectoral emissions across the UK carbon budgets that are set out within the CBDP.</p> <p>A Carbon Management Plan for the Scheme is being prepared by the Contractor to fulfil the requirements of National Highways Project Control Framework, and hence licencing requirements set by the Department for Transport (DfT). The Carbon Management Plan will record carbon reduction opportunities which can be implemented moving forwards through the detailed design stage of the Scheme. It will log the carbon savings made as a result of the implementation of these opportunities. Both National Highways, corporately, and the Contractor have their own commitments to reduce carbon. These commitments are outside this Development Consent Order application and will be secured contractually. They include measures to monitor carbon throughout the construction process. These matters will align with the corporate Carbon Management Plan that National Highways is developing which will be used at an earlier design stage in future projects where it is anticipated that significant carbon savings can be secured.</p>		
ExQ2	Question to:	Question
Q6.2.2	Carbon Plan(s) The Applicant	The Applicant's Written Summaries of Oral Case for ISH3 [REP4-036] confirms that as part of its corporate procedures it would prepare an internal Carbon Management Plan which will seek to find opportunities for material types, quantities, and design modifications in detailed design to ensure that carbon is part of the decision-making process during design as well as construction phases. However, it would seem that such commitments to reduce carbon would

		not be secured through the draft DCO? In those circumstances, what, if any, weight should be attached to these commitments
Applicant Response		
<p>As noted in response to Q6.2.1 above, the Carbon Management Plan is required to fulfil National Highways contractor obligations and is a Project Control Framework (PCF) product. The production of this document is therefore not secured through the Development Consent Order but will be delivered through these separate corporate and contractual requirements. The PCF process requires a Carbon Management Plan to be prepared and updated for each design stage (Stage 1 though to Stage 7) and the establishment of a carbon baseline at Stage 2 to allow comprehensive reporting of carbon emission and to enable the consideration of carbon early on in the design. As these requirements were brought into effect after the Scheme completed Stage 3 design (the design submitted with the DCO and on which the Environmental Statement was based), a carbon baseline was not established at Stage 2. Therefore, any design changes that could have led to carbon savings between Stage 2 and 3 have already been realised (but are not quantified) through the development of the Stage 3 design submitted with the Development Consent Order. Further opportunities to reduce carbon will be investigated and identified where possible during the detailed design to maximise carbon savings.</p> <p>Carbon reduction measures will be considered at later design stages, through the implementation of the Carbon Management Plan. These have been secured through the first iteration Environmental Management Plan (fiEMP) (7.3, Rev 5). These include using sustainably sourced materials, recycled or secondary materials where possible and using electric and hybrid plant and equipment where possible. While the Carbon Management Plan is not secured through the DCO, the measures that it would include have been secured within the first iteration Environmental Management Plan (fiEMP) (7.3, Rev 5) can be given weight as additional mitigation within the Environmental Statement (ES) (6.1-6.3, APP-042-APP-153).</p>		
ExQ2	Question to:	Question
Q6.2.3	Carbon Plan(s) Winchester City Council, Hampshire County Council,	Please comment on the applicants proposed 'Carbon Budget Delivery Plan' shown in their response to Deadline 4, in Appendix A of the Applicant Comments on Deadline 3 submissions [REP4-037].

	South Downs National Park Authority	
Applicant Response		
<p>Please see response to Q2.6.1 which explains that the Carbon Budget Delivery Plan (CBDP) is a Government published document, not an M3 Junction 9 Improvement Scheme document. Appendix A (Carbon Budget Delivery Plan) of the Applicant Comments on Deadline 3 Submissions (8.16, REP4-037) provides a contextualisation of the Scheme against the Carbon Budget Delivery Plan and that it is not an alternative assessment but provides supplementary information only. This is clearly stated at Paragraph 1.1.1 of Appendix A (Carbon Budget Delivery Plan) of Applicant Comments on Deadline 3 submissions (8.16, REP4-037).</p>		
ExQ2	Question to:	Question
Q6.2.5	Construction impact The Applicant	In response to ExQ Q17.1.5 [REP2-051], the applicant provided details of potential waste disposal sites and distances to travel to them from the construction site. Please explain how this relates to the assessment of carbon emission during construction and what assessment of number of vehicles miles/kilometres was used.
Applicant Response		
<p>Appendix 14.1 (Construction Greenhouse Gas Assessment Calculations) of the (ES (6.3, Rev 1)) sets out the assumptions made for the distance travelled and the number of vehicle movements associated with waste disposal within the greenhouse gas assessment. Appendix 14.1 (Construction Greenhouse Gas Assessment Calculations) of the ES (6.3, Rev 1) confirms that the likely landfill is Rookery Farm Landfill which is approximately 32 km (19.9 miles) from the Site. This site was used for the assessment as it was the closest to the Site which had sufficient capacity at the time of the assessment to suggest that it would likely continue to have capacity at the time of construction of the Scheme. Approximately 6,250 two-way vehicle movements would be required to transport waste to landfill. This information was used to calculate the greenhouse gas emissions associated with construction transport (alongside other vehicle movements during construction) that is presented within Table 14.4 of Chapter 14 (Climate) of the Environmental Statement (ES) (6.1, Rev 2).</p>		

ExQ2	Question to:	Question
Q6.2.6	Construction impact The Applicant	Winchester Action on Climate Crisis [REP2-082] submits that the Proposed Development would unnecessarily involve too much demolition of reusable infrastructure. For example, it is suggested that the central M3 Junction 9 roundabout could be adapted to the revised traffic flow rather than demolished and rebuilt. Please clarify the Applicant's position in relation to this and explain why the current scheme has been preferred rather than an adaptation of the existing infrastructure that would not involve demolition
Applicant Response		
<p>When the Applicant appointed the Construction Team in April 2020, the possibility of being able to retain the existing gyratory bridges was reviewed.</p> <p>The existing gyratory cannot be retained for the following reasons:</p> <ol style="list-style-type: none"> 1. To retain the existing infrastructure the proposed A34 Southbound merge with the mainline M3 Southbound carriageway would need to occur before the gyratory bridges. Amending the alignment to allow the A34 SB carriageway to merge prior to the gyratory bridges would create a sharp 'S' bend. Geometric alignments (horizontal curvature, etc) are specified within the Design Manual for Roads and Bridges (DMRB) and deviations from these, while possible in some circumstances, require authorisation to depart from the standard. This is because any departure has a consequent safety implication for road users. In this case the creation of a sharp 'S' bend would be deemed unsafe for road users as it deviates too far away from the DMRB standards. This would result in an unacceptable deviation from DMRB and consequently would not be approved. <p>There would be insufficient headroom clearance underneath the existing gyratory bridges for the new hard shoulder and lane 1, both northbound and southbound which would result in high-sided vehicles striking the bridge soffit. To retain the existing gyratory bridges the width of the central reserve would need to be reduced.</p>		

However, the existing central reserve width is already constrained and needs to accommodate a concrete safety barrier, associated surface water drainage and the necessary offsets to the barrier from the running lanes to ensure safety and sight lines can be achieved. Consequently, it was not possible to create additional running space for the motorway from the central reserve.

ExQ2	Question to:	Question
Q6.2.7	Climate Change The Applicant	<p>The Applicant's Written Summaries of Oral Case for ISH3 [REP4-036] refers to the Response to the RR-096 [REP1-031]. This provides a table to indicate where IEMA assessment principles are addressed within the ES Chapter 14. The Applicant states that the response assesses the scheme under the IEMA guidance (IEMA, 2022), concluding that the scheme is considered to have a minor adverse and not significant effect.</p> <ul style="list-style-type: none"> (i) Please direct the ExA to where this is specifically set out in the Response to the RR-096. Has the Applicant carried out such an IEMA assessment to achieve that finding or instead sought to identify where the principles have been applied in the ES? (ii) Please comment on Dr Boswell's conclusion in his written representation [REP4-041] that since he considers that the project undermines securing the CBDP and the net zero target, it falls to be assessed as "Major Adverse" on the IEMA significance thresholds.
<p>(i) The Applicant's response to RR-096 can be found on pages 62-65 of Applicant Responses to Relevant Representations (8.2, REP1-031). The table within the response (page 64) demonstrates that the same principles set out in the IEMA guidance have been applied throughout the assessment. Commentary is also provided in the response to RR-096 on pages 64 and 65 of the Applicant Responses to Relevant Representations (8.2, REP1-031) to show that the IEMA guidance would not change the Applicant's conclusion that the Scheme's effect would not be significant. It should be noted however, that this is additional to, but not an alternative assessment to, that of Chapter 14 (Climate) of the</p>		

Environmental Statement (ES) (6.1, Rev 2), which follows the required methodology of DMRB LA 114 (Highways England, 2021).

- (ii) Dr Boswell's comments around the recent report from the Climate Change Committee (CCC) to Parliament (CCC, June 2023) following publication of the Carbon Budget Delivery Plan (CBDP) are noted. In this report, the CCC makes several recommendations to Parliament, which are set out in Table 4. None of these recommendations are designed to halt the consenting and delivery of road projects. The recommendations of the CCC in its 6th Carbon Budget Report (CCC, December 2020) demonstrate the likely measures through which the budget will be achieved, none of which advocate for a halt road projects. The CCC's June 2023 advice to Parliament states that it has less confidence in medium term targets being met compared to a year ago but importantly it does not suggest that Net Zero will not be achieved. Nor does it advise that any development would undermine securing the CBDP.

The Applicant considers that the Scheme, as a single project for works to the strategic highway, would be highly unlikely to undermine securing the CBDP. As demonstrated in (i) above, undertaking the assessment in accordance with IEMA guidance would not change the Applicant's conclusion that the Scheme's effect would not be significant. The Applicant therefore disagrees that the Scheme should be assessed as major adverse on the IEMA significance thresholds.

ExQ2	Question to:	Question
Q6.2.11	Assessment The Applicant	<p>The Climate Emergency Planning and Policy Post Hearing submissions [REP4-042] Section 5.2 paragraph 43 states that whilst the traffic model was calibrated at a "Base Year" of 2015, the application does not provide data on the GHG emissions associated with the 2015 calibrated traffic model. Table 2: Baseline with scheme GHG figures does not include 2015 figures either for the baseline or 'With scheme'. Dr Boswell submits that it is important to see this data as it provides context for the changes since 2015 in the regions traffic, and from other developments in the area.</p> <p>(i) Please explain why those figures were omitted and why it was not considered necessary to include them.</p>

		(ii) Please provide those figures to complete the picture or explain why you are unable to do so.
Applicant Response		
<p>(i) and (ii) The greenhouse gas emissions arising from the 2015 traffic model were not included as there is no Do-Something ('With Scheme') Scenario for 2015. The emissions generated in 2015 are not required to be able to calculate the difference in vehicle trips (which are the modelling inputs), and therefore enable the difference in emissions between the scenarios to be modelled. This difference is the emissions resulting from the Scheme. The impact assessment is based on Do-Minimum and Do-Something scenarios for the opening (2027) and design year (2042) of the Scheme in accordance with Design Manual for Roads and Bridges (DMRB) LA 114 Climate (National Highways, 2021). Section 14.7 of Chapter 14 (Climate) of the Environmental Statement (ES) (6.1, Rev 2) sets out baseline emission information that provides context relevant to the assessment.</p>		
ExQ2	Question to:	Question
Q6.2.12	<p>Assessment</p> <p>The Applicant, Winchester City Council, Dr Boswell</p>	<p>The Climate Emergency Planning and Policy Post Hearing submissions [REP4-042] Section 5.5 deals with the issue of the Tyndall carbon budget for WCC which was mentioned at ISH3.</p> <p>(i) Please summarise and clarify your position in relation to the relevance of local carbon budgets to this application?</p> <p>(ii) Please comment on the value of the carbon emissions from the scheme being assessed in the context of the Tyndall Centre budgets, both for WCC and for Hampshire as a whole.</p>
Applicant Response		
<p>(i) and (ii) As set out in RR-018e in Applicant Responses to Relevant Representations (8.2, REP1-031) and Written Question 6.1.5 in Applicant responses to Written Questions (8.5, REP2-051), current guidance and legal context is that road schemes should be assessed against National Carbon Budgets only. On that basis, local carbon budgets, such as the</p>		

Tyndall Centre budgets, can be used for contextualisation only and cannot be used to assess the significance of effects. As a nationally significant transport infrastructure scheme, it is not appropriate to assess against local budgets as trips enter from and extend beyond the Winchester City Council and Hampshire boundaries, Any contextualisation against the Tyndall Centre budgets would provide supplementary information only and would not form an alternative assessment to that within **Chapter 14 (Climate)** of the **Environmental Statement (ES) (6.1, Rev 2)**. Given that the Applicant has provided additional contextualisation against the Carbon Budget Delivery Plan (CBDP), provided in **Appendix A** of the **Applicant Comments on Deadline 3 Submissions (8.16, REP4-037)**, the Applicant has not undertaken another contextualisation against the Tyndall Centre budgets, nor is it a requirement to do so in the DMRB LA 114 Climate (National Highways, 2021).

ExQ2	Question to:	Question
Q6.2.14	<p>Assessment</p> <p>The Applicant</p>	<p>The Post Hearing submission of Winchester Action on Climate Crisis [REP4-049] makes a number of criticisms of the information provided by the Applicant in support of the application.</p> <ul style="list-style-type: none"> (i) Please respond in detail to the criticism of the cost:benefit analysis that has been carried out and clearly explain the position in relation to that calculation including the application of any weightings and the potential exclusion of any disbenefits. (ii) Please respond in detail to the criticism of the GHG modelling and its compliance with the guidance in NPSNN and DMRB LA 144 including the appropriate geographic area for consideration and clarifying the scope of the transport emissions modelling and the roads that were taken into account. (iii) In relation to the DM and DS emissions figures for 2027 and 2042, please respond to the criticism that these show that emissions related to this proposal will reduce at only one sixth of the rate required by the Net Zero Growth Plan for transport and that the application poses a serious risk to the whole plan.

		<p>(iv) Please provide further details of the economic benefits claimed for the scheme including how these have been calculated and a clear explanation as to the weighting given to each item.</p> <p>(v) Please comment on the omission of certain factors such as PM2.5 pollution.</p>
<p>Applicant Response</p>		
<p>(i) Please see the response on the modelled change in traffic flows, journey times, and BCR calculation set out in REP2-082c of Applicant Comments on Written Representations (8.8, REP3-022) where the points made by Winchester Action on Climate Crisis repeat those in their written representation (REP2-082).</p> <p>The Applicant notes Winchester Action on Climate Crisis has extracted reporting and data from the Combined Modelling and Appraisal Report (7.10, Rev 1), however, does not agree with the interpretation or relevance of the selected and presented data. The simplistic summation of traffic flows from the different model periods and road links masks the range of predicted Scheme impacts as does the averaging of journey times without reference to corresponding traffic flows. The Applicant also notes that the representation of Table 4.3 from the Case for the Scheme (7.1, Rev 1) is only part of the predicted Scheme journey time savings data where Table 4.4 of Case for the Scheme (7.1, Rev 1) shows other positive impacts in the PM peak.</p> <p>The applicant does not agree that the predicted reduction in traffic in central Winchester and reduction in journey times are “marginal” or “minimal”. The Applicant notes the predicted decrease in traffic in central Winchester on several local roads and considers this to be a notable positive impact. The Applicant also considers that the strategic model and operational model journey times demonstrate predicted improvements with the introduction of the Scheme.</p> <p>The Scheme Benefit to Cost Ratios (BCRs), calculated in accordance with Department for Transport guidance, includes journey time benefits (£155.5M) based on the strategic modelling predicted travel time savings, which are predominantly due to the provision of the free-flow movement between the A34 and the M3. The Applicant notes that, as reported in</p>		

Section 5.6 of the **Case for the Scheme (7.1, Rev 1)**, the Scheme initial BCR is 1.35, however, the adjusted BCR is 1.72 and this is omitted in the Winchester Action on Climate Crisis submission.

The Applicant considers that all required scheme benefits and disbenefits are included in the economic appraisal in accordance with Department for Transport Guidance. This includes the monetisation of PM2.5 impacts which are assessed as part of the air quality benefits. The Scheme cost-benefit analysis is detailed in **Chapter 5** of the **Combined Modelling and Appraisal Report (7.10, Rev 1)**. This includes details of the economic appraisal process covering the methods used, economic parameters, calculation of monetised benefits, inclusion of costs, and presentation of the cost-benefit analysis metrics. No weightings are applied to the different monetised impacts, where these are calculated separately, the sum of these is presented in the economic appraisal with overall net positive Scheme benefits.

- (ii) Please see the response on the geographical study area for the greenhouse gas assessment set out in **REP2-082f** of **Applicant Comments on Written Representations (8.8, REP3-022)** as well as the commentary below. Paragraph 3.9 of the Design Manual for Roads and Bridges (DMRB) LA 114 Climate (Highways England, 2021) requires the study area for the operational road user emissions to be '*consistent with the affected road network defined in a project's traffic model*'. The traffic model covers South East England as shown in **Figure 14.1** in **Chapter 14 (Climate – Figures)** of the **ES (6.2, APP-076)**. The study area for operational end-user emissions therefore utilises this same area in order to be consistent with the Scheme's traffic model, as stated in **Section 14.6** of **Chapter 14 (Climate)** of the **Environmental Statement (ES) (6.1, Rev 2)**. This study area is appropriate as the traffic model determines the area where vehicle movements will be affected by the Scheme, which in turn is where greenhouse gas emissions from transport would arise. The impacts of greenhouse gases are global rather than affecting one localised area and so the traffic model provides a logical and reasonable way of establishing the scope of assessment.

To reiterate previous responses and the methodology set out in **Chapter 14 (Climate)** of the **Environmental Statement (ES) (6.1, Rev 2)**, the greenhouse gas assessment has extracted all road links and traffic flow information from the Scheme's traffic model and entered these into Defra's Emission Factor Toolkit (EFT) which calculates the carbon emissions arising from transport. The assessment does not use a different study area to that of the Scheme's traffic model.

(iii) The indicative rates of reduction in transport emissions set out in the Net Zero Growth Plan apply to the national transport sector. Reductions will therefore occur in different locations across the UK at different rates in order to achieve the indicative national target. It is not reasonable to assume that an individual scheme will need to achieve the same rate of reduction so as not to pose a risk to the plan as a whole, as schemes will be of different types and scales, with some able to achieve greater carbon reductions than others.

Alongside the indicative emission reduction pathway for the transport sector, the Net Zero Growth Plan (DESNZ, 2023) also sets out how these reductions will be delivered. This includes phasing out the sale of all types of new non-zero emission road vehicles, supporting development of the UK's charging infrastructure network, increasing levels of cycling and walking and accelerating aviation and maritime decarbonisation. It does not advise that new developments would undermine securing the targets within the Net Zero Growth Plan. These actions are, with the exception of improvements for walkers and cyclists, beyond the scope of the Scheme to deliver or achieve. Therefore, these actions cannot be secured by the Scheme and cannot be relied on as mitigation under the EIA Regulations.

The greenhouse gas assessment has taken into account future uptake of electric vehicles and changing fleet composition within both the Do-Minimum (DM) and Do-Something (DS) scenarios through the use of DEFRA's Emission Factor Toolkit. This is the accepted position from Government on future EV uptake in the UK and is a widely accepted approach taken within Environmental Impact Assessments (EIA). Due to the lack of available information, it has not been possible to accurately incorporate how the other national plans will lead to carbon reductions for transport emissions within the study area that has been assessed. The assessment therefore takes a conservative approach by not accounting for these potential carbon reductions within the assessment, as they apply nationally and require Government action.

However, the Scheme does not hinder or prevent progress of these actions that need to take place to allow for the target to be met. On that basis, the Applicant disagrees that the Scheme would pose a serious risk to the Net Zero Growth Plan.

(iv) The Scheme cost-benefit analysis is presented in **Chapter 5** of the **Combined Modelling and Appraisal Report (7.10, Rev 1)**. This includes details of the economic appraisal process covering the methods used, economic parameters, calculation of benefits, inclusion of costs, and presentation of the cost-benefit analysis metrics. No weightings are applied

to the monetised impacts, where these are calculated separately, and the sum of these is presented in the economic appraisal in the Analysis of Monetised Costs and Benefits (AMCB) see **Table 5-25** of the **Combined Modelling and Appraisal Report (7.10, Rev 1)** with overall net positive Scheme benefits.

(v) The assessment of PM2.5 has not been omitted from the application as stated in response to **ExQ2 3.2.2** above and also in point **(i)** of this question above.

ExQ2	Question to:	Question
Q6.2.15	Assessment The Applicant	The Post Hearing submission of Winchester Action on Climate Crisis [REP4-049] at page 13 submits that the project would fail the risk assessment test posed by the judgement in <i>R (Friends of the Earth) v Secretary of State for Business Energy and Industrial Strategy</i> [2022] EWHC 1841 (Admin). Please respond to this criticism and comment on any implications of that judgment and the Net Zero Growth Plan for this application

Applicant Response

The Applicant considers that the judgment in *R (Friends of the Earth) v Secretary of State for Business Energy and Industrial Strategy* [2022] EWHC 1841 (Admin) relate to the Government's 2021 Net Zero Growth Plan (NZGP) particularly in relation to the publishing of the Net Zero Strategy (NZS).

The October 2021, Net Zero Strategy (NZS) was laid before Parliament under *s14 Climate Change Act 2008 (CCA)* as a report and followed the SoS setting the 6th carbon budget under the Act for the period 2033-2037. The NZS included the government's proposals to meet carbon budgets under the CCA, to achieve its nationally determined contribution under the Paris agreement and outlined the government's decarbonisation policies.

This case was based on a series of grounds relating to breach of sections 13 (Duty to prepare proposals and policies for meeting carbon budgets and 14) (Duty to report on proposals and policies for meeting carbon budgets) of the CCA and that the NZS was not compatible with the *Human Rights Act 1998 (Articles 2,8 and 14 ECHR)*, meaning that carbon budgets could not be met under the CCA.

The first two grounds were upheld in part, as it was held that the Secretary of State (SoS) was obligated to understand both the qualitative and quantitative effects of individual proposals and policies made under the NZS. The SoS must precisely understand which proposals and policies were available to address any shortfall whereas in this case the SoS had only undertaken quantitative analysis of proposals and policies which accounted for only 95% of the Carbon Budget Six being achieved. The proposals and policies making up the outstanding 5% had been assessed by qualitative means only as there was no adequate information for the SoS to consider how the 5% remaining reductions could be met.

Whilst the Court found that the NZS had been unlawfully adopted, it should be highlighted that the Court was not asked to consider the merits of the NZS, or any individual merits of that strategy. The case concerned the adequacy of the information before the SoS and the subsequent effect of that information on the strategy as a whole.

The Government has since published an updated 2023 NZGP. It is noted that *Friends of the Earth* have again filed for judicial review of the 2023 Net Zero Growth Plan, however, without knowledge of the detail of that application or foresight as to the outcome of that legal process the Applicant must proceed on the basis that the 2023 Net Zero Growth Plan is legally binding.

The key paragraphs of this judgment are 16, 20, 22, 194, 196-7, 204, 206-217, 230, 223, 230-242, 248-260 and 275.

The assessments applied in that case related to the 2021 Net Zero Growth Plan and did not create a test for individual projects or schemes. The Applicant does not consider those assessment to be applicable to this Scheme.

ExQ2	Question to:	Question
Q6.2.16	Assessment The Applicant	The Post Hearing submission of Winchester Action on Climate Crisis [REP4-049] in relation to ISH3 Item 3 Climate Change and GHG Emissions: User emissions sets out detailed criticism of the GHG calculations including that are not coterminous with the published traffic modelling area, and as such do not comply with the guidance. Please respond to that criticism and either provide the additional information available on GHG calculations or explain fully why it is not available or unnecessary to do so.

Applicant Response

Please see the response to **ExQ2 6.2.14 (ii)** above for comments on the traffic model. The greenhouse gas assessment has extracted all road links and traffic flow information from the Scheme's traffic model and entered them into Defra's Emission Factor Toolkit (EFT) which calculates the carbon emissions arising from transport. The GHG assessment uses a single study area which is the same as the study area of the Scheme's traffic model. Therefore, the assessment in **Chapter 14 (Climate)** of the **Environmental Statement (ES) (6.1, Rev 2)** does comply with Design Manual for Roads and Bridges (DMRB) LA 114 Climate (Highways England, June 2021), and as such it is not necessary to provide further information.

ExQ2	Question to:	Question
Q6.2.17	Carbon Budget The Applicant	<p>The Climate Emergency Planning and Policy post hearing submissions [REP4-042] Section 5.3 Significance assessment and decision making by the SoS states that the SoS has always made DCO road decisions on the assumption that Net Zero, and/or previous climate budgets and targets, is going to be delivered. Dr Boswell's position is that it is no longer credible, to rely upon the delivery of Net Zero (and the CBDP).</p> <ul style="list-style-type: none"> (i) Please comment on the reliance that can be made by the SoS in relation to DCO road decisions upon the assumption that Net Zero, and/or climate budgets and targets, are going to be delivered. (ii) Please explain your position in relation to the consideration of the significance of carbon emissions from the scheme, and whether it can be assumed that Net Zero and the CBDP will be delivered. (iii) Please comment on whether it must first be established that the UK carbon budgets and targets are secured before it can be determined whether this scheme would have significant impacts on the ability of the Government to meet its carbon reduction targets

Applicant Response

(i) The Applicant believes that Dr Boswell's submissions at REP4-042, section 5.3 can be summarised as follows:

- The security of the delivery of the carbon budgets and targets is an important consideration, with Dr Boswell stating that it is not secure;
- Therefore, the assumption that net zero, and/or previous climate budgets and targets, and the nationally determined contribution is going to be delivered, is not safe;
- The assumption, which is built into paragraph 5.17 of the NPS NN, is out of date as it was written prior to the net zero target, the net zero strategy and the carbon budget delivery plan stating that the statutory plan required by the Climate Change Act is now the CBDP;
- Given this, the Secretary of State cannot depend upon paragraph 5.17 NPSNN without knowledge of the current policy and legal framework and its shortcomings with respect to security of policy delivery;
- It is first necessary to establish that the UK carbon budgets and targets are secured before being able to claim that a particular scheme does not have significant impacts on climate;
- As the budgets are not secured, any additional emissions may make the delivery of the 2030 NDC or the 6th carbon budget less achievable, potentially engaging section 104 Planning Act 2008 where the Scheme would lead to a breach of its international obligations, breach of any statutory duty or be unlawful.

The Applicant would respectfully suggest that the question of what reliance that can be made by the Secretary of State on the deliverability of national net zero targets which the Government has a legal duty to deliver is a matter primarily for the Secretary of State. If it is of assistance to the ExA, the Applicant's view on Dr Boswell's position is set out below.

Application of the NPS NN

NPS NN 5.17 states:

'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. It is very unlikely that the impact of a road project will, in isolation, affect the ability of Government to meet its carbon reduction plan targets. However, for road

projects applicants should provide evidence of the carbon impact of the project and an assessment against the Government's carbon budgets.'

NPS NN 5.18 states:

'The Government has an overarching national carbon reduction strategy (as set out in the Carbon Plan 2011) which is a credible plan for meeting carbon budgets. It includes a range of non-planning policies which will, subject to the occurrence of the very unlikely event described above, ensure that any carbon increases from road development do not compromise its overall carbon reduction commitments. The Government is legally required to meet this plan. Therefore, any increase in carbon emissions is not a reason to refuse development consent, unless the increase in carbon emissions resulting from the proposed scheme are so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets.'

The NPS NN does not introduce a test for considering the 'security' of meeting the relevant targets. There is no requirement to assess whether budgets are "secure" before being able to assess the significance of a Scheme against those budgets.

The NPS NN states that any road project will in isolation be very unlikely to affect the ability of the Government to meet the relevant targets. The reason for this is because the Government has a "credible plan for meeting carbon budgets" and the Government is "legally required to meet this plan". It is only those road projects that have significant carbon emissions that would have a *material* impact on the ability of Government to meet its carbon reduction targets which would contribute to being a relevant consideration to weigh in the planning balance. As such, the NPS NN explicitly anticipates the argument that has been made by Dr Boswell; by *explicitly* confirming that the Government is legally required to meet its obligations within the national carbon reduction strategy.

The reliance to be placed on the NPS NN

The wording of the NPS NN continues to be applicable after the adoption of the net zero target. A review of the NPS NN has been carried out and a new draft NPS NN is currently in consultation. This was in part due to (as acknowledged by the Department of Transport) change in climate policy: the Panel is invited to review *R (on the application of Transport Action Network Ltd) v Secretary of State for Transport* [2022] EWHC 503 (Admin) in which Chamberlain J on 9 March

2022 summarised the need of the review for the NPS NN which had been identified as needing a review since the adoption of the net zero target.

At paragraph 22, Chamberlain J states that the NPS NN:

'was written in 2014 – before the government's legal commitment to net zero, the Ten Point Plan for a Green Industrial Revolution, the new Sixth Carbon Budget and most directly the new, more ambitious policies outlined in this document. While the NPS continues to remain in force, it is right that we review it in the light of these developments, and update forecasts on which it is based to reflect more recent, post-pandemic conditions, once they are known.'

Chamberlain J stated that as part of the review the Secretary of State had not revised or suspended any part of the NPS NN. The reason for this was set out in part in the written ministerial statement laid before Parliament on the 22 July 2021 stating:

'While the review is undertaken, the NPS remains relevant government policy and has effect for the purposes of the [Planning Act 2008](#)... The NPS will, therefore, continue to provide a proper basis on which the Planning Inspectorate can examine, and the Secretary of State for Transport can make decisions on, applications for development consent.'

Chamberlain J rejected in the judicial review the claim that the Secretary of State was wrong not to suspend the NPS NN in light of changes to carbon policy.

He noted that reference to the carbon budgets and targets that were in place at the time the NPS NN was designated cannot be read as directing inspectors to assess carbon impacts against out of date budgets as inspectors cannot be required to ignore a change in the law. The Applicant submits that 5.17 needs to be read with recent carbon targets and policy which will include the Carbon Budget Delivery Plan.

The NPS NN remains the basis for decision making in the NSIP process as a designated NPS under s.104 of the Planning Act 2008. The immediate question is what weight should be given to the draft NPS NN published 14 March 2023. The Applicant considers that the extant NPS NN remains the relevant document for decision making, that the draft NPS NN will constitute a relevant planning consideration but cannot be taken to be the relevant policy against which the Scheme should be judged (even when designated). The proposed implementation provisions with the draft NPS NN make clear

that it would not apply to Schemes already in examination and therefore any requirements set out in that draft should not be applied to the Scheme, this is set out in paragraphs 1.16-1.17 of the draft NPS NN.

Relevance of 'security' of carbon budgets

In *R (on the application of Transport Action Network Limited) v Secretary of State* [2021] EWHC 2095 (Admin), a claim was submitted which related to the Secretary of State's decision to designate RIS2. This claim argued the Secretary of State was obliged to take into account a quantified assessment of the emissions from the programme in RIS2 and to consider their impact on the ability of the UK to meet the net zero target in 2050 and the carbon budgets running to 2032. In arguing this, the claimants made reference to the likelihood that the UK will fail to meet carbon budgets four and five as being a material consideration for the Secretary of State to take into account. This claim was defended on the basis that Secretary of State had knowledge of the relevant policy. It was held that the Secretary of State would have known the difficulties faced by the UK in meeting carbon budgets four and five and was able to assess this as part of his decision. The same logic would apply to any decision taken by the Secretary of State on this Scheme's impact on the carbon budgets.

Relevance of section 104 Planning Act 2008

Section 104(3) of the Planning Act 2008 states that the Secretary of State must decide the application in accordance with any relevant national policy statement, except to the extent that one or more of subsection (4) to (8) apply. Of these, it has been suggested by Dr Boswell that "section 104 potentially engages, and consequentially the SoS must consider whether approval of the scheme would lead to the UK being in breach of its international obligations (s104(4)); be in breach of any statutory duty (s104(5)); or be unlawful (s104(6))."

This is a similar argument to that used in *R (on the application of Save Stonehenge World Heritage Site Limited) v Secretary of State for Transport* [2021] EWHC 2161 (Admin), and it should be noted that case found that section 104(4) does not operate to incorporate international obligations in domestic law. Instead, it operates to permit the discretion of a Secretary of State, where should making a decision pursuant to a national policy statement result in a breach of an international obligation, the Secretary of State is no longer obligated to take a relevant policy statement in account. Therefore, the extent of the impact of breaching an international obligation under section 104 extends to permitting the

exercise of discretion as to whether or not to continue to decide an application in accordance with paragraph 5.17 and 5.18 of the NPS NN. This would apply equally to section 104(5) and 104(6) as it does section 104(4).

The Applicant does not consider that the question over whether the carbon budgets are secured would impact section 104. As Dr Boswell's submission suggests, the question over whether the budgets are secured only results in a conclusion that the delivery of the 2030 NDC or 6th carbon budget *may* or *may not* be achieved. This *uncertainty* does not create a certainty that there is a breach in international obligations, statutory duty or other law, meaning that the circumstances of sections 104(4)-(6) are not met.

Again, the context of the carbon emissions of the Scheme must be assessed in accordance with the overall UK carbon budgets. This is set out in *R (on the application of Transport Action Network Limited) v Secretary of State* [2021] EWHC 2095 (Admin), and in particular *Goesa Ltd, R (On the Application Of) v Eastleigh Borough Council* [2022] EWHC 1221 (Admin). The Applicant has provided a contextualisation of the Scheme's emissions against relevant UK carbon budgets in Table 14.7 of Chapter 14: Climate of the Environmental Statement [xxx] This demonstrates that the Scheme would amount to 0.002% of the carbon budget and therefore, it is clearly apparent that the Scheme would not (in accordance with paragraph 5.18) have a material impact on the ability of Government to meet its carbon reduction targets.

- (ii) and (iii) The Applicant has set out in detail that the obligation to carry out an assessment of the likely significant effects of the Scheme on greenhouse gas emissions is derived from the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). In carrying out its assessment, the Applicant has had regard to the applicable law and policy tests, including under the Climate Change Act 2008, the Planning Act 2008 and the National Policy Statement for National Networks, as well as Design Manual for Roads and Bridges (DMRB) LA 114 (Highways England, 2021). The 2050 Net Zero target, and thereby the Carbon Budgets, are legal obligations to be met under the Climate Change Act 2008. The way in which the Government is and will plan to deliver the Carbon Budget will continue to be amended and adapted over the next few decades.

It is not for the Applicant to hypothesise whether or not the Government will be able to meet its legal commitments to net zero and deliver on the nationally set carbon budgets.

Given that a legally binding commitment has been made towards Net Zero and carbon budgets have been adopted within the UK's legal framework. In addition, the Climate Change Committee (CCC) has recently provided up-to-date recommendations to Government in its June 2023 report on what actions are required. The Applicant is entitled to proceed on the basis that the Government will respond to that and will continue to meet its legal obligations that it has set and will continue to set itself. The CCC's role is to report progress, advise, and make recommendations to the Government on meeting its carbon emissions targets, ultimately aiding the Government to take action should concerns on progress against the net Zero target arise. The Applicant notes that whilst the CCC (in its June 2023 report) cited that it had decreased confidence compared to a year ago that medium term targets would be met, it did not assert that net zero would not be achieved, nor that the consenting and delivery of road programmes should halt.

ExQ2	Question to:	Question
Q6.2.18	Carbon Budget The Applicant	The Climate Emergency Planning and Policy Post Hearing submissions [REP4-042] Section 5.3 includes criticism of the NNNPS 5.17 assumption that it is very unlikely that the impact of a road project will, in isolation, affect the ability of Government to meet its carbon reduction plan targets, given that the NNNPS pre-dates the NZS and the CBDP by seven years and nine years respectively. Please comment on the reliance that can and should be placed upon the NPSNN paragraph 5.17 in relation to the consideration of this application.

Applicant Response

Please see the Applicant's response to **ExAQ 6.2.17** regarding the reliance to be placed on the NPS NN, paragraph 5.17, and the relationship of that paragraph to the NZS and the CBDP.

The Applicant reiterates that the *National Planning Policy Statement for National Networks (NPS NN)* published in 2014 is the relevant national policy statement for the purposes of section 104 of the *2008 Planning Act* and the application should

accordingly be determined pursuant to it. Furthermore, paragraph 5.17 of the NPS NN is consistent with the *Draft National Policy Statement for National Networks (2023) paragraph 5.35* which was published in March 2023 and states:

‘5.35 S.1(1) of the Climate Change Act 2008 reflects and puts into effect the UK’s Nationally Determined Contributions as set out in the Paris Agreement and sets out that the carbon budgets are the mechanism by which the net zero target is to be achieved. Consequently, it can reasonably be concluded that an applicant who assesses the carbon impacts of its scheme against the carbon budget is to be taken also to have assessed the carbon impacts of the scheme against the net zero target in the Climate Change Act 2008 and the UK’s Nationally Determined Contributions, where the carbon budget is consistent with the Climate Change Act 2008 carbon target and the Nationally Determined Contributions.’

In addition, the Draft National Policy Statement for National Networks (2023) paragraph 5.37 states that “*approval of schemes with residual carbon emissions is allowable and can be consistent with meeting carbon budgets, net zero and the UK’s Nationally Determined Contribution*”. As stated above, the draft NPS NN is not the relevant policy against which the Scheme should be assessed but will constitute a relevant planning consideration the weight of which is for the decision-maker to determine.

The assessment carried out by the Applicant in its environmental statement is based on the 2021 Design Manual for Roads and Bridges LA 114 Climate (Highways England, 2021), which states in paragraphs 3.20 and 3.21 that *‘the assessment of projects on climate shall only report significant effects where increases in GHG emissions will have a material impact on the ability of Government to meet its carbon reduction targets.’* The Applicant provided a review against the principles of IEMA guidance (IEMA, 2022), which, while does not form part of the environmental impact assessment, supports the conclusion of effects being not significant. Please see the response to **ExAQ2 Q6.2.7** that provides this information.

ExQ2	Question to:	Question
Q6.2.19	Carbon Budget The Applicant	The Applicant’s Written Summaries of Oral Case for Issue Specific Hearing 3 (ISH3) [REP4-036] in relation to the judgment of the High Court in the case of <i>R (Boswell) v Secretary of State for Transport [2023] EWHC 1710 (Admin)</i> states that the Applicant considers that it has met the legal tests required of it. Please

		<p>can you explain further and summarise why you consider that the ES cumulative assessment complies with the EIA Regs and that it was appropriate and lawful to assess the carbon emissions of the scheme against the UK's national carbon budgets rather than in combination with all other schemes in the UK road programme or the local or regional area?</p>
<p>Applicant Response</p>		
<p>The Applicant set out the approach taken to cumulative assessment in accordance with the Design Manual for Roads and Bridges in its response to ExAQ1 6.1.6 and ExAQ1 6.1.16 of Applicant responses to Written Questions (8.5, REP2-051) submitted at Deadline 2. This included committed development and forecast growth within the area of the traffic model (which covered a variety of development types).</p> <p>The EIA Regulations do not specify a methodology for assessment of cumulative effects, just that an Environmental Statement must report on the 'likely significant effects' of a development on the environment, including cumulative effects arising from other 'existing or approved' development.</p> <p>However, the submitted assessment goes beyond the requirement of the EIA Regulations in including forecast growth within the transport model study area, not just approved development. Impacts of greenhouse gases are global and are not limited by geographical boundaries. This was taken into account by treating the global climate as a single receptor within the greenhouse gas assessment.</p> <p>A boundary to the assessment is therefore also required, and this has to be established at an appropriate distance for the Scheme. The transport model study area was considered to be reasonable and corresponds to accepted practice in EIA. There would be no logic to including consented road schemes from the wider region as climate change impacts arise from all types of development, not just road infrastructure. If this were to be done, any consented development of any type in the whole region would need to be factored in. Taking such a broad approach would include such a vast number of schemes that it would render the assessment of this or any other project meaningless. Climate change is a global issue and is inherently cumulative.</p>		

However, in the absence of a single accepted approach to cumulative greenhouse gas assessments, the approach taken by the Applicant is considered to be both reasonable and representative of standard practice in EIA.

The Applicant has also responded with specific reference to the High Court in the case of *R (Boswell) v Secretary of State for Transport [2023] EWHC 1710 (Admin)* on page 23 of **Applicant Comments on Deadline 3 Submissions (8.16, REP4-037)**.

ExQ2	Question to:	Question
Q6.2.20	Carbon Budget The Applicant	<p>Dr Boswell's written representations in his Post Hearing submissions [REP4-041], paragraph 142 concludes that any additional emissions from new infrastructure, such as the construction and operation emissions of the M3J9 scheme, would have a material impact on the ability of Government to meet its carbon reduction targets, and paragraph 145 states that <i>"as the CBDP is not secured, and the UK carbon budgets and UK NDC are not secured, the Secretary of State must consider if his/her decision would lead to the UK being in breach of its international obligations, to him/her being in breach of a statutory duty, to him/her being in breach of the law under section 104 of the 2008 Act."</i></p> <ul style="list-style-type: none"> (i) Please explain your position in relation to whether the Net Zero Strategy, the CBDP and the UK carbon budgets should be regarded as being secured and the relevance of that question to this particular application. (ii) Please summarise and explain your position in relation to whether one or more of s.104 subsections (4), (5) or (6) would apply should consent be granted for the scheme.

Applicant Response

(i) Existing legislation commits to net zero by 2050 with legally binding carbon budgets set in accordance with legislation. The Applicant is entitled to assume that the Government will comply with its legal obligations. The Applicant notes the *Climate Change Committee's (CCC)* report to Parliament (June 2023), discussed in the response to **ExAQ2 6.1.17** above. The

Applicant maintains that the Application should continue to be considered and determined in accordance with existing Government policy i.e. the NPS NN.

- (ii) Please see the Applicant's response to **ExAQ 6.2.17** regarding the relevance of section 104 Planning Act 2008. The Applicant's position is that subsections (4)-(6) provide discretion for the decision maker to disapply elements of the NPS in the face of a breach of law or international obligation. The instances raised by Dr Boswell may be characterised as potential breaches. However, whether they are in fact breaches is a matter for the Secretary of State to consider in the exercise of their decision-making function.

ExQ2	Question to:	Question
Q6.2.22	Mitigation The Applicant	The Climate Emergency Planning and Policy Post Hearing submissions [REP4-042] Section 5.4, paragraph 55, states that the applicant appears to have provided no mitigation proposals for operation emissions. Please confirm whether that is the case and explain why no such proposals have been made and/or why it is not considered necessary to do so.

Applicant Response

Section 14.9 of Chapter 14 (Climate) of the Environmental Statement (ES) (6.1, Rev 2) sets out the embedded and essential mitigation measures for both the construction and operation stage.

Schedule 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, sets out that an Environmental Statement must include a description of measures required to reduce significant adverse effects on the environment. As no likely significant effects are anticipated in relation to greenhouse gas emissions for the operational phase of the project, no mitigation is required.

It is not considered to be in the control of the Applicant to commit to operational phase mitigation measures beyond what has already been set out in **Chapter 14 (Climate) of the Environmental Statement (ES) (6.1, Rev 2)** for end-user emissions. This is explained in the Applicants response to **ExAQ2 6.2.14**.

2.7 Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations

ExQ2	Question to:	Question
Q7.2.1	<p>Whether there is a compelling case in the public interest for the Compulsory Acquisition of the land, rights and powers that are sought by the draft DCO</p> <p>The Applicant</p>	<p>The Applicant's response to ExQ 7.1.12 [REP2-051] indicated that the assessment of the effect upon individual Affected Persons and their private loss that would result from the exercise of CA powers in each case is demonstrated within various application documents. The response also indicates that during the Scheme's development, each plot has been reviewed individually in order to challenge the proposed land-take and allow refinement where possible to reduce land required.</p> <ul style="list-style-type: none"> (i) Please set out specific para references in the documents listed in the response to 7.1.12 where an assessment has been made of the effect upon individual Affected Persons and their private loss that would result from the exercise of CA powers in each case. (ii) We repeat our question that, If no such exercise has been undertaken, please explain why it is considered unnecessary to do so in this case? (iii) Please provide further details of the Review of the land use and ownership of land that was undertaken in order to consider the impacts of including that land within the Scheme, both in terms of ownership and any business impacts in relation to the individual landowners. (iv) Please confirm that the proportionality tests and review/challenge process to balance the requirement for individual plots against the anticipated impacts was in fact undertaken in respect of each individual plot and explain how this was carried out?
Applicant Response		
<p>(i) Paragraph 6.2.1 of the Statement of Reasons (4.1, Rev 4) sets out that there are no commercial buildings or residential properties being acquired as part of the Scheme. However, the Applicant recognises that the Scheme may have an impact</p>		

on individuals but considers that the significant public benefits that will arise from the Scheme outweigh any harm to those individuals. The land being acquired is in the majority, rural agricultural land or existing highway land.

- (ii) There has not been an individual assessment made on the effect of individual affected persons to assess their private loss. This is not considered necessary in this case due to the overwhelming make up of the rights to be acquired but also as per *Alliance Spring Co Ltd and others v First Secretary of State* [2005] EWHC 18 (Admin) it is not necessary to consider each case of interference with Convention rights individually once the view has been properly taken that all the land proposed is required to enable the Scheme to be put into effect. The assessment under section 122 of the Planning Act 2008 was created to appropriately manage the balance between private rights and public benefit. There is not requirement to assessment the relevant importance and subjective importance of private rights as all are given an equal protection under the assessment of section 122 Planning Act 2008. The CA Guidance states that "Where the conditions of section 122 of the Planning Act 2008 are met, the infringements caused by Compulsory Acquisition are therefore justified".
- (iii) The distinct and particular importance or value attributed to particular private rights is assessed as part of the necessary compensation payable to ensure the principle of equivalence established under *Livingstone v Rawyards Coal Company* [1880] is adhered to. It is during this process that the subjective values an owner might consider they hold over a private right would be relevant. However, from discussions with landowners impacted by the Scheme the Applicant has not been made aware of any reasons which would suggest that the private loss cannot be adequately compensated financially.
- (iv) In the Applicant's responses to Written Questions [REP2-051] the Applicant confirmed that during the Scheme's development, each plot had been reviewed individually in order to challenge the proposed land take and allow refinement where possible to reduce the land required for the Scheme. This was not an exercise which was only undertaken once but one which was continued throughout the initial design stage, particularly at the edges of the Scheme boundary where for example reviews were undertaken to ensure accesses were maintained or replaced.

The assessment was not conducted in this way to assess individual impact, but rather to present a clear and methodological approach to ensure that each plot was necessary for the Scheme. There is not a requirement to minimise impact on individual owners, rather a requirement for a Scheme-wide approach to ensure that any land is properly required for the development or if it is required to facilitate the development is no more than is reasonably necessary for that purpose

as stated in the CA Guidance. Demonstrating that the land is no more than reasonably necessary simultaneously ensures that it is proportionate. Annex A of the Statement of Reasons sets out the purpose for which land is required on a plot by plot basis.

As set out in **Paragraph 5.3.5** of the **Statement of Reasons (4.1, Rev 4)** the Applicant has sought to achieve a balance between minimising land-take and securing sufficient land to deliver the Scheme, noting that the detailed design of the Scheme has yet to be developed. The limits of deviation have been drawn as tightly as possible so as to avoid unnecessary land-take. In the event that less land proves to be required in a particular area following the detailed design stage, the Applicant would only seek to acquire that part of the land that is required and, in all events, will seek to minimise effects on land interests.

ExQ2	Question to:	Question
Q7.2.2	<p>Whether there is a compelling case in the public interest for the Compulsory Acquisition of the land, rights and powers that are sought by the draft DCO</p> <p>The Applicant</p>	<p>The Applicant's response to ExQ 7.1.13 [REP2-051] states that the full benefits of the Scheme are provided throughout the Case for the Scheme [APP-154], ES [APP-042 - APP-153] and Combined Modelling and Appraisal Report [APP-163]. For the avoidance of doubt please provide a complete list of all the benefits claimed including those set out in the documents referred to as well as the Statement of Reasons Table 5.1 [REP3-010].</p>

Applicant Response

Paragraph 9.8.1 of **Case for the Scheme (7.1, Rev 1)** outlines the benefits of the Scheme and for clarity they are included within the list below. The **Combined Modelling and Appraisal Report (7.10, Rev 1)** summarises the economic appraisal and states that the results of the transport economic analysis indicated that the Scheme is predicted to generate user benefits in the order of £152.7M. The greatest benefit relates to travel time savings which are predominantly due to the provision of the free-flow movement between the A34 and the M3. **Table 5-23: AMCB Table** in the **Combined Modelling and Appraisal Report (7.10, Rev 1)** provides a full breakdown of the monetised costs and benefits in line with the Transport Appraisal

Guidance Unit A1. The monetised benefits (not disbenefits or costs) are included in the list here also. The **ES Non-Technical Summary (6.4, Rev 2)** provides an overview of the environmental effects arising from the Scheme including those that are beneficial.

Section 2.3 of the Statement of Reasons (4.1, Rev 4) summarises the benefits outlined across the **Case for the Scheme (7.1, Rev 1)**, the **Environmental Statement (6.1-6.3, APP-042 – APP-153)** and the **Combined Modelling and Appraisal Report (7.10, Rev 1)**.

The Scheme will deliver extensive benefits as referred to in the documents above which are as follows:

- A reduction in congestion and delays through:
 - improved journey times.
 - improved journey time reliability as it provides more capacity, which in turn reduces congestion and journey time delay.
- Economic benefits including;
 - Local Air Quality (£4.74M)
 - Accident reductions (£22.92M)
 - Travel time savings including commuting, businesses, and other (£155.48M)
 - Indirect Tax Revenues (£5.66M)
 - Wider economic impacts (£41.8M)
 - Employment opportunities during construction
- Safety improvements including;

- a decrease in the total number of collisions and casualties with the Scheme
- safer travel and reduced fear of accidents for pedestrians and cyclists
- Environmental benefits including:
 - improvements to visual amenity and landscape character over the long-term
 - wildlife and green infrastructure enhancements
 - enhanced pollution and run-off control
 - enhanced provision for pedestrians, cyclists and horse riders. This includes a new footbridge over the River Itchen and new subways under Junction 9, improving cycle connectivity, especially for the National Cycle Network route 23 and improvements to the horse-riding provision on the eastern side of the Scheme.
 - improvements to the ProW network in the human health study area in terms of accessibility. In total an extra 4.8km of public rights of way / footways are provided
 - improvements to the air quality and noise environment within Winchester city centre
 - the Scheme has been designed using PAS 2080 (BSI, 2016) to manage and reduce embodied carbon

The Applicant has taken a conservative approach to the calculation of the benefits of the Scheme to ensure that it is robust .

ExQ2	Question to:	Question
Q7.2.3	Whether there is a compelling case in the public interest for the Compulsory Acquisition of	The Applicant's response to ExQ 7.1.22 [REP2-051], states that the Applicant is not aware of any existing use of land required for the Scheme that is of a particularly sensitive nature that the loss of the property cannot be adequately financially compensated. The CA Guidance paras 12 and 13 relate to the establishment of a

	<p>the land, rights and powers that are sought by the draft DCO</p> <p>The Applicant</p>	<p>'compelling case in the public interest' and indicate that for this to be met the SoS must be satisfied that there is compelling evidence that the public benefits that would be derived from the CA will outweigh the private loss that would be suffered by those whose land is to be acquired. Likewise, para 14 makes reference to the private loss suffered by those affected. The response to Q 7.1.22 suggests that no assessment has been made of the degree of importance has been attributed to the existing uses of the land proposed to be acquired on an individual basis in assessing whether any interference would be justified as it does not fall within the categories of land identified in Chapter 7.</p> <p>(i) Please confirm that to be the case notwithstanding the absence of that distinction in the CA Guidance, and explain why that is regarded as a proportionate approach?</p> <p>(ii) How has it been possible to balance public interests against private loss without an assessment of the importance attributed to existing uses?</p>
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Applicant Response

The Applicant considers that for the purposes of assessing the compelling case in the public interest, there are no existing uses which would factor into the assessment of private loss. There are no plots within the proposed Scheme that have an existing use that would by virtue of its location or personal attachment require the Applicant to carry out a subjective assessment of the relevant importance of that land against the public benefit of the Scheme. The Applicant would refer the Examining Authority to its response at **Q7.2.1** which explains the approach made regarding assessment of impact on private rights and why it is not necessary to take an individual approach in assessing impact on private rights. This approach is considered proportionate because the Applicant is not required to determine a quantified value of private loss to balance against public interests. The value attributed to private rights is reflected in the conditions under section 122 of the Planning Act 2008; compliance of which is necessary to lawfully justify an interference with private rights. The Applicant's position is that it has demonstrated compliance with section 122(2) and sections 122(3) through its submissions in its **Statement of Reasons (4.1, Rev 4)**, and specifically **Section 5.4** and **Annex A** in **Statement of Reasons (4.3, Rev 3)** respectively.

ExQ2	Question to:	Question
Q7.2.4	<p>Whether there is a compelling case in the public interest for the Compulsory Acquisition of the land, rights and powers that are sought by the draft DCO</p> <p>The Applicant</p>	<p>The Applicant's response to ExQ 7.1.23 and 7.1.24 [REP2-051] make reference to the fact that during the scheme's development, each plot has been reviewed individually in order to challenge the proposed land take and allow refinement where possible to reduce land required.</p> <p>(i) Please provide further details of the review that was undertaken including any business impacts identified.</p> <p>(ii) Please indicate what, if any amendments were made following the review of areas to ensure that land take follows existing boundaries/ownerships.</p> <p>(iii) Please provide details of any design changes that arose following the review to ensure that no inaccessible or unworkable areas of land exist post construction of the scheme and identify any such areas that remain.</p>
<p>Applicant Response</p>		
<p>(i) and (ii) Throughout the course of the Scheme's design the land take was constantly reviewed to consider whether it was necessary for the scheme and whether there were any specific impacts caused which needed to be addressed, for example ensuring accesses to properties and not severing land. Paragraph 13.1.4 of the Consultation Report (5.1, APP-025) provides a summary of Appendix A.6 which shows that, as a result of reviews undertaken by the Applicant, land has been removed from the application, this includes:</p> <ul style="list-style-type: none"> ▪ Removal of the northern construction compound located adjacent to the A34/A282 roundabout near Christmas Hill; ▪ Removal of the northern, central and southern deposition areas; ▪ Reduction in the area required for the central construction compound; ▪ Removal of parts of the A34 Northbound and A34 Southbound around the Cart and Horses Junction as these areas; 		

- Removal of areas of Easton lane to remove interference with the Shell garage;
- Removal of areas of the Easton lane to remove interference with Tesco;
- Removal of areas of A34 Northbound near to the gyratory to remove interference with the Winnall Industrial Estate.

The Applicant is not aware of any unworkable or inaccessible areas of land as a result of the acquisition of land required for the Scheme. The Applicant has communicated with all landowners affected as part of the Scheme and no such concerns have been raised with them, however, if a landowner did raise such a concern this would be a matter that is capable of being resolved as part of the land acquisition process post grant of consent, either through compensation or requiring the Applicant to acquire the land.

(iii) For completeness the Applicant is working with Mr Burge to ensure that he can continue to access other land he owns outside the thro the red line boundary during construction without having to use the highway network.

ExQ2	Question to:	Question
Q7.2.5	<p>Whether there is a compelling case in the public interest for the Compulsory Acquisition of the land, rights and powers that are sought by the draft DCO</p> <p>The Applicant</p>	<p>The Applicant's response to ExQ 7.1.25 [REP2-051] states that the Applicant has had regard to the requirement in section 122(3) PA2008 and the factors which evidence the compelling case where public benefit derived from the compulsory acquisition outweigh the private loss of those whose land is affected. Whilst there has been a response to the question posed in general terms with reference to Case for the Scheme [APP-154] Statement of Reasons [REP3-010] and Funding Statement [APP-023] without providing para refs, the specific questions posed by the ExA have not been answered. Please do so now in response to this question. If the documents referred to above demonstrate how the conclusion that there is a compelling case in the public interest has been reached, and how the balancing exercise has been carried out, please provide specific para references where this is revealed.</p>

Applicant Response

The Applicant notes that the Examining Authority asked in **ExAQ1 7.1.25 in Applicant responses to Written Questions (8.5, REP2-051)** how the '*proportionality test*' had been undertaken and asked the Applicant to explain further the proportionate approach which had been taken in relation to each plot. The Applicant assumes that the ExA is making reference to paragraph 8 of the CA guidance when referring to a '*proportionality test*'. This guidance states that '*the applicant should be able to demonstrate to the satisfaction of the Secretary of State that all reasonable alternatives to compulsory acquisition (including modifications to the Scheme) have been explored. The applicant will also need to demonstrate that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, that is necessary and proportionate.*'

The Applicant has demonstrated that all reasonable alternatives including modifications to the Scheme have been explored as explained in The Applicant notes that the Examining Authority asked in **ExAQ1 7.1.25 in Applicant responses to Written Questions (8.5, REP2-051)** how the '*proportionality test*' had been undertaken and asked the Applicant to explain further the proportionate approach which had been taken in relation to each plot. The Applicant assumes that the Examining Authority is making reference to paragraph 8 of the CA guidance when referring to a '*proportionality test*'. This guidance states that '*the applicant should be able to demonstrate to the satisfaction of the Secretary of State that all reasonable alternatives to compulsory acquisition (including modifications to the Scheme) have been explored. The applicant will also need to demonstrate that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, that is necessary and proportionate.*'

The Applicant has demonstrated that all reasonable alternatives including modifications to the Scheme have been explored as explained in **Chapter 3 (Assessment of Alternatives)** of the **Environmental Statement (ES) (6.1, Rev 1)**, and as explained in the context of the CA Guidance at **Paragraphs 5.5.1 to 5.5.8** of the **Statement of Reasons (4.1, Rev 4)**. The Applicant has demonstrated its approach to acquisition by agreement at **Paragraphs 5.7.1 to 5.7.2** of the **Statement of Reasons (4.1, Rev 4)**.

The Applicant has demonstrated that the land subject to compulsory acquisition is either needed for the development or is needed to facilitate the development or is incidental to that development. The Applicant has demonstrated this throughout the of the **Statement of Reasons (4.1, Rev 4)** but particular reference is in **Chapter 3 (Assessment of Alternatives)** of the

Environmental Statement (ES) (6.1, Rev 1), Paragraphs 5.3.1 to 5.4.6 of Chapter 5 (Air Quality) of the Environmental Statement (ES) (6.1, Rev 2), and Annex A in Statement of Reasons (4.1, Rev 3).

As per the Applicant's response at **ExQ1 7.1.25 in Applicant responses to Written Questions (8.5, REP2-051)**, the land identified as being required for the Scheme has been based on environmental and engineering requirements and is the minimum necessary to construct, maintain and mitigate the Scheme, The purpose for which each plot of land is required is set out within **Annex A of the Statement of Reasons (4.1, Rev 3)**.

The Applicant also made a general reference to its **Funding Statement (4.2, APP-023)** and **Case for the Scheme (7.1, Rev 1)**. The Examining Authority's request for the Applicant to isolate paragraph numbers from these documents which show that a compelling case in the public interest has been reached and how a balancing exercise has been carried out is not possible. The **Funding Statement (4.2, APP-023)** should be read as a whole as it demonstrates that there is a reasonable prospect of the necessary funds for acquisition being available. This is required due to paragraphs 9, 17 and 18 of the CA Guidance. The **Case for the Scheme (7.1, Rev 1)** and **Statement of Reasons (4.1, Rev 4)** again should be read as representing in their totality the Applicant's position regarding the Scheme's compelling case in the public interest, in particular **Chapter 3 (Assessment of Alternatives) of the Environmental Statement (ES) (6.1, Rev 1), Chapter 4 (Environmental Impact Assessment Methodology) of the Environmental Statement (ES) (6.1, APP-045), and Chapter 5 (Air Quality) of the Environmental Statement (ES) (6.1, Rev 2)** and the reasonable alternatives explored in **Chapter 2 (The Scheme and its Surroundings) of the Environmental Statement (ES) (6.1, APP-043)**.

The Examining Authority make reference to a '*balancing exercise*'. The Applicant understands that this is a reference to the requirements of paragraphs 14-16 of the CA Guidance. This compelling case is not required to be '*balanced*' against individual plots for the reasons set out in the Applicant's responses to **ExAQ2 7.2.1** The Applicant has demonstrated the compelling case in the public interest as set out in its previous response and the above.), and as explained in the context of the CA Guidance at **Paragraphs 5.5.1 to 5.5.8 of the Statement of Reasons (4.1, Rev 4)**. The Applicant has demonstrated its approach to acquisition by agreement at **Paragraphs 5.7.1 to 5.7.2 of the Statement of Reasons (4.1, Rev 4)**.

The Applicant has demonstrated that the land subject to compulsory acquisition is either needed for the development or is needed to facilitate the development or is incidental to that development. The Applicant has demonstrated this throughout the **Statement of Reasons (4.1, Rev 4)**, but particular reference is in **Chapter 3 (Assessment of Alternatives) of the**

Environmental Statement (ES) (6.1, Rev 1), Paragraphs 5.3.1 to 5.4.6 in Chapter 5 (Air Quality) of the Environmental Statement (ES) (6.1, Rev 2), and Annex A of the Statement of Reasons (4.1, Rev 3).

As per the Applicant's response at **ExAQ1 7.1.25 in Applicant responses to Written Questions (8.5, REP2-051)**, the land identified as being required for the Scheme has been based on environmental and engineering requirements and is the minimum necessary to construct, maintain and mitigate the Scheme, The purpose for which each plot of land is required is set out within **Annex A of the Statement of Reasons (4.1, Rev 3)**.

The Applicant also made a general reference to its **Funding Statement (4.2, APP-023)** and **Case for the Scheme (7.1, Rev 1)**. The Examining Authority's request for the Applicant to isolate paragraph numbers from these documents which show that a compelling case in the public interest has been reached and how a balancing exercise has been carried out is not possible. The Funding Statement should be read as a whole as it demonstrates that there is a reasonable prospect of the necessary funds for acquisition being available. This is required due to paragraphs 9, 17 and 18 of the CA Guidance. The **Case for the Scheme (7.1, Rev 1)** and **Statement of Reasons (4.1, Rev 4)**.again should be read as representing in their totality the Applicant's position regarding the Scheme's compelling case in the public interest **Chapter 3 (Assessment of Alternatives)** of the **Environmental Statement (ES) (6.1, Rev 1)**, **Chapter 4 (Environmental Impact Assessment Methodology)** of the **Environmental Statement (ES) (6.1, APP-045)**, and **Chapter 5 (Air Quality)** of the **Environmental Statement (ES) (6.1, Rev 2)** and the reasonable alternatives explored **Chapter 2 (The Scheme and its Surroundings)** of the **Environmental Statement (ES) (6.1, APP-043)**.

The Examining Authority make reference to a '*balancing exercise*'. The Applicant understands that this is a reference to the requirements of paragraphs 14-16 of the CA Guidance. This compelling case is not required to be '*balanced*' against individual plots for the reasons set out in the Applicant's responses to **ExAQ2 7.2.1** The Applicant has demonstrated the compelling case in the public interest as set out in its previous response and the above.

ExQ2	Question to:	Question
Q7.2.6	Whether all reasonable alternatives to Compulsory Acquisition been explored	The Applicant's response to ExQ 7.1.14 [REP2-051] indicates that the Applicant is in discussions with a landowner and exploring the options in creating a perimeter around his property which could result in slight design changes and minimise the loss of private property for the landowner whilst reaching an agreement outside of

	The Applicant	compulsory acquisition. Please indicate whether progress has been made and agreement has been reached with this landowner in relation to the creation of a perimeter around the property. If not, please provide specific details of the relevant plots and why their CA is justified in the light of the private loss. Please also explain why the possibility of using an agreement pursuant to section 253 of the Highways Act 1980 as an alternative to permanent acquisition was rejected.
Applicant Response		
<p>The proposed perimeter is within plot 5/3c of which possession is only required temporarily during construction. The perimeter has been proposed to the north behind the buildings adjacent to the plot. The landowner has requested that no materials are stored immediately behind their buildings but also to allow access via a tractor to the remainder of the field to the south east. The temporary possession of whole of the plot is still required by the Applicant; however, the Applicant is working with the landowner to be able to facilitate their requests and understands that the landowner is amenable to agreeing the details for access and material storage perimeters outside of the Examination.</p> <p>However, unless a written agreement is completed the Applicant continues to include the land within the Application to ensure that the Scheme can be delivered.</p> <p>An agreement pursuant to Section 253 of the Highways Act 1980 is not suitable here as the land is required temporarily during construction and not for the planting and maintenance of trees, shrubs or plants of any other description on the land nor for restricting the lopping or removal of trees, shrubs or other plants on the land.</p>		
ExQ2	Question to:	Question
Q7.2.7	<p>Whether all reasonable alternatives to Compulsory Acquisition been explored</p> <p>The Applicant</p>	The Applicant's response to ExQ 7.1.16 [REP2-051] refers to status of negotiations with Affected Persons set out in the updated Annex B of the Statement of Reason [REP3-010] and indicates that the Applicant has concluded that it may not be possible to acquire by agreement all land interests necessary to deliver the scheme within this timescale.

		<p>(i) Please indicate for which objectors, the Applicant has concluded that it may not be possible to acquire by agreement the land interests necessary to deliver the Scheme within the relevant timescale and why?</p> <p>(ii) For a number of Affected Persons the last entry in Annex B is the S56 notice issued to the party on 30 January 2023. Has there been any further progress or contact taken place since then with those parties?</p>
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Applicant Response

(iv) The Applicant has engaged with all parties that are affected from proposed permanent acquisition of land or rights acquisition. The Applicant is continuing these conversations with a number of parties which has resulted in no objections to the use of compulsory acquisition powers being submitted to the Examination. The Applicant has secured verbal agreement from one party and has verbally agreed head of terms for agreements from two other parties. However, until these have been documented the Applicant is unable to confirm that powers of compulsory acquisition are no longer required in respect of the interests held by these parties.

The Applicant is also aware of the personal circumstances of some landowners which means that they will be unlikely to be able to conclude a written agreement during the time available.

The Applicant has also been informed by some parties that they are not willing to enter into a voluntary agreement for the necessary rights prior to consent being granted for the Scheme. The Applicant is not certain that this agreement will be forthcoming should the Application be granted and therefore requires compulsory acquisition powers to be certain that it can deliver the consented Application.

The Application is not proposing to publicly provide the details of the individuals involved particularly as there are no objections to the use or extent of the compulsory acquisition powers sought.

(v) The parties that have not had further engagement since the S.56 in January 2023, fall into one of the following categories:

- Category 1, temporary rights only

- Category 2 permanent and/or temporary rights

The Applicant has prioritised negotiations relating to voluntary agreements with parties that are Category 1 where permanent land acquisition is required.

The parties that fall into Category 1, temporary possession only will be contacted again once further information on the programme of works is available. The Applicant will discuss the impact of possession of the land during the construction of the Scheme and the landowner will be entitled to claim losses arising from the use of the land by the Applicant.

The Applicant has followed standard procedure with category 2 parties, who tend to be mortgage companies or other interests referenced on title documents, who are not directly impacted by the Scheme and will therefore be contacted at point of the Application being granted.

ExQ2	Question to:	Question
Q7.2.8	<p>Whether all reasonable alternatives to Compulsory Acquisition been explored</p> <p>The Applicant</p>	<p>The ExA’s Rule 8 letter [PD-007] Section 7 Requests for other documents – included a request for Statement of Reasons (SoR) Annex B and C: <i>“The ExA requests that, at the deadlines specified in the Examination Timetable, the Applicant provides as standalone documents an updated Annex B Schedule of all objections made by representation to the granting of compulsory acquisition powers and progress of negotiations with those affected persons and Annex C Schedule of Engagement with Statutory Undertakers. Please include within the standalone Annex B additional columns for the relevant Work No(s) and the relevant DCO articles that would authorise the acquisition of the rights and/or powers sought over the plot. For Appendix C, please include an indication as to whether protective provisions have been agreed and included within the latest version of the draft DCO. A final version of both Annex B and Annex C must be submitted at Deadline 8 on 10 November 2023 before the close of the Examination”.</i></p>

		<p>Such a request was included for Deadline 2 and Deadline 3. However, the [REP3-010] provided a composite SoR rather than standalone Annexes B and C.</p> <ul style="list-style-type: none"> (i) Whilst it is noted that this has been corrected for Deadline 4, please ensure that each of these will be provided as separate documents for future deadlines. (ii) Furthermore, Annex B did not include additional columns for the relevant Work No(s) and DCO articles as requested. Please amend Annex B for future deadlines to include those details for each land interest. (iii) For Annex C, not all land interests include reference to the status of protective provisions and whether these have been agreed and included in the latest version of the draft DCO. Please also remedy this aspect.
Applicant Response		
<ul style="list-style-type: none"> (i) The Applicant notes the comments provided and will continue to provide at future deadlines the Annex B - Status of negotiations Compulsory Acquisition Schedule (4.1.2, Rev 1) and Annex C - Schedule of Engagement with Statutory Undertakers (4.1.3, REP4-005) as separate documents as provided at Deadline 4. (ii) The Applicant notes the comments provided and will update the SoR Annex B - Annex B Status of negotiations Compulsory Acquisition Schedule (4.1.2, Rev 1) for submission at Deadline 5. (iii) The Applicant considers that it has provided an update as to the negotiation ongoing with parties in Annex C - Schedule of Engagement with Statutory Undertakers (4.1.3, Rev 1). The Applicant has provided at Appendix F (ExA WQ2 7.2.13 - Interface with statutory undertakers) (Document Reference 8.17.1) an updated status and detailed information as to the interaction the Scheme has with statutory undertakers. 		
ExQ2	Question to:	Question

Q7.2.9	Whether all reasonable alternatives to Compulsory Acquisition been explored The Applicant	The Applicant's response to ExQ 7.1.17 [REP2-051] does not include a response to the second bullet point. Please respond to this point or if this exercise has not been undertaken, indicate and explain why it is not considered to be necessary to look at alternatives on an individual basis. What consideration has been given to the use of Article 32 and Article 27 powers in relation to each plot as opposed to the use of Article 24 and explain why it necessary and reasonable for Article 24 to apply to all the Order land?
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Applicant Response

The Applicant considers that there are four questions contained in **Q 7.2.9**, these are:

1. Request to respond to **bullet 2** of **ExAQ1 7.1.17** in **Applicant responses to Written Questions (8.5, REP2-051)**
2. Request to explain why it is not considered to be necessary to look at alternatives on an individual basis;
3. What consideration has been given to the use of Articles 32 and 27 powers in relation to each plot as opposed to the use of Article 24; and
4. Why is it necessary and reasonable for Article 24 to apply to all the Order land.

Addressing each in turn:

1. The Applicant provided a summary of the assessment of alternatives made in this Scheme in its response to **ExAQ1 7.1.17** in the **Applicant responses to Written Questions (8.5, REP2-051)**. The Applicant did not provide a summary of the assessment of alternatives on a plot by plot basis as this exercise was not undertaken as part of Scheme development. It is not considered to be necessary to look at alternatives on an individual plot basis as this would not reflect the reality of Scheme design. The Applicant has carried out an exercise of assessment of alternatives to determine the best solution to the Scheme and then reviewed the land required and refined the land boundaries based on the minimum land take necessary to build that Scheme considering, of course, that the Scheme has not yet undergone detailed design and so the land that might be subject to compulsory acquisition balanced against the limits of deviation. If after detailed design, land is identified as no longer being required, the Applicant will not acquire that land.

2. Article 32 allows an undertaker to acquire compulsorily so much of, or such rights in, the subsoil or airspace over land referred to in Article 24. This provides flexibility to the Applicant to be able to only take airspace or subsoil interests which assists the Applicant to take the minimum land interest required for the Scheme, for example the Applicant would prefer not to acquire the land/river bed of the river Itchen but instead acquire only the necessary rights to place and maintain the bridge over the river. However, until detailed design has been undertaken it is not possible to confirm this approach.

Article 27 allows an undertaker to acquire such rights over the Order land or impose restrictive covenants affecting the land as may be required for any purpose for which that land may be acquired under Article 24 by creating them as well as acquiring rights already in existence. Where the article allows for imposition of restrictive covenants this is limited to those plots specified in column 1 of **Schedule 5** of the **draft Development Consent Order (3.1, Rev 4)**.

3. There has not been a consideration given to use of Article 32 or 27 as opposed to Article 24 in any plot within the Order limits at this stage of project design. The anticipated purpose and circumstances in which Article 32 is to be used is set out in the Applicant's response to **ExAQ1 7.1.6** in **Applicant responses to Written Questions (8.5, REP2-051)**. The anticipated purpose and circumstances in which Article 27 is to be used is set out in the Applicant's response to **ExAQ 7.1.3** in **Applicant responses to Written Questions (8.5, REP2-051)**. As explained in the responses to those questions, the purpose of these articles is to allow the undertaker flexibility post detailed design to acquire either only rights over an area of land or reduce its acquisition to subsoil or air space. It is not the intention at this stage for these Articles to be used in a way that they replace outright acquisition. As previously set out, these rights allow for flexibility to reduce interference with private interests when detailed design proves that that is possible.
4. Article 24 applies to the whole of the Order land with the clear exception that this is subject to Article 27(2) (acquisition of rights or imposition of restrictive covenants) and Article 34 (temporary possession of land). In these instances, then the power of outright acquisition in Article 24 would not apply. The wording of Article 24 means that the undertaker may only acquire compulsorily so much of the Order land as is required to carry out or to facilitate or is incidental to the authorised development. Any land that has not been detailed in the **Land Plans (2.2, APP-006)** and **Book of Reference (4.3, Rev 3)** as being required to be compulsorily acquired would not be able to satisfy this requirement of article 24(1) (see the definition of Order land in **Article 2** of the **draft Development Consent Order (3.1, Rev 4)**). This is the approach to drafting that has been carried out in development consent orders since the model provisions set it out in article 18 of the model provisions.

ExQ2	Question to:	Question
Q7.2.10	Whether adequate funding is likely to be available The Applicant	The Applicant's response to ExQ 7.1.21 [REP2-051], indicates that there is no allocation for blight in the land cost estimate. (i) Please provide further details to support the conclusion reached that no blight notices will be received. (ii) Please also explain how the cost of the 'potential for blight notices' has been included. Has this potential been assigned a monetary value and, if so, how has this been assessed. Does the £215m cost estimate for the scheme provide any leeway should the assumption of no blight notices prove to be incorrect?
Applicant Response		
<p>(i) The Valuation Office Agency (VOA) produced the land cost estimate on behalf of the Applicant. The VOA have confirmed that they do not expect any blight notices to be received. This is because no buildings are being acquired and because agricultural land will still be farmable as viable agricultural units post scheme. The VOA have also met with each affected landowner and blight was not raised during compensation discussions.</p> <p>(ii) The £215m cost estimate includes an allowance for risks associated with land cost uncertainty including blight. In the event of a successful blight claim being submitted cost will be drawn from the risk allowance to process payment. The Applicant is satisfied that the risk allowance is sufficient</p>		
ExQ2	Question to:	Question
Q7.2.11	The Equality Impact Assessment The Applicant	The Applicant's response to ExQ 7.1.26 [REP2-051] refers to the Equality Impact Assessment [APP-167]. This states at para 7.1.23 that the scheme has the potential to disproportionately affect the age, disability and pregnancy and maternity equality groups due to the potential temporary diversion or closure of routes during construction. Whilst steps that have already been taken in response to consultation

		on these issues are noted, please provide further details of any ongoing engagement with affected persons with protected characteristics in relation to those matters identified as having the potential to disproportionately affect them.
Applicant Response		
<p>Since submission of the Development Consent Order Application, there have been no design changes that would require further consultation of this nature. The potential impacts are noted to be as a result of temporary diversions or closure which will occur only during construction. Consideration to minimising these potential impacts will be taken into consideration when confirmation diversion routes with Hampshire County Council. An updated Equality Impact Assessment will be provided as part of all future Project Control Framework (PCF) Stages (4-7), as referred to in ExAQ1 7.1.26 within the Applicants Responses to Written Questions (8.5, REP2-051).</p>		
ExQ2	Question to:	Question
Q7.2.12	<p>The accuracy of the Book of Reference</p> <p>The Applicant</p>	<p>The Applicant's response to ExQ 7.1.32 [REP2-051] asserts that the majority of the unregistered land in the scheme is public highway, as such the likelihood is the 'owner' will be the Applicant or the local authority. Please indicate the steps taken to confirm that to be the case and identify those parcels of land in unknown ownership that do not consist of public highway.</p>
Applicant Response		
<p>The Applicant undertook steps to identify any interests in unregistered land through desk based research and site investigation. Desk based research involved using National Highways and the County Council's web applications that details roads under their management. Using these tools and in accordance with the public highways that are registered in the Applicant's and the County Council's name, the Applicant was able to assume the ownership of unregistered public highways and record the owners accordingly for these parcels.</p> <p>Regarding the plots of unknown ownership that are not public highway, the Applicant followed the same methodology and reviewed conveyance documents which regarded the County Council as owners during the purchase of the Winchester Bypass on 24 June 1937. As per Section 265 of the Highways Act 1980, it was presumed the land was then vested in the Secretary</p>		

of State for Transport. As the land remains unregistered with the Land Registry, the Applicant installed and maintained a site notice detailing the area of interest asking members of the public to provide information, if available. The parcels where this is relevant are as follows: 5/2g, 5/2h, 5/2i, 6/1a, 6/1b, 6/1c. The Applicant has recorded National Highways as a reputed owner in these parcels following this investigation.

ExQ2	Question to:	Question
Q7.2.13	<p>The acquisition of Statutory Undertakers' land and removal of apparatus – s127 and 138 PA2008</p> <p>The Applicant</p>	<p>The Applicant's response to ExQ 7.1.34 [REP2-051] did not deal with all the matters raised by the ExA under the second bullet point.</p> <ul style="list-style-type: none"> (i) For each Statutory Undertaker (SU), please explain why the Applicant considers that the land or rights can be acquired without serious detriment to the carrying on of the undertaking and for those where rights would be extinguished or relevant apparatus removed, please indicate why this would be necessary for the purposes of carrying out the development. In responding please provide reasons specific to each SU explaining the existing use of the land made by the SU and details of the apparatus, if any, currently positioned on, under or over the land. (ii) In the light of the Applicant's response to the third bullet point of ExQ 7.1.34 [REP2-051], whilst the powers as drafted may apply to matters covered by both s127 and 138, please clarify whether all land concerned is SU land to which s127 applies and indicate for which of the SUs s138 applies in that there subsists over the land a relevant right or there is, on, under or over the land relevant apparatus. Notwithstanding the details provided in the various SoR annexes please provide a composite response to the query raised and include details for each SU of the extent, nature and purpose of the works to be carried out on the land.
Applicant Response		

- (i) The Applicant has set out within **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) Appendices (Appendix F ExA WQ2 7.2.13 - Interface with statutory undertakers) (Document reference 8.17.1)** the extent of interface with statutory undertakers on the Scheme on a plot by plot basis. The Applicant considers that the lands or rights of the statutory undertakers can be acquired without serious detriment due to the protective provisions within the **draft Development Consent Order (3.1, Rev 4)**. Certain statutory undertakers, as set out in the Appendix, are seeking bespoke protective provisions and the Applicant expects that these provisions can be agreed prior to the close of the examination. Appendix F sets out the relevant work numbers associated with each relevant plot number and explains the anticipated work to the statutory undertakers' apparatus and why this is necessary. Appendix F confirms that the proposed works have been discussed with the relevant parties, confirms whether the benefit of the works can be assigned in the DCO, and whether protective provisions are in place to protect the operation of the undertaking.
- (ii) The Applicant has set out in **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) Appendices (Appendix F ExA WQ2 7.2.13 - Interface with statutory undertakers) (Document reference 8.17.1)**, the extent of the known interest of each relevant statutory undertaker. The Applicant has noted the interest of a statutory undertaker as 'Occupier' in the case of where apparatus is known to be in a relevant plot and 'rights' in the case where the Applicant knows of rights being held by the statutory undertaker.

The full extent of the interests held by statutory undertakers is contained in **the Book of Reference (4.3, Rev 3). Appendix F (ExA WQ2 7.2.13 - Interface with statutory undertakers) (Document reference 8.17.1)**, has distilled those plots where the Scheme is having an interface with a statutory undertakers right or apparatus. It can be read therefore from **Appendix F (ExA WQ2 7.2.13 - Interface with statutory undertakers) (Document reference 8.17.1)** those plots where section 127 is relevant (where rights are noted) and where section 138 is relevant (where apparatus is noted). It should be noted that protective provisions do not apply to limit the protection of statutory undertakers to those plots stated in Appendix F and apply to all rights and apparatus within the Order limits. This is normal practice and reflects the reality that whilst the Applicant has made diligent and reasonable enquiries to assure itself of the location of apparatus of statutory undertakers, the recording of these rights and apparatus is not always accurate and in some cases it will not be until detailed design that the Applicant can accurately ascertain where apparatus is.

ExQ2	Question to:	Question
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Q7.2.14	<p>Other consents and agreements</p> <p>The Applicant</p>	<p>From the Applicant's response to ExQ 7.1.34 [REP2-051] it is noted that it is progressing shadow licence applications with Natural England where appropriate. The Consents and Agreements Position Statement [REP2-015] indicates that: <i>"Other forms of agreement may also be required alongside SoCGs, for example, agreements with statutory undertakers where these are required in addition to the protective provisions within the DCO and a Letter of No Impediment from Natural England in relation to draft Protected Species licences"</i> Please provide an update on the progress of discussions with Natural England including in relation to shadow licence applications and indicate when a 'Letter of No Impediment' from Natural England in relation to draft Protected Species licences can be expected to be submitted to the Examination?</p>
Applicant Response		
<p>The Applicant met with Natural England on 24 August 2023. Natural England indicated that it was satisfied with the draft licence application and should be in a position to issue a Letter of No Impediment. However, on 15 September following further review Natural England provided some additional comments, and as such the Applicant is now reconsulting.</p>		
ExQ2	Question to:	Question
Q7.2.15	<p>Other consents and agreements</p> <p>The Applicant</p>	<p>The Applicant's response to ExQ 7.1.36 [REP2-051] states that the Applicant is currently engaging with the Environment Agency to determine whether the certain consents can be included within the Development Consent Order. Please provide an update on your discussions with the EA and confirm the position in relation to the need for consents for Water Discharge Activities – Permit to discharge to surface water and/or groundwater under Regulation 12 of the Environmental Permitting (England and Wales) Regulations (2016) and Water Abstraction Licence – Abstraction of water under sections 24 and 25 of the Water Resources Act (1991).</p>
Applicant Response		

The disapplication of Regulation 12 of the Environmental Permitting (England and Wales) Regulations 2016 as it relates to a water discharge activity and provisions relating to water abstraction licences under sections 24 and 25 of the *Water Resources Act 1991* have been removed from the **draft Development Consent Order (3.1, Rev 4)** following discussion with the Environment Agency. This change was shown in tracked changes in the Applicant's Deadline 2 submission of the **draft Development Consent Order (3.1, Rev 2)** The Applicant will be seeking these licences direct from the Environment Agency outside of the Development Consent Order. The protective provisions are still necessary with the Environment Agency due to the remaining provisions being disapplied, including regulation 12 as it relates to a flood risk activity.

ExQ2	Question to:	Question
Q7.2.16	<p>Objections to the grant of powers of compulsory acquisition and temporary possession</p> <p>The Applicant</p>	<p>The Applicant's response to ExQ 7.1.37 [REP2-051] indicates that interference with Article 1 of the First Protocol and Article 8 of the European Convention on Human Rights will be a relevant consideration to all the land identified in Annex A of the Statement of Reasons.</p> <ul style="list-style-type: none"> (i) Please clarify whether any specific consideration has been given to the individual rights of Mr Fairris, and the specific interference that would occur to his exercise of those rights as a result of the scheme? (ii) The ExA notes that from the Applicant's response to Relevant Representation RR-030 in Response to the Relevant Representations [REP1-031] that they will ensure that a safe means of access will be maintained throughout the temporary use of these plots and that the detail will be included within the detailed Traffic Management Plan. However, for the avoidance of doubt please explain how this provision would be secured in the FiEMP and the Draft DCO? (iii) The latest submission of SoR Annex B [REP4-?] indicates that no further progress of negotiations has occurred since the s56 notice was issued to this party with a copy to his agent on 31 January 2023. Is that correct and has the Applicant made any further attempts to engage and progress negotiations since that date?

Applicant Response

(i) As the Applicant confirmed in **RR-030 of Applicant Responses to Relevant Representations (8.2, REP1-031)** that the individual rights referred to by Mr Fairris in his relevant representation (**RR-030**) were known to the Applicant and will be maintained meaning that there would be no interference with the rights held by Mr Fairris. That consideration was not a “special consideration to the individual rights of Mr Fairris” but part of the normal approach made by the Applicant to ensure that interference with rights is for a legitimate purpose, is necessary and proportionate.

(ii) The safe means of access will be maintained through detail included in the detailed Traffic Management Plan which is required as **Requirement 11** of the **draft Development Consent Order (3.1, Rev 4)**.

The fiEMP which is required under Requirement 3 is not relevant to the securing of the detailed Traffic Management Plan but entry G8 of the **first iteration Environmental Management Plan (7.3, Rev 5)** states that:

*‘No part of the Scheme can start until a Traffic Management Plan is developed in detail in accordance with the **Outline Traffic Management Plan (Document Reference 7.8)**, has been subject to consultation with the relevant planning authorities and the local highway authority d has been approved by the SoS.’*

(iii) The Applicant has not progressed negotiations since the S.56. Please refer to the Applicant’s response to **ExQ2 7.2.7**. However, the Applicant responded to Mr Fairris’ Relevant Representation at **RR-030 of Applicant Responses to Relevant Representations (8.2, REP1-031)** and confirmed if further discussions were required to contact the Applicant’s land agent, Jonathan Nesbitt.

ExQ2	Question to:	Question
Q7.2.17	Objections to the grant of powers of compulsory acquisition and temporary possession	The Applicant’s response to ExQ 7.1.39 [REP2-051] indicates that a safe means of access will be maintained to Plot 3/2b. Please explain in detail how in practice this will be achieved during construction and operation period, and how is this secured by the Draft DCO?

	The Applicant	
Applicant Response		
<p>The section of the A33 that impacts the business units in Plot 3/2b is the eastbound carriageway towards Basingstoke. The width of the carriageway is sufficient to be able to safely run traffic closer to the verge or central reserve to be able to carry out construction activities. Traffic Management will be required to access the verge and central reserve. This will provide safe locations for the workforce to operate in whilst the traffic is running in a reduced width carriageway.</p> <p>When construction activities are being conducted to the central reserve the access into the business units will be unhindered. Whilst construction is being carried out to the verge, access will also be maintained by the use of a dedicated access through the work area. Access and egress points for the workforce will be established either side of the business units when traffic is running in this phase.</p> <p>At times when the road is required to be closed an escort system will be established to ensure access to the units is maintained at all times. Full road closures are expected to be at nights only and between 21:00 and 05:00.</p> <p>The public relations team will ensure that good communication is established and maintained with the occupiers of the units so that works can be planned to minimise impact on the businesses.</p> <p>The above measures will feature in the Traffic Management Plan which is secured by Requirement 11 of the draft Development Consent Order (3.1, Rev 4).</p>		
ExQ2	Question to:	Question
Q7.2.20	The acquisition of Statutory Undertakers' land and removal of apparatus – s127 and 138 PA2008	Your response to ExQ 7.1.42 [REP2-076] indicates that negotiations are ongoing between SGN and the Applicant in relation to securing protective provision for the benefit of SGN's undertaking which are acceptable to SGN. Do you remain confident that this matter will be resolved by negotiation prior to the close of the Examination such that your objection can be withdrawn?

	Southern Gas Networks PLC	
Applicant Response		
Protective Provisions are in the process of being negotiated.		
ExQ2	Question to:	Question
Q7.2.21	The acquisition of Statutory Undertakers' land and removal of apparatus – s127 and 138 PA2008 Southern Water Services Ltd "	Your response to ExQ [REP2-077] indicates that at that time the form of protective provisions contained in the draft DCO were not to your satisfaction. However, you anticipated agreement being able to be reached on those matters during the Examination. Please confirm that you still anticipate agreement being able to be reached through negotiation with the Applicant during the Examination such that your objection can be withdrawn?
Applicant Response		
Protective Provisions are in the process of being negotiated. The solicitor for Southern Water has asked that we update the Examination on their behalf to confirm that matters are progressing.		

2.8 Cumulative Impact

The Applicant did not receive any questions for this topic.

2.9 Draft Development Consent Order

ExQ2	Question to:	Question
Q9.2.1	Article 3 – Disapplication of legislative provisions The Applicant, Environment Agency	Please confirm that all concerns issues raised by the EA have been overcome by the Article 3 amendments made in the Revision 2 of the draft DCO [REP3-005] as noted in the SoCG between the EA and the Applicant [REP4-031].
Applicant Response		
The Applicant can confirm that the Environment Agency comments relating to Article 3 of the draft Development Consent Order (3.3, Rev 4) have been resolved to their satisfaction following amendments at Deadline 2. The only outstanding item with the Environment Agency is the details of Protective Provisions. The Applicant will continue to engage with the Environment Agency on this issue.		
ExQ2	Question to:	Question
Q9.2.3	Article 8 - Limits of deviation (LoD) The Applicant	The Applicant's response to ExQ 9.1.12 [REP2-051] indicates that the extent of vertical and lateral deviations set out in Article 8 have been determined based on the design, known constraints, construction and buildability factors associated with the Scheme. At ISH2 a topic for discussion was the extent of and justification for the LoD set out in the draft DCO [REP3-005], including those in respect of the attenuation ponds. The Applicant written summaries of oral case ISH2 [REP4-035] states that generally the limits of deviation are tight for the type of works proposed and allow little amendment at detailed design stage. Please provide further details as to why such flexibility is required and the dimensions of the attenuation ponds cannot be fixed at this stage including the circumstances in which the vertical depth of the basin might need to vary in order to maintain the required gradients.

Applicant Response

This relates to Work Numbers 1j and 1m, which are the two larger attenuation basins. The limits of deviation across the scheme are drawn tightly. The two larger attenuation basins are the most generous in terms of limits of deviation and allows a 5m lateral deviation, there is also a 0.5m vertical deviation. If you dig the pond basins lower, then to maintain the proposed gradients on the side slopes of the basins, the sides of the basins will require moving out. The calculations that have been undertaken at this preliminary design stage are such that if the basins were in flat ground and you dug down 0.5m, you would need to extend by approx. 3m on the lateral. However, the basins have been designed to be in an actual depression and the ground is not level and therefore the sides of the basins will extend exponentially, but only up to the 5m lateral limit of deviation stated.

The drainage design strategy submitted within the **Appendix 13.1 (Drainage Strategy Report)** of the **ES (6.3, APP-142 and APP-143)** sets out the basic principles of the drainage layout and will need to be refined as the design progresses and as further results from site investigations becomes available. As a consequence of design development they may need to be changes to the basins. Therefore the limits of deviation requested allow for the ability to increase the basins' capacity within the proposed Scheme.

ExQ2	Question to:	Question
Q9.2.7	Part 3 Streets Article 11 Street Works, Article 12 Power to alter layout etc of streets, Article 14 Construction and maintenance of new,	The HCC LIR [REP2-066] raised various concerns and suggested amendments in relation to the draft DCO [REP3-005] Part 3 Streets articles. These matters were also discussed at ISH2. The parties hoped that these matters would be resolved through negotiation and that an update to the Examination would be provided at Deadline 5. The Applicant written summaries of oral case for ISH2 [REP4-035] confirms that to be the case. However, if matters remain unresolved by Deadline 5, please provide full and detailed reasoning either in support of the articles as drafted or in support of changes sought to the draft DCO together including any related draft requirements.

	<p>altered or diverted streets and other structures,</p> <p>Article 15 Classification of Roads,</p> <p>Article 16 – Temporary Stopping up and restriction of use of streets</p> <p>The Applicant, Hampshire County Council</p>	
<p>Applicant Response</p>		
<p>Hampshire County Council have informed the Applicant that the draft side agreement addressed the issues raised by them. While the side agreement is not yet complete it is anticipated that it will be completed during the course of the examination. Therefore the Applicant considers that there are no amendments to the drafting required outside of that previously proposed which has now been included in the draft Development Consent Order (3.1, Rev 4).</p> <p>In respect of the matters in this question the Applicant has added the following wording at Article 13(8):</p> <p><i>‘The Applicant has proposed to confirm at Article 13(8) that “Nothing in this article affects the operation of the Traffic Management (Hampshire County Council) Permit Scheme Order 2019 as varied by the Traffic Management (Hampshire County Council) Permit Scheme Variation Order 2022 operated by the local highways authority pursuant to the Traffic Management Permit Scheme (England) Regulations 2007’.</i></p>		
<p>ExQ2</p>	<p>Question to:</p>	<p>Question</p>

Q9.2.8	<p>Part 5 Powers of Acquisition</p> <p>Article 28 Public rights of way</p> <p>The Applicant, Hampshire County Council</p>	<p>This article is referred to in HCC LIR 10.23 [REP2-066] which states that in order to administer its responsibility in respect of any extinguishment under the draft DCO it requires notice of any extinguishment and proposes a new Article 28(4). The Applicant has responded to this in comments on HCC LIR at Deadline 3 [REP3-023] and propose an amendment to allow for giving 28 days' notice of extinguishment of a right of way to the local Highway Authority. This matter was discussed at ISH2 and the HCC post hearing submissions [REP4-044] confirms that it is content with the amended article except that it requests 42 days (6 weeks) notice rather than the 28 days' notice proposed by the Applicant's amendment. Please indicate whether this matter has been resolved through negotiation and if not, please provide full justification for either the retention of the 28 day notice period in the case of the Applicant or the 42 day notice period proposed by HCC.</p>
Applicant Response		
<p>Hampshire County Council have informed the Applicant that the draft side agreement addressed the issue raised by them. While the side agreement is not yet complete it is anticipated that it will be completed during the course of the examination. Therefore, the Applicant understand that 28 days is agreed and no amendment to the draft Development Consent Order (3.1, Rev 4) is required.</p>		
ExQ2	Question to:	Question
Q9.2.9	<p>Article 34 – Temporary use of land for carrying out the unauthorised development</p> <p>The Applicant, South Downs National Park Authority</p>	<p>The SDNPA in its LIR DCO COMMENTS Table on the DCO [REP2-071] sought amendment of this article stating that it is unclear why the rather arbitrary powers set out in Article 34 (1) (b) (remove and building and vegetation from that land) and (c) (construct temporary works (including the provision of means of access) and buildings on that land) would be required. In response the Applicant provided comments at Deadline 3 [REP3-023] its position being that where it is not necessary to carry out these works the Applicant would not have power to do so. This matter was discussed at ISH2. The post hearing submission of SDNPA [REP4-047] sets out the drafting changes suggested by it at ISH2. The Applicant</p>

		<p>written summaries of oral case for ISH2 [REP4-035] confirms that it would be content to consider wording proposed by the SDNPA</p> <p>Applicant:</p> <ul style="list-style-type: none"> (i) Please provided further justification for the need for this power including the provision for the removal or the provision of buildings on the land. (ii) Please indicate whether, for the avoidance of doubt, the drafting of this article could define more precisely the circumstances in which the power might be utilised? (iii) If the drafting amendments proposed by SDNPA are not agreed, then please provide detailed reasoning for their rejection. <p>SDNPA:</p> <p>Please indicate whether the Applicant's position, that where it is not necessary to carry out these works it would not have power to do so, provides reassurance as to the scope of this power. If not, please provide further reasoning to support the suggested amendment set out in your post hearing submission or any other amendments that might clarify the scope of these sub-articles.</p>
Applicant Response		
<p>(i) The Applicant notes that concerns over the general justification for the article have not been raised, but that specific elements of the article such as the ability to enter on and take temporary possession of land to remove any buildings or vegetation from that land have been subject to concern from South Downs National Park Authority.</p> <p>The Applicant has provided justification for this power at Paragraphs 4.133 – 4.137 of its Explanatory Memorandum (3.2, APP-020). The Applicant provided further justification for this power in its response to ExAQ1 7.1.8 in Applicant responses to Written Questions (8.5, REP2-051). However, this power is required by the Applicant to enable it to take</p>		

the minimum interest in land in order to construct and operation the Scheme. Depending on detailed design it may be possible to only use some land temporarily rather than acquire it outright as is currently envisaged.

The circumstance of removing buildings and vegetation from that land will clearly be limited to the requirements in **Schedule 2** of the **draft Development Consent Order (3.1, Rev 4)** which amongst others matters require works to be in accordance with the **first iteration Environmental Management Plan (fiEMP) (7.3, Rev 5)**, detailed design and a landscaping scheme meaning that any works carried out will continue to be properly regulated through the Requirements. The specific power to remove vegetation is taken not be in contention as there is a clear need to clear vegetation before work commences. The need to remove a '*building*' should be read in the context of the Development Consent Order definition which includes '*any structure, or erection or any part of a building structure or erection*'. This is wide definition. Whilst the Applicant might not be able to identify any particular '*building*' requiring removal at this stage, until it is in possession of the land structures might be put up on land required by the Applicant and so the power contained here is necessary for the Applicant to react to changes in the Order limits.

- (ii) The Applicant is not content to add the confirmatory language that Article 34 is subject to '*the Requirements of Schedule 2*' as it is not necessary. Article 5, grants development consent for the authorised development subject to the provisions of the Order and expressly subject to the Requirements of Schedule 2. Therefore, this suggestion would result in duplication in the statutory instrument.
- (iii) The wording of Article 34 was discussed at Issue Specific Hearing 2 (ISH2) and as confirmed in **Applicant written summaries of oral case for Issue Specific Hearing 2 (ISH2) (8.14, REP4-035)** the Applicant has considered the wording proposed by South Downs National Park Authority at Deadline 4. The proposed amendments were:
Article 34(1) '*34.—(1) The undertaker may, where necessary for the carrying out of the authorised development, but subject to article 26(2) (time limit for 'exercise of authority to acquire land compulsorily) and the Requirements of Schedule 2.—'*

The tailpiece is dealt with at point (ii) above.

The change of language from '*in connection with*' to '*where necessary for*' would depart from the wording used in the model provisions. Whilst it would not be proportionate for the Applicant to confirm whether there had been any departure from this

wording in previous Development Consent Orders, the Applicant has reviewed a number of other Development Consent Orders operating in sensitive landscape environments and can confirm that the Development Consent Orders of A417 Missing Link, A303 Stonehenge, Southampton to London Pipeline, the Cornwall Council (A30 to Higher Carblake Improvement) which were within the Cotswolds AONB, UNESCO World Heritage Site, South Downs National Park and Bodmin Moor AONB respectively all used the wording '*in connection with*'.

Furthermore, the Applicant is able to take temporary possession of any land to which Article 24 (Compulsory Acquisition of Land) applies. Article 24 applies to the Order Land where it is required to carry out or to facilitate, or is incidental to, the authorised development. To apply a more stringent test for temporary possession of land than for outright acquisition is unnecessary and could potentially result in the Applicant acquiring land on a permanent basis because it is unable to take temporary possession for construction purposes. This would then necessitate the engagement of the Crichel Down Rules in order to dispose of the operationally surplus land which would not be in the interests of the landowner, who could have retained ownership of the land throughout.

The Applicant asks the Examining Authority to note that Article 34 is essential for the efficient use of land and resources and the timely completion of the authorised development. The article makes explicitly clear the circumstances in which the power might be utilised and the Applicant does not consider there to be a justified reason to amend the Article as proposed by South Downs National Park Authority.

ExQ2	Question to:	Question
Q9.2.10	Part 6 Operations Article 39 - Felling and Lopping of trees The Applicant	The SDNPA in its LIR DCO COMMENTS Table on the DCO [REP2-071] raises objection to this article stating that it would make it difficult to understand and assess the actual tree and hedgerow loss associated with the development. The Applicant in response to ExQ 9.1.36 [REP2-051] states that the Article only authorises powers in relation to those hedgerows that are set out in Schedule 8 of the draft DCO. This matter was discussed at ISH2, and the Applicant written summaries of oral case for ISH2 [REP4-035] confirms that it would be happy to consider wording proposed by the SDNPA in their written submission. The SDNPA has suggested an amendment to Article 39(4) [REP4-047]. Please provide an update in relation to your position in relation to the scope of this article and indicate

		whether the drafting amendment proposed is agreed or whether the article could otherwise be made more explicit in relation to which trees, hedgerows and other vegetation are encompassed.
Applicant Response		
<p>The Applicant has reviewed the proposed wording of South Downs National Park Authority in its Deadline 4 Submission - Comments on any additional/information/submissions received by D3 (REP4-047) this proposed the following:</p> <p>Article 39(4) '(4) <i>The undertaker may for the purposes of carrying out the authorised development but subject to paragraph (2) remove any hedgerow described in Schedule 8 (removal of hedgerows), but not remove any hedgerow not described in Schedule 8.</i>'</p> <p>The Applicant considers the use of a double negative in statutory drafting to be unclear and would lead to issues of interpretation and comprehension.</p> <p>The proposal of the South Downs National Park Authority appears to be to ensure clarity that the Applicant is only able to remove a hedgerow if it is described in Schedule 8. The Applicant is of the view that the current drafting already operates to confirm this but is content to add additional drafting as below:</p> <p>Article 39(4) '(4) <i>The undertaker may for the purposes of carrying out the authorised development but subject to paragraph (2) remove any hedgerow provided that hedgerow is described in Schedule 8 (removal of hedgerows).</i>'</p>		
ExQ2	Question to:	Question
Q9.2.11	Part 6 Operations Article 39 - Felling and Lopping of trees	HCC's LIR [REP2-066] raises concerns in relation to this Article to the effect that it would require compensation for any highway trees that are removed pursuant to the authorised development and would seek appropriate terms in this Article. The Applicant's comments on HCC LIR [REP3-023] indicate that it does not consider that compensation in accordance with a CAVAT valuation is appropriate. This matter was discussed at ISH2. The Applicant's written summaries of oral case for

	<p>The Applicant, Hampshire County Council</p>	<p>ISH2 [REP4-035] confirms that the proposed disapplication of section 58 of New Roads and Street Works Act 1991 is required to be disapplied to allow the Applicant to go back onto the highway during the relevant maintenance period</p> <p>Hampshire County Council:</p> <p>Please indicate whether your objection to this article is maintained and provide and justify any alternative drafting amendments that are sought</p> <p>Applicant:</p> <p>Please provide an update in relation to your position in relation to this article and indicate whether it is agreed that the drafting should include provision for the payment of compensation</p>
<p>Applicant Response</p>		
<p>The Applicant has discussed the provision of compensation with Hampshire County Council who are content that given the minimal loss of Hampshire County Council highway trees, that compensation is not necessary. There are therefore no changes to the draft Development Consent Order (3.1, Rev 4) proposed.</p> <p>The Applicant notes an additional comment from the Examining Authority regarding the disapplication of <i>section 58 New Roads and Street Works Act 1991</i> which relates to Hampshire County Council's comments on Article 11 of the draft Development Consent Order (3.1, Rev 4). In relation to this, the Applicant notes that Hampshire County Council's comments at paragraph 10.7 of its Deadline 2 Submission - Local Impact Reports (LIR) from Local Authorities (REP2-066). The Applicant agrees that the purpose of article 13(3) is to ensure that the works executed under the Order are not subject to restrictions under section 58 and Schedule 3A by virtue of <i>58A of the New Roads and Street Works Act 1991</i>.</p>		

The Applicant considers that the ability for Hampshire County Council to place additional restrictions under schedule 3A on further works following completion of the Scheme is not restricted by the Order and therefore, the proposed wording by Hampshire County Council is not necessary.

ExQ2	Question to:	Question
Q9.2.12	SCHEDULE 2 – REQUIREMENTS Requirement 1 – Interpretation The Applicant	The SDNPA Comments on any additional/information/submissions received by Deadline 3 [REP4-047] indicates that the SDNPA would like to see a ‘definition’ or ‘interpretation’ that makes it explicit that any reference to ‘relevant planning authority’ within the draft DCO Requirements means the SDNPA and WCC, to avoid any future doubt or confusion. A similar request is made for the First Iteration Environmental Management Plan (fiEMP), where SDNPA would like to see an explicit reference/definition so as to avoid any doubt or confusion about who should be consulted/sent information etc. Please indicate whether this is agreed and that the draft DCO and fiEMP will be amended to reflect this. If not, please explain why?

Applicant Response

A ‘*relevant planning authority*’ is defined in the **draft Development Consent Order (3.1, Rev 4)** as being the local planning authority for the land in question. This means where certain requirements require consultation with a relevant planning authority, the undertaker is only required to consult with the local planning authority for the land in question. In the case of Requirement 8 for example, it would mean that where any contaminated material is found which requires a written scheme and programme for remedial measures to be written in consultation with the Environment Agency and the relevant planning authority, the undertaker is not required to consult with South Downs National Park Authority where that contamination is within the jurisdictional boundary of Winchester City Council, and likewise not required to consult with Winchester City Council where that contamination is within the South Downs National Park. The Applicant has amended its approach throughout the DCO requirements in this submission so regularise the approach to consultation with relevant planning authorities. Where previously, Winchester City Council or South Downs National Park Authority might have been specifically referenced, this has been replaced with “relevant planning authority”. This ensures that both Winchester City Council and South Downs National Park Authority are treated equally under the draft DCO and are not consulted on matters outside their jurisdictional boundary.

In the **first iteration Environmental Management Plan (fiEMP) (7.3, Rev 5)**, explicit reference to the respective local authorities is used where appropriate. A generalised definition which results in Winchester City Council and South Downs National Park Authority being included in the definition of “relevant planning authority” would not assist in the interpretation of the **first iteration Environmental Management Plan (fiEMP) (7.3, Rev 5)** and would potentially result in a requirement that the Applicant consult with South Downs National Park Authority on matters outside its jurisdiction and not relevant to its function.

The Applicant seeks further information for consideration and invites the South Downs National Park Authority to identify which specific entries within **Table 3.2** of the **first iteration Environmental Management Plan (fiEMP) (7.3, Rev 5)**, on which it wishes to be specifically consulted in accordance with its statutory responsibilities.

ExQ2	Question to:	Question
Q9.2.13	<p>Requirement 3 – Environmental Management Plan</p> <p>The Applicant, Winchester City Council</p>	<p>At ISH2 the matter of whether the hours of operation set out in Requirement 3(2)(b) are reasonable and necessary was discussed. WCC in its post hearing submissions [REP4-051] confirms that they are content with the working hours proposed. There a however a number of exceptions which would allow the applicant to construct outside of these hours. The SoCG between the Applicant and WCC [REP4-030] records that WCC seeks a greater understanding of the likelihood of exceptions and work required.</p> <p>Applicant:</p> <p>Please provide clarification on the likelihood and frequency of those exception events occurring and details as to what they would entail.</p> <p>WCC:</p> <p>Please indicate whether any drafting amendments to this requirement are sought to overcome your concerns in relation to the exceptions set out.</p>

Applicant Response

Following Issue Specific Hearing 2 (ISH2), the Applicant has engaged with Winchester City Council on the matter of working hours exceptions. Further detail has been provided to Winchester City Council but the likely activities which will be carried out outside of the core working hours are summarised below:

- Installation and removal of Temporary Traffic Management measures including minor works to facilitate the re-routing of traffic - to minimise disruption to the highway network users,
- Tying in of highway realignments
- Main structure works including:
 - Large plant / equipment deliveries to avoid peak hours;
 - Lifting of gantry and large signs onto concrete bases,
 - gyratory bridge precast element deliveries,
 - gyratory bridge installation and demolition including removal of demolished materials from site,
 - gyratory structures and M3 underpass structure extended concrete pours,
 - new subway installations and
 - River Itchen footbridge installation.

A number of these activities are already expected to take place in the planned extended weekend or overnight closures rather than in addition to these. **Table 2.4 of Chapter 2 (The Scheme and its surroundings) of the Environmental Statement (ES) (6.1, APP-043)** details the traffic diversions which will be in place for work undertaken outside of core hours and it includes the likely frequency and duration of the diversions which can be used to inform the likely occurrences of the works being undertaken. Wherever possible, works will be undertaken offline to remove the out of hours working requirements in scenarios where works would usually be undertaken out of hours to minimise traffic disruption.

There may also be circumstances where works would continue outside of core working hours to allow for efficiencies and engineering reasons. Examples of these would be to complete a concrete pour or to complete an excavation to a safe completion point.

ExQ2	Question to:	Question
Q9.2.14	Requirement 4 – Details of Consultation The Applicant	At ISH2 SDNPA sought an amendment in relation to Requirement 4(3) namely that the words <i>'taking into account considerations including, but not limited to, cost and engineering practicality'</i> should be deleted [REP4-047]. Please provide additional supporting reasons to justify the retention of these words and indicate why this emphasis is sought and why the words "appropriate, reasonable and feasible" would not provide sufficient safeguards for the Applicant's position?
Applicant Response		
<p>The wording proposed to be struck out by the South Downs National Park Authority does not change the interpretation of Requirement 4(3). The wording adds clarification that where there are cost and engineering constraints that make a consultation response inappropriate, unreasonable or unfeasible the undertaker can decide whether to reflect those responses in the details submitted to the Secretary of State. However, if the Applicant did not reflect those representations in the details submitted to the Secretary of State they remain obligated by Requirement 4(4) to explain why they are not reflected in the details to be approved.</p> <p>This Scheme is a highly engineered scheme in a constrained area. As a design led scheme it is therefore critical to the Applicant that this is able to continue into detailed design.</p> <p>This wording has been used in the following Development Consent Orders: A417 Missing Link, A47 Wansford to Sutton, A57 Link Roads, M54 to M6 Link Road.</p>		
ExQ2	Question to:	Question
Q9.2.15	Requirement 5 – Landscaping	including advance planting and the addition of Requirement 5(3)(g) to include fencing and walls etc [REP4-047]. (i) Please indicate whether these amendments are agreed and that the next revision of the draft DCO to be submitted at Deadline 5 will be amended to

	<p>The Applicant, South Downs National Park Authority</p>	<p>reflect this. If not, please provide additional supporting reasons to justify their absence or need as the case may be?</p> <p>(ii) Whilst Requirement 7 also relates to fencing can the purpose of the means of enclosure which that requirement is intended to address be distinguished from that which comprises an aspect of the landscaping scheme and, if so, does that necessarily involve different considerations and control such that the proposed amendment to Requirement 5(3)(a) can be justified?</p>
<p>Applicant Response</p>		
<p>(i) The Applicant notes that this question does not appear to be complete. However, has understood to be relating to the proposed amendments of South Downs National Park Authority to Requirement 5(3) of the draft Development Consent Order (3.1, Rev 4) as set out in Deadline 4 Submission - Comments on any additional/information/submissions received by D3 (REP4-047). This proposed the following:</p> <p>Requirement 5(3) (3) The landscaping scheme prepared under sub-paragraph (1) must include details of hard and soft landscaping works, including:</p> <ul style="list-style-type: none"> a. location, number, species, size, timing, and planting density of any proposed planting, including advanced planting; b. cultivation, importing of materials and other operations to ensure plant establishment; c. proposed finished ground levels; d. hard surfacing materials; e. details of existing trees to be retained, with measures for their protection during the construction period outlined within a Tree Protection Plan and Arboricultural Method Statement; and f. implementation and maintenance timetables for all landscaping works. g. landscaping works associated with any fences and walls <p>The Applicant has confirmed with SDNPA that the proposed wording in (a) is acceptable and therefore has updated the draft Development Consent Order (3.1, Rev 4) to reflect this.</p>		

(ii) The Applicant understands that the amendments proposed by (g) ensures that it reports on any changes in landscaping required to facilitate any fences and walls. These landscaping changes are to be developed following consultation with both Winchester City Council and South Downs National Park Authority. Requirement 7 provides explicit requirement for any means of enclosure including permanent and temporary fencing to be installed in accordance with the Manual of Contract Documents for Highway Works except where any departures from that manual are agreed with the Secretary of State. Requirement 7 therefore, is not a matter for consultation regarding design of the fence or means of enclosure but a requirement to ensure that the correct safety and regulatory standards are applied to any fencing. The Manual of Contract Documents for Highway Works provides for different types of fencing including for example timber post and rail. Therefore, the Applicant considers there not to be any overlap in these requirements and therefore the proposed amendment cannot be justified.

ExQ2	Question to:	Question
Q9.2.16	<p>Requirement 6 – Implementation and maintenance of landscaping</p> <p>The Applicant, South Downs National Park Authority</p>	<p>At ISH2, SDNPA sought an amendment in relation to Requirement 6(3) namely that it should include reference to ‘other elements planted as part of the landscaping scheme’ and provide for replacement within a 10 year period after planting rather than 5 years [REP4-047]. the Applicant written summaries of oral case for ISH2 [REP4-035] confirms that it would consider this point further and respond in writing by Deadline 5. If this amendment is not agreed by Deadline 5, please explain why and provide full and detailed reasons for your stance.</p>

Applicant Response

The Applicant considers that the extension of the time beyond the 5-year establishment period would create onerous conditions which would be difficult to monitor. Beyond the 5-year period, routine maintenance provisions would include pruning, thinning, and coppicing of proposed landscape elements to ensure success of the group. Provision of any period over a 5-year establishment period including the provision to replace every failed tree, shrub would therefore not be appropriate in a period where some removal would be anticipated.

In addition, the second iteration Environmental Management Plan (siEMP) would set out maintenance measures for the establishment period and indicative measures for the subsequent period which would include review and monitoring. In the event that the establishment of the proposed landscape elements is not in accordance with the required success criteria, measures will be required to rectify this and they will be documented.

Once the establishment period is complete, a third iteration Environmental Management Plan (tiEMP) will be developed including measures for addressing failures or other issues including the failure of chalk grassland to establish identified during the establishment period. This may include specific measures for replanting if required and appropriate, along with ongoing commitments to the establishment of any such planting, including chalk grassland. The tiEMP would also set out the longer-term management and maintenance of the proposed planting to be undertaken by National Highway or its appointed agent.

Specific reference can be given to chalk grassland in **Requirement 6** of the **draft Development Consent Order (3.1, Rev 4)** as requested by the South Downs National Park Authority.

ExQ2	Question to:	Question
Q9.2.18	Requirement 11(1) – Traffic Management The Applicant, South Downs National Park Authority	<p>The SDNPA Deadline 4 submission [REP4-047] refers to the Applicant's comments at ISH2, that the Traffic Management Plan (TMP) will include all the PRoW issues (and diversions), the PRoW Management Plan and the SDNPA request for a Construction Workers Travel Plan. SDNPA seeks amendment of draft DCO Requirement 11(1) to include the SDNPA also being consulted on the TMP.</p> <ul style="list-style-type: none"> (i) Please confirm that this amendment is agreed and will be actioned in the next revision of the Draft DCO to be submitted at Deadline 5. (ii) If not, please provide additional supporting reasons to respectively support the rejection of or need for these amendments.

Applicant Response

The Applicant is not aware of any reason for why the South Downs National Park require consultation on the issues surrounding public rights of way contained in a traffic management plan. Whilst the Applicant acknowledges that the South Downs National

Park Authority will be keen to ensure access to the South Downs National Park is maintained the nature of the measures in the Traffic Management Plan are for the relevant highway authority not the local planning authority.

Section 3.3 of the **Outline Traffic Management Plan (7.8, Rev 2)** has been updated to confirm that a Public Right of Way Management Plan is to be prepared during detailed design as part of the final Traffic Management Plan. Entry G8 of **Table 3.2** (Register of Environmental Actions and Commitments) of the **first iteration Environmental Management Plan (7.3, Rev 5)** states that the Traffic Management Plan is to be developed in accordance with the **Outline Traffic Management Plan (7.8, Rev 2)**. This will be subject to consultation with the relevant authorities and approval by the Secretary of State.

The nature of a Construction Workers Travel Plan, called a Green Travel Plan by the Applicant, being more linked to the landscape and visual impacts of the construction compound on the National Park is something that the Applicant is content to develop in consultation with the South Downs National Park Authority and therefore this has been added to Entry C15 of **Table 3.2 (Register of Environmental Actions and Commitments)** of the **first iteration Environmental Management Plan (7.3, Rev 5)** and will be included at **Appendix R** of the **second iteration Environmental Management Plan**.

ExQ2	Question to:	Question
Q9.2.19	<p>Requirement 12 – Detailed Design</p> <p>The Applicant, South Downs National Park Authority, Winchester City Council</p>	<p>The prospect of a ‘design code’ being agreed and potentially secured by a draft DCO requirement was discussed at ISH1 and also at ISH2. The Applicant’s written summaries of oral case for ISH2 [REP4-035] confirms that it is preparing a draft code of design principles which would be secured as part of Requirement 12 of the draft DCO and that this would be submitted at Deadline 5. The Applicant will look to share the document before then with local authorities but that failing this a form of the document would be submitted at Deadline 5</p> <p>(i) Please ensure that an update in relation to the progress of discussions between the parties on this topic including an explanation of the design principles included in the draft design code and any related draft amendments to Requirement 12.</p>

		(ii) If the document has been shared prior to Deadline 5, please provide any suggested drafting amendments to the Draft Design Code and/or Requirement considered to be necessary to secure such provision at Deadline 5.
Applicant Response		
<p>(i) A draft Design Principles Report (Document Reference 8.18) has been developed, and this has been shared with the South Downs National Park Authority, Hampshire County Council and Winchester City Council for comment (12 September 2023). This document has been submitted at Deadline 5. The development of the detailed design of the Scheme in accordance with the Design Principles Report (Document Reference 8.18) is secured in Requirement 12 of the draft Development Consent Order (3.1, Rev 4) and, if development consent is granted by the Secretary of State for Transport, it would be one of the documents to be certified pursuant to Article 47 and Schedule 11 of the draft Development Consent Order (3.1, Rev 4).</p> <p>(ii) Currently, no comments have been received and therefore amendments are not required at the time of writing. However, as comments are received, consideration will be given to these. An updated document will then be circulated as necessary and submitted at a future Deadline.</p>		
ExQ2	Question to:	Question
Q9.2.20	<p>Requirement 12 – Detailed Design</p> <p>The Applicant, Hampshire County Council</p>	<p>The HCC LIR at 10.25 [REP2-066] suggests an additional sub-paragraph to Requirement 12(2) to avoid negative impact on HCC's responsibility as local highway authority. HCC's post Hearing submissions [REP4-044] indicates that it is confident that this issue can be resolved with an update provided to the ExA at Deadline 5. The Applicant's written summaries of oral case for ISH2 [REP4-035] confirms that its position is unchanged from its Deadline 3 comments. If this matter is not agreed by Deadline 5, please provide further justification for the need for or rejection of this addition, including a consideration of the practical consequences for HCC of a failure to include it given its responsibilities for long term maintenance</p>

		for those parts of the authorised development that are on highway (other than trunk road or special road).
Applicant Response		
<p>Hampshire County Council have informed the Applicant that the draft side agreement addressed the issue raised by them. While the side agreement is not yet complete it is anticipated that it will be completed before the close of the examination. Therefore, the Applicant understands that the Requirement as currently drafted is agreed and no amendment to the draft Development Consent Order (3.1, Rev 4) is required.</p>		
ExQ2	Question to:	Question
Q9.2.21	<p>Requirement 13 – Surface Water Drainage</p> <p>The Applicant, Hampshire County Council</p>	<p>HCC LIR at 10.25 [REP2-066] expresses concern that the requirement as drafted does not provide sufficient clarity in terms of what constitute an acceptable level of detail for the surface water drainage system and seeks an amendment to the Requirement 13 (1) and (3) and new sub-paragraph (2). This matter was discussed at ISH2 and HCC post hearing submissions [REP4-044] indicate that HCC is confident that this issue can be resolved with an update provided to the ExA at Deadline 5. If this matter is not agreed by Deadline 5, please provide further justification for the need for these amendments or the reasons for opposing them, including consideration of the practical consequences for HCC of a failure to include them.</p>
Applicant Response		
<p>Hampshire County Council have informed the Applicant that the draft side agreement addressed the issue raised by them. While the side agreement is not yet complete it is anticipated that it will be completed before the close of examination. As proposed at Deadline 4 the Applicant has amended Paragraph (2) of Requirement 13 in the draft Development Consent Order (3.1, Rev 4) to include the word maintained. No other amendments to the Development Consent Order are required.</p>		
ExQ2	Question to:	Question

<p>Q9.2.22</p>	<p>Requirement 14(1) – Noise Mitigation</p> <p>The Applicant, Hampshire County Council</p>	<p>At ISH2 SDNPA [REP4-047] was critical of the drafting change submitted at Deadline 3 [REP3-005] and suggested that this could lead to confusion. The SDNPA proposes that if the overall reference to ‘relevant planning authority’ is not changed then Requirement 14(1) needs to be amended again to explicitly refer to the SDNPA as well as WCC.</p> <p>Applicant:</p> <p>Please confirm that this amendment is agreed and will be actioned in the next revision of the Draft DCO? If not please provide additional supporting reasons to support the rejection of the suggested amendment.</p> <p>SDNPA:</p> <p>The SoCG between the Applicant and WCC [REP4-030] sets out the proposed changes to accommodate the concerns as follows: <i>“14.—(1) No part of the authorised development is to commence until written details of proposed noise mitigation in respect of the use and operation of that part of the authorised development, including low noise surfacing, have been submitted to and approved in writing by the Secretary of State, following consultation with Winchester City Council, and if required, any additional relevant planning authority.”</i> Please provide any specific further drafting changes that you seek.</p>
<p>Applicant Response</p>		
<p>The Applicant is content to add South Downs National Park Authority as a consultee to Requirement 14 of the draft Development Consent Order (3.1, Rev 4).</p> <p>The Applicant has made the following amendment to requirement 14(1):</p>		

*'No part of the authorised development is to commence until written details of proposed noise mitigation in respect of the use and operation of that part of the authorised development, including low noise surfacing, have been submitted to and approved in writing by the Secretary of State, following consultation with **the relevant planning authority on matters related to their functions.**'*

This means that the local planning authority will be consulted in accordance with their functions. It is not appropriate or possible to extend the jurisdiction of the local planning authority. However, this wording ensures that both Winchester City Council and South Downs National Park Authority are treated equally.

ExQ2	Question to:	Question
Q9.2.24	<p>Additional Requirements</p> <p>The Applicant, South Downs National Park Authority</p>	<p>At ISH2 the prospect of an additional Requirement for the submission of a Phasing Plan as proposed by SDNPA in its LIR was discussed. The SDNPA's post hearing submission [REP4-047] states that this would help with the timing and understanding of when information will be provided for approval. For example, in the DCO, under Requirement 5 Landscaping, the current wording refers to 'written landscaping scheme for that part'. The Applicant's written summaries of oral case for ISH2 [REP4-035] confirms that its position is that it is not needed or necessary for this development which is not a phased development.</p> <p>Applicant:</p> <p>Please provide further reasoning to support the rejection of this suggested additional requirement and respond to the SDNPA point that there is a reference to 'part' within Requirement 5 which would entail the discharge of that particular requirement against a defined stage of the development and that greater clarity in relation to the timing of the development is required?</p> <p>SDNPA:</p>

		<p>Please provide further justification for seeking this requirement and indicate whether you are content in the light of the Applicant's post hearing note [REP4-035] referring to further information pertaining to construction phasing in paragraphs 2.8.8 to 2.8.10 of the ES Chapter 2 [APP-043].</p>
<p>Applicant Response</p>		
<p>The phasing plan requirement that has been suggested is not appropriate for this Scheme. This requirement is normally appropriate to circumstances where the authorised development is being built out in defined phases and stages, or where requirements may be discharged against a defined stage rather than against the authorised development as a whole. As there is no intention to discharge requirements against defined stages as the Scheme is being built out in a single continuous phase of development, the Applicant considers that there is no requirement for a phasing plan for the Scheme's construction.</p> <p>The method of allowing requirements to be discharged for 'part' of the authorised development is established practice. The following Development Consent Orders allowed for requirements to be discharged 'in part' without the need for a construction phasing plan:</p> <ul style="list-style-type: none"> ▪ A38 Derby Junctions Development Consent Order 2023 ▪ A417 (Missing Link) Development Consent Order 2022 ▪ A428 Black Cat to Caxton Gibbet Development Consent Order 2022 A57 Link Roads Development Consent Order 2022 ▪ A47/A11 Thickthorn Junction Development Consent Order 2022 ▪ M42 Junction 6 Development Consent Order 2020 ▪ A30 Chiverton to Carland Cross Development Consent Order 2020 <p>The approach is required by the Applicant to ensure that discharge of requirements, and therefore commencement of the Scheme, is not unnecessarily and unreasonably delayed as a whole should there be only a small part of the Scheme preventing the discharge of requirements.</p>		

An example might be where there is a small part of the Scheme requiring a far greater involvement to complete approval of a written scheme of archaeological investigation, but the rest of the Scheme could have a written scheme of archaeological investigation signed off sooner. In this case the Applicant could split the written scheme of investigation between those areas not requiring further work for approval and allow those parts which could be signed off to be approved and therefore allow for commencement in those parts. The remaining areas of the Scheme would not be able to commence until the Applicant can complete the written scheme of investigation for those parts, but this allows focus on those remaining parts over a longer period of time without holding back construction of the Scheme as a whole. Another example may be an ecological constraint in a particular area that delays progress, such as survey work. Retaining reference to a 'part' enables the scheme to progress in other areas whilst issues are resolved.

This flexibility allows the Applicant to continue to commence those parts of the authorised development which do not have any latent issues and silo those areas of the Scheme where further engagement is necessary to develop, consult, and obtain approval for relevant plans. It is a widely practiced method and the Applicant does not see there to be any detriment to the landscaping provision in this Scheme as a result of this.

ExQ2	Question to:	Question
Q9.2.25	<p>Additional Requirements</p> <p>The Applicant, Hampshire County Council</p>	<p>At ISH2, the draft requirement proposed by HCC LIR 10.11 [REP2-066] to secure the provision of a Local Highway Legal Agreement to govern the performance and transfer of maintenance responsibility of the Local Highway Works. HCC post hearing submissions [REP4-044] indicates that HCC is confident that this issue can be resolved with an update provided to the ExA at Deadline 5. The Applicant's written summaries of oral case for ISH2 [REP4-035] confirms that they were still in discussion with HCC as to the prospect and need of a separate legal agreement. If this matter is not agreed by Deadline 5, please ensure that the update provided sets out full and detailed justification either for the need for this addition to secure the provision of a Local Highway Legal Agreement or, in the case of the Applicant, its rejection.</p>

Applicant Response		
<p>Hampshire County Council have informed the Applicant that the draft side agreement addressed the issue raised by them. While the side agreement is not yet complete it is anticipated that it will be completed before the close of the examination. Therefore, the Applicant understand that no amendment to the draft Development Consent Order (3.1, Rev 4) is required.</p>		
ExQ2	Question to:	Question
Q9.2.26	<p>Schedule 10 – Protective provisions</p> <p>The Applicant</p>	<p>The progress of discussions between the Applicant and Statutory Undertakers was discussed at ISH2. Please provide an update on any current negotiations and agreements with individual IPs including the EA, Southern Gas Networks plc, and Southern Water.</p>
Applicant Response		
<p>The Applicant has provided an update on the progress of engagement with relevant statutory undertakers in Annex C - Schedule of Engagement with Statutory Undertakers (4.1.3, Rev 1) of the but in short negotiations are continuing with Southern Gas Networks plc and Southern Water.</p> <p>The Applicant is progressing the negotiation of protective provisions with the Environment Agency.</p> <p>It is hoped that the protective provisions will be at a sufficiently advanced stage that they will be able to be added to the draft Development Consent Order (3.1, Rev 4) at Deadline 6.</p>		
ExQ2	Question to:	Question
Q9.2.27	<p>Section 106 Planning Obligations and any Other Agreements</p>	<p>The prospect of s.106 Planning Obligations or other agreements to secure mitigation measures and other matters was discussed at ISH2. The SDNPA post hearing submission [REP4-047] lists a number of projects which they submit could go some way to further mitigate or ameliorate the harm that will arise from the Proposed Development. The Applicant's written summaries of oral case for ISH2</p>

	<p>The Applicant, Hampshire County Council, South Downs National Park Authority</p>	<p>[REP4-035] confirms its position that no s.106 obligation is required to secure payment for further contribution measures proposed by the SDNPA as it does not consider there is further harm which requires mitigation.</p> <p>SDNPA:</p> <p>Please set out in full your position in relation to any harm to the SDNP that would require mitigation. Please confirm that the provision of this funding would overcome your concerns in relation to any adverse impact upon the SDNP to the extent that your objection could be withdrawn? If not, for the avoidance of doubt, please list any other measures that would be required to enable you to achieve that position?</p> <p>HCC/Applicant:</p> <p>The HCC post hearing submissions [REP4-044] confirms that it has forwarded heads of terms in respect of the legal agreements and s.106 planning obligations that are being sought to the Applicant and that it is confident that this issue can be resolved. The Applicant's written summaries of oral case for ISH2 [REP4-035] confirms its position that no section 106 is required to secure payment for commuted sums for HCC taking possession of highway as this can be discussed in more detail in relevant side agreements. Please provide an update on this matter by Deadline 5. If this matter has not been resolved by then, please provide further justification either for the need for a s.106 obligation, or why such provision is not regarded as being necessary.</p>
<p>Applicant Response</p>		
<p>Hampshire County Council have informed the Applicant that the draft side agreement addressed the issue raised by them. While the side agreement is not yet complete it is anticipated that it will be completed before the close of the examination. Therefore, the Applicant understand that no s106 agreement is required.</p>		

2.10 Flood Risk, Groundwater and Surface Water

ExQ2	Question to:	Question
Q10.2.2	Historic Flooding The Applicant	In paragraph 5.2.5 of their LIR [REP2-083], WCC state that the Winchester City Council SFRA (Halcrow, 2007) identifies that there are historic flood records dating from 1997 to 2006 within the Winchester City Council local authority area and that flooding has occurred more recently in Winchester City Centre, with significant events in 2014 and 2020. Can the applicant explain why this has not been included in the assessment and if this data should be included. WCC state that they believe it is not satisfactory to say 'Date not Specified' and flooding should be evaluated to 2020 at least, and not stop at 2006.
Applicant Response		
<p>Flood risk from all sources has been considered and assessed in the Flood Risk Assessment (7.4, APP-157). Figure 3.5 within the Flood Risk Assessment (7.4, APP-157) maps all known historic flood events based on data provided by the Environment Agency (EA) which includes all flood events in Winchester City centre up to the year 2022. . This data supersedes the data referred to in the <i>Winchester City Council Strategic Flood Risk Assessment (SFRA) (Halcrow, 2007)</i>. It confirms that land within the Application Boundary has not been subject to Environment Agency recorded flood events. It is possible that the dates Winchester City Council are referring to are for events in the centre of Winchester. A review of the <i>Winchester Section 19 Investigation Report (dated June 2021)</i>, prepared by Hampshire County Council in their role as Lead Local Flood Authority (available on HCC website), confirms the location and source of flooding for events in 2014 and 2020 were located within Winchester City centre, at least 1km from the Application Boundary.</p> <p>As these historic events are outside the Application Boundary, they would not have been impacted by the Scheme particularly because the mitigations proposed by the Scheme will ensure there is no increase in surface water run-off from the Scheme (and therefore also fluvial flows in the receiving watercourses). There will be no detrimental or adverse impact to surface water flood risk as a result of the Scheme. The only reference to 'Date not specified' within Paragraph 13.6.62 of Chapter 13 (Road Drainage and the Water Environment) of the Environmental Statement (ES) (6.1, Rev 1). This relates to sewer flooding</p>		

on Wales Street, recorded in the Winchester City Council Strategic Flood Risk Assessment (SFRA) (Halcrow, 2007). This event has been included in the assessment, but the date is shown as 'Date not specified' in the SFRA.

ExQ2	Question to:	Question
Q10.2.3	Shoulder of Mutton Borehole The Applicant, Mrs Rosewell	In their cover letter at Deadline 4 [REP4-033], the applicant gave an update of further investigations and assessment of the groundwater borehole at the Shoulder of Mutton Farm and it is noted that the applicant has corresponded with the owners in this regarding. Please update the ExA if discussions with local residents are still ongoing or if the further information provided has now resolved the issues raised in written summary of oral submissions at Open Floor Hearing 1 [REP1-035] .
Applicant Response		
The Applicant provided a copy of the covering letter at Appendix A (Cover Note regarding Hydrogeological Risk Assessment Basin 5) in the Cover Letter Deadline 4 (8.12, REP4-033) to the interested party on the 14 August 2023 ahead of Deadline 4. The interested party confirmed via email on the 04 September 2023 that they had reviewed the covering letter and that they had no further comments.		

2.11 Historic Environment

ExQ2	Question to:	Question
Q11.2.5	Archaeological Archive The Applicant	The Applicant's written summary of oral submissions at ISH1 [REP4-034] confirms that in respect of funding for storage of archaeological finds, it would be content in principle to provide funding but that a s.106 agreement is not considered necessary. This is because the costs are directly attributable to the finds which are related to the significance attributed to them. The draft Development Consent Order (Rev 3) will be updated to include the agreed wording at Deadline 5. The agreed wording is at Requirement 9(6): 'On completion of the authorised development, suitable resources and provisions for long term storage of the

		archaeological archive will be agreed with the City Archaeologist.' Please explain how such drafting would commit the Applicant to providing the necessary funds in the future for the costs directly attributable to any finds given the absence of any reference to the extent or liability to provide any funding or the timeline for its provision or indeed a timeline for agreement with the City Archaeologist?
Applicant Response		
<p>The wording of Requirement 9(6) secures the agreement of suitable resources and provisions for long-term storage of the archaeological archive with the City Archaeologist, and, by inference, the timescales, process and costs associated with deposition of the archive. The wording has been agreed with the City Archaeologist as noted within the Statement of Common Ground with Winchester City Council (7.12.1, REP2-046). It allows for suitable and proportionate resources to be agreed once the size of the archaeological archive is known. Its inclusion as a DCO Requirement ensures that the Applicant will provide any necessary resources otherwise it is unlikely that the City Archaeologist will agree and the Applicant will be in breach of the Requirement which could lead to enforcement action being brought against them.</p>		

2.12 Landscape Impact and Visual Effects and Design

ExQ2	Question to:	Question
Q12.2.1	<p>Design</p> <p>The Applicant, Winchester City Council, South Downs National Park Authority</p>	<p>The ExQ 12.1.2 asked whether consideration had been given the production of a specific 'design code' or 'design approach document' which would establish the approach to delivering the detailed design specifications. This matter was also discussed at ISH1. The Applicant's written summary of oral submissions for ISH1 [REP4-034] confirms that it will summarise the design principles outlined in the Design and Access Statement [APP-162] into a specific document by Deadline 5. Please provide an update in relation the progress of this document and whether any specific design principles/objectives and the means whereby this could be secured through the draft DCO have been agreed between the parties?</p>

Applicant Response

A draft **Design Principles Report (Document Reference 8.18)** has been developed, and this has been shared with the South Downs National Park Authority, Hampshire County Council and Winchester City Council for comment (12 September 2023). This document has been submitted at Deadline 5 and as further comments are received, consideration will be given to these. If necessary, an updated document will be prepared and submitted to the Examination at a future deadline.

The development of the detailed design of the Scheme in accordance with the **Design Principles Report (Document Reference 8.18)** is secured in **Requirement 12** of the **draft Development Consent Order (3.1, Rev 4)** and, if development consent is granted by the Secretary of State for Transport, it would be one of the documents to be certified pursuant to Article 47 and **Schedule 11** of the **draft Development Consent Order (3.1, Rev 4)**.

ExQ2	Question to:	Question
Q12.2.2	Landscape Assessment The Applicant, South Downs National Park Authority	<p>The SDNPA Response to ExA Q12.1.22 [REP2-072] raises a fundamental concern in relation to the judgments within the LVIA and in particular the finding that landscape effects on the SDNP will no longer be significant at Year 15 of operation. Furthermore, the SDNPA is not content that the proposed mitigation measures will be sufficient to compensate for the harm to the SDNP and further measures are sought. This matter was discussed at ISH1.</p> <p>SDNPA:</p> <p>Please provide an update in the light of any additional information provided by the Applicant at Deadline 4, in relation to the SDNPA position as to the degree of permanent harm that would be caused setting out, for the avoidance of doubt, all elements that would contribute to that harm and the additional mitigation measures that are sought.</p>

		<p>Applicant:</p> <p>Please summarise your position in relation to the LVIA finding that landscape effects on the SDNP will no longer be significant at Year 15 of operation and indicate whether any of the additional mitigation measures sought by SDNPA are agreed? If not, please summarise why you do not consider them to be necessary.</p>
<p>Applicant Response</p>		
<p>The Applicant has fully considered comments from the South Downs National Park Authority in respect of the LVIA and has made amendments to the application to secure additional mitigation as requested.</p>		
<p>The Applicant has:</p>		
<ol style="list-style-type: none"> 1. Prepared the Design Principles Report (Document Reference 8.18) document drafted to capture the key principles, and to make a commitment that these will be maintained and developed in the future detailed design and delivery phases of the Scheme; and 2. Updated the first iteration Environmental Management (fiEMP) (7.3, Rev 5) to include two additional commitments (LV25 and LV26) within the Table 3.2 (Register of Environmental Actions and Commitments (REAC)) committing to deliver additional woodland planting on the eastern side of the M3 corridor to provide a minimum of 25m of vegetation on the proposed cut earthworks replacing chalk grassland on the lower slopes, and additional woodland planting replacing species-rich grassland located between the A33 and M3 northbound highway. 3. Committed to the establishment phase for chalk grassland being included within Requirement 6 of the draft Development Consent Order (3.1, Rev 4), as set out in the Applicants response to ExAQ2 9.2.16 above. 		
<p>The Applicant has not progressed the following proposals requested by the South Downs National Park:</p>		
<ul style="list-style-type: none"> ▪ Extension of the proposed area of chalk grassland to the east of the M3 corridor to include the full agricultural field. This has not been provided for the reasoning set out in Paragraph 6.14e within Section 4 of Applicant Comments on Local Impact Reports (8.9, REP3-023) submitted at Deadline 3. 		

- Removal of proposed woodland adjacent to drainage basin 5 at Easton Lane. This has not been actioned for the reasoning set out in **Paragraph 6.14d** within **Section 4** in **Applicant Comments on Local Impact Reports (8.9, REP3-023)** submitted at Deadline 3.
- Further realignment of the proposed Bridleway between Easton Lane and Long Walk. This has not been provided for the reasoning set out in **Paragraph 6.14g** within **Section 4** of **Applicant Comments on Local Impact Reports (8.9, REP3-023)** submitted at Deadline 3.
- Removal of the proposed swale and infiltration basin 6 (adjacent to the proposed Bridleway between Easton Lane and Long Walk). This has not been removed for the reasoning set out in **Paragraph 6.14d** within **Section 4** of **Applicant Comments on Local Impact Reports (8.9, REP3-023)** submitted at Deadline 3.
- Removal of chalk grassland on verges and increasing the extent of woodland planting. This has not been progressed due to the requirement and design standards for clearance distances from the carriageway, and the proposed below ground utilities and services requirements within the verges and forward visibility requirements.
- Additional environmental proposals along the proposed WCH route between Kings Worthy and Winnall. This has not been included for the reasoning set out in **Paragraph 6.14i** within **Section 4** of **Applicant Comments on Local Impact Reports (8.9, REP3-023)** submitted at Deadline 3.

The Applicant maintains the view that reported effects on the South Downs National Park remain as non-significant in the long term once the mitigation measures have successfully established. This judgement is given on the basis that the mitigation measures re-provide vegetation features lost during the construction period, and that the Scheme is no more perceptible in the landscape than the baseline condition which includes the existing highway network.

ExQ2	Question to:	Question
Q12.2.6	Construction Compounds The Applicant, South Downs National Park Authority	The Applicant's written summary of oral submissions for ISH1 [REP4-034] Appendix F provides cross-sections of the proposed construction compound. The sloping nature of the site is shown as varying between 53m and 60m AOD where the vehicles are parked. Appendix C – Construction Compound Position Paper Table 1: Construction operations and actions paragraph 141 states that: "The

		<p><i>location of the cabins in a low-lying area of land that will have minimum visual effect has been prioritised over locating areas not requiring a cut and fill area that might be more visible". In addition, paragraph 1.5.5 states that: "The location of the proposed cabins at the lower ground level to the north of the compound reduces the visibility of these temporary structures."</i></p> <ul style="list-style-type: none"> (i) Given the sloping nature of the site would the cabins, parking and storage areas be apparent from surrounding higher ground including to the north, and east. Please explain the extent and aspects of the construction site that you anticipate would be seen from within the SDNP and its setting and from Easton Lane. (ii) Please provide an AOD for the boundary of the proposed construction site nearest the M3 and confirm that the slope would only be altered to the limited extent shown and explain how this would be secured by the draft DCO. (iii) The Appendix C plan shows different areas being used for the compound cabins, vehicle parking and material storage. Whilst it is noted that the plan is marked as indicative, please explain how the different usages of parts of the site would be controlled and defined. (iv) Whilst the Applicant anticipates that the car parking and material storage would be lower in height than the cabins, given the SDNP location should all activities on the site be subject to height limits secured by the draft DCO including the heights of the compound cabins and the storage and the avoidance of double storey office units. (v) The Applicant [REP4-034] confirms that it would continue discussions with the SDNPA over the extent of further mitigation that could be required including whether providing limitations and/or parameters to the heights of buildings and storage of materials may resolve the SDNPA's concerns.
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		<p>Please provide an update in relation to such discussions and set out any consequent draft DCO amendments that are sought.</p>
<p>Applicant Response</p>		
<p>(i) Appendix E (Zone of Theoretical Visibility (ZTV) of construction compound) of Applicant written summaries of oral case for Issue Specific Hearing 1 (ISH1) (8.13, REP4-034) identifies the area of theoretical visibility of the proposed construction compound activities and facilities including those from within the South Downs National Park. When considering a digital surface model analysis which accounts for buildings and vegetation which restrict visibility, this identifies isolated areas of visibility extending into the mid distance (up to 1.5km) to the east of the M3 corridor from the South Downs National Park and from elevated landforms such as Magdalen Hill Down and from areas already anticipated to experience visibility of the Scheme. Broadly, visibility beyond Long Walk and from the wider areas of the South Downs National Park is restricted; visibility is experienced from Easton Lane (within the South Downs National Park) from its commencement at the M3 Junction 9 until the intersection with Long Walk to the north east. To the west of the M3 corridor there is very isolated theoretical visibility from the lower lying areas of the Itchen Valley within the South Downs National Park including from the recreational trail of the Itchen Way where there is visibility of the existing highway infrastructure. Generally visibility is restricted from the wider Itchen Valley which is part of the setting of the South Downs National Park, and from sections of the Itchen Way including north of the A34.</p> <p>Whilst the analysis undertaken does not distinguish between the activities being visible within the compound, it is those activities located on the higher elevation which would experience the greatest degree of visibility, including the proposed car parking and storage areas. It is anticipated that from the eastern side of the M3 corridor within the South Downs National Park and from Easton Lane and Long Walk, the areas with theoretical visibility of the compound would be more extensive and would include views of the proposed cabins, than from the west of the existing M3 (within the South Downs National Park and its setting), where views would be more restricted and limited to features on the elevated ground including the car parking and storage areas.</p> <p>However, these views will be experienced against the backdrop of an operational construction site where there will be significant earthworks being undertaken and vegetation clearance will have occurred.</p>		

- (ii) The nearest contour between the Compound Boundary adjacent to the M3 is 63.mAOD in existing form. It is noted that the site is not level and therefore the AOD does change across the area. From initial ground investigations the topsoil depth is approximately 0.25m. This would be removed and stored ready for reinstatement. Approximately 0.30m of capping / hardcore will then be placed on the ground to provide a stable surface. Therefore, the finished ground level in this location is unlikely to materially change. However, it may be necessary to remove additional soils or add more capping/hardcore depending on the results of detailed ground investigations.
- (iii) The compound will be very simply demarked to define the different material storage areas or subcontractor laydown areas. These areas and the requirements that are to be adhered to will be defined within subcontracts and will be enforced by regular maintenance and Health, Safety and Environmental Inspections. However, it is not appropriate to prescribe in the Development Consent Order how the construction compound will be laid out. It may be necessary to alter the layout once detailed ground investigations have been carried out. However, to the Applicant is proposing to set parameters on the height of static items within the construction compound (see below)
- (iv) The Applicant is proposing the addition of Requirement 15: Any static unit providing welfare or other facilities within the temporary construction site compound as part of Work No. 38 shall be a single storey unit and shall not exceed a height of 4 metres, the measurement of which shall be from the external base to external roof of the static unit but shall not include the depth of any foundation reasonably required to secure the structure or height of any aerial, mast, satellite dish, chimney stack, flue, pipe, solar panel [or other equipment] reasonably required to be affixed to the static unit.
- (v) To date SDNPA have been unable to confirm whether providing limitations and/or parameters to the heights of buildings and storage of materials may resolve the concerns of SDNPA. However, the Applicant would welcome their comments on the proposed Requirement above.

ExQ2	Question to:	Question
Q12.2.7	Construction Compounds	The Applicant's written summary of oral submissions for ISH1 [REP4-034] includes Appendix D - Indicative construction layout.

	<p>The Applicant, South Downs National Park Authority</p>	<p>(i) Please comment on the indicative construction layout, the anticipated visual impact, and the degree of cut and fill that is shown to enable siting of the cabins (0.36m).</p> <p>(ii) The septic tank is shown on the layout plan. Please explain how it would be ensured that this would not have any adverse implications for any nearby private water supply and boreholes.</p>
<p>Applicant Response</p>		
<p>(i) The indicative compound layout seeks to minimise temporary reprofiling of the existing topography by locating the cabins such that their long dimension is parallel to contours, thus enabling very minor cut and fill works local to the cabins only. 0.36m is an anticipated value based upon current topographical survey information. Please see response to ExQ2 Q12.2.6 for details of the anticipated visual impact.</p> <p>(ii) The Septic Tank will be manufactured under CE certification in compliance with Construction Product Regulations to safeguard the quality assurance of the tank manufacture against leakage defects. The tank is installed to the manufacturers details that require the tank to be encapsulated with concrete. Level alarms are installed to give warning should the tank need to be emptied in advance of the regular regime.</p>		
<p>ExQ2</p>	<p>Question to:</p>	<p>Question</p>
<p>Q12.2.9</p>	<p>Construction Compounds</p> <p>The Applicant, South Downs National Park Authority</p>	<p>The Applicant's written summary of oral submissions for ISH1 [REP4-034] Appendix C – Construction Compound Position Paper In relation to car parking at Table 1 indicates that 30 spaces would be used at a locally sourced rental area and that this represents a proportionate approach to reducing the impact on the SDNP. However, the scheme still seeks 360 parking spaces for the construction.</p> <p>(i) Please explain why all the parking spaces for visitors and workforce could not be off-site and a park and ride system operated for all visitors and workers.</p>

		(ii) Please comment on the extent of the area that the Applicant requires and the impact of that upon the SDNP.
Applicant Response		
<p>(i) See ExAQ 4.2.7 response – please note 360 car park spaces are not sought, it is 270 within South Downs National Park of which 90 are overflow within the Permanent Works Land Plots 6/6c and 7/1b. This means that 180 car parking spaces are required within the construction compound area during the construction of the Scheme with the provision for an addition 90 spaces during peak periods of the construction when additional staff will be on site.</p> <p>Chapter 3 (Assessment of Alternatives) of the Environmental Statement (ES) (6.1, Rev 1) assesses a number of alternative locations for the main construction compound and explains the reasons for discounting those not taken forward as part of the Proposed Development. The nature of the surrounding environment and construction compound requirements a limits the availability of suitable alternatives. Since statutory consultation the footprint of the compound within the South Downs National Park has been reduced to the minimum level required to facilitate the safe and effective construction of the Scheme.</p> <p>(ii) As the main construction compound will be immediately adjacent to the construction activities being undertaken to Junction 9 of the M3 and within the agricultural fields to the north of Easton Lane, it is considered that any visual effects will be experienced in combination with the wider construction activity . As set out in Appendix 7.3 (Schedule of Landscape Effects) of the ES (6.3, Rev 1) when considering effects on the designated landscape of the South Downs National Park, consideration has been given to effects upon the special qualities. These are summarised as:</p> <ul style="list-style-type: none"> ▪ Small-scale reversible use of arable farmland for construction compounds resulting in slight and short-term loss to the farmland; a recognised special quality. ▪ Very small-scale changes to the topography of the Downs resulting from topsoil strip and very localised works around the cabins within the construction compound. This would result in slight damage to the special qualities of breath-taking views and the diverse and inspirational landscape. 		

Short-term reversible decreases to tranquillity (a recognised special quality) within the immediate environs of the construction compound will occur due to increased noise levels and visibility of plant and machinery within the construction compound. However, this is experienced within an area identified by the South Downs National Park Authority as being the least tranquil due to the adjacency of the existing highway network, therefore this is considered a very small-scale change.

Given the context of the existing Junction at the boundary of the South Downs National Park, the construction of the proposed Scheme (including vegetation removal and earthwork operations), and the resulting effects anticipated on this designated landscape during this phase, it is considered that the construction compound at this location does not materially increase the effects on the South Downs National Park, over those resulting from the wider construction activity. The Applicant considers that if the construction compound was reduced further in size or relocated elsewhere the effects on the South Downs National Park would not reduce from that set out in **Appendix 7.3 (Schedule of Landscape Effects)** of the **ES (6.3, Rev 1)**.

ExQ2	Question to:	Question
Q12.2.10	Construction Compounds The Applicant	Notwithstanding the details and information already provided, please summarise your position in relation to whether the compound could be located outside the SDNP and the suitability of the alternatives locations for it proposed by the SDNPA.

Applicant Response

An assessment of alternative locations for the main construction compound is included within **Table 3.4 of Chapter 3 (Assessment of Alternatives)** of the **Environmental Statement (ES) (6.1, Rev 1)** and takes into account factors including the impact on the South Downs National Park, proximity to the construction site, and utility connections.

The Applicant understands that the only alternative location proposed by South Downs National Park Authority is that of 'Badger Farm'. This site was considered as part of an update to **Chapter 3 (Assessment of Alternatives)** of the **Environmental Statement (ES) (6.1, Rev 1)** post submission of the Application and is detailed in **Paragraphs 3.13.27 - 13.3.36**. This site was considered inappropriate for similar reasons the Christmas Hill site (Site B) was.

The Applicant has provided responses at **ExAQ2 4.2.2** and **4.2.7** (in particular part **(iii)**) which set out in detail the reasons for the location of the main construction compound being in the location proposed.

The Applicant considers that as there is an incontrovertible need for a base level of welfare facilities at this location, the addition of the other element of the construction compound (set out in **ExAQ2 4.2.7**) are not considered to result in any material increase in impact to the South Downs National Park; equally it is not considered that their removal will result in a material decrease of impacts. However, their removal would create impacts elsewhere as the space and activities are required for the delivery of the Scheme and would need to be relocated elsewhere. It would be detrimental to the delivery of the Scheme for them to be outside the location identified for the temporary main construction compound. Consequently the Applicant’s position remains that the temporary main construction compound cannot be located outside of the South Downs National Park.

2.13 Noise and Vibration

ExQ2	Question to:	Question
Q13.2.4	Low Noise Surfacing The Applicant	In response to ExQ Q13.1.3 [REP2-051] regarding low noise surfacing, the applicant’s reply stated that low noise surfacing would be introduced for all new area of carriageway but re-surfacing of existing roads would be like-for-like, with a change of road surfacing requiring a Departure from Standards application. Please provide clear and full details of which carriageways in the application boundary are currently low noise surfacing and which in the proposals will be low noise surfacing.
Applicant Response		
The Applicant’s response to ExAQ1 13.1.3 in Applicant’s responses to Written Questions (8.5, REP2-051) stated that: <i>‘The low noise road surfacing is proposed to be introduced where there are areas of new carriageway, which are indicated in the General Arrangement Plans (2.5, APP-009). These include sections of the M3, A34, A33 link road and slip roads where changes are proposed.’</i>		

The reference to like-for-like re-surfacing relates to maintenance policies to ensure that future resurfacing will include low-noise surfacing as an ongoing requirement.

For details of existing carriageways within the Application Boundary that currently have low noise surfacing, please see **Figure 1: Existing Roads with Low Noise Surfacing** within **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) Appendices (Appendix D ExA WQ2 13.2.4 – Figures) (Document reference 8.17.1)**, submitted at Deadline 5.

For details of new carriageway within the Application Boundary that will have low noise surfacing, please see **Figure 2: Areas of New Carriageway with Low Noise Surfacing** within **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) Appendices (Appendix D ExA WQ2 13.2.4 – Figures) (Document reference 8.17.1)**, submitted at Deadline 5.

ExQ2	Question to:	Question
Q13.2.5	Noise and Vibration Monitoring The Applicant, Winchester City Council	Following discussions at ISH2, please explain if and how construction and post construction noise and vibration monitoring will be undertaken, if there are remaining differences between the applicant and WCC regarding this, please explain what they are and the current position of each party.

Applicant Response

At Deadline 4, the Applicant submitted an Outline Noise and Vibration Management Plan **Appendix L of the first iteration Environmental Management Plan (fiEMP) (7.3, Rev 5)** which sets out how construction noise and vibration will be managed and monitored during construction of the Scheme.

Within the **Outline Noise and Vibration Management Plan Appendix L of the first iteration Environmental Management Plan (fiEMP) (7.3, Rev 5)**, monitoring is identified as a potential mitigation measure at the identified sensitive receptors, during periods when works identified as having a potential effect are anticipated to take place near to the property.

The noise and vibration monitoring strategy will be developed and detailed within the Noise and Vibration Management Plan, forming Appendix L of the second iteration Environmental Management Plan (siEMP). Construction noise monitoring locations and regularity will be agreed with the Winchester City Council Environmental Health Officer (EHO).

It is anticipated that the monitoring methods will include observational checks by the Principal Contractor’s Environmental Manager and the construction team. These are likely to be supplemented by physical measurements, subject to consultation and agreement with the Winchester City Council EHO.

If required, noise monitoring results will be recorded and made available to the relevant local authorities upon request. All noise monitoring records will be managed in accordance with the Control of Records requirements for the Scheme.

If monitoring is required as part of a Section 61 consent, the results will be compared against predictions in the Section 61 consent. Any readings that are significantly greater than predicted levels or noise levels stipulated in the Section 61 consent will trigger a review of the construction process and implementation of remedial action. The level will be reported to the relevant EHO as soon as reasonably practicable.

Post construction monitoring is not proposed as this is considered unreliable, as set out in **Paragraph 11.10.5 of Chapter 11 (Noise and Vibration) of the Environmental Statement (6.1, Rev 2)**.

Whilst noise and vibration mitigation is still ‘under discussion’ in **7.12.1 Statement of Common Ground with Winchester City Council (Rev 1)**, while Winchester City Council consider the Outline Noise and Vibration Management Plan (**Appendix L of the first iteration Environmental Management Plan (fiEMP) (7.3, Rev 5)**) which provides the information requested by Winchester City Council. However, the Applicant anticipates that noise and vibration mitigation matters will be agreed.

2.14 Policy and Need

ExQ2	Question to:	Question
Q14.2.3	Case for the Scheme	The ExQ 14.11.11 refers to the objective “ <i>To reduce delays at M3 Junction 9 on all links M3, A33 and A34</i> ”. The Applicant’s response [REP2-051] states that on the

	The Applicant	A33 approach (old A34 approach), where average queuing in the Do-Minimum 2047 forecast is over 0.8 kilometres, this predicted queue is removed with the introduction of the scheme. Residual delays with the scheme in place are predicted to reduce to less than 30 seconds in the morning and evening peak hours. However, Table 7-7 indicates that for the A33 (old A34) and the M3 northbound off-slip the AM delay would increase slightly. Please clarify and explain the position in relation to the anticipated reduction in delays and anticipated queue lengths with the scheme in place for all key areas currently congested.
Applicant Response		
<p>Table 7-7 of the Transport Assessment Report (7.13, Rev 1) shows a delay difference of 1 second (28 seconds in the Do Minimum versus 29 seconds in the Do Something) on the A33 (old A34) approach and a delay difference of 2 seconds (19 seconds in the Do Minimum versus 21 seconds in the Do Something) on the M3 northbound off-slip approach in the AM Peak. These small increases in delay are not considered significant, particularly in the context of much greater predicted reductions in delay on other M3 Junction 9 gyratory approaches in the AM peak:</p> <ul style="list-style-type: none"> ▪ average delay on the A272 approach is predicted to reduce from 100 seconds to 27 seconds ▪ average delay on the M3 southbound off-slip / A34 approach is predicted to reduce from 88 seconds to 11 seconds ▪ average delay on the Easton Lane approach is predicted to reduce from 165 seconds to 11 seconds <p>There are also predicted reductions in average and maximum queue lengths on all approaches in the PM peak, most notably on Easton Lane which corresponds with the greatest predicted decrease in delay.</p> <p>Table 7-8 of the Transport Assessment Report (7.13, Rev 1) shows that there are also predicted reductions in delays and queue lengths on all M3 Junction 9 gyratory approaches in the PM peak.</p>		
ExQ2	Question to:	Question
Q14.2.5	Case for the Scheme	The ExQ 14.1.12 sought further details of the anticipated wider economic benefits of £41.8 million and how this is expected to stimulate local development sites and

	The Applicant	<p>economic activity. The Applicant's response [REP2-051] explains that the Level 2 wider economic impacts were quantified based on the relevant Department for Transport, Transport Analysis Guidance (TAG) methods and application of the Department for Transport Wider Impacts in Transport Appraisal (WITA) software (version 2.2) released by of the Department for Transport. The anticipated wider economic benefits were discussed at ISH3.</p> <ul style="list-style-type: none"> (i) Please respond to the criticism made by IPs of the use and reliability of the TAG methods. (ii) For the avoidance of doubt, please confirm that the potential stimulus of local development sites and improved land values at the Winnall Industrial Estate with consequential densification of development and economic activity is not a factor that has been quantified or otherwise included as an aspect of the local economic benefits of the scheme
Applicant Response		
<ul style="list-style-type: none"> (i) Please refer to Section 3.1 (Winchester Friends of the Earth) within the Applicant Comments on Deadline 3 Submissions (8.16, REP4-037). The Applicant considers the application of the Transport Analysis Guidance (TAG) is appropriate, proportionate, and in accordance with National Policy Statement for National Networks (NPS NN) requirements. (ii) The Applicant confirms that the potential stimulus of local development sites and improved land values at the Winnall Industrial Estate has not been quantified in the economic appraisal. 		
ExQ2	Question to:	Question
Q14.2.7	NSPNN The Applicant	The ExQ 14.1.10 refers to the Case for the Scheme [APP-154] Table 3.2 in relation to the NPSNN strategic objective to provide ' <i>Networks which support the delivery of environmental goals and the move to a low carbon economy</i> '. The Errata sheet

		<p>to the Applicant response to written question 14.1.10 was provided at Deadline 4 [REP4-032]. This confirms that Design Manual for Roads and Bridges (DMRB) and the Institute of Environmental Management & Assessment (IEMA) guidance are both widely used to assess climate change in EIA. However, it is stated that for a road scheme, the UK-wide industry standard methodology to use for assessments are those set out within the DMRB.</p> <ul style="list-style-type: none"> (i) Please indicate whether there are any reasons other than the achievement of consistency in road schemes, that the DMRB LA 114 standard has been used in this case. (ii) Please comment on any differences in outcomes that would result from the alternative use of the Institute of Environmental Management & Assessment (IEMA) guidance in the light of the submissions of Dr Boswell on this topic. (iii) The response makes reference to the case of <i>Goesa Ltd, R (On the Application Of) v Eastleigh Borough Council [2022] EWHC 1221 (Admin) (23 May 2022)</i> in support of the principle that the use of national carbon budgets as a benchmark for the assessment of carbon emissions represents a lawful approach. In that case, the ExA notes that the Council utilised the IEMA guidance, and the subject matter was an airport runway extension. The court also found it to be noteworthy that the claimant did not suggest what alternative criterion would be compliant with the EIA Regulations to help the court assess its criticisms of the legality of the Council's approach. Please comment on the relevance of the findings of the court in that case given these differences in context and subject-matter. (iv) Please confirm that the Applicant's position in the light of the court cases referred to can be summarised as being that, as matter of principle, there is nothing unlawful in a decision-maker using benchmarks he considers to be appropriate, including national targets, in order to help arrive at a judgment on those issues unless such a decision could be regarded as being unreasonable in the <i>Wednesbury</i> sense.
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Applicant Response

- (i) The Design Manual for Roads and Bridges (DMRB) contains information about current design standards relating to the design, assessment and operation of motorway and all-purpose trunk roads in the United Kingdom. For road schemes in the UK this is the recognised industry standard methodology.
- (ii) Please see the response to **ExQ2 6.2.7**.
- (iii) In the case of R (on the application of Goesa Ltd) v Eastleigh Borough Council [2022] EWHC 1221 (Admin), Eastleigh Borough Council (EBC) followed the 'Environmental Impact Assessment Guide to: Assessing Greenhouse Gas Emissions and Evaluating their Significance' published by the Institute of Environmental Management and Assessment ('IEMA'). It was referenced in the judgment that IEMA (at 6.1) acknowledged that 'all projects create Green House Gas (GHG) emissions that contribute to climate change' and that in the absence of any "significant criteria or a defined threshold...all GHG might be considered to be significant'. The judgment confirmed, however, that there has been no guidance for assessing the acceptability of a contribution whether expressed as a percentage or target of national budgets or otherwise, the judgement of the acceptability of carbon emissions was a matter for the decision maker. Furthermore, this case held there is nothing unlawful about a decision maker using the benchmarks that they consider appropriate, citing UK national carbon budgets as an example. The case went on to conclude that comparing GHG emissions to a national target, and to consider the likelihood of that proposal harming the achievement of that target, however generalised and broad, is permissible under current law and policy stating that:

'there is simply no legal merit in the complaint that expressing project emissions as a percentage of a national budget or target does not enable a decision-maker to decide whether those emissions are compatible with achieving that benchmark or whether the emissions are affordable' (paragraph 116)

The Applicant confirms that recent court cases found nothing unlawful in a decision-maker using benchmarks he considers to be appropriate. For the Scheme, the national carbon budgets are considered to be appropriate benchmarks, as identified in existing Government policy i.e. NPS NN.

ExQ2	Question to:	Question
Q14.2.8	<p>NSPNN</p> <p>The Applicant, South Downs National Park Authority,</p>	<p>In relation to NPSNN paragraph 5.152 the Applicant's response to ExQ 12.1.20 [REP2-051] refers to the scheme's impacts on journey time reliability and economic benefits, both direct and indirect, as being integral to the overall package of permanent benefits, which also includes improvements to safety, and improvements to the environment as well as walking, cycling and horse-riding provision. The 'benefits' of the scheme were also discussed at ISH3. The Applicant's Written Summary of Oral Case for ISH3 [REP4-036] sets out the benefits of the scheme on which it relies.</p> <p>SDNPA:</p> <ul style="list-style-type: none"> (i) Please summarise your position in relation to the 'benefits' that should be taken into account in the NPSNN paragraph 152 balancing exercise in the event that it is considered to be applicable to this case including improvements to visual amenity and landscape character over the long term; wildlife and green infrastructure enhancements (ii) Please comment on the Applicant's post hearing note [REP4-036] in response to the five specific questions raised by the SDNPA at ISH3. <p>WCC:</p> <p>The SoCG between the Applicant and WCC [REP4-030] at 2.1 indicates that the WCC agrees that the five strategic objectives of the scheme including reducing delays at the Winchester junction, as well as the M3, A33 and A44, supporting economic growth and improving walking, cycle, and horse routes align with the City of Winchester Movement Strategy (2019) key priorities. The ExA notes the WCC's</p>

		outstanding concerns and potential conflicts with Local Plan policies in relation to climate change issues. Please clarify the position of WCC in relation to the acceptability of the principle of the scheme and whether it would be consistent with the overall aims of the Local Plan.
Applicant Response		
The question is addressed to the Applicant and South Downs National Park Authority, but the question appears to be asking for responses from South Downs National Park Authority and Winchester City Council so therefore the Applicant cannot respond.		
ExQ2	Question to:	Question
Q14.2.10	NPSNN The Applicant	In the NPSNN paragraph 5.147 states that for any undertaking that affects land in a National Park, the undertaker ' <i>...would need to comply with the respective duties in section 11A of the National Parks and Access to Countryside Act 1949</i> '. The NPSNN Accordance Table [REP2-040] does not confirm this is required. Please confirm that this requirement is accepted and if so update the accordance table accordingly.
Applicant Response		
The National Policy Statement for National Networks Accordance Table (7.2, Rev 3) has been updated to state the following in relation to paragraph 5.147 of the <i>National Policy Statement for National Networks (NPS NN)</i> :		
Section 11A(2) of the National Parks and Access to Countryside Act 1949 states that any relevant authority, defined in subsection (3) as any statutory undertaker (here as the Applicant, National Highways), in exercising or performing any of their functions so as to affect land in a National Park shall have regard to the purposes specified in subsection (1) of section five of the Act. The purposes in section five are:		

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- a) *of conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas specified in the next following subsection; and*
- b) *of promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public'*

Section 11A(2) of the Act continues that if it appears that there is a conflict between those purposes, the relevant authority shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.

The Applicant, in preparing the Scheme, has had due regard to both purposes of the National Park. Measures to conserve and enhance the natural beauty, wildlife, and cultural heritage in response to the unique special qualities of the South Downs National Park have been incorporated into the scheme design, in tandem with measures to promote opportunities for understanding and enjoyment of the National Park. See **Table 7.1 of the Case for the Scheme (7.1, Rev 1)**.

ExQ2	Question to:	Question
Q14.2.11	<p>NPSNN</p> <p>The Applicant, South Downs National Park Authority, Winchester City Council</p>	<p>The NPSNN paragraph 5.152 states that: "There is a strong presumption against any significant road widening or the building of new roads and strategic rail freight interchanges in a National Park, the Broads and Areas of Outstanding Natural Beauty, unless it can be shown there are compelling reasons for the new or enhanced capacity and with any benefits outweighing the costs very significantly". Whilst Applicant position is that the overall aim is to improve the existing M3 junction 9, it is acknowledged that this would involve the provision of areas of widening and new carriageway.</p> <p>(i) Having regard to the extent of the road widening proposed, the degree of incursion into the SDNP that would occur, and the recognition and protection given to National Parks by the NPSNN, please provide a summary of your position as to whether or not the scheme should be regarded as 'significant</p>

		<p>road widening' in the SDNP rather than an existing road junction improvement project.</p> <p>(ii) In the event that the scheme is considered by the SoS to fall within the category of 'significant road widening', please clarify and explain your position as to whether there are compelling reasons for the new or enhanced capacity and whether any benefits would outweigh the costs very significantly</p>
<p>Applicant Response</p>		
<p>The Applicant's position remains that the Scheme does not constitute 'significant road widening' or 'the building of new roads' in the National Park. This specific wording is contained within both Paragraphs 5.148 and 5.152 of the <i>National Policy Statement for National Networks (NPS NN)</i>.</p> <p>(i) Paragraph 2.23 of the <i>National Policy Statement for National Networks (NPS NN)</i> states:</p> <p><i>'The Government's wider policy is to bring forward improvements and enhancements to the existing Strategic Road Network to address the needs set out earlier. Enhancements to the existing national road network will include:</i></p> <ul style="list-style-type: none"> ▪ <i>junction improvements, new slip roads and upgraded technology to address congestion and improve performance and resilience at junctions, which are a major source of congestion;</i> <p>Paragraph 2.27 states:</p> <p><i>'In some cases, to meet the need set out in section 2.1 to 2.11, it will not be sufficient to simply expand capacity on the existing network. In those circumstances new road alignments and corresponding links, including alignments which cross a river or estuary, may be needed to support increased capacity and connectivity.'</i></p> <p>The road elements of the Scheme within the South Downs National Park include the new southbound links between the A34, the M3 and the Junction 9 gyratory, the A33 roundabout, and the M3 northbound on-slip and southbound off-slip. The</p>		

widening of the M3 carriageway to four lanes at the junction is local to the Junction and required in order to facilitate the free flow links to/from the A34/M3. This localised widening occurs outside the South Downs National Park.

The A34 links (Work No. 3 & 39) are captured within Paragraph 2.27 of the NPS NN as corresponding links. The M3 northbound on-slip (Work No. 8) and southbound off-slip (Work No. 11) are captured within Paragraph 2.23 of the NPS NN as new slip roads. The A33 junction and the realignment of the southbound carriageway (Work No. 1 & 7) is captured in Paragraph 2.27 of the NPS NN as including new alignments which cross a river, in this case the River Itchen where the alignment is modified, and new carriageway proposed to the A33 roundabout as the road alignment changes.

It is the Applicant's position that 'significant road widening' refers to the consistent widening of roads or the 'dualling' of an existing road for a considerably longer distance than the works proposed as part of the Scheme. As outlined in the preceding paragraph the works within the National Park are defined as new links, new alignments, new slip roads, and a new roundabout. For these reasons that they do not constitute 'significant road widening'.

- (ii) **Section 7.4** of the **Case for the Scheme (7.1, Rev 1)** considers Paragraph 5.152 of the National Policy Statement for National Networks (NPS NN) and outlines how the benefits of the Scheme outweigh the costs very significantly. The compelling reasons for the enhanced capacity are included within **Section 3** titled 'Need for the Scheme'.

As outlined in **Section 3.2** of the **Transport Assessment Report** there are existing issues with the flow of traffic between the M3 and A34, resulting in queues and delays at M3 Junction 9. Queues on the northbound diverge (off-slip) of the M3 regularly back onto the mainline carriageway, resulting in delays and safety concerns for both M3 northbound through traffic and traffic seeking to leave the motorway. Such issues are particularly prevalent during peak periods. There are further potential safety concerns on the A34 southbound due to significant queuing which also results in rat running traffic through the residential suburbs of Winchester. In addition, pedestrians or cyclists accessing the route north to King's Worthy have to cross the gyratory with no signalling for pedestrians or cyclists.

Paragraph 7.4.2 – 7.4.3 of the **Case for the Scheme (7.1, Rev 1)** details the costs of not developing the Scheme. considering the Do-Minimum ('without Scheme') in 2047 which shows there is an increase in journey times predicted between 2017 and 2047 on key routes. This includes model predicted delays above free-flow journey time at Junction 9 including:

- Delays to Easton Lane approach (from Winchester city centre) of 165 seconds in the AM peak and 90 seconds in the PM peak.
- The A34 approach to Junction 9 there was a predicted delay of 30 to 40 seconds in the AM and PM peaks with a predicted queue length of circa 870m in the PM peak
- Relative delays on the A34 southbound approaching Junction 9 of the M3 and the M3 Junction 9 northbound off-slip. For some sections of these, the predicted delay is almost 100% of total travel time

It also showed journey time increasing between the 2017 base and the 2047 Do-Minimum as follows:

- Easton Lane to the A33 had a predicted journey time increase of over 3 minutes (120% of total travel time) in the AM Peak and almost 1 minute (circa 33% of travel total time) in the PM peak
- Easton Lane to the A31 had a predicted increase in journey time of over 2 minutes (50% of total travel time) in the AM Peak
- The M3 south to the A34 had a predicted journey time increase of circa 2 minutes (20% of total travel time) in the PM Peak

As traffic is predicted to increase over time on the network and through M3 Junction 9 these issues are likely to become worse in the future including the number of collisions and safety issues, as well as potential further rat running traffic through Winchester.

In addition, without the Scheme there would still be existing issues with the gyratory for walkers and cyclists and there would be no improvements to the NCN 23 cycle route. The new bridleway to the eastern side of the Scheme and the new River Itchen Footbridge would also not be delivered.

Paragraphs 7.4.6 and 7.4.7 Case for the Scheme (7.1, Rev 1) detail the costs in environmental terms during construction and operation. A full list of the benefits of the Scheme are provided in response to **ExAQ2 7.2.2**. The Applicant's position remains that these benefits very significantly outweigh the limited costs of the Scheme and that the compelling reasons for enhanced capacity at M3 Junction 9 have been established.

ExQ2	Question to:	Question
Q14.2.12	<p>NPSNN</p> <p>The Applicant</p>	<p>In their response to the SDNPA LIR [REP3-023], the applicant stated, in relation to paragraph 5.148 of the NPSNN, <i>that '...while the Scheme does involve small areas of widening and new carriageway within the National Park it is not undertaking works of the nature anticipated by this policy'</i>. Please explain, referencing approved DCOs or case law as necessary, how the policy anticipates the application of significant road widening or building of new roads. In this same regard, the NPSNN Accordance Table [REP2-040] only references the widening of the main M3 carriageway and makes no reference to the widening of the junction or new slip roads. Please detail why it is felt that the NPSNN only relates to the M3 carriageway rather than the road or highway extent and also why it is felt that the new slip roads and A33 roundabout are not considered to be <i>'... the building of new roads...'</i> as defined in paragraph 5.148 of the NPSNN.</p>

Applicant Response

Paragraph 2.23 of the *National Policy Statement for National Networks (NPS NN)* states:

'The Government's wider policy is to bring forward improvements and enhancements to the existing Strategic Road Network to address the needs set out earlier. Enhancements to the existing national road network will include:

- *'junction improvements, new slip roads and upgraded technology to address congestion and improve performance and resilience at junctions, which are a major source of congestion;...'*

Paragraph 2.27 states:

'In some cases, to meet the need set out in section 2.1 to 2.11, it will not be sufficient to simply expand capacity on the existing network. In those circumstances new road alignments and corresponding links, including alignments which cross a river or estuary, may be needed to support increased capacity and connectivity.'

Paragraph 2.23 refers specifically to new slip roads within the context of junction improvements. Paragraph 2.27 refers to new road alignments and corresponding links. The Scheme would reflect the infrastructure referred to in Paragraphs 2.27 and 2.23.

Paragraph 5.148 refers to the 'building of new roads', with the implication of the meaning to be entirely new roads that create a new route from one place to another, falling under Section 22(1)(a) of the Planning Act 2008 for the 'construction' of a highway rather than an 'alteration' or 'improvement' falling under Section 22(1)(b) and (c) respectively. In this case the A33, A34, and M3 are all existing roads, and whilst there would be new alignments and new carriageways in the form of new links, new alignments, new slip roads, and a new roundabout, these would not constitute the 'building of new roads' where there was not previously a route.

With respect to Paragraph 5.148 and reference to 'significant road widening' and the NPS NN Accordance Table. Junctions and gyratories are understood to be distinct from the definition of new roads, and whilst the gyratory would change shape, the diameter of the new gyratory as measured on the axis north-south would be smaller than the existing by circa 55m. At present the distance between the gyratory bridges measured north-south is circa 150m, and as proposed it would be circa 95m. On the axis east-west the gyratory would be unchanged in width although it's geometry would change with the angle of the curve altered. There would be some local widening of circa 1m to the A272 spitfire link but this would be within the existing extent of the highway. The combined changes to the gyratory and A272 spitfire link would not constitute 'significant road widening'.

The limited widening of the M3 carriageway is within the highway extents and as outlined above the A33 roundabout and new slip roads are considered not to meet the definition of 'new roads' or 'significant road widening'.

ExQ2	Question to:	Question
Q14.2.14	NPSNN	The NPSNN para 5.153 states that: "Where consent is given in these areas, the Secretary of State should be satisfied that the applicant has ensured that the

	<p>The Applicant, South Downs National Park Authority, Winchester City Council, Hampshire County Council</p>	<p>project will be carried out to high environmental standards and where possible includes measures to enhance other aspects of the environment”.</p> <ul style="list-style-type: none"> (i) Please summarise your position as to whether the SoS could be satisfied that high environmental standards would be achieved and comment on the inclusion of measures to enhance other aspects of the environment. (ii) Please indicate whether there are any other measures to enhance other aspects of the environment that are still sought, or, in the case of the Applicant proposed, since the submission of the application.
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Applicant Response

- (i) **Section 7.5 of the Case for the Scheme (7.1, Rev 1)** sets out how the Scheme would achieve high environmental standards as well as measures to enhance other aspects of the environment. The Applicant’s position remains that the Secretary of State can be satisfied that high environmental standards would be achieved.

The Applicant recognises that the existing environment is of high quality, value and sensitivity. As well as being partially located in the South Downs National Park, the River Itchen Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) are located partially within the Application Boundary. A number of other designations sites are located within the vicinity of the Application Boundary.

The Scheme incorporates a range of design features and environmental mitigation that have been developed to reduce adverse environmental effects, as outlined in **Chapters 5 to 14 of the Environmental Statement (ES) (6.1, APP-042 – APP- 077)** and defined on **Figure 2.3 in Chapter 2 (The Scheme and its Surroundings – Figures (Part 2 of 4)) of the ES (6.2, Rev 1)** which incorporates sensitive landscape planting and new habitats. A **first iteration Environmental Management Plan (fiEMP) (7.3, Rev 5)** has been developed, which includes all Scheme-specific mitigation measures and commitments identified through the assessment process to control, reduce and minimise environmental effects. The mitigation, measures and commitments are outlined within a Register of Environmental Actions and Commitments (REAC) within the **first iteration Environmental Management Plan (fiEMP) (7.3, Rev 5)**. Prior to the commencement of

construction, the Environmental Management Plan would be refined by the Principal Contractor, in line with Design Manual for Roads and Bridges (DMRB) LA 120 Environmental management plans (Highways England, 2020).

The Scheme design has responded to the environmental constraints presented by statutory and non-statutory designations and receptors. Assessment of these is detailed within the **Environmental Statement (ES) (6.1-6.3, APP-042 – APP-153)**, and these have contributed to the design narrative as set out in Chapter 5 of the **Design and Access Statement (7.9, APP-162)**. Furthermore, a set of **Design Principles Report (Document Reference 8.16)** are to be secured as part of the **draft Development Consent Order (3.1, Rev 4)** which include measures to ensure high quality design and an appropriate response to the local context.

It is considered that the information above, together with the detailed information contained in other application documents, such as the **Environmental Statement (6.1-6.3, APP-042 – APP-153)**, the **first iteration Environmental Management Plan (fiEMP) (7.3, Rev 5)** and the **Design and Access Statement (7.9, APP-162)**, all demonstrate that the Scheme would be carried out to high environmental standards.

- (ii) The updated **first iteration Environmental Management Plan (fiEMP) (7.3, Rev 5)** submitted at Deadline 5, includes new commitments **LV25** and **LV26** (within **Table 3.2 (Register of Environmental Actions and Commitments)**) to provide additional visual screening features by providing additional areas of woodland planting and increasing the woodland and scrubland belt within specific plots. A further new entry, **C14** commits to quarterly reporting of greenhouse gas emissions during construction and operation. As outlined from **Paragraphs 7.5.11** onwards of the **Case for the Scheme (7.1, Rev 1)** there are a number of measures included within the Scheme to enhance other aspects of the environment. They can be summarised as follows.

Ecological and biodiversity enhancements through habitat creation and wildlife fencing, including the creation of priority chalk grassland habitat within the South Downs National Park. New areas of woodland and scrub towards the north of the Scheme, mostly located adjacent to existing habitats, would enhance connectivity for bats and dormice and other wildlife. The Scheme would positively contribute to the special qualities of the South Downs National Park, by providing for a rich variety of wildlife and habitats including rare and internationally important species.

The landscape strategy aims to reinforce and enhance (where appropriate) existing defined key characteristics of the receiving South Downs National Park landscape and its setting with reference to the defined Landscape Character Areas (LCA) (LCA G5: Itchen Valley Sides and LCA A5: East Winchester Downs, and LCA F5: Itchen Floodplain. The creation of new scrub / woodland on the slopes of the proposed highway embankment / cutting slopes aids visual screening of the Scheme.

The Scheme would provide a betterment on the existing road drainage system and improve the quality of water discharged into the River Itchen, and increased accessibility via the new walking, cycling and horse-riding routes. The provision of new routes increases opportunities for recreational experiences with access from Winchester to the South Downs National Park, whilst the design of these routes provides for an improved user experience.

ExQ2	Question to:	Question
Q14.2.15	English National Parks and the Broads UK Government Vision and Circular 2010 The Applicant	English National Parks and the Broads UK Government Vision and Circular 2010 paragraph 85 states that ' <i>...Any investment in trunk roads should be directed to developing routes for long distance traffic which avoid the Parks</i> '. Please explain if this was considered during the options appraisal process as a factor for assessment.

Applicant Response

As outlined in response to **Q12.1.5 in Applicant responses to Written Questions (8.5, REP2-051)** it is the Applicant's position that the policy requirement to comply with the English National Parks and the Broads UK Government Vision and Circular 2010 ('the Circular'), as triggered by paragraph 5.148 of the *National Policy Statement for National Networks (NPS NN)*, does not apply. Nevertheless, a response is provided to the question below.

Paragraph 85 of the Circular sits under the sub-heading of '*Promote sustainable transport, including navigation*' and this heading relates to paragraphs 83 – 93. Paragraph 83 relates to local transport plans and how they relate to Park Management Plans. Paragraph 84 relates in the main to consultation and advises that Schemes above 5 million GBP require Central

Government approval. The first sentence to Paragraph 85 states ‘*Improvements of main routes through the Parks are governed largely by considerations outside those relating to the Park area itself.*’

The performance of M3 Junction 9 has implications on long distance journeys from both the Solent to the Midlands and also from the Solent to the M25 London (and vice versa). Addressing congestion and reducing delays at M3 Junction 9 is a key objective of the Scheme and in recognition of the strategic significance of these routes. Paragraph 86 of the Circular states ‘*In exceptional cases where new road capacity were deemed necessary, a thorough assessment would be needed on the loss in environmental value resulting from any new infrastructure.*’

As stated in the **Applicant’s Comments on Deadline 3 Submissions (8.16, REP4-037)** in response to comments from South Downs National Park Authority. In this case the existing M3 and Junction 9 is located both within and in the setting of the National Park. In order to provide the necessary improvements at Junction 9 it is unavoidable that there will be impacts on the National Park. The need to carry out the development in this specific location is what enables the scheme to meet the exceptional circumstances required (in reference to paragraph 5.151 of the NPS NN).

The options appraisal focused on assessing reasonable alternatives (consistent with the relevant case law and policies – see **Appendix A (Further information regarding alternatives) of Applicant summary of oral submission for Issue Specific Hearing 3 (ISH3) (8.15, REP4-036)**). The extent to which there are alternative routes, including new roads, that would avoid the South Downs National Park (or its setting) in its entirety, that are appropriate for investment, and that would address the issues identified with traffic travelling from Southampton to the Midlands and London M25 via the M3 an A34 (and vice versa), was not considered as a reasonable alternative to the Scheme, and was therefore not a factor in the options appraisal.

ExQ2	Question to:	Question
Q14.2.16	Duties on relevant authorities to have regard to the purposes of National Parks, Areas of Outstanding Natural	The DEFRA Guidance Note ‘Duties on relevant authorities to have regard to the purposes of National Parks, Areas of Outstanding Natural Beauty (AONBs) and the Norfolk and Suffolk Broads’ states that: “ <i>National Park purposes are to conserve and enhance their natural beauty, wildlife and cultural heritage, and to promote opportunities for the understanding and enjoyment of their special qualities by the public.</i> ” There is a statutory duty for relevant authorities to have regard to their purposes: “ <i>in exercising or performing any functions in relation to,</i>

	<p>Beauty (AONBs) and the Norfolk and Suffolk Broads</p> <p>The Applicant</p>	<p><i>or so as to affect land</i>” in these areas. Please explain how SoS can be satisfied that the grant of consent for the scheme would be consistent with the duty imposed in relation to the purposes of the SDNP to “<i>conserve and enhance</i>” various matters.</p>
<p>Applicant Response</p>		
<p>Measures to conserve and enhance the natural beauty, wildlife, and cultural heritage in response to the unique special qualities of the South Downs National Park have been incorporated into the Scheme, in tandem with measures to promote opportunities for understanding and enjoyment of the National Park. The Scheme has had due regard to the purposes of the National Park for the reasons outlined below, and on this basis the Secretary of State can be satisfied that the granting of consent is consistent with their statutory duties.</p> <p>An Environmental Impact Assessment (EIA) has been carried out for the Scheme which is reported in the Environmental Statement (6.1-6.3, APP-042 – APP-153). This identifies the likely effects of the Scheme on the environment and sets out mitigation and enhancement measures proposed within the Scheme to moderate any detrimental effect. The assessment identifies that the majority of significant adverse effects occur on a short-term basis during construction only, with the exception of geology and soils which cannot be mitigated as the Scheme requires permanent land-take; and landscape and visual effects, which will occur in the short to medium term. By Year 15 of the Scheme’s operation, the significant adverse noise and vibration and landscape and visual effects would be removed entirely.</p> <p>Natural Beauty</p> <p>With the respect to natural beauty and landscape specific actions taken to actively avoid or moderate any detrimental effects and conserve the National Park include: removing the need for soil deposition areas; minimising the compound footprint; earthwork design modifications specifically to avoid alien and engineered features within the South Downs National Park; and using earthworks to provide screening of the Scheme, whilst minimising disruption of wider views to Winchester and the South Downs National Park. In addition, specific design considerations have been taken into account in the Development Consent Order application which through reduction in impact on the South Downs National Park support its statutory purpose of conserving. These include: minimising the physical footprint of the Scheme, including not taking additional agricultural land permanently; retaining as much vegetation as practicable; avoiding adversely affecting the River Itchen, including placing</p>		

bridge piers outside the water course; minimising the elevation of the Scheme; reducing the vertical height of overpasses and link roads; and designing and placing lighting columns, overhead gantries and other roadside elements to reduce visual intrusion. The landscape strategy aims to reinforce and enhance (where appropriate) existing defined key characteristics of the South Downs National Park landscape and its setting with reference to the defined Landscape Character Areas (LCA) (LCA G5: Itchen Valley Sides and LCA A5: East Winchester Downs, and LCA F5: Itchen Floodplain). The creation of new scrub / woodland on the slopes of the proposed highway embankment / cutting slopes aids visual screening of the Scheme.

Wildlife

Wildlife enhancements include habitat creation and wildlife fencing, with the creation of priority chalk grassland habitat within the South Downs National Park. New areas of woodland and scrub towards the north of the Scheme, mostly located adjacent to existing habitats, would enhance connectivity for bats and dormice and other wildlife. The Scheme would positively contribute to the special qualities of the South Downs National Park, by providing for a rich variety of wildlife and habitats including rare and internationally important species.

Cultural Heritage

The design respects the setting of historical assets whilst reinforcing relationships with heritage where achievable. This includes provision of views to Winchester from the newly created chalk grassland downland slopes within the South Downs National Park. The operation of the Scheme would not impact upon any archaeological remains which would have been sufficiently investigated (mitigated) during construction. There would not be any significant impacts upon the setting of any built heritage receptors or historic park and gardens during the operation, and as such the Scheme would conserve cultural heritage, and in some instances enhance through improved views to Winchester.

Promote opportunities for the understanding and enjoyment of their special qualities by the public

The walking, cycling and horse-riding facilities around and within the Scheme will be retained and upgraded. This includes the NCN Route 23, with a widened 4m underpass and 3m route either side of the M3 Junction 9 gyratory. A new minimum 3m wide (increasing to 4m) shared path (an unsegregated combined footpath, cycle track and footway) for the western side of the Scheme is proposed to link the A33 / B3047 Junction to Tesco situated on Easton Lane. An additional 3m wide bridleway is

proposed on the eastern side of the Scheme to link Easton Lane with Long Walk for walkers, cyclists and horse-riders. The provision of new routes increases opportunities for recreational experiences with access from Winchester to the South Downs National Park, whilst the design of these routes provides for an improved user experience.

ExQ2	Question to:	Question
Q14.2.17	Local Policy The Applicant, South Downs National Park Authority	The consistency of the scheme with Local Plan and other policies was discussed at ISH3. The Applicant's Written Summary of Oral Case for ISH3 [REP4-036] refers to Table 7.1 Design Response to the Special Qualities of the South Downs National Park in the Case for the Scheme [APP-154]. Please clarify whether all matters set out in that table are regarded as both conserving and enhancing the special qualities of the National Park and that they are agreed

Applicant Response

The special qualities of the South Downs National Park are informed by a broad range of environmental, social, and historical aspects and draw directly from the unique characteristics of the physical landscape. The Scheme, once constructed, will conserve and enhance these special qualities in different ways; balancing a number of different priorities to ensure opportunities for enhancement are maximised where appropriate, and that mitigation is proposed where necessary, in order to conserve the special qualities.

Table 7.1 (Design Response to the Special Qualities of the South Downs National Park) in the **Case for the Scheme (7.1, Rev 1)** is copied out in italics below with further comment with respect to the different elements of the Scheme that conserve and enhance each special quality.

Criteria: Diverse, inspirational landscapes and breathtaking views

Summary of Design Response:

'The design proposals minimise visibility of the highway (due to position at a low elevation), and proposals for topography and earthworks remodelling on the eastern side of the M3 the Scheme reinforce the existing characteristic of the open downland

landscape. This together with woodland planting adjacent to the highway and within the Itchen valley promotes views away from the highway to the surrounding South Downs National Park, and Winchester townscape skyline.'

The Scheme would conserve the landscape and views with the provision of new planting, which by year 15 minimises the adverse effects of the Scheme's operation with respect to landscape and visual effects. Furthermore, new and improved views of Winchester townscape would be visible from areas within the Scheme which would enhance this aspect of the special quality.

Criteria: A rich variety of wildlife and habitats including rare and internationally important species – conserve and enhance

Summary of Design Response:

'Minimising land take within the South Downs National Park, and minimising impacts upon the designated SAC and SSSI sites, through considered surface water drainage attenuation features. Maximising areas for the creation of chalk grassland on the open downlands, with a combination of species rich grassland with chalk grassland characteristics and woodland / scrubland within the Itchen Valley to reinforce the characteristics of this landscape and support ecological connectivity. The Scheme proposals achieve a positive biodiversity net gain which will support the variety of wildlife and habitats within the South Downs National Park.'

Measures including achieving a biodiversity net gain and provision of appropriate chalk grassland would conserve the existing characteristics of the landscape. Wildlife enhancements include habitat creation and connectivity, with the creation of priority chalk grassland habitat within the South Downs National Park a landscape scale enhancement. New areas of woodland and scrub located to the north of the Scheme, mostly located adjacent to existing habitats, would enhance connectivity for bats and dormice and other wildlife. Overall the Scheme would positively contribute to this special quality by providing for a rich variety of wildlife and habitats including rare and internationally important species.

Criteria: Tranquil and unspoilt places

Summary of Design Response:

'Maximising retention of trees and vegetation along the Itchen Valley (where tranquillity is most defined in the Application Boundary) and improving the perception of this characteristic through the landform remodelling on the eastern side of the Scheme adjacent to and within the South Downs National Park to provide screening of the highway. Minimising new lighting, this is used only when required for safety'

The existing baseline comprises the M3 corridor which is a visible and audible feature on the western edge of the South Downs National Park. The South Downs Landscape Character Assessment (SDLCA) acknowledges that its overall tranquil quality is disrupted in places by the audible 'hum' of traffic, and that tranquillity is not a key quality of the landscape within the Application Boundary although areas within the Itchen Valley (located within the Application Boundary) do have heightened levels of this quality.

Chapter 7 (Landscape and Visual) of the Environmental Statement (ES) (6.1, Rev 1) acknowledges that within the immediate environs of the Scheme an adverse effect on tranquillity will be experienced during construction and at year 1 following its opening. At year 1 it is acknowledged there will only be negligible change for the South Downs National Park, and that within localised areas some locations would experience a reduction in traffic noise from the baseline condition as a result of proposed landform modifications. Following establishment of landscape planting which will be delivered as part of the mitigation package, no adverse effects on tranquillity are predicted to remain by year 15, and the special quality will be conserved.

The Applicant considers that, following establishment of the proposed landscape planting (both woodland as screening feature, and chalk grassland as a natural feature supporting biodiversity), as well as the modifications to landforms, the eastern part of the South Downs National Park will experience beneficial effects through reduced visibility of man-made features, some reduction in audibility, and the enhanced experience of new natural features provided within the South Downs National Park.

Criteria: An environment shaped by centuries of farming and embracing new enterprise

Summary of Design Response:

'Minimising impacts on the most versatile farmland through a reduction in the Application Boundary, and furthermore through returning temporary acquired agricultural land once the Scheme is operational.'

The design proposals reflect requirements between balancing land take within the South Downs National Park, the impacts on the Best and Most Versatile agricultural land and providing proportionate mitigation. The Applicant's position is that further acquisition of farmland for chalk grassland enhancement measures would not be a justifiable use of powers of compulsory acquisition. The Scheme has sought to balance impacts on agricultural land and has sought to minimise the physical footprint of the Scheme, including not taking additional agricultural land permanently. The Scheme would conserve most versatile farmland by minimising the impacts.

Criteria: 'Great opportunities for recreational activities and learning experience'

Summary of Design Response:

'The walking, cycling and horse-riding facilities around and within the Scheme will be retained and upgraded. This includes:

- *NCN Route 23, with a widened 4m underpass and 3m route either side of the M3 Junction 9 gyratory.*
- *A new minimum 3m wide (increasing to 4m) shared path (an unsegregated combined footpath, cycle track and footway) for the western side of the Scheme is proposed to link the A33 / B3047 Junction to Tesco situated on Easton Lane.*
- *An additional 3m wide bridleway is proposed on the eastern side of the Scheme to link Easton Lane with Long Walk for walkers, cyclists and horse-riders.'*

The provision of new routes increases opportunities for recreational experiences with access from Winchester to the South Downs National Park, whilst the design of these routes provides for an improved user experience.

As outlined in **Appendix 12.1 Schedule of Population and Human Health Effects of Chapter 12 (Population and Human Health)** of the **ES (6.3, Rev 1)** the Scheme would – during operation - conserve existing public rights of way within the 5km study area and provide an enhanced experience for important routes including the NCN Route 23 and the combined footpath, cycle track, and footway to King’s Worthy. A new bridleway to the eastern side of the Scheme and new wayfinding signage would also enhance access and opportunities for recreational enjoyment of the National Park. The Scheme would both conserve and enhance, opportunities for recreational activities and learning of the South Downs National Park.

Criteria: Well-conserved historical features and a rich cultural heritage – conserve

Summary of Design Response:

‘The design respects the setting of historical assets whilst reinforcing relationships with heritage where achievable. This includes provision of views to Winchester from the newly created chalk grassland downland slopes within the South Downs National Park.’

The Scheme respects the setting of historical assets whilst reinforcing relationships with heritage where achievable. This includes provision of views to Winchester from the newly created chalk grassland downland slopes within the South Downs National Park. The operation of the Scheme would not impact upon any archaeological remains which would have been sufficiently investigated (mitigated) during construction. There would not be any significant impacts upon the setting of any built heritage receptors or historic park and gardens during the operation, and as such the Scheme would conserve cultural heritage, and in some instances enhance through improved views to Winchester.

ExQ2	Question to:	Question
Q14.2.18	Local Policy The Applicant	The ExQ 14.1.12 sought further details of the anticipated wider economic benefits of £41.8 million and how this is expected to stimulate local development sites and economic activity. The Applicant’s response [REP2-051] explains that the Level 2 wider economic impacts were quantified based on the relevant Department for Transport, Transport Analysis Guidance (TAG) methods and application of the Department for Transport Wider Impacts in Transport Appraisal (WITA) software

		<p>(version 2.2) released by of the Department for Transport. The anticipated wider economic benefits were discussed at ISH3.</p> <ul style="list-style-type: none"> (i) Please respond to the criticism made by IPs of the use and reliability of the TAG methods. (ii) For the avoidance of doubt, please confirm that the potential stimulus of local development sites and improved land values at the Winnall Industrial Estate with consequential densification of development and economic activity is not a factor that has been quantified or otherwise included as an aspect of the local economic benefits of the scheme
Applicant Response		
This question is a duplication of ExAQ2 14.2.5 . Please refer to the Applicant's response ExAQ2 14.2.5 .		
ExQ2	Question to:	Question
Q14.2.20	<p>Climate</p> <p>The Applicant</p>	<p>The Climate Emergency Planning and Policy Post Hearing submissions [REP4-042] at Appendix A [REP4-040] includes the report from the Transport Select Committee on "Strategic Road Investment" (Published 27 July 2023).</p> <ul style="list-style-type: none"> (i) In relation to what is stated at paragraph 15 of the submissions, please comment on the significance for this application of the Transport Select Committee report stating that accommodating demand for new roads in the context of increasing forecasts of traffic on the SRN is a risky strategy. (ii) Please comment on whether the M3 Junction 9 scheme is one of the projects that would generate the demand and that this is an issue which the SoS must consider in the decision making.
Applicant Response		

(i) The Transport Select Committee Report paragraph 19 refers to a 'risk strategy' and is written in full below:

'Transport remains the biggest greenhouse gas contributor in the UK and the Government's strategy for decarbonising transport by 2050 is reliant on a rapid switch to zero emissions vehicles. However, in all future scenarios modelled by the Department for Transport, traffic on the Strategic Road Network is forecast to increase, and there is a great risk that uptake of cleaner vehicles will not be fast enough to mitigate that increase. The Government's determination to accommodate demand for new roads through investment without also considering steps to manage that demand is a risky strategy'

Paragraph 11 of the Report states that that the Committee intend to look in more detail at how the outcomes of transport investment are prioritised and appraised in their forthcoming inquiry on the Government's strategic transport objectives. Whilst the recommendations in the report and subsequent inquiry may inform government policy and targets, at this stage this would be a matter for the Department of Transport to consider, on the basis that it relates to the merits of the national and strategic approach taken by Government.

The degree to which the Government's strategy is deemed 'risky' or not relies on an interpretation of the potential success of Government policy, as well as the rate at which cleaner vehicles are taken up in the population, as asserted by Paragraph 19. At this stage, it is not clear what significance this statement has on the Government's policies and investment decisions relating to development of the Strategic Road Network. It is therefore of limited significance in the context of the Scheme.

(ii) Please refer to **Item 3(i) – third bullet** within the **Applicant written summaries of oral case for Issue Specific Hearing 2 (ISH2) (8.14, REP4-035)** regarding induced demand. The Applicant noted that the scheme is to provide free flowing links and reduce bottlenecks rather than being a road widening scheme, that the benefit is largely just to the gyratory itself, and that there is a limited impact of induced demand. Examination of **Appendix B (Impact of VDM)** of the **Combined Modelling and Appraisal Report (7.10, Rev 1)** indicates the Scheme is predicted to generate very little demand.

ExQ2	Question to:	Question
Q14.2.21	Climate The Applicant	The Climate Emergency Planning and Policy Post Hearing submissions [REP4-042] Section 3.2 includes criticism of the information provided to the Examination in relation to various matters including the calculation of the cost of the construction

		<p>GHG emissions from the scheme and how this has been put into the BCR calculation, and differences between the calculation of the GHG emissions from operation of the scheme and the calculation of the economic benefits for the scheme. Please can you respond to the points raised by Dr Boswell in this section of his submissions.</p>
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Applicant Response

Paragraphs 5.5.37 to 5.5.43 of the Combined Modelling and Appraisal Report (7.10, Rev 1) describe the calculation of GHG emissions impacts in the economic appraisal. Greenhouse gas impacts over the 60-year appraisal period were monetised using the standard Department for Transport, Transport Analysis Guidance (TAG) Greenhouse Gases Workbook with interpolation of greenhouse gas values between model years. This included the embedded GHG emissions estimated to be produced with the construction of the Scheme plus the operational impact of the Scheme on vehicle GHG emissions as set out in **Chapter 14 (Climate) of the Environmental Statement (6.1, Rev 2)**.

Please refer to **Item 2(i) – fourth bullet** within the **Applicant written summaries of oral case for Issue Specific Hearing 3 (ISH3) (8.15, REP4-036)** regarding GHGs associated with the wider economic benefits. The wider economic benefits methods were based on fixed land-use and, therefore, the calculated wider economic benefits do not include additional jobs or transport trips and there is no requirement to monetise equivalent greenhouse gas emissions impacts.

2.15 Population and Human Health

The Applicant did not receive any questions for this topic.

2.16 Traffic and Transport (Including Public Rights of Way)

ExQ2	Question to:	Question
Q16.2.1	Journey Time Savings	The current journey time savings detailed in the application for the important Solent to Midlands route are between M3 J10 and the A24/A272 junction. Please provide

	The Applicant	a journey time saving assessment showing the potential change in journey times between the Solent and Midlands that will be seen as a result of the proposed improvement to M3 Junction 9 and in light of the current route strategy and understanding of the emerging RIS3 programme aims.
Applicant Response		
<p>Section 1.2 in Applicant Response to the Examining Authority's Second Written Questions (ExQ2) Appendices (Appendix B Traffic and transport additional information in response to ExA WQ2) (Document reference 8.17.1), submitted at Deadline 5 provides a tabulation of journey time impacts for traffic movements between the Solent and East Midlands as a result of the Scheme. This shows the journey time savings for these strategic movements.</p>		
ExQ2	Question to:	Question
Q16.2.2	Journey Time Savings The Applicant	In the Applicant Written Summaries of Oral Case for Issue Specific Hearing 2 (ISH2) - Appendix A, paragraph 1.3.9 [REP4-035], the applicant has stated that it is challenging to find a similar junction to draw a comparison of journey time savings. The ExA would request that the applicant reviews the applications for the M25 Junction 10 and M25 Junction 28 schemes and provides a simple summary of the maximum journey time savings shown in future years for these schemes.
Applicant Response		
<p>Notwithstanding our comments in Applicant written summaries of oral case for Issue Specific Hearing 2 (ISH2) (8.14, REP4-035), we have extracted the following information for the requested schemes.</p> <p>The M25 Junction 10 scheme provides increased capacity at the M25 roundabout by elongating the existing roundabout, providing additional lanes and providing dedicated free-flowing/left turn filter lanes. Review of the Transport Assessment report for the M25 Junction 10 scheme indicates a predicted maximum journey time saving of 11 minutes 2 seconds in the morning peak and 30 seconds in the evening peak in 2037 (Table 7-7).</p>		

The M25 Junction 28 scheme provides a new dedicated link between the M25 and A12. Review of the Transport Assessment report for the M25 Junction 28 scheme indicates a predicted maximum journey time saving of 2 minutes 31 seconds in the morning peak and 21 seconds in the evening peak in 2037 (Table 5-7).

Furthermore, notwithstanding the information provided above the Applicant maintains that the comparison of journey time savings across different schemes is not appropriate. Each scheme must be considered on its own merits taking into account the unique characteristics of the geographic area, the objectives of the schemes, its constraints and benefits. A comparison between different schemes is not a material consideration in the determination of an application.

ExQ2	Question to:	Question
Q16.2.3	Rail Freight Shift The Applicant	In May 2023, the operators of Southampton Port, DP World, issued information regarding a trial to incentivise freight transporters to use rail for moving freight in a 140mile radius of Southampton, including to Birmingham/The Midlands. Within this initiative DP World suggest they believe there is capacity to increase rail usage from 25% to 40%. (This is detailed in Winchester Action on the Climate Crisis Deadline 4 Submission - Responses to any further information requested by the ExA [REP4-050] Please provide a traffic modelling assessment and journey time savings assessment through M3 junction 9 that this change would have on the do minimum and do something scenario in 2027 and 2047. Please also provide updated modelling to show the impact of the predictions of modal shift detailed in the join Network Rail/National Highways Solent to Midlands Strategy.

Applicant Response

Section 1.3 in Applicant Response to the Examining Authority's Second Written Questions (ExQ2) Appendices (Appendix B Traffic and transport additional information in response to ExA WQ2) (Document reference 8.17.1), submitted at Deadline 5 provides a summary estimate of the likely impact of an increase in rail freight usage from DP World's proposed rail freight initiative as well as the potential impact of the Network Rail/National Highways Solent to Midlands Strategy. This estimates that:

- rail freight growth to/from DP World could result in a reduction of up to approximately 50 HGVs per day (approximately 2 per hour)
- the Network Rail/National Highways Solent to Midlands Strategy High forecast estimates of rail freight growth consider an additional 20 trains per day – potentially removing 800 HGVs per day in each direction, which could remove on average approximately 33 HGVs per hour

These estimates assume that the growth in rail freight use is targeted to reduce HGV use as opposed to assisting in overall port growth in which case HGV movements may not change. In addition, HGV routing may be timetabled outside the AM and PM Peak hours (avoiding more congested periods), which would further reduce impact on the operational performance of the transport network.

The M3 Junction 9 Model estimates the southbound HGV flow on the M3 south of Junction 9 in the 2047 assessment year is 453 vehicles per hour in the AM peak and 380 vehicles per hour in the PM peak in the 'with Scheme' scenario. The equivalent northbound HGV flow is 592 vehicles per hour in the AM peak and 390 vehicles per hour in the PM peak. The total predicted vehicle flow on the M3 south of junction 9 in the 2047 assessment year is between 4,623 and 4,982 vehicles per hours for the AM and PM peaks by direction. The Applicant considers that the removal of up to 35 HGVs per hour is not a proportionate change in model inputs to materially impact model outputs and the Scheme assessment. Therefore a model run has not been undertaken.

ExQ2	Question to:	Question
Q16.2.4	Combined appraisal The Applicant	In the Combined Modelling and Appraisal Report, paragraph 5.5.8 and table 5-8 [REP1-025] state that there will be indirect tax benefit over the 60-year appraisal period of £5.66m including vehicle operating costs but specifically related to fuel tax revenues. In light of the 2030 ban on new petrol and diesel car sales and the Office of Budget Responsibility's assessment of direct fuel duty income reductions, can the applicant detail how this predicted reduction in fuel duty has been accounted for in the economic appraisal. Please also give full details of how the £5.66m benefit has been built up.

Applicant Response		
<p>The calculation of indirect tax benefits is based on forecast vehicle parameters and assumptions taken from the Department for Transport's (DfT) Transport Analysis Guidance (TAG) and applied using DfT's Transport Users Benefit Analysis (TUBA) software as described in Chapter 5 of the Combined Modelling and Appraisal Report (7.10, Rev 1). The DfT vehicle fleet predictions include some continued use of diesel and petrol vehicles beyond 2030, with the full transition to electric vehicles predicted to take place over a longer period.</p>		
ExQ2	Question to:	Question
Q16.2.5	<p>Combined appraisal</p> <p>The Applicant</p>	<p>Q16.1.14 of ExQ [PD-008] requested details of the risk allowances made in the scheme estimate in the absence of using optimism bias. This was not detailed in the Applicants response [REP2-051], therefore please provide an explanation to how WebTag adopts the Treasury Green Book required approach to risk and optimism bias and provide the ExA with detailed information of how the current scheme estimate sufficiently includes for full costs of the proposed project, including the percentage of risk allowance that contributes to the scheme cost that has been used in the economic appraisal and BCR assessment.</p>
Applicant Response		
<p>The Applicant has estimated the Scheme costs using the Quantitative Risk Assessment (QRA) process, which is in accordance with Department for Transport's guidance, specifically Transport Analysis Guidance (TAG) Unit A1.2 - Scheme Costs. The Applicant has estimated the Scheme costs using the Quantitative Risk Assessment (QRA) process, which is in accordance with Department for Transport's guidance, specifically Transport Analysis Guidance (TAG) Unit A1.2 - Scheme Costs. The QRA involves adding three specific elements of risk on top of the basic estimate; project risk portfolio risk and uncertainty. This is equivalent to the optimism bias applied to other types of estimates. The QRA is a detailed 'bottom-up' assessment of the costs of materials and labour, including assumptions about when these costs would be incurred to take account of aspects such as inflation. This includes a register of all the potential risks to a project that could affect its expenditure. The risk register, together with statistical analysis of previous projects, is then used to estimate the costs of the project. The Applicant confirms</p>		

that the Scheme costs have been prepared in accordance with guidance and best practise with appropriate assurance of the commercial estimate.

ExQ2	Question to:	Question
Q16.2.6	Combined appraisal The Applicant	Please explain why, in paragraph 5.4.1 of the Combined Modelling and Appraisal Report [REP1-025], the economic appraisal scheme cost excludes spend to date (prior to 2022). Please also reference the answer to ExQ Q14.1.13 [REP2-051] which stated that all the pre-construction activity costs have been included in 'preparation costs'; which seems to contradict the ES.

Applicant Response

The exclusion of spend to date in the economic appraisal scheme cost is in accordance with the Department for Transport's guidance. Specifically Transport Analysis Guidance (TAG) Unit A1.2 - Scheme Costs paragraph 2.3.3 states that:

'Only the costs which will be incurred subsequent to the economic appraisal and the decision to go ahead should be considered. 'Sunk' costs, which represent expenditure incurred prior to the scheme appraisal and which cannot be retrieved, should not be included.'

Pre-construction activity costs which are expected in the future (i.e. beyond the economic appraisal) are included in the 'preparation costs' as part of the overall Scheme cost.

The Applicant clarifies that **Q14.1.3 in Applicant responses to Written Questions (8.5, REP2-051)** was intended to refer to all pre-construction activities rather than all costs over time (before and after the economic appraisal). **Paragraph 5.1.1 of Case for the Scheme (7.1, Rev 1)** states that the full economic appraisal is provided in the **Combined Modelling and Appraisal Report (Document Reference 7.10, Rev 1)** where the exclusion of spend to date is noted.

ExQ2	Question to:	Question
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Q16.2.7	<p>Combined appraisal</p> <p>The Applicant</p>	<p>ExQ Q14.1.15 [PD-008] asked how the value of environmental impacts for the BCR had been derived. Please explain in further detail how the air quality benefit of £4.7m have been derived over the 60 year assessment period, please make reference to the ComMA Data Annex of the Combined Modelling and Assessment report [REP1-025] which details an increase in NOx and PM10. Please explain the geographical area of assessment included in the air quality benefits assessment and if habitat air quality changes are included and if not, why not.</p>
<p>Applicant Response</p>		
<p>Paragraphs 5.5.32 to 5.5.36 of the Combined Modelling and Appraisal Report (7.10, Rev 1) describe the calculation of local air quality impacts in the economic appraisal. The air quality benefit of the Scheme has been determined in accordance with Department for Transport, Transport Analysis Guidance (TAG) guidance through the 'impact pathway approach'. Specifically this involved:</p> <ul style="list-style-type: none"> ▪ Prediction of PM2.5 and NO2 concentrations at receptors across the air quality study area (defined as withing 200m of the 'affected road network'); these receptors are distance banded from each road link in the affected road network ▪ Derivation of change in population exposure to concentrations of NO2 and PM2.5 through counting of residential properties within each of these distance bands from each road link ▪ This is undertaken for both Opening Year and Forecast year of the Scheme and linear interpolation applied to derive values for other years ▪ Monetary valuation of these changes is then calculated using the TAG 'Air Quality valuation workbook' which includes cost such as ecosystem damage <p>Whilst the scheme is predicted to result in a net increase in emissions of NOx and PM10 from traffic on the road network, the monetised impacts are net positive as the Scheme is predicted to improve air quality in more densely populated areas (such as Winchester city centre) which equates to a greater benefit than the disbenefit resulting from emissions in less populated areas (such as alongside the M3 and A34).</p>		
<p>ExQ2</p>	<p>Question to:</p>	<p>Question</p>

Q16.2.8	<p>Combined appraisal</p> <p>The Applicant</p>	<p>In relation to the economic assessment for safety, please give a full explanation of how the wider area of influence has been assessed and how that area was chosen. Please also explain how it is possible to forecast, in the detail given, such that over £8m will be saved in this wider area based on the upgrade of M3 junction 9.</p>
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Applicant Response

The safety assessment wider area of influence was determined based on analysis of strategic model predicted traffic flows. Strategic transport model road links that noted a predicted change in Annual Average Daily Traffic (AADT) greater than 10% in Passenger Car Units (one-way) between the 'Without Scheme' and 'With Scheme' options were identified and used to assess potential impacts of the scheme on road safety. The AADT link flow difference analysis was used to determine the impact area around Winchester and the surrounding area.

The wider area safety assessment is described in **Section 5.5** of the **Combined Modelling and Appraisal Report (7.10, Rev 1)** where the Department for Transport's COBALT (Cost and Benefit to Accidents – Light Touch) software was applied to quantify and monetise the Scheme impact on road safety. For this wider area, COBALT default collision and casualty rates were applied and the predicted economic benefit is a result of the predicted re-routing of traffic between the 'Without Scheme' and 'With Scheme' options.

ExQ2	Question to:	Question
Q16.2.9	<p>Combined appraisal</p> <p>The Applicant</p>	<p>Please provide a plan which details the individual junctions within the immediate area of influence that have been used to assess the changes to safety and explain why explain there is a forecast increase in accidents and fatalities at these junctions as a result of the proposal, as detailed in Table 5-16 of the Combined Modelling and Appraisal Report [REP1-025].</p>

Applicant Response

Section 1.4 in **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) Appendices (Appendix B Traffic and transport additional information in response to ExA WQ2) (Document reference 8.17.1)**,

submitted at Deadline 5 provides a plan detailing the individual junctions within the immediate area of influence that have been used to assess the changes to safety. Junctions (modelled nodes) that are new in the 'with Scheme' assessment are considered as a disbenefit (as there is no equivalent Do Minimum node and related accidents). Vice versa, junctions that are removed in the 'with Scheme' assessment are considered as a benefit (as related accidents are only in the Do Minimum). This explains the net increase in predicted accidents at junctions as a result of the Scheme, where traffic is predicted to re-route via the new grade-separated infrastructure and new merges. There is a net decrease in predicted accidents on modelled links, which is also a function of traffic re-routing with the Scheme.

ExQ2	Question to:	Question
Q16.2.10	Combined appraisal The Applicant	Please provide a version of Tables 5-15 and 5-16 of the Combined Modelling and Appraisal Report [REP1-025] relating to the application boundary only for the period 2015-2019 and also the period 2012-2021.

Applicant Response

Section 1.5 in Applicant Response to the Examining Authority's Second Written Questions (ExQ2) Appendices (Appendix B Traffic and transport additional information in response to ExA WQ2) (Document reference 8.17.1), submitted at Deadline 5 provides alternative versions of **Tables 5-15 and 5-16** of the **Combined Modelling and Appraisal Report (7.10, Rev 1)** relating to the application boundary only using alternative observed accident data. This includes a series of sensitivity test assessments, which were prepared in order to highlight the variance of a wider observed accident data from 2012-2019, and to further highlight the application of the COBALT (COst and Benefit to Accidents – Light Touch) software default accident rates. As noted in **Section 1.3 of Appendix A in the Applicant written summaries of oral case for Issue Specific Hearing 2 (ISH2) (8.14, REP4-035)** there was a reduction in observed accidents in 2020/2021 during COVID-19 pandemic travel restrictions when traffic levels were also lower. Therefore, application of 2020-2021 observed data within COBALT is not appropriate in the absence of equivalent traffic flow data. Inspection of the sensitivity test outputs reveals the following key points:

- Comparing the immediate area against the application boundary area with the same accident data sample period of 2015-2019 shows lower overall predicted accident benefits, which is expected, as it shows the proportion of impacts within the application of boundary with the remainder of benefits in the other parts of the assessment immediate area.

- Application of the earlier 2012-2016 accident dataset shows an increase in predicted benefits within the application boundary, which is because observed accidents in the 2012-2016 period are higher. This suggests that if accident data spanning from 2012 to 2019 was incorporated in the Scheme assessment there would be an increase in predicted benefits.
- Application of COBALT default accident rates outputs also show an increase in predicted accident benefits within the application boundary, which is largely due to default rates being higher than observed accident rates for certain existing links and junctions where the predicted traffic reduction from the Scheme leads to greater accident benefits because of this.

From the above analysis, it can be concluded that the existing COMMA inputs and the accident data sample from 2015-2019 represents a robust assessment and monetised value of Scheme accident benefits.

ExQ2	Question to:	Question
Q16.2.11	Combined appraisal The Applicant	<p>Please explain the geographic extent of the data in table 2-1 (Collision Data by Year (2015-2019)) of the Combined Modelling and Appraisal Report [REP1-025]. Please provide a version of this table for the following geographic are covering the period from 2012-2021:</p> <ul style="list-style-type: none"> ▪ The application boundary ▪ The Immediate area of influence (used in the benefits analysis) ▪ The Wider area of influence (used in the benefits analysis)

Applicant Response

The geographic extent of the data in **Table 2-1 (Collision Data by Year (2015-2019))** of the **Combined Modelling and Appraisal Report (7.10, Rev 1)** is shown in Figure 2-5 of the same document – this area was defined to show the location of collisions in the vicinity of the Scheme but is not coincidental with the application boundary.

Section 1.6 in Applicant Response to the Examining Authority's Second Written Questions (ExQ2) Appendices (Appendix B Traffic and transport additional information in response to ExA WQ2) (Document reference 8.17.1),

submitted at Deadline 5 provides versions of Table 2-1 for the requested areas for the period from 2012-2021. This shows the number of collisions and related casualties in each year by severity and highlights the annual variation in recorded accidents and related casualties. It should be noted that the observed data includes collisions and related casualties on the local road network. Some local roads are not included in the M3 Junction 9 Model as it has a focus on the strategic road network.

This information is provided for context and substantiates the information provided in **Section 1.3 of Appendix A** in the **Applicant written summaries of oral case for Issue Specific Hearing 2 (ISH2) (8.14, REP4-035)**. The Applicant considers that the Scheme safety assessment and selection of observed accident data is appropriate.

ExQ2	Question to:	Question
Q16.2.12	Combined appraisal The Applicant	Appendix F of the Combined Modelling and Appraisal Report [REP1-025] details various ComMA data which have been used within the BCR assessment. Tables 5, 6, 7 and 8 refer to safety data. Please explain how this data has been calculated and used to derive cost benefit and also explain how an assessment can be made of such large number of casualties relative to the observed data. For example, table 6 shows that over 60 years some 157 fatal casualties have been assessed (without scheme), which seems significantly higher than the 10 year period (2012-2021) of observed collisions suggests.

Applicant Response

Tables 5, 6, 7 and 8 in Appendix F of the Combined Modelling and Appraisal Report (7.10, Rev 1) present the predicted annual number of collision and casualties (by severity) for the Scheme economic appraisal 60-year period. This data is extracted from **Accidents** assessment presented in **Section 5.5 of the Combined Modelling and Appraisal Report (7.10, Rev 1)** where the Department for Transport's COBALT (COst and Benefit to Accidents – Light Touch) software was applied to quantify and monetise the Scheme impact on road safety. For example, **Appendix F, Table 6 of the Combined Modelling and Appraisal Report (7.10, Rev 1)**, indicates 2.7 fatal casualties in 2047 in the COBALT assessment area **Figure 5-5 of the Combined Modelling and Appraisal Report (7.10, Rev 1)** in the 'Without Scheme' scenario compared with 2.5 fatal casualties in the 'With Scheme' scenario.

Please refer to **ExAQ16.2.11** for the equivalent observed collisions data for the alternative observed collision data analysis. This indicates there were 59 fatal casualties in the 10-year period for the COBALT assessment area, an average of 5.9 per annum. This is higher than the predicted fatal casualties per year in the 'With Scheme' safety assessment, which is a function of the COBALT method, the use of default rates, plus the omission of some local roads in the Scheme transport modelling. The Applicant considers that the Scheme safety assessment is appropriate in the context of predicted accident impacts and the extent of the affected road network.

ExQ2	Question to:	Question
Q16.2.13	Combined appraisal The Applicant	Please explain if there is an observed and researched statistical difference in safety between traffic controlled gyratories and free flow gyratories. Please explain if the change from a signal controlled to free flow Junction 9 gyratory has been assessed in detail and how this impacts on predicted collisions and also the safety of non-motorised users.

Applicant Response

There is an observed and researched difference in safety between traffic controlled gyratories and free flow gyratories. **Section 1.7 in Applicant Response to the Examining Authority's Second Written Questions (ExQ2) Appendices (Appendix B Traffic and transport additional information in response to ExA WQ2) (Document reference 8.17.1)**, submitted at Deadline 5 provides our response to the above query. The Department for Transport (DfT) COBALT (COst and Benefit to Accidents – Light Touch) software does include researched statistical differences in safety between traffic controlled gyratories and free flow gyratories. Inspection of COBALT parameters show that, while there are minor changes in the proportions of Fatal and Serious accidents, overall, there is not a significant difference in the accident proportions between the junction types. While the proportion of Fatal and Serious accidents increases slightly with removal of signal-control, flow changes at the junction will have the most significant impact on the number of predicted accidents.

The COBALT assessment takes account of collisions with non-motorised users and related casualties where these are included in the observed accident data and accident rates, however, there is no distinction of non-motorised users in the COBALT outputs.

ExQ2	Question to:	Question
Q16.2.14	Combined appraisal The Applicant	In response to ExQ Q14.1.2 [REP2-051] regarding how other schemes in the RIS programme had been included in the traffic modelling, the applicant's reply stated that the current Safety Barrier Improvement Scheme between Junction 9 and 14 of the M3 had been considered as part of the future baseline. Please explain what impact this scheme is forecast to have on the traffic modelling and safety assessment for the application.
Applicant Response		
<p>The M3 Junction 9 to 14 Safety Barrier Improvement Scheme has been considered as part of the future baseline. However, this does not affect the capacity or operation of the M3 in traffic modelling terms and, therefore, has no impact on the Scheme assessment. In addition, the safety barrier scheme does not affect the safety assessment. Such interventions are not represented within the capabilities of the COBALT (COst and Benefit to Accidents – Light Touch) analysis software but would be expected to practically reduce serious collisions.</p>		
ExQ2	Question to:	Question
Q16.2.15	Combined appraisal The Applicant	Please provide a comparison of BCR for the application and other junction improvement schemes in the RIS1 and RIS 2 programme, please also provide details of the average BCR of the RIS1 and RIS 2 junction improvements within the programmes.
Applicant Response		
<p>The Applicant's position is that it is not appropriate to compare the Scheme's BCR against other junction improvement schemes. Each scheme must be considered on its own merits taking into account the unique characteristics of the geographic area, the objectives of the scheme, its constraints and benefits; all of which will impact on the ratio. A comparison between different schemes is not a material consideration in the determination of an application.</p>		

Furthermore, providing an average (mean, median, or mode) BCR for other junction improvement schemes within RIS1 and RIS2 programme would not be appropriate on the basis that the Scheme must be considered on its own merits and not compared against the financial performance (as measured by the BCR) of other junction improvement schemes.

The Applicant has outlined further the methodology for calculating the BCR and how the Scheme achieves Value for Money (VfM), **Paragraphs 2.4.15 – 2.4.17** within the **Applicant Response to Relevant Representations (8.2, REP1-031)**.

ExQ2	Question to:	Question
Q16.2.16	Traffic Model The Applicant	In the Applicant written summaries of oral case for Issue Specific Hearing 2 (ISH2) [REP4-035], the applicant has detailed a sample of observed traffic data on M3 pre and post Covid-19. Please explain if there are any proposals to update WebTag guidance to reflect potential changes in traffic growth following Covid-19 or if the applicant is suggesting that the sensitivity test showing a low growth scenario is reflective of emerging observations.

Applicant Response

Transport Analysis Guidance (TAG) has been updated since publication of our analysis. It provides some guidance on modelling post Covid-19 travel behaviour changes while accepting that travel demand growth and behavioural changes may not have settled and so a proportionate approach is recommended.

The Applicant was suggesting that, in the absence of re-establishing model data, the low growth sensitivity test is a reasonable proxy for the updated TAG guidance of applying a post model adjustment factor to the model results. The sensitivity test outputs are presented in **Section 5.9** of the **Combined Modelling and Appraisal Report (7.10, Rev 1)**.

ExQ2	Question to:	Question
Q16.2.17	Traffic Model The Applicant	Please provide Annual Average Daily Traffic (AADT) forecast for the Do Minimum and Do Something forecasts for 2027, 2042 and 2047 using the same format as used in the application (eg Combined Modelling and Appraisal Report, Appendix

		C, Flow Difference Plots [REP1-025]). Please also show the percentage of HGVs at each location of traffic data.
Applicant Response		
<p>Section 1.8 in Applicant Response to the Examining Authority's Second Written Questions (ExQ2) Appendices (Appendix B Traffic and transport additional information in response to ExA WQ2) (Document reference 8.17.1), submitted at Deadline 5 provides a series of figures showing Annual Average Daily Traffic (AADT) and related HGV percentages for the Do Minimum and Do Something forecasts for 2027, 2042 and 2047. The AADT figures are based on factoring of the strategic model weekday morning (AM), Inter, and evening (PM) peak hour flows.</p> <p>The Scheme impacts on the predicted AADT flows are, as expected, similar to the impacts in weekday AM, Inter, and PM peak hourly flows as reported in Section 4.5 of the Combined Modelling and Appraisal Report (7.10, Rev 1), with a predicted reduction in traffic on a number of local roads within Winchester City and a predicted increase in traffic on the A34 and the M3 south of Junction 9. The Scheme impacts on the strategic model proportion of HGVs includes some decreases and some increases where this is a function of underlying predicted changes in the volumes of cars\LGVs and HGVs in each of the modelled peak hours. Generally, the change in the proportion of HGVs is relatively small and mostly less than one percentage point.</p>		
ExQ2	Question to:	Question
Q16.2.18	Traffic Model The Applicant	In the Applicant Written Summaries of Oral Case for Issue Specific Hearing 2 (ISH2) – Appendix A [REP4-035], the applicant has detailed HGV flow analysis on the M3 south of Junction 9. Please confirm if this is in a link between junctions 9 and 10 of the M3 and explain why the traffic figures differ from those shown in this location in the application documents. Please also confirm if the data in tables 1 and 2 refer to the Solent Port or a wider Solent Area, if this is data for the wider Solent Area, please provide the same tables with HGV data from the Solent Port.
Applicant Response		

The HGV flows provided in **Appendix A** of the **Applicant Written Summaries of Oral Case for Issue Specific Hearing 2 (ISH2) (8.14, REP4-035)** are for the M3 main carriageway, between junction 9 and junction 10. These are presented in vehicles per hour, which is more appropriate when considering vehicle proportions. The traffic flows presented in **Figures 4-3 to 4-11** in the **Combined Modelling and Appraisal Report (7.10, Rev 1)** are presented in Passenger Car Units (PCU) per hour, which are the units used in the transport modelling flow and capacity calculations.

The data in Tables 1 and 2 refer to the wider Solent Area. **Section 1.9** in **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) Appendices (Appendix B Traffic and transport additional information in response to ExA WQ2) (Document reference 8.17.1)**, submitted at Deadline 5 provides equivalent data for the Solent Port, which is represented as a single zone in the strategic transport model. This shows that the Solent Port HGV flows make up a notable proportion of goods vehicles on the M3 south of Junction 9 (between 10% and 27%) and of these, a significant proportion use the A34.

ExQ2	Question to:	Question
Q16.2.19	Traffic Model The Applicant	Please provide a junction forecast for the A272 Spitfire Link/A31 Petersfield Road/A31 St Catherine's Way Roundabout in the same format as Table 4-13 and 4-14 of the Combined Modelling and Appraisal Report [REP1-025]

Applicant Response

Section 1.10 in **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) Appendices (Appendix B Traffic and transport additional information in response to ExA WQ2) (Document reference 8.17.1)**, submitted at Deadline 5 provides this requested information. This shows the predicted change in traffic flows at this Junction as a result of the Scheme. In the AM peak, the predicted level of delays and queuing is broadly similar for the 'With Scheme' compared to the Do Minimum. In the PM peak, there is a predicted reduction in delays and queuing in the 'With Scheme' scenario compared to the Do Minimum, including a 40 second reduction in delays on the A31 East approach and a corresponding reduction in average queue length of over 350 metres.

ExQ2	Question to:	Question
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Q16.2.22	<p>Junction 9 Pinch Point Scheme</p> <p>The Applicant</p>	<p>Paragraph 3.2.2 of the Transport Assessment [REP1-028] details a recent Pinch Point Scheme undertaken at Junction 9. Please provide the scheme details, including plans, and detail when it was completed, why was it undertaken, what monitoring has been undertaken on traffic movements and what collision data has shown since implementation. If there is a post-construction report and safety audit, please also provide this.</p>
Applicant Response		
<p>The M3 Junction 9 Easton Lane Signals Pinch Point Scheme was completed in December 2013. The Scheme included:</p> <ul style="list-style-type: none"> ▪ Widening the Easton Lane approach from 2 lanes to 3 ▪ Signalising the Easton Lane arm of the roundabout ▪ Widening the Easton Lane section of the circulatory from 2 to 3 lanes <p>The Scheme aimed to reduce congestion at the Junction, improve the flow of traffic from Easton Lane and reduce collisions. Post Scheme monitoring and evaluation of journey times and collision data has taken place and is detailed in the post opening project evaluation report which has been issued at this deadline, please see Applicant Response to the Examining Authority's Second Written Questions (ExQ2) Appendices (Appendix E Pinch point POPE report) (Document reference 8.17.1), submitted at Deadline 5 to this document.</p>		
ExQ2	Question to:	Question
Q16.2.23	<p>Other improvement schemes</p> <p>The Applicant and Hampshire County Council</p>	<p>Please give details and dates of all improvement schemes, in addition to the detailed Pinch Point Scheme in Q16.2.22, that have been undertaken within the application boundary since the project was included in the Road Investment Strategy in April 2015. Please detail the objectives and outcomes for each implemented scheme.</p>
Applicant Response		

<p>Excluding routine maintenance (e.g., resurfacing), there have been no other improvement Schemes in the red line boundary apart since the project was included in the <i>Road Investment Strategy in April 2015</i>.</p>		
ExQ2	Question to:	Question
Q16.2.24	<p>Legal Status of NMU Route</p> <p>The Applicant, Hampshire County Council</p>	<p>In their Deadline 4 post hearing submissions following ISH2 [REP4-045], HCC stated that they expected the new NMU route between The Cart and Horse Junction and Easton Lane to be an adopted footway/cycleway. Please confirm if this is agreed and confirm that the dDCO will be updated accordingly.</p>
Applicant Response		
<p>The cycle track between Cart and Horses Junction (Kings Worthy) to the existing National Cycle Network Route 23 adjacent to Tesco and the proposed gyratory between points 16, 4, and 15 as shown on Sheets 3, 5, 6, and 7 of the Rights of Way and Access Plans (2.4, Rev 1), comprising 2606 metres is designated as a cycle track with a right of way on foot under the <i>Highways Act 1980</i>, as can be seen in Schedule 3, Part 8 of the draft Development Consent Order (3.1, Rev 4). The draft Development Consent Order does not need updating.</p>		
ExQ2	Question to:	Question
Q16.2.25	<p>Public Rights of Way</p> <p>The Applicant</p>	<p>Please provide a single plan/document summarising the changes to the PROW network including a schedule of widths, legal status and proposed maintaining authority.</p>
Applicant Response		
<p>Please see the plan provided at Applicant Response to the Examining Authority's Second Written Questions (ExQ2) Appendices (Appendix C Single Public Rights of Way and Access Plan - ExA WQ2 16.2.25) (Document reference 8.17.1), submitted at Deadline 5 to this document.</p>		

2.17 Waste and Material Resource

ExQ2	Question to:	Question
Q17.2.1	Earthwork Volumes The Applicant	Please update the ExA on the latest predicted cut/fill surplus from earthworks operations. The application documents detail 65,000m ³ of surplus material to be transported off site, have design refinements or other considerations resulted in this being reduced?
Applicant Response		
There is no update available relating to predicted cut / fill surplus volumes. Consequently the estimates remain as previously provided. A breakdown of cut and fill volumes including surplus volumes is set out in the table included in the response to ExQ2 17.2.2 below.		
ExQ2	Question to:	Question
Q17.2.2	Waste Recovery The Applicant	Please confirm that the percentage of recoverable waste (by weight) in paragraph 10.9.6 of ES Chapter 10 Material Assets and Waste [REP2-025] is correct at 85% and please provide a table that replicates table 10.16 showing waste by weight, this table should detail the overall recovered percentage which is currently missing from table 10.16.
Applicant Response		
The statement made in 10.9.6 is confirmed as correct and illustrated in the table below which is Table 10.16 in Chapter 10 (Material Assets and Waste) of the Environmental Statement (ES) (6.1, Rev 1) with the addition of waste by weight and recovered percentages as requested.		

384,800m³ (664,800t) of excavated waste is expected to be reused within the site. This is not recorded in **Table 10.16** in **Chapter 10 (Material Assets and Waste)** of the **Environmental Statement (ES) (6.1, Rev 1)** but contributes to the overall recovery rate and so is included below.

Material	Tonnes		Percentage Recovered	M3		
	Landfill (T)	Recovered (T)		Landfill (m3)	Recovered (m3)	
Inert		6,825	129,675	95%	5,250	99,750
Inert excavated waste to landfill		135,200	664,800	83%	65,000	384,800
Concrete		306	5,819	95%	125	2,375
Mixed construction waste		24	456	95%	20	380
Total		142,355	800,750	85%	70,395	1,485,305

Conversion assumptions are as follows:

Inert excavated waste – 2,080kg/m³

Concrete – 2,450kg/m³

Mixed construction waste – 1,200kg/m³

Inert – 1,300kg/m³

https://www.sustainabilityexchange.ac.uk/conversion_factors_for_calculation_of_weight_to_vol