

Application by Highways England for the A1 in Northumberland: Morpeth to Ellingham The Examining Authority's written questions and requests for information (ExQ3) Issued on 11 May 2021.

The following table sets out the Examining Authority's (ExA's) third round of written questions and requests for information – ExQ3. Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as **Annex C** to the Rule 6 letter of 19 November 2020. Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application against relevant policies.

Column 2 of the table indicates which Interested Parties (IPs) and other persons each question is directed to. The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number which starts with an alphabetical code and then has an issue number and a question number. For example, the first question on general matters is identified as GEN.3.1. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact <a href="mailto:AlinNorthumberland@planninginspectorate.gov.uk">AlinNorthumberland@planninginspectorate.gov.uk</a> and include 'A1 in Northumberland' in the subject line of your email.

Responses are due by Deadline 8: 25 May 2021.



#### **Abbreviations used:**

ARN	Affected Road Network	NCC	Northumberland County Council
Art	Article	NE	Natural England
BoR	Book of Reference	NNNPS	National Networks National Policy Statement
CA	Compulsory Acquisition	NSIP	Nationally Significant Infrastructure Project
CEMP	Construction Environmental Management Plan	PA2008	The Planning Act 2008
dDCO	Draft DCO	PRoW	Public Right of Way
DMRB	Design Manual for Roads and Bridges	R	Requirement
EA	Environment Agency	REAC	Register of Environmental Actions and Commitments
EIA	Environmental Impact Assessment	RIS	Road Investment Strategy
EM	Explanatory Memorandum	Sch.	Schedule
ES	Environmental Statement	SoCG	Statement of Common Ground
ExA	Examining Authority	SoR	Statement of Reasons
HRA	Habitats Regulations Assessment	SoS	Secretary of State
HEMP	Handover Environmental Management Plan	SPA	Special Protection Area
IP(s)	Interested Party (Parties)	TP	Temporary Possession
LEMP	Landscape and Environmental Management Plan	TRA	Traffic Reliability Area
LIR	Local Impact Report	WCH	Walkers, cyclists and horse riders
LWS	Local Wildlife Site	WSI	Written Scheme of Investigation
MoU	Memorandum of Understanding		



#### **The Examination Library**

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the Examination Library can be obtained from the following link:

https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010059/TR010059-000838-A1%20Northumberland%20Examination%20Library%20Morpeth%20to%20Ellingham.pdf

It will be updated as the examination progresses.

#### **Citation of Questions**

Ouestions in this table should be cited as follows:

Question reference: issue reference: question number, eg GEN.3.1 – refers to question 1 in this table.



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ExQ3: 11 May 2021

ExQ3	Question to:	Question:
GENERAL	QUESTIONS	
GEN.3.1	Applicant	In its response to ExQ2 GEN.2.1 the Applicant stated [REP5-023] that it had been agreed with NCC that Volume 10, Section 0, Part 2 (HA 87/01–Environmental Functions) & 3 (HA 88/01-Landscape Elements) of DMRB documents would be appended to the Landscape Environmental Management Plan (LEMP).  The Applicant is asked to provide these documents at D8 and to provide a link to them through the Outline CEMP.
GEN.3.2	Applicant	In its response to ExQ2 GEN.2.4 the Applicant stated [REP5-023] that a LEMP would be produced during the detailed design stage and prior to construction for both Parts A and B; and it would cover both the construction and operational phases. The Applicant did not answer the question in GEN.2.4 which was "Why is there not a requirement to produce a Landscape and Environmental Management Plan prior to construction?"  The Applicant is asked to explain why a LEMP cannot be provided as part of the Examination.
GEN.3.3	Applicant	In response to ExQ2 GEN.2.13 [REP5-023] the Applicant stated that a Design Statement is not a required document as set out in section 37(3) of the Planning Act 2008 and the section 55 checklist appended to PINS Advice Note Six (Appendix 3). The Applicant went on to explain that due to the nature of the design of the Proposed Development, which mainly involves dualling of the existing A1 and is neither complex nor technically challenging it was decided that a Design Statement was not required to support the application.  Notwithstanding that response, is not a Design Statement which provides a framework for applicants to explain how a proposed development is a suitable response to the site and its setting equally applicable to proposals which are less complex and challenging as advocated in the National Design Code?
GEN.3.4	NCC Applicant	In response to ExQ2 LV.2.15 NCC indicated [REP5-043] that the Northumberland Local Plan Examination has concluded and that the Inspector had written to the Council to advise that the plan is sound subject to a number of main modifications, with the plan expected to be adopted later in 2021.  The Council is asked to provide an update on Local Plan adoption at D8 and if there is any change to the position at D11. The Applicant is asked to explain whether there are any

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ExQ3	Question to:	Question:
		changes to the Local Plan since the submission of the application which the ExA should take into account.
GEN.3.5	Applicant	At D5 the Applicant submitted Rev 3 of General Arrangement Plans for Change Request [REP5-033]. Key Plan (Sheet 1 of 3) is shown as Revision 3 although the legend does not reference Revision 2. The changes are described as "East Linkhall Access Road Widened to Two Lanes and Shipperton Burn Diversion Added for Deadline 5". Sheets 14, 15 and 16 have also been amended as Revision 1. The General Arrangement Plan was further updated at D6 [REP6-005]
		How do these amendments relate to the Change Request? Explain why Revision 2 is not referenced.
GEN.3.6	NCC All IPs	Changes to East Linkhall Access Road, West Linkhall Access Road and associated drainage proposed at D6 [REP6-005] are described as having been discussed with NCC.
		NCC and all other IPs are asked for their comments on the scope and effects of these proposed changes.
GEN.3.7	Applicant NCC	Paragraph 2.2.1 of the ES Addendum: East and West Linkhall Access Roads [REP6-024] states that widening of the East Linkhall Access Road to provide a two lane carriageway without passing bays was as a result of consultation with NCC on their requirements for adoption of the access road. Paragraph 3.3.3 describes the access roads as private accesses.
		Is there a conflict between these two statements? Is the intention that both access roads would be adopted by NCC? Where is this secured through the DCO?
GEN.3.8	Applicant	The revised General Arrangement Plan [REP6-005] (Sheets 15 and 16) describe Revision 2 as "Changes to West Linkhall Road, DB27, DB27A and Order Limits for Deadline 6". The revised Land Plans [REP6-003] have also been amended "to reflect changes to West and East Linkhall Road and corrections to easements on Sheet 16".
		Explain the precise changes to the Order Limits and the nature of the corrections to easements. Would the extent of the changes to the Order Limits mean that the amendments should be considered as a material change?
GEN.3.9	Applicant	At D6 the Defence Infrastructure Organisation [REP6-054] reminded "the applicant and PINS of our previous request of details of any future designs for lighting columns which

ExQ3	Question to:	Question:
		may be proposed for the two bridges (Heckley Fence Overbridge and Charlton Mires Junction) in order to perform the necessary safeguarding assessments"
		Is that matter addressed through the outline CEMP? If so, where? If not, why not?
GEN.3.10	Woodland Trust NCC NE Forestry Commission Other IPs	The revised outline CEMP [REP6-025] has introduced a new measure ExA:S-L101 concerning potential veteran trees. Further detail about the compensation and mitigation for veteran trees is provided in Appendix A – Impacts to Ancient and Veteran Trees [REP6-045].  IPs, especially those named, are asked for their views on Appendix A and measure ExA:S-L101.
GEN.3.11	EA	The revised outline CEMP [REP6-025] has introduced a new measure: ExA:S-WL101 which states that "riparian planting to compensate for the loss of channels will be undertaken with a mix of native tree species with an understorey along a range of channels as detailed within the Culvert Mitigation Strategy [REP5-022]".  The EA is asked for its views on this measure.
AIR QUAL	ITY AND EMISSIONS	
AQ.3.1	Applicant	In response to EXQ2 AQ.2.1 that Applicant stated that the increase in regional emissions does not affect the UK's ability to comply with the objectives of the Environment Act and the UK Air Quality Strategy. Furthermore, the Applicant noted that the requirement for the reporting of regional emissions has been removed from the updated DMRB guidance document LA105 (Air Quality).  Explain further why the increase in regional emissions would not affect the UK's ability to comply with the objectives of the Environment Act and the UK Air Quality Strategy, particularly when considered in conjunction with other proposals by the Applicant and why the reporting of regional emissions is not required under LA 105 (Air Quality).
AQ.3.2	Applicant NE	At set out in NE's D5 response [REP5-047] the issue of the approach to air quality impacts on the River Coquet and Coquet Valley Woodlands SSSI remains unresolved. This matter is currently under discussion at a national level between the Applicant and NE although it has been agreed that it may be necessary to seek agreement at a local level depending on the timescales of discussions at a national level.

ExQ3	Question to:	Question:
		Explain the timescale for reaching agreement on this matter.
BIODIVE	RSITY AND HABITATS	REGULATIONS ASSESSMENT
BIO.3.1	Applicant NCC EA	In response to Hearing Action Point 7 [EV-054] the Applicant provided an Otter Position Statement [REP6-048] at D6, as did NCC [REP6-050] and the EA [REP6-053]. The Applicant has proposed potential mitigation and has indicated that the matter is under discussion between the three parties. It is noted that the Applicant's statement is exclusive to Part A and the position in relation to Part A is assumed to be agreed. However, this does not accord with NCC's statement.
		Parties are asked to provide a further update, either individually or jointly, at D8. Specifically, if NCC or the EA require changes to the DCO, CEMP or other mitigation measures to address their concerns any amendment should initially be discussed with the Applicant and submitted at D8.
BIO.3.2	Applicant	The Applicant's response to Question 3.9 in the Applicant's Written Summaries of Oral Submissions to Hearings (If otter were found to be present, what is the scope to address this?) states that as it stands there is an absence of field survey data or historic data.  The Applicant is asked to address the original question.
BIO.3.3	NCC	NCC provided a response to ExQ2 BIO.2.4 at D6 [REP6-051].  The Applicant is asked to comment on this response generally and in particular the relevance of offset improvement schemes or strategic compensation.
BIO.3.4	NE	In response to Action Point 7 from the April Hearings [REP6-050] NCC indicated that where pre-construction updating surveys confirm the presence of water vole suitable mitigation will be required. The Council indicated that it is acceptable for this to be included in the Schedule of Requirements.
		Should NCC wish for the ExA to consider any Requirement to address this issue then the precise wording should be provided at D8, ideally after discussion with the Applicant.
BIO.3.5	NE	Paragraph 4.2.6 of the Preliminary Bat Roost Assessment Verification Survey Report [REP6-022] indicates that the Applicant is engaging with Natural England to confirm their agreement with the approach to mitigation outlined in the Report.

ExQ3	Question to:	Question:
		NE is asked to respond at D8.
CARBON	EMISSIONS	
CE.3.1	Applicant Transport Action Network	On 20 April the Government announced a revision to its climate change budget, in line with the Climate Change Committee's recommended Sixth Carbon Budget, to cut emissions by 78% by 2035 compared to 1990 levels.
		The Applicant is asked to explain how this change affects the assessments undertaken in Chapter 14 [APP-058] [APP-059] and Chapter 16 of the ES [APP-062] and the Updated Case for the Scheme [REP4-069] and associated Appendices. In doing so the Applicant is asked to provide an update to Table 16.8 of the ES [APP-062]: Scheme Impacts on UK National Carbon Budgets, showing the total GHG emissions during the sixth Carbon Budget period (2033-2037).
		Would the Proposed Development affect the ability of the Government to meet its revised target? Transport Action Network is asked to comment in the light of its Relevant Representation [RR-013].
CE.3.2	Applicant	In addressing the legislative and policy framework relating to climate, Chapter 14 of the ES [APP-058] [APP-059] makes no reference to the Paris Agreement, 2015.
		The Applicant is asked to comment on the relevance of the Paris Agreement to the Applicant's assessment and whether the Proposed Development would lead to the UK being in breach of the Paris Agreement.
CE.3.3	Applicant	Have the cumulative effects of carbon emissions from the Proposed Development been considered with those from other developments and/ or relevant programmes such as the Roads Investment Strategy (RIS1 and RIS2), of which the Proposed Development forms part?
CE.3.4	Applicant	Paragraph 16.4.42 of the ES [APP-062] states that "the assessment of the Scheme's resilience to climate change is specific to the Scheme proposed and it is not anticipated that there would be any Within Topic combined effects in relation to climate resilience. Therefore, this has not been considered further in this chapter."  The Applicant is asked to expand on this reasoning.

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ExQ3	Question to:	Question:
CE.3.5	Applicant	Appendix 16.9 of the ES [APP-335] Table 1.2: End User GHG Emissions Data for the Traffic in the Region of the Scheme shows an increase in total GHG emissions for all traffic in the traffic model area from an average per year of 108 thousand tonnes of carbon dioxide emissions (ktCO <sub>2</sub> e) to 148ktCO <sub>2</sub> e when comparing the Scheme Baseline (do minimum) and the Scheme (do something).  The Applicant is asked to explain why GHG emissions are expected to rise to this extent with the Proposed Development in place and how this increase in emissions should be
07.0.6		considered in the context of the Government's aim to cut carbon emissions.
CE.3.6	Applicant	Appendix 16.9 of the ES [APP-335] Table 1.2 End User GHG Emissions Data for the Traffic in the Region of the Scheme shows average per year (2024-2083) GHG emissions for the Scheme Baseline (do minimum) of 108 ktCO <sub>2</sub> e.
		Explain why the figure is lower than those for both Part A and Part B contained in Tables 14.12 of the ES [APP-058] [APP-059]. Furthermore, explain the reason for the differences between the Part A and Part B (recognising that the dates vary) including total emissions and why the total emissions in Table 1.2 is not the sum of the totals from Tables 14.12 for Parts A and B.
CE.3.7	Applicant	Appendix 16.9 of the ES [APP-335] Table 1.3: Scheme Impacts on Carbon Budgets shows the total GHG emissions (and the percentage of the budget) increasing from the Third Carbon Budget period to the fifth.  Explain why this increase is occurring and the position for the sixth carbon budget.
CE.3.8	Applicant	Appendix 16.9 of the ES [APP-335] paragraph 1.7.9 states that it is anticipated there would be a slight adverse effect on climate during construction and operation of the Scheme. It points out that "IEMA guidance suggests that all GHG emissions are significant in the absence of any significance criteria or defined threshold. However, given the mitigation measures for the Scheme, the magnitude of GHG emissions and the context of the Scheme, using professional judgement, it is considered that the slight adverse effect of the Scheme is not significant."
		The Applicant is asked to expand on this reasoning in the light of the IEMA guidance.
CE.3.9	Applicant	Paragraphs 14.9.3 to 14.9.6 of the ES [APP-058] [APP-059] describe design measures and mitigation to address the effects on climate.

ExQ3	Question to:	Question:
		Are these measures not best practice rather than mitigation? Why have they been taken into account as mitigation in paragraph 14.10.18 of the ES?
COMPULS	ORY ACQUISITION/TEMPO	RARY POSESSION
		The ExA does not wish to ask any further questions on this topic at this point in the Examination.
COMBINE	D AND CUMULATIVE EFFEC	TS
		The ExA does not wish to ask any further questions on this topic at this point in the Examination as further information is expected to be submitted at Deadline 7.
DRAFT DE	VELOPMENT CONSENT ORI	DER
		Note that as part of the Hearings Action Points arising from Hearings in April [EV-054] two further questions were asked of the Applicant in respect of the dDCO (DCO.3.1 & DCO.3.2).
DCO.3.3	Applicant	In R4(2)(c)(vii) of the dDCO [REP6-010] the reference to "relevant planning" should be changed to "relevant planning authority".
DCO.3.4	Applicant NCC	NCC's response to ExQ1 DCO.1.44 [REP1-073] stated that it is essential that legal widths for ProW are included in Art 16 of the DCO. The SoCG with NCC [REP6-030], at item 12.1 states that "NCC is content for the ProW widths to be captured in the SoCG, as long as this is agreeable with the Examiner. The standard widths employed by NCC are as follows:  — The preferred width for a public footpath is 1.5 metres or 2.0 metres where the public footpath is proposed to be fenced or hedged on each side. — The preferred width for a bridleway is 3 metres."
		NCC is asked to explain the change in its position. Both NCC and the Applicant are asked to explain why widths of proposed PRoWs should or should not be included in the DCO.

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ExQ3	Question to:	Question:
DCO.3.5	NCC	Further to NCC's response to ExQ2 DCO.2.3 [REP5-043] can the Council confirm that it is content with Schedules 3 and 4 of the dDCO.
DCO.3.6	Applicant NCC	In ExQ2 DCO.2.6 [PD-011] NCC was asked to expand on its concerns about the drafting of R4 and to propose amended wording at Deadline 5. The Applicant was asked to respond to NCC's suggestion at Deadline 6 unless the matter was agreed between the parties in the meantime. NCC's response at D5 stated that the Council did not have any alternative wording for R4 but would discuss with the Applicant prior to D6.  The Applicant and NCC are asked to discuss R4 further and to confirm whether any changes are required beyond those contained in the latest version of the dDCO [REP6-010].
DCO.3.7	Applicant NCC	Following the Applicant's response to ExQ2 DCO.2.7 [REP5-023], at D6 the Applicant proposed a new requirement, R17 in respect of the Landscape and Ecological Management Plan (LEMP). The requirement provides for the undertaker to decide whether or not to prepare a LEMP having regard to the views of the relevant planning authority. In response to Action Point 9 from the April Hearings [EV-054] NCC indicated [REP6-050] that it would wish to see a greater level of narrative added to the outline CEMP in relation to the contents of a LEMP, confirming the commitments that would be contained in the LEMP. Would it not be more appropriate for the RPA to decide whether or not it wishes to have a LEMP? Accordingly, the Applicant and NCC are asked to comment on the revised wording below. In addition, NCC is asked to confirm whether this wording meets the objectives it set out in response to Action Point 9 and if it does not to propose further changes.
		17.—(1) Where it appears desirable to the undertaker, i In place of the relevant provisions of the CEMP, the undertaker may prepare a single document known as a LEMP to address the management of the landscape and ecological impacts of the Scheme including— (a) environmental constraints; (b) landscape mitigation; (c) impacts on biodiversity; and (d) impacts on protected species. (2) Any LEMP which is produced shall reflect the mitigation measures set out in the REAC and include a graphic representation of the measures to be implemented.

ExQ3	Question to:	Question:
		(3) In deciding whether to produce a LEMP Should the relevant planning authority request the undertaker to produce a LEMP and the contents of a LEMP the undertaker shall consult and have regard to the views of the relevant planning authority on the contents of the LEMP.  (4) Where a LEMP is to be produced then it shall be submitted for the approval in writing by the Secretary of State, following consultation with the environment agency and relevant planning authority to the extent that it relates to matters relevant to its function.
DCO.3.8	Applicant	R17 of the dDCO [REP6-010] would give discretion to the undertaker (or if the amended version were adopted, NCC) as to whether or not to prepare a LEMP. Measure ExA:S-L100 of the CEMP [REP6-025] states that the Applicant will (our emphasis) prepare a Landscape and Ecological Management Plan (LEMP) for each of Part A and Part B, prior to construction commencing.  How can these two statements be reconciled?
DCO.3.9	Applicant	Schedule 12 of the dDCO [REP6-010] lists Documents to be Certified including Landscape Mitigation Masterplan Part A.  The Applicant is asked to provide a Revision Number which is currently missing.
GEOLOGY	AND SOILS	
GS.3.1	Applicant NE	Item 4 of the Statement of Common Ground with Natural England [REP6-031] highlights that the conclusions of the geomorphological assessment are still not agreed and are under discussion between both parties, particularly in relation to the proposed bank stabilisation works and the scour protection works and its implications for local sediment supply in this area.  Could the Applicant and Natural England provide an update on the situation?
LITCTORT	C ENVIRONMENT	
HISTORI	CENVIRONMENT	The ExA does not wish to ask any further questions on this topic at this point in the
		Examination.

ExQ3: 11 May 2021

ExQ3	Question to:	Question:
LANDSC	APE AND VISUAL	
LV.3.1	NCC	NCC's response to ExQ2 LV.2.9 stated that a response to Appendix LV.1 [REP1-050] would be provided at D6.  NCC is asked to provide an update.
LV.3.2	Applicant EA	Item 1 of table 3-2 in the Statement of Common Ground with the Environment Agency [REP6-032] highlights that the appropriate levels of compensation/mitigations/off-setting in relation to the impacts of the proposal are still not agreed.  Could the Applicant and the Environment Agency provide an update on the situation?
LV.3.3	Applicant	A series of earth bunds are proposed as essential mitigation.  Could the Applicant confirm the maximum height and gradient of these earth bunds and also how their visual and landscape impact has been assessed?
LV.3.4	Applicant	A series of top soil storage locations are proposed as part of the Scheme.  Could the Applicant confirm how these will be managed in order to minimise impacts on the wider community, particularly visual and landscape impacts, as well as impacts on air quality linked to dust, and where within the outline CEMP will these be secured?
LV.3.5	Applicant	Noise barriers are proposed in certain specific locations, as detailed within [REP4-010] as mitigation for certain receptor Groups experiencing significant adverse operational road traffic noise.  How has the visual impact of these barriers been taken into consideration and how did it inform the decision-making process? Can the Applicant please also provide details of consultation responses on this issue in relation to how the effect would be perceived by sensitive receptors, particularly residents?
LV.3.6	Applicant	Can the Applicant please provide further detail, in addition to what has already been provided in [REP4-026], on how the age and ecological value of trees will be taken into consideration as part of vegetation protection and, where the removal of vegetation cannot be avoided, how will this be replaced?

ExQ3	Question to:	Question:
MATERIAL RESOURCES		
		The ExA does not wish to ask any further questions on this topic at this point in the Examination.
NOISE AN	ID VIBRATION	
NV.3.1	Applicant	The Applicant's Response to the ExQ2 NV.2.4 [REP5-023] confirms that although receptor Group 9 would experience significant adverse operational road traffic noise, given the distance from the Scheme carriageway to the receptors, a noise barrier or earth bund would not provide meaningful benefit in terms of noise reduction.
		What other alternatives have been considered for this group in light of the significant adverse impact that the Proposed Development would have, and why have these been rejected?
POPULAT:	ION AND HUMAN HEALTH	
PHH.3.1	Applicant NCC	The Applicant's Response to ExQ2 PHH.2.4 [REP5-023] does not appear to be reflected within the latest version of the Statement of Common Ground between the Applicant and NCC.
		Could NCC and the Applicant provide an update on their latest position in relation to this issue?
PHH.3.2	Applicant	The Applicant's Response to ExQ2 PHH.2.10 [REP5-023] states that the Applicant does not consider that the bus stop locations would serve the older population well and also includes reference to The Equalities Impact Assessment [REP2-007] which recommends that Designers continue exploring opportunities to make routes to alternative bus stops suitable for a range of users e.g. footpath surfacing, crossing points, rest areas/seating, dropped kerbs, signage.
		How is this secured through the DCO?

ExQ3	Question to:	Question:	
TRAFFIC AND TRANSPORT			
TT.3.1	NCC	In response to Action Point 8 from the April Hearings [REP6-050] NCC indicated that in relation to the need to provide for non-motorised users the basic position between the Applicant and NCC remains divergent. The Council goes on to state that "we are willing to make suggested amendments to the key elements of the dDCO in relation to ensuring future delivery of the suggested NMU route should the ExA consider this to be appropriate".  It is not for the ExA to advise IPs how to address their concerns but should NCC wish to propose any amendments to the dDCO to ensure the future delivery of the suggested NMU route then this should be done by D8, ideally having discussed the wording of any proposed amendment with the Applicant.	
TT.3.2	NCC	The Applicant's response to Question 6.49 in the Applicant's Written Summaries of Oral Submissions to Hearings [REP6-044] stated that in oral submissions, NCC has confirmed that a cycleway on the de-trunked section of the A1 is not required for safety reasons. NCC is asked to confirm its position in writing.	
WATER ENVIRONMENT			
		The ExA will explore outstanding issues in relation to the Water Environment later in the Examination. Consequently, it does not wish to ask further written questions on this matter at this point.	