

M3 Junction 9 Improvement

Scheme Number: TR010055

8.22 Applicant Response to the Examining Authority's Third Written Questions (ExQ3)

APFP Regulations 5(2)(q)

Planning Act 2008

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

Volume 8

27 October 2023

Infrastructure Planning

Planning Act 2008

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

M3 Junction 9 Improvement
Development Consent Order 202[x]

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Written Questions (ExQ3)**

Regulation Number:	5(2)(q)
Planning Inspectorate Scheme Reference:	TR010055
Application Document Reference:	8.22
BIM Document Reference:	HE551511-VFK-HGN-XXXX_XX-RP-IM-40014
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Version	Date	Status of Version
Rev 0	27 October 2023	Deadline 6 Submission

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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 third written questions. The written questions were published on the Planning Inspectorate website on 06 October 2023. The Applicant's response to the third written questions can be found in **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 6)**.

2 Response to written questions

2.1 General and Cross-topic Questions

ExQ3	Question to:	Question
Q1.3.1	General The Applicant	In ExQ 1.2.3 [PD-011] the ExA requested detailed engineering cross sections at 20m intervals along string CH-HML-E_M3SB between chainages 3000 and 4300. The cross sections were provided by the Applicant [REP5-003] however they omitted distance and level data as would be anticipated in detailed engineering sections. Please provide an update to the cross sections submitted at deadline 5 to include distance and level data in rows below the drawn sections.
Applicant Response		
Please refer to Engineering Sections at 20m Intervals - ExA WQ2 1.2.3 (2.15, Rev 1) submitted at Deadline 6.		

2.2 Agriculture, Geology and Soils

There were no further questions from the ExA relating to this topic.

2.3 Air Quality

The Applicant did not receive any questions for this topic.

2.4 Alternatives

ExQ3	Question to:	Question
Q4.3.1	Model Alternatives The Applicant	<p>"Winchester Action on Climate Crisis Deadline 5 [REP5-036] response to the Applicant's written summaries of oral case for Issue Specific Hearing 3 (ISH3) [REP4-036] submits at Section 3 that:</p> <p><i>"Closer inspection of the tone and wording of the appendix reveals that the applicant is not providing any direct evidence that the alleged appraisal took place. The key use of a conditional auxiliary verb indicates that the applicant is not sure, and that the applicant is surmising (perhaps hoping) that something of the sort happened."</i></p> <p>Notwithstanding your response to Q4.2.14 [REP5-027], please indicate whether any substantial evidence of the extent or nature of the appraisal can be provided and, if not, set out your full reasons why it is reasonable to rely upon the assumption that the Department for Transport would have considered alternative modes."</p>
<p>Applicant Response</p> <p>As stated within the Applicant's response to ExAQ2 4.2.14 of Applicant Response to Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026) it has not been possible to source the full details of the assessment carried out by the Department for Transport (DfT). It is evident that the DfT's decision to include the Scheme in the Road Investment Strategy (RIS) 1 was based upon a robust and thorough assessment as evidenced by the suite of feasibility studies and route strategy documents. The modelling approach outlined in the RIS utilising the DfT's multi modal transport model means that alternative modes are taken into account when considering the type of transport solution which should be progressed.</p>		
ExQ3	Question to:	Question
Q4.3.2	Model Alternatives The Applicant	<p>Winchester Action on Climate Crisis Deadline 5 [REP5-036] response to REP4-036 at section 4 seeks specified details on what the alleged appraisal(s) considered and how they moved to their conclusions. It is also submitted that there</p>

		<p>is a case for re-running any earlier appraisal to take account of new circumstances. Further criticism is set out in section 5.</p> <p>Please respond to this submission and indicate whether any or all of the details sought can be provided and, if not, why it is reasonable and proportionate for the Secretary of State (SoS) to rely upon the information provided to date on this topic to the Examination.</p>
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Applicant Response

In response to Section 2 of Winchester Action on the Climate Crisis Response (REP5-036) to **Applicant Written Summaries of Oral Case for Issue Specific Hearing 3 (ISH3) (8.15, REP4-036)**. The Applicant's position remains that the Scheme is not in conflict with the *Solent to Midlands Route Strategies (2014, 2017, and 2023)*. Objective D and H within the 2023 strategy should not be read in isolation nor should they be considered mutually exclusive to the other objectives of the strategy. As outlined in response to written question **ExAQ2 4.2.16** within the **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026)** the Scheme aligns with many of the objectives within the *Solent to Midlands Route Strategy (2023)* and when read as a whole, is consistent with this strategy.

In response to Section 3 of Winchester Action on the Climate Crisis (REP5-036) submission the Applicant reiterates the information provided within **Section 1.3 of Appendix A (Further information regarding alternatives) of Applicant written summaries of oral case for Issue Specific Hearing 3 (ISH3) (8.15, REP4-036)**. **Table 2-1** of this document titled 'Alternative mode's assessment against strategic outcomes' outlines why certain rail-based measures would not address the strategic outcomes sought including safety improvements and the reduction in congestion and the free flow of traffic at M3 Junction 9. In **Section 1.3.4 of Appendix A (Further information regarding alternatives) of Applicant written summaries of oral case for Issue Specific Hearing 3 (ISH3) (8.15, REP4-036)** it states:

'The Applicant again confirms that the Department for Transport would have considered alternative modes of transport before including the Scheme within RIS. RIS 1 was informed by a robust body of evidence including the Route Based Strategy (RBS) studies and was underpinned by the DfT's National Transport Model (NTM). The NTM is a multi-modal traffic model that forecasts travel demand bottom up using highly disaggregated input data. The NTM was used to examine the Strategic Road Network's response to numerous traffic forecast scenarios and took into account modal shift and alternative modes including rail. Data from the NTM model and the findings of the Route Based Strategy evidence reports informed the schemes that were

included in RIS 1. The assessment determined that existing congestion at M3 Junction 9 required a highway intervention, as opposed to any other modal intervention, and specifically the provision of free flow links between the M3 and A34'.

This appraisal process informing the Department for Transport's (DfT) decision reflects the wording contained within paragraph 4.27 (line 8 and 9) of the *National Policy Statement for National Networks* (NPS NN) which states that '*For national road and rail schemes, proportionate option consideration of alternatives will have been undertaken as part of the investment decision making process*'. Considering Paragraph 4.27 and given the Scheme's status as a national road project included within an investment strategy, the Examining Authority can reasonably rely on the assumption that a suitable and proportionate assessment of alternative modes has taken place.

The Applicant does not consider it proportionate or reasonable to respond to each of the items listed in **Section 4 of Applicant written summaries of oral case for Issue Specific Hearing 3 (ISH3) (8.15, REP4-036)** and whether or not they formed part of the appraisal process.

With respect to Section 5 titled '*Curiosities*' the Applicant would re-iterate its position, as outlined above, that the assessment was proportionate and reasonable and has no further comment on this section.

ExQ3	Question to:	Question
Q4.3.3	Construction Compounds The Applicant	<p>In response to Q 4.2.3 [REP5-035] the SDNPA is of the opinion that further work could be done to reduce the overall size of the proposed compound. The measures referred to include a Workers Travel Plan with a park and ride system (to reduce the overall number of car parking spaces proposed within the compound), and providing alternative locations for some administration / other facilities that do not necessarily have to be located within the proposed compound. The Applicant's response to Q 4.2.2 (i) [REP5-026] suggests that an overriding consideration in the ES assessment of alternatives for the construction compound was plot size and no consideration was given to the provision of reduced compound area along the lines now proposed by the SDNPA.</p> <p>(i) Please confirm whether that was and does remain the case?</p>

		(ii) Notwithstanding the responses to questions and information already provided on this topic, please indicate why you do not consider the SDNPA proposal to further reduce the overall size of the proposed compound to be reasonable and feasible.
Applicant Response		
<p>(i) The size of the main construction compound has been considered and reviewed throughout the application process. The size was reduced from 5ha to 3ha after statutory consultation. The Applicant has considered South Downs National Park Authority's proposals and are summarised within the response to ExAQ2 4.2.2 Applicant Response to the Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026).</p> <p>(ii) The Applicant has committed to a Green Travel Plan (the Applicant's equivalent of a Workers Travel Plan) to reduce the number of car parking spaces which may be required in the main construction compound. The Applicant has also considered what facilities could be provided in alternative locations and has identified alternative locations for the materials testing laboratory and vehicle recovery provision at the National Highways Depot located at Junction 9.</p> <p>However, a further reduction in the size of the main construction compound as suggested by SDNPA is not reasonable for the reasons set out in ExAQ3 4.3.4 - 4.3.8.</p>		
ExQ3	Question to:	Question
Q4.3.4	Construction Compounds The Applicant, South Downs National Park Authority	The SDNPA response to Q 4.2.12 [REP5-035] acknowledges the need for closer welfare facilities, but submits that if the main uses for a compound (admin, briefing, parking, material storage etc) is met by a site outside the SDNP, then the footprint of some welfare units (for example 2 x cabins) and an area for mini-buses or other shared transport to set down and pick up would be much smaller. The Applicant's response to Q 4.2.10 advises that the extent of the area required if only welfare facilities were provided would be approximately 0.5Ha. The Applicant

		<ul style="list-style-type: none"> (i) Please explain why more limited provision for welfare and set-down/pick-up area so that all the parking spaces for visitors and workforce could be off-site with a park and ride system in operation would not meet the Applicant's needs in this respect? (ii) The Applicant's written summary of oral submissions for ISH1 [REP4-034] Table 1 indicates that to reduce the size of the compound 30 spaces would be used at a locally sourced rental area and sees no reason why this cannot be agreed post consent. Please explain why a larger proportion of the carparking requirement could not be accommodated in this way. (iii) Please also provide further explanation as to why you consider that the removal of other elements of the construction compound would not result in a material decrease of impacts on the SDNP and reflect the National Policy Statement for National Networks (NPSNN) advice in relation to such designated areas. <p>SDNPA:</p> <ul style="list-style-type: none"> (iv) Please set out your view as to the extent of any change in impact on the SDNP that would result with more limited provision for welfare and set-down/pick-up area and the removal of other elements of the construction compound from the SDNP.
Applicant Response		
<p>(i) and (ii) The Applicant is obligated to provide welfare facilities for the workforce as is the legal requirement under the Health and Safety at Work act 1974 as per Applicant's response ExAQ2 4.2.7 (iii) within the Applicant Response to the Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026).</p> <p>The proposal to create a set-down/ pick up area to allow parking spaces for visitors and employees can be located off site. This proposal could be implemented following consent and is contingent upon the availability of parking within a reasonable commutable distance from the site.</p>		

A dedicated Park and Ride system implemented in Badger Farm or other off-site location for the work force would add at least thirty minutes travel time per person per day between the off-site location and the construction site. While this is time lost to the construction of the Scheme more importantly it is time added to the 10 hour working day of the (generally) sub-contracted and agency work force which is not conducive to attracting or maintaining the necessary workforce.

The Applicant considers that while a limited park and ride facility may be acceptable for office based staff it does not meet the needs of the construction worker. In addition any park and ride facility will increase the number of trips being made on the highway network with resulting increases in CO₂e.

The Applicant's intention is to actively pursue the provision of ample off site-site parking options for visitors and staff, with the aim of sourcing parking spaces from locally available providers. This commitment shall be undertaken subsequent to the successful attainment of an approved Development Consent Order. However, the feasibility of this proposal is contingent upon the availability of suitable parking facilities being available close to the construction site (but outside the South Downs National Park). This leaves limited options available. The Applicant has based the estimate on a minimum of thirty spaces being sourced within a typical unit in Winnall Industrial Estate. The Applicant cannot secure any rental at this stage, hence thirty spaces is representative based on the likelihood of a unit becoming available in this timeline.

- (iii) The Applicant restates that the location of the main construction compound does not result in any permanent effects on landscape receptors. The effects from the loss of agricultural land are temporary and reversible being entirely confined to the construction phase. The potential reduction of elements to be included within and connecting to the compound during the construction phase does not preclude the need for some of the key elements of the compound in any event, and therefore a visual effect would remain. Specifically, an access road at this location is required to facilitate construction access to the Scheme from the A272. This haul road, together with other visible construction phase activities occurring immediately adjacent in the agricultural fields to the north of Easton Lane and at Junction 9 including the removal of vegetation to facilitate the construction of the Scheme, would be visually perceptible features. The Applicant's position on compliance with the *National Policy Statement for National Networks* and the weight given to the National Park has previously been set out in **ExAQ2 4.2.2** of the **Applicant Response to the**

Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026), and further information is set out in the Applicant's response to ExAQ3 4.3.5 below.		
ExQ3	Question to:	Question
Q4.3.5	Construction Compounds The Applicant	<p>In response to Q 4.2.2 (ii) the Applicant indicates that great weight has been given to conserving landscape and scenic beauty in the SDNP, and it is considered that this area does not represent a core part of the SDNP where levels of tranquillity and openness would typically be higher. The response to Q 4.2.18 also refers to the area as not representing a core part of the SDNP.</p> <ul style="list-style-type: none"> (i) Please comment on whether distinguishing between different parts of nationally designated areas in this way reflects and is consistent with NSPNN paragraph 5.150? (ii) Please also clarify the statement that "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." Does this mean that great weight was not afforded to the impact on this part of the SDNP and instead greater weight was given to other factors in the selection of the construction compound site, rather than seeking to minimise the impact on all aspects of the SDNP landscape including during the temporary construction period? (iii) NPSNN, paragraph 5.151, third bullet point states that consideration of such applications should include an assessment of "any¹ detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated". In the light of the SDNPA suggestions for further mitigation and reductions in the size of the compound area, please summarise why you do not agree that the detrimental effect on the landscape could be moderated further in the way they suggest.

	¹ ExA's Emphasis
Applicant Response	
<p>(i) The Applicant's response to ExAQ2 4.2.2 (ii) in the Applicant Response to the Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026), confirms that great weight was afforded to the South Downs National Park in accordance with policy. The Applicant's response also defines how the sensitivity of this receptor was determined. The location of the Scheme on the edge of the designation adjacent to the existing M3 corridor is a material consideration, and of importance the key qualities and characteristics of this receptor are weaker at this edge. It is standard practice in landscape assessment terms to consider the influence of key qualities and characteristics of the landscape.</p> <p>The assessment undertaken in Chapter 7 (Landscape and Visual) of the Environmental Statement (ES) (6.1, Rev 1) and its associated appendices outlines the Applicant's position on these matters. The sensitivity of the South Downs National Park has been defined when considering it as a whole, adopting a worst-case position, considering its qualities and their influence. The assessment has not defined or considered different parts of the designation separately, and the Applicant considers the approach taken does not preclude the application of great weight being afforded to the receptor.</p> <p>(ii) The Applicant's response to ExAQ2 4.2.2 (ii) in the Applicant Response to the Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026), confirms that great weight was afforded to the South Downs National Park, and to conserving landscape and scenic beauty.</p> <p>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.</p> <p>With regard to the selection of the construction compound at this specific location, greater weight was not afforded to the impact on the South Downs National Park given the context of the existing junction, and the proposed Scheme and the construction activity proposed at this location. As outlined in response to ExQ3 14.3.2 a proportionate approach to applying weight to the temporary construction impacts was applied that is consistent with paragraph 5.150 of the <i>National Policy Statement for National Networks</i>.</p>	

In the selection of the construction compound, the Applicant considers that the policy applies to the development as a whole. The selection of construction compounds and the process undertaken has been set out in **Chapter 3 (Assessment of Alternatives)** of the **Environmental Statement (ES) (6.1, Rev 1)**. This identifies that the location of the site outside of European designated sites including Special Area of Conservation (SAC), as well as Nationally designated Site of Special Scientific Interest (SSSI), and highway access to the site was afforded weight. This approach does not preclude the application of great weight being afforded to the South Downs National Park.

Furthermore, as set out in the Applicant's response to **ExAQ3 4.3.4** above, as effects occur on the South Downs National Park as a result of wider construction activity, the Applicant considers that the location of the construction compound minimises effects on the National Park, for example by choosing a location with a locally depressed landform which minimises visual intrusion from the wider designation and accordingly gives weight to the designation in protection of the landscape and its scenic beauty.

- (iii) The Environmental Impact Assessment within the **Environmental Statement (6.1-6.3, APP-042 – APP-153)** has considered the effects on the environment, the landscape and recreational effects on the landscape. The assessment identifies the approach undertaken to avoid and reduce (moderate) effects through the achievable mitigation measures.

In response to the comments from the South Downs National Park about reducing the size of the compound to moderate effects further, please see the Applicant's response to **ExAQ3 4.3.4 (iii)** above. In addition, the Applicant has responded to the request set out in the South Downs National Park Authority's Deadline 5 Submission (REP5-035) for a Green Travel Plan by adding in entry C15 to the Register of Environmental Actions and Commitments (**REAC, Table 3.2**) in the **first iteration Environmental Management Plan (fiEMP) (7.3, Rev 6)** and is secured by **Requirement 3** of the **draft Development Consent Order (3.1, Rev 5)**.

The rationale regarding the compound size and the reasons for the location of particular components has previously been set out in **ExAQ2 4.2.7** in the **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026)**.

The Applicant does not consider that the installation of temporary living screen hoardings would be appropriate for the following reasons:

- The hoarding will provide only limited visual screening benefit to the activity within the compound due to the surrounding topography and will not provide any additional screening function to that already provided for by standard hoarding. As a result the benefit would largely relate to screening of the hoarding itself. The Applicant acknowledges that a proprietary living screen could reduce the prominence of the hoarding: alternative solutions such as wraps could be applied to the hoarding to achieve a similar visual aesthetic with a reduced carbon impact.
- A proprietary living screen hoarding system may introduce a series of plant species which are not indigenous in the locality and may in itself lead to the introduction of elements which are incompatible with the prevailing vegetation character. Typically species within these types of features are ornamental in form.
- Species included would be subject to the same seasonal variations that other living components are, with potential limitations on the visual appearance during winter months.

ExQ3	Question to:	Question
Q4.3.6	Construction Compounds The Applicant	<p>In response to Q 4.2.7 (iii) the Applicant states that Badger Farm does not provide a practical, suitable, and obvious alternative. The reasons given include workforce welfare, material storage, and the additional trips and travel time for operational staff, if they were located at Badger Farm.</p> <ul style="list-style-type: none"> (i) Please provide further details in support of reason '(iv) Operational Staff', to explain their role and "the need for a work station to produce key documentation". Does the need to be readily available on site apply to all operational staff at all times during working hours? (ii) In relation to material storage, please confirm that Badger Farm could physically meet this need and serve as the principal material reception area to facilitate the distribution of materials to their required locations across the project, but the concern is that if Badger Farm was used for material storage, then this would require an additional movement of the material on

the public road network. In addition, please explain how in practice Area A would operate to ensure that a large amount of material distribution is undertaken off the public road network.

Applicant Response

- (i) Operational staff are involved in the day-to-day management of the activities being executed on the site.

Site supervisors are responsible for over the day-to-day operations at the various construction sites within the Scheme. They coordinate the various subcontractors, ensure compliance with safety protocols, monitor progress and are readily required to resolve any issues that may arise during construction. Engineers are required to validate the drawings, analyse site conditions and ensure technical compliance with safety and environmental regulations. It is crucial that engineering staff brief the workforce as construction progresses. Having operational staff split across locations or located away from the site at Badger Farm or another location would be impractical as it would hinder the ability for staff to communicate effectively and appropriately manage the construction, safety, and engineering aspects of a live construction site.

- (ii) The Applicant confirms that Badger Farm could physically meet the need for material distribution area subject to the availability of the land. The Applicant has no agreement with the owner that the land will be available at the point of construction and the Smart Motorway Junction 9-14 Programme is nearing completion with it being anticipated that the compound will be returned to the control of the landowner at the end of 2023. The Applicant is not aware what the landowner intends to do with the land.

Notwithstanding the physical size meeting the necessary requirements there are a number of other considerations which must be taken into account when determining the most appropriate location for the main construction compound. These are addressed below.

There will be the need to transport all materials on the public road network twice, once to the main construction compound and once to site. This will result in a greater number of HGV movements and interactions with road users. Generally it is desirable to minimise the interaction of transportation of materials with other road users as every interaction increases the risk of accident, injury or damage occurring.

Once materials have been moved there remains a need to have sufficient space in Area A to unload the materials and store them until they are ready to be moved to their final location. Some of the materials being brought to site will also need to have a safe area for inspection to take place to ensure that they have not been damaged and are able to be used, for example the ability to physically observe materials such as pre-cast elements is important to ensure a safe construction process.

Having the materials handled in effect three times, from an offsite location, to on-site, and then to the specific work location brings with it further considerations. The more movements to and from the storage areas the greater likelihood of damage to the materials and the greater risk of accidents. This would in effect require the management of two construction sites at the same time; managing deliveries, storage, and removals in tandem with one another. This increases the complexity of the day-to-day management of the construction process as the handling of materials requires a multitude of operations including but not limited to forklifts, spotters, banksman, mobile cranes, and other plant and equipment where necessary, especially for the handling of large pre-cast elements.

The control of when materials arrive to the site is also constrained in part by the supply chain and materials contractors and there could be instances where materials are stored at an off-site location for a very small amount of time before needing to be moved again. The construction industry cannot rely on a Just-in-Time method of procurement so if an offsite location were to be used, in the majority of occasions, the triple handling of materials would then be required.

To help provide an understanding of the types of materials which will be stored in a main construction compound at some point during construction an indicative list of the materials that will need to be managed is provided below:

- Project Support Materials: pedestrian barriers; overhead services – automated barriers (oversized vehicle control); temporary vehicle restraints (concrete barriers); road cones; temporary traffic signs and large 'A' frames; diesel; ad blue; COSHH – construction chemicals
- Waste Management areas (Bulk 20yard skips for): timber; metals plastic and general waste; Trak Mat – to form temporary roads across weak material or for use in poor weather)
- Earthworks: geotextiles (large rolls 4.5m wide); silt fencing to control water run off polluting water courses

- Drainage pipes: concrete 2.5m long; pipes corrugated plastic 6m long; manhole bases up to 2.5m diameter (larger diameters would be modularised); manhole Rings; manhole cover slabs; cast iron manhole covers; gully pots concrete or pre cast concrete, 450mmØ and 750mm deep; cast iron gully covers; bricks to build up gully covers to correct levels through road surfacing; flexible drainage pipe to link gullies to the main drainage. (this would be in coils); slot drains (pre cast channels); flow restrictors at outfall; pollution control oil interceptors (large GRP vessels to contain any spills on highway); pollution control valves and associated hardware; pre cast headwalls
- Communications: 150mm Ø ducts (packs 6m lengths; preformed chambers; chamber lids; chamber covers; communication cabinets; associated cabling (large cable reels)
- Piling: prefabricated reinforcement cages up to 1200mm Ø and 24m long; steel sleeves to support pile bore under constriction up to 1200mm Ø and 6m long; sheet piles approximately 12m long
- Structures: formwork plywood packs 2.44m x 1.22m and shaped timbers to form feature on face of formwork; aluminium walers (needed to build the bridge abutments are approximately 6m high and 15m wide and need front and rear forms; primary soldiers; propping; concrete restraint blocks for propping; reinforcement for structures up to 12m long and 40mm diameter (abutment walls and bridge / underpass decks); permanent formwork for bridge decks (GRP panels); scaffolding for access to work at height; parapet support brackets for bridge decks; edge protection for abutments and bridge decks (proprietary handrails to stop people and materials falling from height); cast in items (e.g. bolt clusters for parapets)
- Fencing: timber posts; timber fencing rails; stock mesh; fencing wire and barbed wire; timber boards; environmental panels (sound proofing fence panels if required); fixings
- Safety barrier: steel posts; steel rails (corrugated); end terminals; boxes for concrete foundations
- Fixings

- Pre Cast Units: retaining wall panels up to 4m high approximately 2.5m wide; subway Units (3.5m high x 4m wide 2.5m long)
- Steel / Aluminium Parapets for bridges and underpasses; waterproofing materials for bridge and underpass decks and subway units; bridge movement joints
- Kerbs – straight and curved 900mm long in 1 tonne packs
- Lighting and signage: illuminated head units; lighting for underpasses and subways and associated cabling; sign posts; sign faces lighting for signs
- Road chainage markers, road studs (modern cats eyes)
- Pollution Control: interceptors (GRP tank like vessels); control valves and associated operating systems (could be manual or automated)
- Liners for storage ponds
- Planting: plants; trees; shrubs; stakes; plant protection sleeves (stops animals chewing plants) weed control textiles or chipping; compost

Regardless of compound location materials (and workers) will need to access the site from the access point off the A272. By utilising a compound in Area A, all material deliveries will be on appropriately sized and usually large heavy goods vehicles direct from the supplier. Should Badger Farm, or another off-site location, be used for material storage then further distribution from the off-site location to Area A would be on smaller vehicles on the public road network as opposed to direct delivery from a supplier on a large vehicle. As the vehicles are smaller there will be more trips generated.

The access from the A272 Spitfire Link into the site is the point at which all construction traffic leaves the public highway network and joins the construction haul route. The haul route travels along the eastern edge of the M3 and returns along the western edge after using a short piece of the public highway at Long Walk (which leads to a dead end and so is not

heavily used) to pass under the M3 using an existing underpass. Using Area A provides a direct link from the main construction compound to the whole of the construction site.

ExQ3	Question to:	Question
Q4.3.7	Construction Compounds The Applicant	In response to Q 4.2.8 (iii) the Applicant indicates that workforce and operational staff would require 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. Further trips may also be required for some people who require more frequent toilet breaks. However, the SDNPA suggests that a more limited compound area could provide for welfare facilities which would avoid the mid-morning and lunchtime trips to welfare for food and toilet breaks. That would only leave the return journey to and from the worksite at the start and end of each shift. Please comment on the feasibility of that approach and whether it would represent a reasonable option that could result in a further reduction of the compound area within the SDNP?

Applicant Response

Journey time considerations are only one of the factors in determining the appropriate location for the main construction compound. Please see the Applicant's response to **ExAQ3 4.3.4 (i)** above for why a reduced main construction compound is not a reasonable option.

ExQ3	Question to:	Question
Q4.3.8	Construction Compounds The Applicant	Please provide further details of the calculation of the carbon emission comparison figures for Area A and Badger Farm given in response to Q 4.2.11 (iii).

Applicant Response

The carbon calculations in **ExAQ2 4.2.11 (iii)** in **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026)** are based on the below equation:

- *Activity data x GHG emissions factor = GHG emissions value*

In the case of emissions associated with internal transport movements between the site and compound locations, activity data includes assumptions based on return journeys, number of staff, length of the construction period, material quantities, transport mode (e.g. bus, car, HGV) and distance to the compound from the site to make a reasonable assumption on the number and distance of vehicle trips. It should be noted that activity data is limited by the accuracy of information available at this stage of the Scheme's development and are based on assumptions made by the Contractor using project information and experience on other, similar schemes.

Activity data is then multiplied by a GHG emissions factor for the vehicle type. These have been sourced from Government and industry published data to give the assumed tCO₂e figure that was presented in **ExAQ2 4.2.11 (iii) in Applicant Response to the Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026)**.

The difference in total CO₂e between Area A and Badger Farm is as a result of a smaller distance to travel to site from the welfare facilities at Area A's location compared to Badger Farm's location. This demonstrates how the Scheme has applied the carbon reduction hierarchy as set out in section 3.22.1 of the DMRB LA 114 Climate (Highways England, 2021) by avoiding emissions through selection of alternative, lower carbon options.

Noting the limitations of the calculations at this stage the CO₂e are illustrative estimates to provide an indication of the difference in CO₂e which could occur between an on-site and offsite main construction compound. However, whether there is a variance in total CO₂e actually emitted it will not alter the fact that having a main construction compound located in Area A will result in considerably less CO₂e than having it located off site. It should also be noted that there is no certainty that, if the main construction compound is required to be located off site, it would be located in Badger Farm: there is no agreement in place with the landowner and no ability for powers of compulsory acquisition to be provided in the DCO. Therefore, it is entirely possible that the main construction compound will be located where more CO₂e will be emitted.

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

The Applicant did not receive any questions for this topic.

ExQ3	Question to:	Question
Q5.3.1	RIES Natural England	On 6 October 2023, The ExA published its Report on The Implications For European Sites (RIES) which contains questions for Natural England. Please review the RIES and reply to those points raised using this ExQ reference.
Applicant Response		
This question is not directed to the Applicant and the Examining Authority's Rule 8 letter asks for comments on the RIES at Deadline 7. Please see the Applicant Comments on the Report on the Implications for European Sites (RIES) (Document reference 8.26) submitted at Deadline 6.		

2.6 Climate Change and Resilience

ExQ3	Question to:	Question
Q6.3.1	Carbon Plan(s) The Applicant, Winchester City Council	The WCC Deadline 5 submission [REP5-037] seeks the provision of a single document outlining all Climate mitigation alongside an assessment of how the scheme would function as part of the Applicant's wider Net Zero Plans. The Applicant has declined to provide such a standalone document on the basis, amongst other things, that this would be a duplication of information already available within the application documents and also rejects the inclusion of a related requirement in the Draft DCO to secure this. The ExA notes that mitigation measures are currently spread across different documents, and there would seem to be merit in the provision of a single document to avoid a paper chase for those seeking to understand and enforce such climate mitigation. Applicant:

		<ul style="list-style-type: none"> (i) Please reconsider the provision of a comprehensive single document to include all Climate mitigation measures to be secured by means of a separate requirement to aid understanding and ensure enforceability. (ii) Please explain further what flows from the inclusion of the scheme in the National Highways Net Zero Highways Plan and the relevance, if any, of that inclusion to the provision of mitigation? (iii) Please explain why you are not in a position to quantify figures in relation to that at this stage of the Examination? <p>WCC:</p> <ul style="list-style-type: none"> (iv) Please provide a draft Requirement to enforce the measures that you seek and set out any additional mitigation measures that you believe should be included with justification.
Applicant Response		
<p>(i) The Applicant provides a list below which summarises all Climate mitigation measures which are included in various submission documents as requested by the Examining Authority. The list will not form a separate document secured as part of the draft Development Consent Order (3.1, Rev 5) given that this information has already been included within the application documents and will be secured under Requirement 3 of the first iteration Environmental Management Plan (7.3, Rev 5) as appropriate.</p>		
Mitigation measure	Mechanism to secure	
Scheme designed to PAS 2080	<p>Embedded mitigation as part of the Scheme design (secured under Schedule 11 of the draft Development Consent Order (3.1, Rev 5) including the Works Plans (2.3, Rev 2), Engineering Plans and Sections (2.6, Rev 1) and Structures Plans and Sections (2.7, APP-011) and continued in detailed design through Requirement 12 of the draft Development Consent Order (3.1, Rev 5) and Design Principle SD.05 of the Design Principles Report (8.18, REP5-028).</p>	

<p>The depth of cuttings and embankments throughout the Scheme have been carefully considered to remove a number of retaining walls where practical, reducing the volume of material required to construct them and their associated embedded carbon emissions.</p>	<p>Embedded mitigation as part of the Scheme design secured under Schedule 11 of the draft Development Consent Order (3.1, Rev 5) including the Works Plans (2.3, Rev 2), Engineering Plans and Sections (2.6, Rev 1) and Structures Plans and Sections (2.7, APP-011).</p>
<p>Use of warm mix asphalt (WMA) instead of hot mix asphalt on all road surfaces, reducing embodied carbon associated with the production of materials.</p>	<p>Requirement 3 and 12 of the draft Development Consent Order (3.1, Rev 5).</p>
<p>Existing pavements are to be retained wherever possible within the Scheme to reduce the requirement for additional materials and construction.</p>	<p>Requirement 3 of the draft Development Consent Order (3.1, Rev 5).</p>
<p>The bridleway to the east to link Easton Lane with Long Walk would be made from unbound material with a lower carbon intensity than asphalt.</p>	<p>Requirement 3 of the draft Development Consent Order (3.1, Rev 5).</p>
<p>Material excavated during construction is to be processed for use in the works wherever possible to reduce the amount of material disposed of.</p>	<p>Requirement 3 of the draft Development Consent Order (3.1, Rev 5).</p>

Construction compounds are located close to the area of works which would reduce the distance of vehicle trips	Requirement 3 and 12 of the draft Development Consent Order (3.1, Rev 5).
Using materials with lower embedded GHG emissions and water consumption	Requirement 3 and 12 of the draft Development Consent Order (3.1, Rev 5).
Using sustainably sourced materials	Requirement 3 of the draft Development Consent Order (3.1, Rev 5).
Using recycled or secondary materials	Requirement 3 of the draft Development Consent Order (3.1, Rev 5).
Efficient use of materials to reduce waste	Requirement 3 of the draft Development Consent Order (3.1, Rev 5).
Achieve 95% of non-hazardous waste (by weight) diverted from landfill.	Requirement 3 of the draft Development Consent Order (3.1, Rev 5).
Management of plant and equipment use so that there is no unnecessary idling of engines and equipment is maintained to check they are operating optimally	Requirement 3 and 11 of the draft Development Consent Order (3.1, Rev 5).
Welfare facilities would be enabled to integrate renewable energy technology to reduce reliance on diesel or petrol generators for electricity	Requirement 3 of the draft Development Consent Order (3.1, Rev 5).
Use of Euro 6 compliant vehicles which are more fuel efficient and/or EVs within	Requirement 3 of the draft Development Consent Order (3.1, Rev 5).

<p>National Highways fleet used during the construction of the Scheme</p>	
<p>Use of electric and hybrid plant and equipment</p>	<p>Requirement 3 of the draft Development Consent Order (3.1, Rev 5).</p>
<p>Energy efficient Light Emitting Diodes (LEDs) used throughout the Scheme</p>	<p>Requirement 3 of the draft Development Consent Order (3.1, Rev 5).</p>
<p>Enhancing the National Cycle Network (NCN) 23 through the gyratory, providing a shared path (unsegregated, combined footpath, cycle track and footway) along the west of the Scheme and adding a new bridleway link to the east of the Scheme connecting Long Walk and Easton Lane to encourage and enable travel by low-carbon, sustainable modes.</p>	<p>Requirement 3 and 12 of the draft Development Consent Order (3.1, Rev 5).</p>
<p>Quarterly greenhouse gas (GHG) emission returns during construction and operation shall be reported in accordance with National Highway's requirements. Data provided for the GHG returns shall be evaluated to inform any ongoing monitoring of GHG emissions and feed back into future assessment of projects during design development and planning approval.</p>	<p>Requirement 3 of the draft Development Consent Order (3.1, Rev 5).</p>

<p>A Green Travel Plan will be developed during detailed design and will form Appendix R of the second iteration Environmental Management Plan (siEMP)</p>	<p>Requirement 3 of the draft Development Consent Order (3.1, Rev 5).</p>
<p>The Scheme has been designed in accordance with UK and British Standards, including BS EN 1991-1-5:2003 in relation to thermal action and BS EN 1991-1-4:2005.</p>	<p>Embedded mitigation as part of the Scheme design secured under Schedule 11 of the draft development consent order (3.1, Rev 5) including the Works Plans (2.3, Rev 2), Engineering Plans and Sections (2.6, Rev 1) and Structures Plans and Sections (2.7, APP-011).</p>
<p>The attenuation storage within the system is designed to have a capacity to accommodate a 1 in 100-year flow event, with a climate change allowance of 40%.</p>	<p>Requirement 13 of draft Development Consent Order (3.1, Rev 5).</p>
<p>The Scheme has been designed in accordance with the Design Manual for Roads and Bridges CD 356 Design of Highway structures for hydraulic action (Highways England, 2020), allowing to +120% climate change allowance for the bridge soffit height.</p>	<p>Requirement 13 of the draft Development Consent Order (3.1, Rev 5).</p>
<p>The Scheme integrates Sustainable Drainage Solutions (SuDS) which include basins, swales and filter drains</p>	<p>Requirement 13 of the draft Development Consent Order (3.1, Rev 5).</p>

Green infrastructure provision	Figure 2.3 in Chapter 2 (The Scheme and its Surroundings – Figures) (Part 2 of 4) of the ES (6.2, APP-062) and Requirement 3 and 5 of the draft Development Consent Order (3.1, Rev 5).
Planting specification to include native species mix	Requirement 3 and 5 of the draft Development Consent Order (3.1, Rev 5).
Management of proposed landscaping and planting	Requirement 3 and 5 of the draft Development Consent Order (3.1, Rev 5).
Structures of the Scheme will be inspected in accordance with Design Manual for Roads and Bridges (DMRB) CS 450 Inspection of Highway Structures.	Requirement 12 of the draft Development Consent Order (3.1, Rev 5).
<p>(ii) The National Highways Net Zero Highways Plan accounts for new emissions resulting from road projects that are proposed, including the M3 Junction 9 Scheme. In doing this, the carbon reduction trajectories set out within the plan include these new emissions when determining the scale of reductions needed to achieve net zero. This therefore demonstrates that new emissions from the Scheme do not impede on National Highway's trajectory to net zero. The plan also shows that the construction of individual road schemes does not need to be net zero until 2040 in order for National Highways to meet their science-based carbon reduction targets. Similarly, it also sets out how National Highways can influence the reduction of end-road user emissions, although these actions fall outside the scope of an individual road scheme. Overall, the plan shows how National Highways is taking account of emissions, for road schemes, including M3 Junction 9, for which it is responsible, and sets out its plan to implement its stated net zero strategy.</p> <p>(iii) Responses have been provided on the quantification of mitigation measures in ExAQ1 6.1.10 in the Applicant Responses to Written Questions (ExQ1) (8.5, REP2-051) and RR-102b in Applicant Responses to Relevant Representations (8.2, REP1-031). Additional mitigation, termed as 'essential', has not been taken into account within the GHG assessment given that specifics of, for example, the proportion of recycled material, is not known at this stage and therefore any carbon</p>	

reductions associated with these are not currently quantifiable. As emissions presented within **Chapter 14 (Climate)** of the **Environmental Statement (ES) (6.1, Rev 2)** do not account for these mitigation measures, the assessment is based on worst-case information.

However, during the detailed design stage an internal Carbon Management Plan and Carbon Opportunities Tracker will be developed for the Scheme. These will enable carbon savings resulting from design decisions to be quantified and for the Scheme to align with the targets within the Net Zero Highways Plan (National Highways, 2021).

ExQ3	Question to:	Question
Q6.3.2	Mitigation The Applicant	<p>The WCC response to Q 6.2.8 [REP5-037] lists additional mitigation measures that are sought including: the creation of a Carbon Fund, consideration of lower speed limits through the zone to lower traffic emissions, consideration of additional design elements to support the Government's Net Zero Growth for Transport such as a compound to be 'design ready' for a hydrogen fuelling hub or EV charging zone for HGVs/coaches/cars post construction, a contribution towards cycle routes in the area, tree planting or the purchase of Carbon Credits that would cover the increase in emissions generated by the scheme. These are also referred to in the WCC response to Q 6.2.10.</p> <ul style="list-style-type: none"> (i) Please indicate whether any of these matters are anticipated to be resolved and agreed before the close of the Examination. If not, please indicate why it is not considered necessary to provide the additional mitigation sought. (ii) Having regard to NPSNN, paragraph 5.19, please explain why in the absence of such provision it could be ensured that, in relation to design and construction, the carbon footprint would not be unnecessarily high.
Applicant Response		

- (i) The Applicant has responded on why additional mitigation measures are not required in **ExAQ2 6.2.22** of the **Applicant Response to Examining Authority's Second Written Questions (8.17, REP5-026)**. The Applicant will therefore not be providing additional mitigation in the form of a Carbon Fund or a hydrogen fuelling hub.
- (ii) The requirement of *National Policy Statement on National Networks (NPS NN)*, paragraph 5.19, is for the Applicant to provide 'evidence of appropriate mitigation measures (incorporating engineering plans on configuration and layout, and use of materials) in both design and construction'. This evidence has been provided in **Chapter 14 (Climate)** of the **Environmental Statement (ES) (6.1, Rev 2)** which sets out the mitigation measures and the use of the Design Manual for Roads and Bridges (DMRB) LA 114 Climate (National Highways, 2021) carbon mitigation hierarchy (avoid/prevent, reduce, remediate) to prevent emissions from being unnecessarily high.

ExQ3	Question to:	Question
Q6.3.4	Carbon Budget The Applicant	<p>The WCC response to Q 6.2.9 (iii) [REP5-037] in relation to NPSNN, paragraph 5.18, refers to the recommendation R2023-148 of the Climate Change Committee's (CCC) 2023 Report to Parliament as being evidence that the CCC is concerned about the impact of national road schemes in generating future road traffic growth and demonstrates the impact of this and other schemes has in pushing the UK over its Carbon Budgets.</p> <ul style="list-style-type: none"> (i) Please summarise your position in relation to the CCC 2023 Report and any associated implications for the ability of Government to meet its carbon reduction targets. (ii) Please comment on whether the CCC 2023 Report lends support to the provision of the additional mitigation sought by WCC?

Applicant Response

- (i) In addition to the below, please see response to **ExAQ2 6.2.7** of the **Applicant Response to Examining Authority's Second Written Questions (8.17, REP5)**. The Applicant acknowledges that the *Climate Change Committee's (CCC) 2023*

Report to Parliament (CCC, 2023) recommends that the Government undertakes a strategic review of road building projects against its environmental goals. The Report recommends that following the review, the Government should develop conditions that can be taken forward into Roads Investment Strategy (RIS) 3 process. The recommendation does not require road building to be put on hold. The M3 Junction 9 Scheme is part of Roads Investment Strategy (RIS) 2, not Roads Investment Strategy (RIS) 3. The Government has published its response to the CCC 2023 Report which states it will 'in making decisions on the Roads Investment Strategy 3 (RIS3),...ensure that it is in line with the Government's legal obligations relating to Carbon Budgets, Net Zero, Environment Act 2021 targets and the duty to have regard to the Environmental Principles Policy Statement. We have also ensured that 'Improved environmental outcomes' is one of six strategic objectives in the RIS3 process which will shape the initial evidence gathering for RIS3. This will conclude in late 2023 with the publication of the draft RIS. As set out in the Transport Decarbonisation Plan, the Government will continue to adapt and take further action if needed to decarbonise transport'.

(ii) The *Climate Change Committee's (CCC) 2023 Report* does not change the adopted policy or legal framework for the Scheme. The Applicant's position therefore remains that the Scheme's greenhouse gas emissions have been assessed following the Design Manual for Roads and Bridges (DMRB) LA 114 Climate (National Highways, 2021) from which the conclusion is that the Scheme will not have a material impact on the ability of Government to meet its carbon reduction targets. Therefore, additional mitigation is not required.

ExQ3	Question to:	Question
Q6.3.5	Carbon Budget The Applicant, Winchester City Council	<p>The WCC response to Q 6.2.10 (ii) [REP5-037] in relation to the provision of Carbon Offsetting funds provides figures for both construction and operation derived from the UK ETS (UK Emissions Trading Scheme).</p> <p>WCC:</p> <p>(i) For the avoidance of doubt please confirm that these figures represent the level of Carbon Offsetting funds now sought and explain how you anticipate that could be secured and utilised?</p> <p>Applicant:</p>

		(ii) Please comment on the level of offsetting funds sought by WCC and explain why it is not considered necessary to make such provision in this case, given the background of NPSNN paragraph 5.19.
Applicant Response		
<p>(ii) The Applicant has responded on why offsetting is not required in response to RR-102b in Applicant Responses to Relevant Representations (8.2, REP1-031). On this basis there is no requirement to comment on the level of offsetting funds recommended by Winchester City Council.</p> <p>With respect to the first part of paragraph 5.19 of the <i>National Policy Statement for National Networks</i> evidence of appropriate mitigation and how it is secured within the DCO is outlined in response to ExQ3 6.3.7. As outlined in response to ExQ3 6.3.2 and the Applicant Written Summaries of Oral Case for Issue Specific Hearing 3 (ISH3) (8.15, REP4-036), item 3(ii) – first bullet, the Applicant's position remains that the mitigation proposed is adequate such that the carbon emissions would not be unnecessarily high, and that all reasonable steps to mitigate carbon emissions have been taken. This is consistent with paragraph 5.19.</p>		
ExQ3	Question to:	Question
Q6.3.6	Assessment The Applicant	<p>The WCC response to Q 6.2.12 [REP5-037] clarifies its position in relation to the relevance of local carbon budgets to this application including the Tyndall Carbon Budget Report for Winchester recommendations.</p> <p>The Applicant's response to Q 6.2.12 is noted. However, please comment further on the value of using the Tyndall Centre budgets for contextualisation, and on the need for the carbon impact of the scheme to be assessed against the framework of local carbon budgets to see the whole picture, both for Winchester and Hampshire areas and also on the WCC submission that the Applicant should provide a comparison of emissions from the scheme to the south-east area emissions.</p>
Applicant Response		

During the Examination, the Applicant has been asked to contextualise against several different trajectories toward net zero, including the Carbon Budget Delivery Plan, Carbon Budget Delivery Plan risk tables, Tyndall Centre budgets for both Winchester and the South East, and DfT’s trajectory for transport in the South East. National Highways also has its own trajectory for both construction and end-user road emissions. There is no single approach to assessing greenhouse gas emissions, as emphasised by the several different possible trajectories that could be used for contextualisation. These trajectories all show different pathways to achieving net zero but also have different timescales in which this could be achieved. They are all however based on the Carbon Budgets adopted by the Government and the UK’s legally binding international commitment to the Paris Agreement.

The Applicant has set out its position on contextualisation in previous responses, the most recent response on this was to **ExAQ2 6.2.12 in Applicant Response to Examining Authority’s Second Written Questions (ExQ2) (8.17, REP5-026)**. The response states why, under the legal framework of the Climate Change Act and the Carbon Budget Orders as well as the methodology set out in the Design Manual for Roads and Bridges (DMRB) LA 114 Climate (National Highways, 2021), the Applicant is not required to undertake contextualisation against other local trajectories.

The Applicant has provided contextualisation against the Tyndall Centre’s indicative budget for the South East in **Appendix A (The Tyndall Centre Carbon Budget in the context of the Scheme)**. However, the comparison is provided for contextualisation only and is not an alternative assessment of the significance of estimated changes in Greenhouse gas (GHG) emissions as a result of the proposed Scheme for the reasons stated above.

ExQ3	Question to:	Question
Q6.3.7	Climate Change The Applicant	The ES Chapter 14 Rev2 [REP2-027] paragraph 14.19.8 states that: “Technological changes, including the increased uptake of Electric Vehicles. the banning of the sale of petrol and diesel cars by 2030, and the decarbonisation of the National Grid, is anticipated to continue to reduce the GHG emissions associated with the Scheme over time”. WCC [REP5-037] notes the recent Government announcement (20 September 2023) which delays the sale restrictions on petrol and diesel vehicles and the transition to electric vehicles. The SDNPA response to Q 6.2.3 [REP5-035] states that the figures for Greenhouse Gas Emissions (GhG) emissions are only likely to

		<p>increase with the Government's recent decision to push back the ban on the sale of new petrol and diesel cars from 2030 to 2035. The Climate Emergency Policy and Planning Deadline 5 submission [REP5-031] refers to recent updates on the policy and legal framework including the Prime Minister's speech on Net Zero on 20th September 2023. The Winchester Friends of the Earth Deadline 5 response to Q 6.2.17 [REP5-040] also makes reference to this.</p> <p>Please provide an update and general assessment of any implications resulting from the Prime Minister's recent announcement and associated policy changes for the assessment of the carbon emissions arising from the construction and operation of the scheme?</p>
<p>Applicant Response</p>		
<p>The Scheme assessment utilised the <i>Department for Environment Food and Rural Affairs (DEFRA) Emissions Factor Toolkit (EFT) v.11.0</i> to calculate predicted transport emissions. The <i>EFT</i> uses fleet composition projections produced by the Department for Business, Energy & Industrial Strategy (BEIS) and Ricardo. These projections are based on fleet growth assumptions which were current before the Covid-19 outbreak in the UK so any behavioural change associated with national lockdowns are not captured within the data. Given that the <i>EFT</i> pre-dates the previous 2030 car sale ban which was announced in 2020, the fleet composition projections do not fully account for an accelerated uptake of Electric Vehicles (EVs). Therefore, the Applicant considers that the <i>EFT</i> fleet projections provide a conservative view of potential EV usage for the Scheme assessment and the recent announcement of the Prime Minister consequently has no impact on the modelling undertaken for the Scheme.</p> <p>The Applicant notes that to date the Government has not published data to show how fleet projections may change following the delay to the date of the petrol and diesel car sale ban. The Applicant has undertaken a review of the <i>EFT</i> fleet composition projections against the latest fleet composition published in <i>Transport Analysis Guidance (TAG) (May 2023)</i> which does account for the 2030 ban. This is presented in the following table.</p>		

Vehicle Type	EFT Projection 2027 / 2035	TAG Projection 2027 / 2035
Electric car	3.9% / 14.1%	23% / 52%
Petrol car	49.4% / 45.8%	47% / 34%
Diesel car	27.7% / 20.6	30% / 13%
<p>NB that the table percentages for the EFT do not total 100% as there are other vehicle types, such as motorcycles, that make up the total fleet composition. The full data set is available from <i>National Atmospheric Emissions Inventory (NAEI)</i>.</p> <p>The above table demonstrates that the EFT datasets provide a conservative approach to the uptake of EVs and is below the TAG EV projections which account for the now-revised 2030 car sale ban. The Applicant considers that the Prime Minister's recent announcement is very unlikely to reduce EV uptake to levels below the EFT projections, particularly when noting sale restrictions on new petrol and diesel vehicles are still planned to be phased out with a complete ban in 2035. It is therefore considered that greenhouse gas assessment in Chapter 14 (Climate) of the Environmental Statement (ES) (6.1, Rev 2) is still based on a worst-case scenario, and consequently the greenhouse gas emissions presented in the chapter are not affected by the 2023 Government announcement.</p>		
ExQ3	Question to:	Question
Q6.3.8	Climate Change The Applicant	The Climate Emergency Planning and Policy Deadline 5 submission [REP5-031] states that emissions were calculated using the Emissions Factors Toolkit (EFT), version 112 for construction emissions and operation emissions [REP2-027, paragraph 14.5.25] and that this no longer provides a worst case calculation for the emissions from the project in the 5th and 6th carbon budgets and beyond. It is submitted that following the Prime Minister's policy change, the emissions need

		<p>recalculating with a revised version of the EfT toolkit. Furthermore, the additional emissions from the Prime Minister's policy change will have an impact on the BCR.</p> <p>Please indicate whether it is agreed that the calculation of emissions and the BCR need to be revisited as a result of this policy change and if so, please provide those calculations. If not, please explain why it is not regarded as necessary to do so.</p>
Applicant Response		
<p>Response to ExAQ3 6.3.7 above demonstrates that Chapter 14 (Climate) of the Environmental Statement (ES) (6.1, Rev 2) is still based on a worst-case scenario and that this policy change does not have a material impact on the emissions, and therefore the Applicant considers that re-calculation of emissions or the Benefit Cost Ratio (BCR) is not required.</p>		
ExQ3	Question to:	Question
Q6.3.9	Carbon Action Plan The Applicant, Winchester City Council	<p>The WCC Deadline 5 submission [REP5-037] refers to the Carbon Neutrality Action Plan (CNAP) which the Applicant has discounted as motorway emissions are excluded from the Council's Action Plan. WCC states that the reason for this exclusion is because motorway emissions are beyond the scope of the Council's control and motorways are national infrastructure which require a national response. WCC submits that the NSIP process is part of that national response referred to in the CNAP and disagrees that the overall aims of the CNAP should be discounted. That position is also supported by the Winchester Friends of the Earth response to Q 6.2.4 [REP5-040].</p> <p>Applicant</p> <p>Given WCC's explanation of the reason for the exclusion of motorway emissions from the CNAP, please indicate whether you agree that the CNAP and its aims are an important and relevant consideration in this case? If not, please provide reasons.</p> <p>WCC</p>

		<p>Please set out what WCC regards as the implications of the M3/J9 scheme for the achievement of its decarbonisation strategy and the offsetting that would be required to make up any shortfall.</p>
<p>Applicant Response</p>		
<p>If it is accepted by Winchester City Council that carbon emissions arising from motorway schemes that are defined as Nationally Significant Infrastructure Projects (NSIPs) require a national response, then it follows that the emissions are to be managed by Government-led national targets and policies. In this case the <i>National Policy Statement for National Networks (NPS NN)</i> is the relevant policy document as defined in Section 104(2)(a) of the 2008 Act, and the emissions targets are those determined by the UK carbon budgets.</p> <p><i>Winchester City Council's Carbon Neutrality Action Plan (CNAP)</i> has a local focus with respect to the management of carbon emissions. Page 8 of the CNAP where it is stated that national infrastructure requires a national response it goes on to state: <i>'The council will focus on measures that reduce the need to travel by car though public transport campaigns and collaborating with the public and private sector to enhance services. In addition it will look to increase the EV charging network and though procurement and contracts require fleet vehicles to be ultra low emission.'</i></p> <p>The 'Transport' priorities outlined within the <i>CNAP</i> on Page 11 and Page 20 do not include any reference to measures relating to the motorway or motorway junctions. It focuses in the main on measures relating to electric vehicle charging and fleets, development or expansion of Park and Ride facilities, and active travel measures in accordance with the <i>Winchester Movement Strategy</i> for which this Scheme is consistent with (see paragraph 6.3.3 of Hampshire County Council Local Impact Report (REP2-066) and Table 1.2 of Winchester City Council's Local Impact Report (REP2-083).</p> <p>The aims and objectives of the <i>CNAP</i> are focused on local measures to reduce carbon emissions that are within the ambit of Winchester City Council and as such it is not the appropriate policy document for assessing or managing carbon emissions of the motorway. Taking a very broad interpretation of the document to reduce all carbon emissions within the district of Winchester would be inappropriate in the context of Nationally Significant Infrastructure Projects (NSIPs) for which there is specific national policy, guidance, and case law, relating to the control of carbon emissions. It is for these reasons that the</p>		

Applicant's position remains that it is of limited weight in the determination of the Application with respect to Section 104(2)(d) of the 2008 Act.		
ExQ3	Question to:	Question
Q6.3.11	Assessment The Applicant, Winchester City Council	<p>The WCC Deadline 5 submission [REP5-037] indicates that following the explanation provided by the Applicant at the recent meeting between the parties, it is clear that the data provided in the Applicant's ES Appendix 14.3 – Greenhouse Gas Benchmarking [APP-148] does not provide a true comparison due to the differences in the study areas, and WCC is therefore unable to compare emissions with other schemes.</p> <p>Applicant:</p> <p>(i) Please indicate whether it is agreed that the data provided does not present any useful information to compare the emissions with other schemes. If that is the case, why do you say that it is not necessary to provide such a comparison. If it is not agreed, please explain what you consider to be the value of the data provided in terms of giving an emissions comparison to other schemes.</p> <p>WCC:</p> <p>(ii) Please explain why you regard it as necessary, in the light of NPSNN and other relevant policies, for such a comparison to be provided as part of the application.</p>
Applicant Response		
<p>(i) The Applicant understands that a comparison against other road project emissions can be useful. In response to ExAQ1 6.1.8 in Applicant Response to Written Questions (8.5, REP2-051) the Applicant set out the limitations of the benchmarking exercise due to differences in study areas for operational assessments of road-user emissions across other projects.</p>		

To clarify, the comparison of construction emissions is enabled by being able to compare emissions per km of road being built. This allows for the differences in size of projects to be accounted for. However, for operational emissions, the study area is determined by the difference between the Do-Minimum and Do-Something scenarios and these will differ significantly between different road schemes.

Other factors that are not accounted for in comparison exercises are assessment years, use of different versions of carbon calculation tools (such as the Emissions Factor Toolkit), and any other limitation of each individual Scheme’s assessment. These limitations need to be considered when reading **Appendix 14.3 (Greenhouse Gas Benchmarking)** of the **ES (6.3, APP-148)**.

In summary, the issue is therefore not whether the Applicant will or will not provide or undertake a more accurate comparison, but rather that the Applicant has indeed undertaken a comparison using the information available to it, but at the same time clearly setting out the limitations when doing so.

ExQ3	Question to:	Question
Q6.3.12	Assessment The Applicant	<p>The Climate Emergency Planning and Policy Deadline 5 submission [REP5-031] indicates that the Friends of the Earth, Client Earth and Good Law Project, have been given permission to go to a full Judicial Review hearing in the High Court for the second time in under two year because of <i>“the Government’s failure to include a proper assessment of the delivery risks associated with the policies and proposals in the Carbon Budget Delivery Plan”</i>.</p> <p>Please comment on this latest update and whether this changes your position on the relevance and implications of these proceedings for the current application.</p>

Applicant Response

The Applicant’s position remains as stated in previous responses. Please see **ExAQ2 6.2.15 Applicant Response to Examining Authority’s Second Written Questions (ExQ2) (8.17, REP5-026)**. Without 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. Furthermore,

until such time as the grounds of challenge are considered by the courts the argued legal interpretation has no binding legal precedence.		
ExQ3	Question to:	Question
Q6.3.13	Assessment The Applicant	<p>The Climate Emergency Planning and Policy Deadline 5 submission [REP5-031] Section 3.2, paragraph 19, submits that significant material weight should be given to the CCC 2023 Progress Report by the SoS in reaching a reasoned conclusion on the M3J9 with respect to section 104 PA2008 and that: <i>“It would be wrong, and challengeable, for the SoS to dismiss the CCC’s advice in its report as less than significant material weight”</i>.</p> <p>Please comment on the thrust of this submission and the weight that should be attributed to the CCC Progress Report in this case.</p>
Applicant Response		
<p>Please also see the Applicant’s response to ExAQ3 6.3.4 above.</p> <p>It is correct that the decision maker of a planning decision must attach weight to the factual background of an application. This would include the findings of the <i>Climate Change Committee’s (CCC) 2023 Progress Report</i>. However, the Applicant does not agree with the submission made by CEPP regarding the ‘significant material weight’ of the <i>Climate Change Committee’s (CCC) 2023 Progress Report</i>.</p> <p>CEPP in their submission (REP5-031) state that <i>‘whilst this is a planning decision, significant material weight should be given to the CCC and their 2023 Progress Report by the SoS in reaching a reasoned conclusion on the M3J9 with respect to section 104 of the 2008 Planning Act.’</i></p> <p>The Applicant has explained the significance of section 104 of the Planning Act 2008 in its response to ExAQ2 6.2.17 of Applicant Response to the Examining Authority’s Second Written Questions (ExQ2) (8.17, REP5-026).</p>		

The full quote of Holgate J in *R (Friends of the Earth and others) v Secretary of State for Business, Energy and Industrial Strategy* [2022] EWHC 1841 is reproduced in CEPP's submission (REP5-031) at paragraph 18, but for ease of reference can be seen below:

'The role of the CCC is to give advice as an expert body rather than to opine on questions of law. But nonetheless the court should give considerable weight to their advice in December 2020 on the setting of CB6 that the Government's net zero plans should include a "quantified set of policy proposals" and their criticism in October 2021 of the NZS for failing to quantify the effect of each policy and proposal on emissions reductions ([65]-[67] and [152] above).'

The Applicant does not consider this statement as one introducing a legal basis on which significant material weight should be attached to any report made by the Climate Change Committee. The case in this instance pre-dates the *Climate Change Committee's (CCC) 2023 Progress Report*. Holgate J takes care to state that *'the court should give considerable weight to their advice in December 2020'* rather than CCC advice in general. Indeed, the considerable weight was attached only to certain findings of their December 2020 advice, being set out in the above paragraph. Therefore, the case only demonstrates the weight given to the CCC advice in respect of the challenge to the Net Zero Strategy in that case. It does not create a precedent for attaching significant material weight to the 2023 Progress Report.

The Climate Change Committees role is to report progress, advise, and make recommendations to the Government on meeting its carbon emissions targets across all sectors, ultimately aiding the Government to take action should concerns on progress against the net Zero target arise. The Applicant is entitled to proceed on the basis that the Government will respond to the CCCs Progress Report and will continue to meet its legal obligations that it has set and will continue to set itself.

The degree of weight to be attached to the findings of the Climate Change Committee is a matter for the decision maker. The Applicant submits that there is no policy or legal position which determines that significant material weight should be attached. Furthermore the Applicant considers limited weight should be given to the progress report because it does not specifically relate to the consideration in section 104 of the Planning Act 2008 as set out in **ExAQ2 6.2.17** of the **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026)**.

ExQ3	Question to:	Question
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Q6.3.14	Assessment The Applicant	<p>The Climate Emergency Planning and Policy Deadline 5 submission [REP5-031] Section 4 states that it is not clear if heavy good vehicles (“HGVs”) and light goods vehicles (“LGVs”) are being treated in the Variable Demand Model as being subject to any variable demand, or whether they are fixed and that this makes it impossible to determine what the variable demand effects on LGVs and HGV are, and whether they are being correctly modelled.</p> <p>Please clarify the position as to how the variable demand effects on LGVs and HGVs have been considered and modelled.</p>
Applicant Response		
<p>As noted in Item 3(i) second bullet within the Applicant Written Summaries of Oral Case of Issue Specific Hearing 2 (ISH2) (8.14, REP4-035) LGVs and HGVs are not subject to variable demand modelling within the strategic model. The level of HGV and LGV demand is informed by the Department for Transport (DfT) regional Road Traffic Forecasts for goods transport. HGV and LGV travel demand is consistent between the Do Minimum (without Scheme) and Do Something (with Scheme), HGV and LGV travel demand is subject to rerouting within the traffic assignment models for both with and without Scheme.</p> <p>The Applicant considers that the modelling of goods vehicles is appropriate as it has been undertaken in accordance with <i>Department for Transport (DfT), Transport Appraisal Guidance (TAG)</i>.</p>		
ExQ3	Question to:	Question
Q6.3.15	Assessment The Applicant	<p>The Climate Emergency Planning and Policy Deadline 5 submission [REP5-031] Section 5 considers the application of the IEMA guidance. It submits, at paragraph 37, that it is not currently possible to reach a reasoned conclusion on the significance assessment because the Applicant has not provided the contextualisation of genuinely considering if the anticipated additional GhG emissions could fit within the CBDP sectoral residual emissions, when it is properly risk assessed or a reasoned</p>

		<p>conclusion as to why if the GhG emissions do not fit, this could possibly be acceptable in the wider context of delivering the whole CBDP.</p> <ul style="list-style-type: none"> (i) Please comment on this criticism of the application of the IEMA guidance. (ii) Please comment on the need for an explicit evaluation of the M3/J9 scheme with the risks to those sectors as assessed by the CCC in its Progress Report and by the CBDP Risk Tables held by the Government and for the SoS to consider if the risk-assessed residual emissions provide, or do not provide, emissions space to construct and operate the M3J9. (iii) Please comment on the need for the SoS in reaching a decision on this application to address the question of delivery on sectoral reduction strategies mentioned in paragraph 38 of the Deadline 5 submission [REP5-031] and whether the IEMA guidance has been followed in this respect.
Applicant Response		
<p>(i) and (ii) The Applicant has responded on the application of the IEMA guidance in RR-096 within the Applicant Responses to Relevant Representations (8.2, REP1-031), ExQ2 Q 6.2.7 Applicant Response to Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026) as well as on contextualisation using other net zero trajectories in ExAQ3 6.1.6 in this document.</p> <p>The Applicant is not required to follow IEMA guidance given that the Design Manual for Roads and Bridges (DMRB) LA 114 (National Highways, 2021) is the appropriate standard for road schemes. However, the Applicant has provided contextualisation against the Carbon Budget Delivery Plan in Appendix A – (Carbon Budget Delivery Plan) to the Applicant Comments on Deadline 3 Submissions (8.16, REP4-037). The document also provides contextualisation of the Scheme's emissions against Industry and Domestic Transport sector trajectories to net zero that are also assessed in <i>Climate Change Committee's (CCC) 2023 Progress Report</i>. This is considered to fulfil the recommendation by IEMA to undertake contextualisation against a sectoral net zero trajectory. IEMA does not make</p>		

reference to the risk of delivery of any trajectory and whether that should also be assessed. The Applicant therefore considers the contextualisation against the Carbon Budget Delivery Plan to be valid and in line with IEMA guidance.

- (iii) The Applicant has set out relevant case law on this matter at **ExAQ2 6.2.17** in **Applicant Response to Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026)** and considers R (on the application of Transport Action Network Limited) v Secretary of State [2021] EWHC 2095 (Admin) to be particularly relevant where it was held that the Secretary of State would have known the difficulties faced by the UK in meeting its carbon budgets and was able to assess this as part of his decision. Given this, it would seem prudent for the Secretary of State to expressly address delivery risk of the sectoral reduction strategies in any decision. Please also see the Applicant's response to **ExAQ3 6.3.18** below.

ExQ3	Question to:	Question
Q6.3.16	Assessment The Applicant	The Climate Emergency Planning and Policy Deadline 5 submission [REP5-031] paragraph 76 submits that the Applicant has not followed the IEMA guidance in that its " <i>contextualisation against the CBDP</i> " is flawed and it has not made any contextualisation using sectoral reduction strategies (recommended by IEMA), or using " <i>Existing and emerging national and local policy or regulation</i> " which would involve considering the risk to policy delivery (recommended by IEMA). Please comment on both these criticisms in the light of the IEMA guidance.

Applicant Response

The Applicant understands the question to raise the same considerations as those raised in the question above in **ExAQ3 6.3.15**, therefore please see the response to **ExAQ3 6.3.16**.

ExQ3	Question to:	Question
Q6.3.17	Assessment The Applicant	The Climate Emergency Planning and Policy Deadline 5 submission [REP5-031] Section 6, paragraph 40, in relation to the Applicant's Deadline 4 submission,

		<p>Appendix A Carbon Budget Delivery Plan (CBDP) [REP4-037], is critical of the assumptions made by the contextualisation in that Appendix, namely, that the CBDP will be delivered in full and that the 'Industry' residual emissions and the 'Domestic Transport' residual emissions will be delivered in full.</p> <p>Please explain further why you consider that it is reasonable to continue to rely upon those assumptions in the light of all the evidence available today.</p>
Applicant Response		
<p>As stated in previous responses, the Applicant must proceed on the basis that the Carbon Budget, and Carbon Budget Delivery Plan are legally binding. Please also see the response to ExAQ2 6.2.17 in Applicant Response to Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026) under '<i>relevance of 'security' of carbon budgets</i>' subheading.</p>		
ExQ3	Question to:	Question
Q6.3.18	<p>Assessment The Applicant</p>	<p>The Climate Emergency Planning and Policy Deadline 5 submission [REP5-031] Section 6 – Comments on REP4-037 paragraphs 48, 49 and 50 comments on the relevance of the information provided in earlier submissions to the SoS decision making process for the scheme in the light of s105(4),(5) and (6) PA2008. Notwithstanding the Applicant's response to Q 6.2.17:</p> <ul style="list-style-type: none"> (i) Please respond to the submissions made that the latest evidence, and risk analysis of the CBDP, is required to be able to make a reasoned conclusion on whether approving the scheme would lead to the UK being in breach of its international obligations (s.104(4)); in breach of any statutory duty (s.104(5)); or be unlawful (s.104(6)). (ii) Please indicate giving reasons whether it is agreed that a failure to address whether the emissions from the scheme fits reasonably within the relevant sectoral reduction strategies in the CBDP would amount to a breach of statutory duty under s.104(5), or alternatively that a failure to give an

		<p>adequately ‘reasoned conclusion’ under regulation 21 of the EIA Regulations, including in respect of the up-to-date position and/or a breach of the public law duty to give reasons.</p>
<p>Applicant Response</p>		
<p>(i) The Applicant understands that the ExA is asking for an analysis of whether the submissions made by CEPP as to the “<i>latest evidence and risk analysis of the CBDP</i>” is required to make a reasoned conclusion on whether approving the Scheme would lead to a breach of international obligations, statutory duty or be unlawful.</p> <p>The Applicant has already responded in detail to the position of CEPP regarding the CBDP and has provided a contextualisation of the Scheme against the CBDP. Please also see the Applicants response to ExAQ3 6.3.15.</p> <p>The Applicant has set out its response to CEPPs position on the CBDP in its responses to ExAQ2, Q6.2.1; 6.2.7, 6.2.12, 6.2.17; Applicant comments on Deadline 3 Submissions REP4-037), Appendix A (Carbon budget delivery plan) to Applicant Comments on Deadline 3 Submissions.</p> <p>The Applicant has explained the relevance of section 104 in its response to Q6.2.17 ExQ2 clarifying that this section is not concerned over whether “<i>approving the Scheme would lead to the UK being in breach of international obligations</i>” rather it is concerned over the applicability of the national policy statement. Where the Secretary of State is satisfied that deciding an application in accordance with a national policy statement would lead to the UK being in breach of its international obligations, or the Secretary of State in breach of statutory duty, or otherwise be unlawful then the Secretary of State has discretion to decide the application without having regard to the national policy statement.</p> <p>The argument regarding “<i>risk analysis of the CBDP</i>” has the same implication as any argument relating to the “<i>security of carbon budgets</i>”. The Applicant has set out its response in this regard at 6.2.17 ExQ2. This is that the difficulties in meeting carbon budgets, or in this case, the relative risk of the CBDP is matter for the Secretary of State to take into account. The Applicant maintains that it is not for individual applicants to second-guess the deliverability of government policy.</p>		

- (ii) The ExA's question appears to relate, in part, to the opinion of CEPP in its submissions [REP5-031] that '*the Applicant has not provided a contextualisation of genuinely considering if the large, additional GHG emissions can fit within the CBDP sectoral residual emissions, when it is properly risk assessed*' and appears to directly replicate the statement of CEPP at paragraph 74 of their submissions [REP5-031]. CEPP state that the requirement to provide contextualisation against sectoral reduction strategies originates from IEMA advice.

Contextualisation with sectoral reductions strategies

At paragraph 31 of REP5-031 CEPP state that "*IEMA is advising strongly that contextualisation should be done with sectoral reductions strategies, and this is exactly what the residual emissions (and the proposals and policies to meet them) are in the CBDP. They are not hard targets but do provide a sectoral reduction strategy which provides a fertile and valuable source of contextualisation. The applicant has not done this.*" CEPP conclude at paragraph 74 that consideration over whether the scheme fits with the relevant sectoral reduction strategy in the CBDP is necessary in making a determination without being in breach of section 104 Planning Act 2008, or regulation 21 of the EIA Regulations.

The Applicant has provided a contextualisation of the Scheme's emissions against the residual emissions projections given in the Carbon Budget Delivery Plan and noted the limitations and assumptions associated with compiling these projections in Appendix A to Applicant's Comments on Deadline 3 submissions [REP4-037].

These residual emissions, as CEPP state, form part of the sectoral reduction strategies that were advised by IEMA to be included in GHG assessments. CEPP's submissions at paragraph 40, faults the Applicant and states that the contextualisation provided assumes (1) that the CBDP will be delivered in full and (2) that the industry residual emissions will be full. CEPP state that the assumptions made by the Applicant in this regard are '*manifestly and clearly false based on all the evidence available today*' with the CCC 2023 Progress Report laying out '*very clearly how such assumptions are very far from the truth*'.

Therefore, the question of the ExA which asks the Applicant to '*state its reasons for agreeing that a failure to address whether the scheme fits reasonably within the relevant sectoral reduction strategies*' is based off CEPP's stance that the contextualisation provided by the Applicant to date is insufficient due the assumptions inherent to it.

Breach of statutory duty

The Applicant is not under a duty to contextualise the Scheme against the carbon reduction strategies based on assumptions that sectoral residual emissions will not be met. Neither is the Secretary of State under a duty to determine the application using said contextualisation. CEPP point to the fact that IEMA advise that context should be provided with sectoral reduction strategies, paragraph 32 of its submission [REP5-031] goes on to state '*a second vital part of the contextualisation must involve explicitly evaluating the M3J9 with the risks to those sectors as assessed by the CCC in its progress report and by the CBDP Risk Tables held by the Government.*' This position regarding evaluation of risk is not expressed in the IEMA guidance referenced by CEPP. This is an opinion of CEPP, not a legal requirement. Secondly, as CEPP state multiple times, the risk tables are not available to the Applicant on the basis that they have not been published by the Government. CEPP has not produced these and is apparently relying on disclosure through separate legal processes to assert that these tables exist.

The Applicant is entitled to assume that the Government will comply with its legal obligations and cannot be expected 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.

It should also be noted that even if IEMA did also advise that any contextualisation should take account of delivery risk, that the Applicant is not under an automatic duty to comply with IEMA guidance and also the Secretary of State is not under an automatic statutory duty to comply with independent advice meaning that failure to do so would not create an interaction with section 104(5) Planning Act 2008.

Failure to give an adequately 'reasoned conclusion'

Regulation 21 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("2017 Regulations") states that when deciding whether to make an order granting development consent for EIA development the Secretary of State must reach a "reasoned conclusion" on the significant effects of the proposed development on the environment, taking into account the examination of the environmental information provided. The reasoned conclusion must be up to date at the time that the decision as to whether the order is to be granted is taken, and that conclusion shall be taken to

be up to date if in the opinion of the Secretary of State it addresses the significant effects of the proposed development on the environment that are likely to arise as a result of the development described in the application.

R (on the application of Suffolk Energy Action Solutions SPV Limited) v Secretary of State for Business Energy and Industrial Strategy [2023] EWHC 1796 (Admin) considered regulation 21 and its context in the 2017 Regulations. The relevant section of the judgment is paragraphs 52-69. Key parts of this judgment are referenced below:

'52. Regulation 21(1) requires the Secretary of State to examine the 'environmental information' (which includes not only the ES but any further information and any representations made by consultees or other persons about the environmental effects of the development – reg.3(1)), to reach a reasoned conclusion on the significant effects of the development on the environment, and to integrate that conclusion into the decision on whether the DCO is to be granted. Thus, EIA is based initially upon the ES but also includes the environmental information obtained subsequently in accordance with the 2017 Regulations.

55. If, upon receipt of an application for a DCO, the Secretary of State considers that the ES should contain further information, he must issue a written statement to that effect explaining why and suspend consideration of the application until the information is provided (reg.15(7) and (8)). Similarly where during an Examination the Panel consider that the ES should contain further information, they must issue a written statement and suspend consideration of the application until the information is provided and notice of that material is given to consultees and the public, with an opportunity to make representations (reg.20).

56. Accordingly, if an interested party such as the claimant considers that an ES is inadequate, he can make representations to the Panel during the Examination requesting them to exercise their powers under reg.20.

57. The adequacy of the information provided in an ES is a matter of judgment for the decision-maker, in this case ultimately the SSBEIS, subject to any legal challenge on Wednesbury grounds (R (Blewett) v Derbyshire County Council [2004] Env. L.R 29 at [32]-[33])

59. The purpose of the legislation is to ensure that planning decisions which may affect the environment are made on the basis of "full information" (Lord Hoffman in R v North Yorkshire County Council ex parte Brown [2000] 1 A.C. 397,

404D). In *Blewett Sullivan J (as he then was)* said at [41] that it would be unrealistic to expect that an applicant's ES will always contain full information about the environmental impact of a project.

Separately the Supreme Court in *R (FoE) v Heathrow Airport Limited [2020] UKSC 52* at 143, as referenced in *R (on the application of Boswell) v Secretary of State for Transport [2023] EWHC 1710 (Admin)* stated:

'In an imperfect world it is an unrealistic counsel of perfection to expect that an applicant's environmental statement will always contain the 'full information' about the environmental impact of a project. The Regulations are not based upon such an unrealistic expectation. They recognise that an environmental statement may well be deficient, and make provision through the publicity and consultation processes for any deficiencies to be identified so that the resulting 'environmental information' provides the local planning authority with as full a picture as possible. There will be cases where the document purporting to be an environmental statement is so deficient that it could not reasonably be described as an environmental statement as defined by the Regulations ..., but they are likely to be few and far between.'

The question posed by the ExA asks for reasons why "failure to address whether emissions from the scheme fits reasonably within the relevant sectoral reduction strategies in the CBDP would cause the SoS to fail to give an adequately reasoned conclusion under regulation 21.'

The Applicant has demonstrated above that it has not failed to address whether emissions from the scheme fits reasonably within the relevant sectoral reduction strategies in the CBDP. Therefore, on a strict interpretation of the ExA's question the Applicant's position is that the SoS would not fail to give a reasoned conclusion based on the information before it.

Incorporating the objections of CEPP, that the contextualisation provided is not sufficient due to the assumptions inherent in it which do not account for the risk of delivery of the carbon targets; the Applicant's position would be that even if it were able to provide additional environmental information which incorporated some element of 'delivery risk', this would not alter the conclusions of the environmental information on the significant effects of the proposed development. As the conclusions of the environmental information would not change, the suggestions made by CEPP do not impact the reasoned conclusion under regulation 21. However, the adequacy of the information provided is a matter for the SoS (subject to *Wednesbury* unreasonableness). Given the information requested by CEPP would not alter the conclusions of

the environmental statement, the Applicant cannot see a reason how the SoS could be said to be acting irrationally if he made a decision without the said information.

Public law duty to give reasons

This public law duty to give reasons has been summarised effectively in *South Bucks District Council and another v Porter (No.2)* [2004] 4 All ER 775. The Applicant considers the principal paragraph on the issue is that reproduced below:

'[36] The reasons for a decision must be intelligible and they must be adequate. They must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the 'principal important controversial issues', disclosing how any issue of law or fact was resolved. Reasons can be briefly stated, the degree of particularity required depending entirely on the nature of the issues falling for decision. The reasoning must not give rise to a substantial doubt as to whether the decision-maker erred in law, for example by misunderstanding some relevant policy or some other important matter or by failing to reach a rational decision on relevant grounds. But such adverse inference will not readily be drawn. The reasons need refer only to the main issues in the dispute, not to every material consideration. They should enable disappointed developers to assess their prospects of obtaining some alternative development permission, or, as the case may be, their unsuccessful opponents to understand how the policy or approach underlying the grant of permission may impact upon future such applications. Decision letters must be read in a straightforward manner, recognising that they are addressed to parties well aware of the issues involved and the arguments advanced. A reasons challenge will only succeed if the party aggrieved can satisfy the court that he has genuinely been substantially prejudiced by the failure to provide an adequately reasoned decision.'

The duty to give reasons is certainly a matter for consideration by the Secretary of State, and in consideration of this duty the Secretary of State should consider whether explanation of the treatment of IEMA requirements and delivery risk is necessary when providing an adequately reasoned decision.

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

ExQ3	Question to:	Question
Q7.3.1	<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 Q 7.2.1 (ii) [REP5-026] makes reference to the case Alliance Spring Co Ltd and others v First Secretary of State [2005] EWHC 18 (Admin) to support the proposition that 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 ExA notes that this case involved compulsory purchase rather than compulsory acquisition and that planning permission had already been granted for that scheme pursuant to a planning application under the 1990 Act.</p> <p>Please direct the ExA to the particular paragraphs within that judgment that are relied upon in response to Q 7.2.1 and comment on the applicability of that case to the consideration of compulsory acquisition under the PA2008.</p>
Applicant Response		
<p>The Applicant directs the Examining Authority to paragraph 21 of the judgment.</p> <p>Grant of planning permission does not automatically mean that a CPO should be confirmed, the Secretary of State would still need to ensure that the provisions of section 226(1) and (2) of the 1990 Act (in that case) had been met.</p> <p>At paragraph 21 of the judgment it was held that once the Secretary of State decided that there was a compelling case that the CPO should be confirmed it was enough to consider whether any interference with Convention rights was likely to be considered proportionate and it was not necessary to consider each case individually once the view was properly taken that all the land proposed is required to enable the Scheme to be put into effect.</p>		

The Applicant does not consider that there is a material difference between compulsory purchase and compulsory acquisition in this regard. Nor does the Applicant consider the grant of planning in this case to impact the decision as the CPO would still have to be considered on its own merit. It is also open to the Secretary of State to grant the Development Consent Order but limit the exercise of compulsory acquisition powers should they consider that the tests have not been met.

ExQ3	Question to:	Question
Q7.3.2	<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 Q 7.2.1 [REP5-026] makes reference to the CA Guidance in relation to compliance with s.122 PA2008. The Ex notes that the CA Guidance paragraphs 12 and 13 set out the considerations for the SoS to be satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily including that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired.</p> <p>Please direct the ExA to the relevant paragraph of the CA Guidance that is relied upon in the response and explain further how paragraphs 12 to 14 of that guidance have been complied with in terms of providing the SoS with the necessary information to assess whether there is a compelling case in the public interest to authorise the CA powers sought.</p>

Applicant Response

Paragraph 11 is the relevant paragraph relied on for the statement that there is a '*requirement for a Scheme-wide approach to ensure that any land is properly required for the development, or it is required to facilitate the development is no more than is reasonably necessary for that purpose.*'

The Applicant has demonstrated compliance with paragraph 12 in demonstrating that there is a compelling case in the public interest for the land to be acquired compulsorily. The requirement of paragraph 12 is equivalent to that of section 122(3) Planning Act 2008. The Applicant has demonstrated this in its **Statement of Reasons (4.1, Rev 5)** and in other submission documents including the **Case for the Scheme (7.1, Rev 1)**. The Applicant has elaborated on it satisfying this condition in its

response to **ExAQ1 7.1.12; 7.1.24; 7.1.25** of **Applicant responses to Written Questions (8.5, REP2-051)** and **ExAQ2 7.2.3 and 7.2.5** of **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026)**.

The Applicant has demonstrated compliance with paragraph 14 which requires the public benefits of a scheme to be weighed up against any private loss to those affected by compulsory acquisition. The Applicant has elaborated on its justification that the public benefits outweigh the private loss in its responses to **ExAQ1 7.1.12; 7.1.14; 7.1.15; 7.1.24; 7.1.25** of **Applicant responses to Written Questions (8.5, REP2-051)** and **ExAQ2 7.2.1; 7.2.3; 7.2.5** of **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026)**.

ExQ3	Question to:	Question
Q7.3.3	<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 CA Guidance paragraph 14 states that: "In determining where the balance of public interest lies, the Secretary of State will weigh up the public benefits that a scheme will bring against any private loss to those affected by compulsory acquisition." The ExA notes the Applicant's response that the compelling case is not required to be 'balanced' against individual plots. However, in order to assist the SoS in the assessment of whether there would be a compelling case in the public interest in the first place, please explain further how the paragraph 13 requirement for "clear evidence that the public benefit will outweigh the private loss" and the paragraph 14 guidance have been approached and responded to?</p>

Applicant Response

The Applicant understands that the Examining Authority is asking for the Applicant to undertake a balancing exercise by weighing up the relative public benefit against private loss in order that the Secretary of State might have confidence that the public benefit outweighs the private loss. (The Applicant is not required to do this). The Applicant has demonstrated that there is a compelling case for the scheme and has provided a full response in this regard at **ExAQ2 7.2.5** of **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026)**. The Applicant has identified the extent of private loss to be experienced in the **Book of Reference (4.3, Rev 4)**. As per the Applicant's **Paragraph 6.2.2-6.2.4** in the **Statement of Reasons (4.1, Rev 5)**, the Applicant recognises that the Scheme may have an impact on individuals but

considers that the significant public benefits that will arise from the Scheme outweigh any loss to those individuals who will be properly compensated for any loss suffered. The Development Consent Order strikes a fair balance between public interest in seeing the delivery of a nationally significant infrastructure project and the private rights which will be affected by the compulsory acquisition.

ExQ3	Question to:	Question
Q7.3.4	<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 ExA's Q 7.2.1 (iii) [REP5-026] was directed at the Applicant's Review of the land use and ownership of land that has been referred to and was understood to have been carried out. Please clarify whether or not that is the case and if it has been carried out, please provide the further details requested.</p>

Applicant Response

The Applicant notes that its response to **ExAQ2 7.2.1 (iii)** was answered in **ExAQ2 7.2.1(iv)**.

ExQ3	Question to:	Question
Q7.3.5	<p>Other consents and agreements</p> <p>The Applicant, Natural England</p>	<p>The Applicant's response to Q 7.2.14 [REP5-026] in relation to the progress of discussions with Natural England (NE) including on the shadow licence applications indicates that on 15 September following further review NE provided some additional comments, and as such the Applicant is now reconsulting. Please provide an update on the progress of discussions with NE including in relation to shadow licence applications and indicate when a 'Letter of No Impediment' from NE in relation to draft Protected Species licences can be expected to be submitted to the Examination?</p>

Applicant Response

The Applicant met with Natural England on 24 August 2023. Natural England indicated that it was satisfied with the draft licence application for dormice and should be in a position to issue a 'Letter of No Impediment'. However, following further review with different advisors, on 15 September and 9 October Natural England provided additional comments and requested further information to support the mitigation strategy set out in the draft dormouse licence application.

It is worth noting that since the submission of the draft dormouse licence application in December 2022, up to four Natural England advisors have separately commented on the application. Many of the recent comments cover matters already discussed with and information provided to advisors previously, or that have been fundamental to the Applicant's stated mitigation strategy since December 2022 but have not been raised before by Natural England.

On 18 October the Applicant met with Natural England to discuss these additional comments, and to agree the additional information that the Applicant would provide to satisfy Natural England. The representatives from Natural England were confident that, if the additional information was provided promptly by the Applicant, they would be in a position to issue a 'Letter of No Impediment' to the Examination.

On 19 October the Applicant responded in writing to Natural England, providing responses to each of the comments and additional supporting information where requested. Natural England responded to that on 24 October by advising the Applicant that it will again consult internally on the information provided by the Applicant and would prioritise providing that response by Deadline 8. The Applicant has subsequently encouraged Natural England to provide clarity on what the outstanding issues may be and to provide a response earlier than Deadline 8 so that the matters can be resolved.

It is the Applicant's view that Natural England has all the information it requires to be in a position to issue a '*Letter of No Impediment*' to the Development Consent Order Examination, in respect of the draft dormouse licence application before Deadline 8.

In relation to badgers, works which might affect any existing setts will be undertaken using a class licence held by a badger specialist. The use of a class licence means that there will be no application for a badger licence from Natural England. The use of a badger class licence is agreed within the **Statement of Common Ground with Natural England (7.12.5, REP2-048)**.

ExQ3	Question to:	Question
Q7.3.6	<p>The acquisition of Statutory Undertakers' land and removal of apparatus – s127 and 138 PA2008.</p> <p>The Applicant</p>	<p>The Applicant in response to Q7.2.13 [REP5-026] has provided Appendix F - Interface with statutory undertakers. From that appendix, the ExA notes that Protective Provisions are in the process of being negotiated with SGN and Southern Water Services Ltd. Please confirm that it is still anticipated that bespoke protective provisions will be agreed with these parties before the end of the Examination.</p>
<p>Applicant Response</p>		
<p>The Applicant has agreed with Southern Gas Networks plc to include bespoke provisions at Schedule 10, Part 3 of the draft Development Consent Order (3.1, Rev 5). These provisions will be subject to a side agreement that is not yet complete but is not able to be disclosed as part of this Examination but the bespoke provisions are otherwise agreed.</p> <p>The Applicant has agreed with Southern Water Services Limited that it is content to rely on the standard set of provisions contained at Schedule 10, Part 1 of the draft Development Consent Order (3.1, Rev 5). These provisions will be subject to a side agreement that is not yet complete but is not able to be disclosed as part of this Examination.</p> <p>The Applicant has provided its preferred version of protective provisions with the Environment Agency (EA) at Schedule 10, Part 4 of the draft Development Consent Order (3.1, Rev 5). These provisions are substantially in a form that are acceptable to the Environment Agency apart from two provisions.</p> <p>Paragraph 3(3)(b) – This has been changed to deemed acceptance as opposed to deemed refusal as if the Environment Agency's proposed drafting was accepted this could lead to significant delays in the Applicant's timetable which would cause significant cost implications. The Applicant has experience on other schemes with the Environment Agency that this clause has led to schemes being suspended for months whilst a decision is made by the Environment Agency.</p> <p>Paragraph 7 – Additional wording of '<i>until the notice of completion of the specified works is received by the Agency in accordance with paragraph 4(2)</i>'. This wording has been added to provide certainty as to the defined period in which the</p>		

Applicant is responsible for drainage work and land held in connection with the specified works. It is reasonable that the timeframe is defined as from the commencement of construction of the specified work until the notice of completion is received by the Environment Agency.

2.8 Cumulative Impact

There were no further questions from the ExA relating to this topic.

2.9 Draft Development Consent Order

ExQ3	Question to:	Question
Q9.3.2	Hampshire County Council 'Side Agreement' The Applicant	In the HCC response to a number of questions from the ExA in ExQ2 [REP5-033], it was stated that a 'Side Agreement' was proposed between the Applicant and HCC which is being reviewed and would cover a number of issues that HCC had raised before and during the examination. Please provide an update on this agreement giving details of when it is likely to be finalised and agreed.
Applicant Response		
The Applicant and Hampshire County Council have been progressing the side agreement and it is at an advanced stage. The Applicant considers that the side agreement will be in final form and agreed before the close of the Examination. The Applicant understands that the conclusion of the side agreement will fully resolve the concerns raised by Hampshire County Council such that no amendments to the Development Consent Order will be required.		

2.10 Flood Risk, Groundwater and Surface Water

ExQ3	Question to:	Question
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Q10.3.1	Infiltration Rates The Applicant, Hampshire County Council	In their response to Q10.2.1 [REP5-033], HCC stated that based on the recent infiltration investigations 'there is potential for changes to the design such that it may not be possible to deliver it in accordance with the submitted documentation'. Please explain what the latest position is regarding this and what changes may be necessary and when it is expected that this will be resolved. Please also indicate if this will result in further information or changes being presented to the examination
Applicant Response		
<p>The Applicant has shared infiltration testing results with Hampshire County Council and met with the Lead Local Flood Authority (LLFA) on 20 October 2023. The Applicant and the LLFA are in agreement that no changes are needed to the preliminary design and consequently no further information is required to be submitted as part of the Examination.</p>		
<p>The detailed surface water drainage design secured under Requirement 13 of the draft Development Consent Order (3.1, Rev 5) will be developed in accordance with the assessment presented in Chapter 13 (Road Drainage and the Water Environment) of the Environmental Statement (6.1, Rev 1).</p>		

2.11 Historic Environment

There were no further questions from the ExA relating to this topic.

2.12 Landscape Impact and Visual Effects and Design

ExQ3	Question to:	Question
Q12.3.1	Design The Applicant, Winchester City Council	WCC response to Q 9.2.19 [REP5-037] states that based upon an initial review, the Design Code does not contain specific details of the design measures but includes rather generic principles duplicated from other documents. The document

		<p>also appears to exclude specific details for the non-motorised routes. This latter point is also referred to in the WCC response to Q 12.2.14.</p> <p>Applicant:</p> <p>(i) Please explain why specifications including width and surfacing of Public Right(s) of Way (PRoW) routes to improve access to the National Park have not been included in the Draft Design Code?</p> <p>WCC:</p> <p>(ii) Please provide a further update once you have had the opportunity to review the document in more detail and provide any suggested drafting amendments to the Draft Design Code and/or Requirement 12 that are considered to be necessary at Deadline 6.</p> <p>(iii) Please explain why you consider that it is necessary for the specific details sought to be included at this stage?</p>
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Applicant Response

<p>(i) Following receipt of feedback from the relevant consultees, the Applicant will include a further principle (EU.07 – Walking Cycling and Horse Riding) in the Design Principles Report (8.18, REP5-028). This will be included as the following text:</p> <p><i>‘All routes to accord with the following minimum widths and surface treatments:</i></p> <ul style="list-style-type: none"> ▪ <i>2.0m wide Controlled Pedestrian Crossing Footpath across the A33 with a bound asphalt surface (work No.1(a)).</i> ▪ <i>3.0m wide Cycle Track* between the Cart and Horses junction and M3 Junction 9 with a bound asphalt (work No. 2).</i> ▪ <i>2.0m wide Footpath to realign the existing Public Right of Way (REF. 111/6/1) to connect to the proposed Cycle Track with a bound asphalt surface (work No. 2(a)).</i>

- 2.0m wide Footpath to provide a new pedestrian link from the proposed Cycle Track to the existing Public Right Of Way (REF. 111/749/1) with a bound asphalt surface (work No. 2(c)).
- 4.0m wide Cycle Track* as a subway under the proposed A34 northbound slip road with a bound asphalt surface (work No. 2(e)).
- 3.5m wide Cycle Track* on a bridge over the River Itchen with a bound asphalt surface (work No. 4).
- 3.0m wide Maintenance Footway adjacent to drainage basin 3A with an unbound surface (work No. 6(e)).
- 3.0m wide Bridleway between Long Walk and Easton Lane with an unbound surface (work No. 9).
- 3.0m wide Toucan Crossing across the A33 with a bound asphalt surface (work No. 15).
- 3.0m wide Cycle Track* between Tesco roundabout and M3 Junction 9 with a bound asphalt surface (work No. 24).
- 4.0m wide Cycle Track* subway beneath M3 Junction 9 with a bound asphalt surface (work No's. 24(a) and 24(d)).
- 3.0m wide Bridleway (featuring the NCN 23) between Easton Lane and M3 Junction 9 with a bound asphalt surface (work No. 33).
- 4.0m wide Bridleway subway (featuring the NCN 23) beneath M3 Junction 9 with a bound asphalt surface (work No. 33(a)).

* cycle track includes right of way on foot.'

This principle summarises the detail included on the Single Public Rights of Way and Access Plan provided at Deadline 5 within **Appendix C (Single Public Rights of Way and Access Plan - ExA WQ2 16.2.25)** within the **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) Appendices (8.17.1, REP5-027)**.

ExQ3	Question to:	Question
Q12.3.2	Landscape Assessment The Applicant	The SDNPA response to Q 12.2.2 [REP5-035] confirms its position that significant adverse effects on the SDNP would remain at year 15. Further details are set out in the Appendix C additional response from Michelle Bolger Expert Landscape Consultancy, on behalf of the SDNPA. In relation to that Appendix C:

		<ul style="list-style-type: none"> (i) Given the more recent age and finer grain of the SDLCA compared to the HILCA, should accordance with the SDLCA assessment not represent the preferred and most relevant approach? (ii) In the light of the SDLCA and the conditions on the ground, is it agreed that the proposed woodland planting would fail to respect the existing character and would result in a permanent change to the existing character of the landscape. (iii) Please comment further on the extent and degree of any long-term harm that would be caused to the existing character of the SDNP due to changes in topography required for the highways infrastructure in the SDNP generally and in area around Attenuation basin 5 in particular.
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Applicant Response

(i) The Applicant accepts that the *South Downs National Park Authorities Landscape Character Assessment (SDLCA)* provides a recent age and finer grain study. The Applicant does not discount this evidence base. Indeed it has informed the baseline and incorporated it within its assessment as set out in **Chapter 7 (Landscape and Visual)** of the **Environmental Statement (6.1, Rev 1)**. Further, the Applicant's position to the design response for this location has been set out in **Appendix A (Attenuation Basin 5 and Landscape Design Relationship to Landscape Character)** of the **Applicant written summaries of oral case for Issue Specific Hearing 1 (ISH1) (8.13, REP4-034)**. This identifies this area being one of transition between the Itchen Valley and the wider East Winchester Open Downland landscape, given the prevailing elevation and surrounding landscape features including trees and woodland features.

The Applicant does not dispute that this area has qualities representative of the wider East Winchester Open Downland landscape. However as identified in **Appendix A (Attenuation Basin 5 and Landscape Design relationship to Landscape Character)** of the **Applicant written summaries of oral case for Issue Specific Hearing 1 (ISH1) (8.13, REP4-034)**, guidelines from both the *Hampshire Integrated Landscape Character Assessment (HILCA)* and *SDLCA* have been considered with design proposals developed to respond to both studies. The *SDLCA* identifies for the East Winchester Open Downland landscape character area should *'seek opportunities to reduce the impact of visually intrusive elements*

such as the infrastructure and traffic associated with the M3, A272 and A31, and prominent built elements on the edge of Winchester'. Furthermore, the broad management objectives for the Open Downland landscape character type states that management should 'Increase the mosaic of habitats, including grasslands, scrub and woodland'.

The Applicant would highlight that the landscape character assessments are often constrained by administrative boundaries however the perception of landscape is not defined by these boundaries. The character assessment undertaken by the South Downs National Park Authority is constrained to the administrative boundary of the South Downs National Park which at this location is parallel to the M3 corridor, whereas the *HILCA* boundary is not constrained by administrative boundaries in this location. Both studies were undertaken following the construction of the M3 motorway, and it is considered the Applicants approach is appropriate and balanced.

- (ii) The Applicant reasserts that, given the introduction of new highway infrastructure and associated infrastructure in this location, the woodland proposals provide appropriate mitigation in context of the existing character of the local area. Tree belts are found locally as set out in **Appendix A (Attenuation Basin 5 and Landscape Design Relationship to Landscape Character)** of the **Applicant written summaries of oral case for Issue Specific Hearing 1 (ISH1) (8.13, REP4-034)**, and the elevation is of similar nature to the area defined as part of the Itchen Valley which includes woodland and tree groups. Furthermore the South Downs National Park Authority's response to ExAQ2 12.2.2 (REP5-035) the Authority accepts that, given the introduction of highway infrastructure, there are no preferential landscape proposals for this location.

The Applicant accepts that following implementation of the Scheme, the unifying feature of the agricultural land use would cease, and as a result the association with the wider East Winchester Open Download would reduce.

Chapter 7 (Landscape and Visual) of the **Environmental Statement (ES) (6.1, Rev 1)** and its associated appendices acknowledge changes to the landscape character on the East Winchester Downs landscape character area (LCA) and the South Downs National Park as a receptor. This included recognition of small-scale and long-term conversion of arable and pastoral farmland (a special quality) adjacent to the highway alignment and introduction of a combination of woodland / scrub / shrub planting and chalk grassland. Within the East Winchester Open Download LCA, a moderate and significant effect is reported at year 1 of operation.

However, for the reasons previously set out and summarised in **Appendix A (Attenuation Basin 5 and Landscape Design relationship to Landscape Character)** of the **Applicant written summaries of oral case for Issue Specific Hearing 1 (ISH1) (8.13, REP4-034)**, the Applicant considers that by year 15 the woodland planting would appropriately mitigate the landscape and visual effects from the new infrastructure at this location. It concludes that this would result in only a very minor loss, damage or alteration to the existing landform, the landscape character and the South Downs National Park.

In addition, and as acknowledged by the South Downs National Park Authority's response to ExAQ2 12.2.2 (REP5-035), the M3 corridor and the existing junction are a separating features which divide this area from the wider landscape (including the Itchen Valley). As set out in the *SDLCA* this existing motorway causes severance and a reduction in the sense of tranquillity in the vicinity of this routes. The Applicant would also highlight that the existing M3 corridor reduces the opportunity to experience other key characteristics of the area, including qualities such as the expansive views, large open skies, and the open landscape which are associated within the East Winchester Open Downland character.

The Applicant reasserts that, given the introduction of new highway infrastructure and associated infrastructure in this location, the woodland proposals provide appropriate mitigation in context of the existing character of the local area, and given the introduction of highway infrastructure, that the South Downs National Park has no preferential landscape proposals for this location.

(iii) **Chapter 7 (Landscape and Visual)** of the **Environmental Statement (ES) (6.1, Rev 1)** and its associated appendices acknowledge changes to topography as a receptor, the landscape character of the Itchen Valley Landscape Character Area (LCA), the East Winchester Downs LCA and the South Downs National Park as a receptor. When considering the geographical extent of the change on these receptors, it was considered to constitute a small-scale change and a long-term permanent effect to the topography. This localised effect is specific to the lower slopes of the open downland landscape immediately adjacent to the highway, resulting in a slight effect on inspirational landscape special quality. No reduction in this effect was reported between the year 1 and year 15 scenario, however the change of land use from agriculture to areas of woodland and scrubland would establish during this time and enclose / screen visibility of the topography beneath.

ExQ3	Question to:	Question
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<p>Q12.3.4</p>	<p>Landscape Assessment The Applicant</p>	<p>The Appendix C additional response from Michelle Bolger Expert Landscape Consultancy on behalf of the SDNPA expresses concern that VP 3 and 7 revised visualisations do not fully represent how the change in the landscape would be viewed on the ground.</p> <ul style="list-style-type: none"> (i) Please respond to the criticism made of these visualisations and any long-term effects on the existing natural hill slope that would result from the proposed reprofiling and new planting in this location. (ii) Please also explain further what is meant by “the overwhelming make up of the rights to be acquired” in response to Q 7.2.1 (ii).
<p>Applicant Response</p>		
<p>(i) The Applicant does not agree with the comment from the South Downs National Park Authority on the proposed landforms not appearing to have a natural hillside profile in the long term. The visualisations submitted at Deadline 3 in Chapter 7 (Landscape and Visual – Figures (Part 3 of 3)) of the ES (6.2, Rev 1) provide a representation of the view as expected at Year 1 and Year 15 (in lieu of additional commitments made at Deadline 5 to include additional woodland planting in this location).</p> <p>The Scheme includes engineered topography adjacent to road alignments to create the necessary levels and gradients to allow the proposed new road layout to function. As part of the landscape strategy, generally where these types of modified landforms occur proposed mitigation includes the introduction of structural landscape planting with a combination of woodland and scrubland comprising of tree and shrub species. Whilst there would be increased perceptions of the newly created landforms during the establishment phase, once the proposed structural planting has established these elements will integrate the landform into its surroundings whilst providing visual screening of the existing highway infrastructure and the proposed Scheme. In context of the wider view, these effects are considered a small change in the long term.</p> <p>(ii) The Applicant was referring to the fact that there are no commercial buildings or residential properties being acquired as part of the Scheme further demonstrating that it is reasonable not to have done an individual assessment on the effect on individual affected persons to assess their relative private loss.</p>		

ExQ3	Question to:	Question
Q12.3.5	Landscape Assessment The Applicant	The Applicant's response to Q 12.2.2 [REP5-026] maintains the view that reported effects on the SDNP would 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 would be no more perceptible in the landscape than the baseline condition which includes the existing highway network. However, the SDNPA concerns relate not only to the form of the proposed landscaping but more fundamentally the changes in topography and hillside profiles. Please therefore explain further how the impact of these changes could be overcome "on the basis that the mitigation measures re-provide vegetation features lost during the construction period".
Applicant Response		
<p>A key principle of the Scheme has been to minimise its physical footprint. Given the topographical variation of the landscape in which the Scheme is located, this results in the need for landform changes in the immediate vicinity of the highway. Proposed engineered earthworks have been typically designed as 1(v):3(h) slopes but increasing to 1(v):2(h) locally. These types of engineered landform features are already present in the locality, being vegetated and successfully integrated into the surrounding landscape. An alternative approach which prioritises retention of the landform profiles over minimising land take would increase the footprint of the Scheme and lead to increased footprint and effects on the South Downs National Park.</p> <p>As part of the landscape strategy for the Scheme, mitigation proposals include the introduction of structural landscape planting on these engineered earthworks with a combination of woodland and scrubland comprising tree and shrub species. These elements will integrate the landform into their surroundings whilst providing visual screening of the existing highways and proposed Scheme. Furthermore, these measures are considered reflective of the Itchen Valley Sides landscape character area, (where trees occur as distinctive tree belts on steeper slopes) and will replace lost vegetation features which are adjacent to the M3, A33, and A34 transport corridors. No further mitigation is possible at this location.</p>		

Chapter 7 (Landscape and Visual) of the **Environmental Statement (ES) (6.1, Rev 1)** and its associated appendices identify long term permanent effects arising from landform changes, with effects heightened during the short to medium term. The assessment considers that once vegetation has established it will help to assimilate the topographical changes into the surrounding landscape by masking the boundaries between new and existing landforms.

ExQ3	Question to:	Question
Q12.3.8	Construction Compounds The Applicant, South Downs National Park Authority	<p>The SDNPA response to Q 12.2.6 [REP5-035] identifies in principle concerns in relation to the siting of the construction compound. Should Site A remain the position of the compound, then the response indicates that SDNPA would like to see the Draft DCO amended to include height limits and prevent the use of double storey units. The latest revision of the Draft DCO includes a new Requirement 15 which provides for height restrictions for any static unit providing welfare or other facilities within the temporary construction site compound.</p> <p>SDNPA:</p> <ul style="list-style-type: none"> (i) Without prejudice to the matters of principle in relation to the siting of the construction compound, are any further drafting changes to the new Requirement 15 sought? <p>Applicant:</p> <ul style="list-style-type: none"> (ii) Please explain why the new Requirement 15 includes a height restriction of 4m for the static units rather than 3.5m and why the height restriction does not extend to all on-site storage and plant? (iii) In relation to Appendix D – Indicative construction layout, please indicate the proposed location of the entrance from A272; whether that would require any vegetation removal and where the office unit mentioned in Appendix C, paragraph 1.3.17 of your Deadline 4 submission [REP4-034] would be located.

Applicant Response

(ii) 3.5m is the current height of static units which the Applicant expects to be utilised. 4m has been proposed in the DCO to give sufficient flexibility to this height as the Applicant will depend on the height of static units in the market, foundations levelling pads and entrance steps and ramps. Variances in the heights of those units available should be able to accommodate within the 4m restriction. The 4m height is the height that has been assessed as part of the environmental assessment and so the restriction reflects the relevant Rochdale envelope for the construction compound.

The restriction is attached to the static units within the compound which are identified as having a longer-term impact by virtue of their static nature. The static units will likely be in-situ for the duration of construction. On-site storage and plant will have a more transitory impact, being moved and altered in appearance and height to accommodate project demand. It is therefore not necessary to attach a restriction to these transitory features; doing so would amount to a disproportionate impact on the Applicant's ability to manage its construction compound efficiently and safely.

(iii) The location of the entrance from the A272 utilises an existing farmer's access. Some clearance of the existing vegetation will be required to facilitate modifications to the geometry of the access junction and provide appropriate sight lines for safe usage. Vegetation removal is considered in Appendix 7.5: Preliminary Arboricultural Impact Assessment (AIA) of the ES [APP-101]. Once construction activity is complete the access junction will be reinstated back to its existing form and proposed structural landscape planting will be planted to replace features lost as part of the construction of the Scheme.

The office is a small unit for the gate person to control access and ensure security of the construction site, which will be located away from the access location on the A272.

ExQ3	Question to:	Question
Q12.3.9	Maintenance The Applicant	The SDNPA response to Q 6.2.23 [REP5-035] and Appendix B to their Deadline 5 submissions highlights its concerns regarding management and monitoring of the proposed planting including the chalk grassland. To overcome this concern a change is proposed to LV22 of the fiEMP to provide for more intensive monitoring during the establishment period and that period should be for 5 rather than 2 years

		and twice yearly inspections in the following three years. Please indicate if this change is agreed and, if not, please set out full reasons.
Applicant Response		
<p>The Applicant agrees to this amendment, and Entry LV22 in the REAC (Table 3.2) within the first iteration Environmental Management Plan (fiEMP) (7.3, Rev 6) has been updated to include this additional commitment. This reads as:</p> <p><i>'During the establishment period monitoring for establishment of newly created landscape elements will take the form of quarterly inspection in the first two years, followed by biannual inspections in the following three years after seeding/planting'.</i></p>		

2.13 Noise and Vibration

There were no further questions from the ExA relating to this topic.

2.14 Policy and Need

ExQ3	Question to:	Question
Q14.3.2	NSPNN The Applicant	SDNPA's response to Q 14.2.13 and 14.2.14 [REP5-035] highlights its submissions to the effect that the presence of the SDNP was not at the forefront of the initial design process or in the site selection process for the Construction Compound. The SDNPA position is that if it had been, different design choices could / should have been made which could have lessened the impact on the SDNP. Please indicate whether it is agreed that the SDNP presence was not a consideration at the forefront of those initial processes. If not, please explain how the initial design process and also the site selection process for the Construction

		Compound have had regard to both the purpose 5(1) of the National Parks and Access to Countryside Act 1949 and the policy aims of NPSNN paragraph 5.153.
<p>Applicant Response</p>		
<p>Initial design</p> <p>The Applicant does not agree with the assertion that the South Downs National Park was not at the forefront of the initial design development process of the Scheme.</p> <p>Section 4.2 of the Design and Access Statement (7.9, APP-162) outlines what the overarching design rationale of the Scheme has been driven by, which includes (bullet 2) seeking to conserve and enhance the National Park and promote access and understanding of its special qualities. Paragraphs 5.3.9 – 5.3.20 within Section 5 (Design Narrative) of the Design and Access Statement (7.9, APP-162) outlines in detail, the design changes made to conserve and enhance the special qualities of the South Downs National Park and measures that would also ensure high environmental standards are achieved.</p> <p>At each stage of the design process there has been a cognisance of the duty to have due regard to the purpose (5(1)) of the National Park and to achieve high environmental standards. The Scheme has evolved over time to lessen the impacts on the National Park where possible, and to provide further enhancements where appropriate; it has balanced a number of different priorities, but the National Park and its special qualities has always been a key factor. Whilst different design choices could always be made at different points within a project's development these would lead to different impacts arising as a result. Given all the competing constraints and considerations the Applicant considers that appropriate weight was given to the South Downs National Park throughout the design process, including at the early stages, and it is therefore consistent with the duties in section 11A and the purposes in section 5(1) of the Act, and paragraph 5.153 of the <i>National Policy Statement for National Networks</i>.</p> <p>The Applicant's response to ExAQ2 14.2.14 in Applicant Response to the Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026) outlines how the Secretary of State can be satisfied that high environmental standards would be achieved and what measures enhance other aspects of the environment in accordance with paragraph 5.153 of the <i>National Policy Statement for National Networks</i>. The Applicant's response to ExAQ2 14.2.16 in Applicant Response to the</p>		

Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026) outlines how the Secretary of State can be satisfied that the granting of consent for the scheme would be consistent with the duty imposed in relation to the statutory purpose 5(1) of the *National Parks and Countryside Act 1949*.

Construction compound

In preparing and assessing the options for the location of the construction compound a number of factors were considered as outlined in response to **ExAQ2 4.2.2** in **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026)**. The sifting process for the different Construction Compound locations gave weight to the various sites by the staged approach. This is explained in **Section 3.13** of **Chapter 3 (Alternatives Assessment)** of the **Environmental Statement (ES) (6.1, Rev 1)**.

This sifting process gave great weight to conserving the South Downs National Park. However, the National Park was not afforded higher weighting in this process, due to the short term temporary and entirely reversible nature of the landscape effects arising from the use of this site as the main 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 outlined in response to **ExAQ2 4.2.2** in **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026)** and further stated in the response to **ExAQ3 4.3.4**.

In the context of the statutory purpose 5(1) there is no distinction made within the legislation between construction and operational effects with respect to conserving and enhancing natural beauty, wildlife, and cultural heritage of the National Park. Given the landscapes protected by National Parks have existed for hundreds of years it is reasonable that their protection is focused on the long-term permanent effects. That is not to say construction impacts are not captured by the statutory duty, but that the impacts from such activities must be seen in the context of the permanent effects, and it is on this basis that the Applicant considered that greater weight should be attributed to the latter and that this was a proportionate and reasonable approach.

As stated in response to **ExAQ3 4.3.5** it is also reasonable to recognise and assess the quality of the specific location within the National Park in order to understand the magnitude of any potential impacts. In this case the levels of tranquillity and the

openness in this location are already compromised by virtue of the proximity to the existing M3 corridor on the edge of the designation. These qualities and characteristics of the National Park are weaker at this edge.

Taking both these points together it is reasonable to give greater weight to other factors in determining an appropriate location for the construction compound. Neither paragraph 5.150 of the *National Policy Statement for National Networks* nor the duty imposed by section 11A (to have regard to section 5(1) of the 1949 Act), require the National Park to be given more weight than all other considerations, as an overriding factor. This is supported in the case of *Howell v Secretary of State for Communities and Local Government and others* [2014] EWHC 3627 (Admin) with respect to the duty imposed under Section 11A it states at paragraph 46:

'To have regard to a matter means simply that that matter must be specifically considered, not that it must be given greater weight than other matters, certainly not that it is some sort of trump card. It does not impose a presumption in favour of particular result or a duty to achieve that result. In the circumstances of the case other matters may outweigh it in the balance of decision-making. On careful consideration the matter may be given little, if any, weight.'

No alternative locations for the construction compound were considered appropriate when balancing the factors as a whole, including both the permanent and temporary effects, and due consideration in this assessment process was afforded to the National Park in accordance with paragraph 5.150 of the *National Policy Statement for National Networks* and the statutory purpose 5(1) of the Act, as outlined in **Chapter 3 (Alternatives Assessment)** of the **Environmental Statement (ES) (6.1, Rev 1)** and expanded upon in response to **ExAQ2 4.2.2** and **4.2.7** of **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026)**.

The construction compound site selection process was consistent with paragraph 5.153 of the *National Policy Statement for National Networks* in ensuring that high environmental standards were achieved by avoiding sites which are Priority 1 European Sites (as outlined in response to **ExAQ2 4.2.2** in **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026)**, in addition to the National Park and the impacts on the landscape during construction.

As outlined in response to **ExAQ3 4.3.5 (iii)** the Applicant has sought to moderate effects on the landscape through achievable mitigation measures, but the further mitigation measures suggested by South Downs National Park Authority would not be

appropriate. There is a need for the construction compound to be located adjacent and in close proximity to the construction works of the Scheme, as evidenced in response to **ExAQ3 4.3.4** and **4.3.6** and also in **ExAQ2 4.2.2** and **4.2.7** in **Applicant Response to the Examining Authority's Second Written Questions (ExQ2) (8.17, REP5-026)**. This demonstrates that in this case there are exceptional circumstances for locating the construction compound in the National Park.

Taking into account the relevant policies of the *National Policy Statement for National Networks* aforementioned and the duty imposed under Section 11A the Applicant has given due weight to the National Park in determining an appropriate location for the construction compound and has balanced the temporary and permanent effects on the National Park arising from the compound alongside other factors. In this case, the other factors outweighed the temporary effects (for the reasons outlined above) and is why the Applicant concluded that it was reasonable and appropriate for the construction compound to be situated in the location proposed.

2.15 Population and Human Health

There were no further questions from the ExA relating to this topic.

2.16 Traffic and Transport (Including Public Rights of Way)

ExQ3	Question to:	Question
Q16.3.1	Safety The Applicant	<p>The ExA has asked a number of questions in ExQ1 [PD-008], ExQ2 [PD-011] and at ISH2 regarding the assessment and calculation of accident data and the resulting input into the economic appraisal. The ExA has not been able to find sufficient evidence or clarity to support the assessment of safety savings outside of the application boundary.</p> <p>The Case for the Scheme [REP1-020] paragraph 3.5.1 states that one of the schemes 5 strategic objectives is to 'Improve the safety for all road users and reduce the annual collision frequency and severity ratio on the M3 Junction 9'. Table 3.1 continues and states 'The study area, identified in Figure 8.2 of</p>

		<p>the Transport Assessment Report (Document Reference 7.13), will experience a decrease in the total number of collisions and casualties with the Scheme. The greatest benefits are experienced as a consequence of the reduced traffic demand through the junction gyratory¹. Paragraph 5.5.27 of the Combined Modelling and Appraisal Report [REP1-025] continues and states that the reduction in accidents is 'due to the improved infrastructure implemented as part of the scheme, replacing existing elements of road network with safety issues¹'.</p> <p>This gives an emphasis that the primary safety objective and benefit from the scheme is a result of physical improvements, which are within the application boundary. However, the various replies to questions, including Q16.2.10, suggest that of the £22.9m of safety savings detailed in the Combined Modelling and Appraisal Report [REP1-025], £3.6m would be seen within the application boundary and the remainder out with the application boundary. It is accepted that there are wider safety impacts from changes in traffic flow however the ExA continues to seek further clarification and explanation of how the proposal achieves 85% of its safety cost benefit outside of the application boundary where no physical changes are being proposed and where there is no assessment of how these links and junctions will be managed and perform over the 60 year assessment period.</p>
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Applicant Response

The safety benefits outside of the application boundary relate to rerouting throughout the wider area, including a predicted reduction in traffic in central Winchester. Whilst there are no infrastructure changes in this area, there are predicted safety benefits where traffic re-routes to the proposed infrastructure (i.e. within the application boundary), as noted in **ExAQ2 16.2.8** of the **Applicant Response to Examining Authority's Second Written Questions (8.17, REP5-026)**. The Applicant notes the Scheme assessment predicts net positive safety impacts at the M3 Junction 9 gyratory. This is despite the predicted increase in traffic, an increase in road length (from which accident rates are applied), and the introduction of new 'merge'

junctions as noted in **ExAQ2 16.2.9** of the **Applicant Response to Examining Authority's Second Written Questions (8.17, REP5-026)**.

In order to improve the visualisation of distribution of safety benefits, we have prepared an image, please see **Appendix B** of this document. The image illustrates the distribution of safety benefits within the area highlighted in **Figure 5-5: Stage 3b COBALT Assessment Area** of the **Combined Modelling and Appraisal Report (7.10, Rev 1)**. The geographical areas that are coloured have been defined to be coincidental with the highway model. The areas are coloured by a darker green to represent a higher contribution of safety benefit and are shaded to a lighter green to show a lower contribution of safety benefit. The image shows that, the further we look away from the Scheme, the lower the safety benefits are (and the lighter the areas are shaded). In areas further from the Scheme, the benefits are derived from changes in flow.

ExQ3	Question to:	Question
Q16.3.2	Safety The Applicant	Further to Q16.3.1, please provide a version of the BCR calculations which show the safety savings only within the application boundary and a subsequent version that includes safety savings outside of the application boundary as 'wider safety savings'. It is accepted that there are already 2 versions of BCR ratio due to 'wider economic factors', therefore all permutations of the BCR ratio should be presented.

Applicant Response

Notwithstanding the Applicant's view that the extent of safety assessment in the calculation of the BCR as set out in Figure 5-5: Stage 3b COBALT Assessment Area of the **Combined Modelling and Appraisal Report (7.10, Rev 1)** is appropriate (as set out in response to **ExAQ3 16.3.1** above). The table below provides the requested BCR calculations as a sensitivity test. This presents the Analysis of Monetised Costs and Benefits (AMCB) results as per **Table 5-23** and **Paragraph 5.8.7** in the **Combined Modelling and Appraisal Report (7.10, Rev 1)**.

Economic Assessment: Safety Benefits within Application Boundary Sensitivity Test (£M, discounted to 2010, in 2010 prices)

Cost/benefits	Stage 3 Assessment	Sensitivity (Accidents within Application Boundary only)
Noise		-1.34
Air Quality		4.74
Greenhouse Gases		-24.11
Safety – Within Application Boundary	3.63	3.63
Safety – wider savings	19.29	0
Construction (all purposes, including Indirect Tax Revenues)		-2.69
User benefits	Commuting	27.57
	Other	48.50
	Business	71.00
Indirect Tax Revenues		
Total PVB		
Costs	Operating and maintenance costs	7.69
	Investment costs	105.02

Total PVC		
Net Present Value (NPV)	39.54	20.26
Benefit to Cost Ratio (BCR)	1.35	1.18
Wider economics (Level 2)	Agglomeration benefits	34.74
	Imperfect markets	7.10
Total PVB	194.09	174.80
NPV	81.38	62.09
Adjusted BCR	1.72	1.55
<p>Note that the Stage 3 assessment column includes the full accident analysis both within application boundary and for the wider area. If 'wider area' analysis only is required, this can be derived by subtracting the application boundary column from the Stage 3 assessment column.</p> <p>The sensitivity test shows the expected reduction in scheme benefits when limiting the extent of the predicted safety impacts, which decreases the (Level 1) PVB from £152.25M to £132.97M, the NPV from £39.54M to £20.26M, and the Initial BCR from 1.35 to 1.18. The adjusted PVB (Level 2, including wider economic impacts) reduces from £194.09M to £174.80M, the adjusted NPV reduces from £81.38M to £62.09M, resulting in a decrease in the Adjusted BCR from 1.72 to 1.55. This change in BCR values would not affect the assessed value for money of the Scheme.</p>		

2.17 Waste and Material Resource

There were no further questions from the ExA relating to this topic.

**Appendix A The Tyndall Centre Carbon Budget in the
context of the Scheme**

Appendix A – The Tyndall Centre Carbon Budget in the context of the Scheme

Subject: The Tyndall Centre Carbon Budget in the context of the Scheme
BIM Document Reference: HE551511-VFK-ECL-XXXX_XX-RP-LE-40002
Revision: P01
Date: 27 October 2023
Author: M3 Junction 9 Improvement Team, National Highways

1.1 Introduction

1.1.1 This note presents the contextualisation of the M3 Junction 9 Improvement Scheme (the Scheme) against the indicative climate change targets for South East England that are derived from the commitments set out in the Paris Agreement (known as the Tyndall Centre carbon budget). It should be noted that the comparison is provided for contextualisation only and is not an alternative assessment of the significance of estimated changes in Greenhouse gas (GHG) emissions as a result of the proposed Scheme.

1.1.2 The contextualisation provided within this note does not alter the likely significant effects assessment of GHG emissions that is provided by the Applicant in **Chapter 14 (Climate)** of the **Environmental Statement (ES) (6.1, Rev 2)**.

1.2 Tyndall Centre Carbon Budget for South East England

1.2.1 The Tyndall Centre carbon budget tool scales down the UK national carbon budget between administrative boundaries for regions and Local Planning Authorities (LPA)s, to show how each LPA can make its 'fair' contribution towards limiting global average temperature rise to well below 2 degrees and pursuing a 1.5-degree temperature target and achieving net zero by 2050.

1.2.2 The Tyndall Centre carbon budgets up to 2037 for South East England are shown in **Table 1** below.

Table 1: South East England Tyndall Centre Carbon Budgets

Carbon Budget Period	Recommended Carbon Budget (tCO ₂)
4th 2023 - 2027	94,600,000
5th 2028 - 2032	46,400,000
6th 2033 - 2037	22,700,000

- 1.2.3 There are inherent assumptions and limitations with adopting local carbon budgets for contextualisation. Local carbon budgets are assumed from the UK national carbon budget and there is no legally binding framework behind the local budgets.
- 1.2.4 Local carbon budgets also do not distinguish carbon emissions into different sectors (domestic, transport, industrial and commercial) as is the case in the Department for Business, Energy and Industrial Strategy (BEIS) (now the Department for Energy Security and Net Zero) GHG data for regions and LPAs.
- 1.2.5 Therefore, emissions will be compared against the entire South East England Tyndall Centre carbon budget, as opposed to an allocated sectoral budget based on sectoral emission sources. A comparison has not been made against the Tyndall Centre carbon budget for Winchester City Council given that the study area for the GHG assessment in **Chapter 14 (Climate)** of the **Environmental Statement (ES) (6.1, Rev 2)** covered South East England and emissions are therefore not limited to a single local authority boundary.

1.3 Environmental Statement assessment

- 1.3.1 For ease of reference, **Table 2** below provides the emissions assessed within **Table 14.7 of Chapter 14 (Climate)** of the **Environmental Statement (ES) (6.1, Rev 2)** on which the assessment of significance was made. As per the Design Manual for Roads and Bridges (DMRB) LA 114 Climate (Highway England, 2021), the Scheme’s assessment of significance of GHG emissions is determined by comparing emissions arising from the Scheme (i.e., net emissions) with National Carbon Budgets.

Table 2: Predicted GHG emissions for relevant UK carbon budgets

Project Stage	Estimated total GHG emissions over carbon budgets (tCO ₂ e) (DS Scenario)	Net GHG emissions over carbon budgets (tCO ₂ e) (DS- DM Scenarios)	Net scheme GHG emissions per relevant carbon budget (tCO ₂ e)			
			Third (2018 - 2022)	Fourth (2023 - 2027)	Fifth (2028 - 2032)	Sixth (2033-2037)
Construction (over period of 2024-2027)	37,070	37,070	N/A	37,070	N/A	N/A
Operation (modelled from 2027 through to 2037)	45,774,146	37,521	N/A	3,411	17,055	17,055
Total	45,811,216	74,591	N/A	40,481	17,055	17,055
% of UK Carbon Budget	N/A	N/A	N/A	0.002%	0.001%	0.002%

1.4 Contextualisation against the South East England Tyndall Centre total residual emissions

- 1.4.1 **Table 3** (below) contextualises the Scheme's emissions against the total residual emissions across all sectors (excluding aviation and shipping) against local carbon budgets for South East England derived from the Tyndall Centre.
- 1.4.2 The Scheme's emissions are shown as a proportion of the emissions available within the 4th, 5th and 6th Carbon Budgets once Government policy measures have been applied (i.e. the residual emissions).
- 1.4.3 The method for determining the contribution of the Scheme's emissions to the relevant carbon budget is the same method followed within **Paragraph 14.5.34, 14.10.15** onwards and **Table 14.7 Chapter 14 (Climate)** of the **Environmental Statement (ES) (6.1, Rev 2)**.
- 1.4.4 Construction emissions fall entirely within the 4th local carbon budget period (2023 – 2027) and therefore the total construction emissions (37,070 tCO₂e) are compared against carbon budget 4 only.
- 1.4.5 For operation, the opening year of the Scheme is 2027, therefore one year of emissions (3,411 tCO₂e) is compared against local carbon budget 4. Operational emissions will occur across the entirety of local carbon budgets 5 and 6 therefore, five years' worth of emissions (17,055 tCO₂e), is compared against each.

Table 3: Contextualisation of the Scheme’s emissions against South East England Tyndall Centre Total Residual Emissions (after policy savings).

Project Stage	Estimated total GHG emissions over carbon budgets (tCO ₂ e) (DS Scenario)	Net GHG emissions over carbon budgets (tCO ₂ e) (DS- DM Scenarios)	Net scheme GHG emissions per relevant local carbon budget (after policy saving)		
			Fourth (2023 - 2027)	Fifth (2028 - 2032)	Sixth (2033- 2037)
Construction (over period of 2024-2027)	37,070	37,070	0.57%	N/A	N/A
Operation (modelled from 2027 through to 2037)	45,774,146	37,521	0.004%	0.04%	0.08%
Total	45,811,216	74,591	0.574%	0.04%	0.08%

1.5 Summary

- 1.5.1 This submission provides local carbon budget contextualisation of the Scheme's emissions against the residual emissions projections given in the Tyndall Centre Carbon Budget for South East England. The Applicant has noted the limitations and assumptions associated with compiling these projections. This submission is provided for contextualisation and information only and does not provide an assessment of significance; nor does it alter the assessment of significance provided in **Chapter 14 (Climate)** of the **Environmental Statement (ES) (6.1, Rev 2)**. All Scheme emission values have been taken directly from **Chapter 14 (Climate)** of the **Environmental Statement (ES) (6.1, Rev 2)**.

Appendix B Visualisation of distribution of safety benefits

