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National Highways
South Bank
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Dear Sir/Madam,

PLANNING ACT 2008

APPLICATION FOR THE PROPOSED A1 IN NORTHUMBERLAND: MORPETH TO ELLINGHAM DEVELOPMENT CONSENT ORDER

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to say that consideration has been given to:
 - the Report dated 5 October 2021 of the Examining Authority, consisting of two examining inspectors, Kevin Gleeson BA MCD MRTPI and Andre Pinto BA MA MRTPI (“the ExA”) who conducted an examination into the application made by National Highways who are referred to in Report by their former name, Highways England, (“the Applicant”) for the A1 in Northumberland: Morpeth to Ellingham Development Consent Order (“the DCO”) under section 37 of the Planning Act 2008 as amended (“the PA2008”);
 - the consultation responses received in response to the further consultations of 29 October and 16 November 2021, 4 February 2022, and 11 October and 7 November 2023, 27 March 2024, 16 April 2024, 26 April 2024 and 10 May 2024 undertaken by the Secretary of State following the close of the Examination in respect of the application; and
 - Late representations received by the Secretary of State following the close of the Examination.
2. Published alongside this letter, on the Planning Inspectorate website, is a copy of the ExA’s Report of Findings and Conclusions and Recommendation to the Secretary of State (“the Report”). All “ER” references are to the specified paragraph

in the Report. Paragraph numbers in the Report are quoted in the form “ER XX.XX.XX”.

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

The Application

4. The application was received on 7 July 2020 and accepted for Examination on 4 August 2020. The Examination of the application began on 5 January 2021 and was completed on 5 July 2021. The Examination was conducted on the basis of written and oral submissions submitted to the ExA and by a series of hearings held virtually due to the ongoing pandemic. The ExA also undertook a number of unaccompanied site inspections on 31 March, 1 April, 19 and 20 May 2021. No accompanied site visits were undertaken due to ongoing COVID-19 restrictions [ER 1.4.15 – 1.4.23].
5. The DCO as applied for would allow for the construction and operation of works comprising of two Parts, known as “Part A” (Morpeth to Felton) and “Part B” (Alnwick to Ellingham) (collectively referred to as ‘the Proposed Development’).

Part A comprises:

- approximately 6.5 km of online widening of the existing single carriageway to dual carriageway and approximately 6.1km of new offline dual carriageway of the A1 between Morpeth and Felton;
- construction of a new bridge over the River Coquet parallel to the existing road bridge;
- dualling of the existing carriageway between Warreners Bridge and Priests Bridge;
- construction of a new dual carriageway between Priest Bridge and Burgham Park;
- dualling of the existing carriageway between Burgham Park and Felton;
- three new split-level junctions, including a bridge over the A1, to be constructed at Highlaws, Fenrother and West Moor;
- construction of a new bridge at Causey Park Bridge and a new road under the A1 at Burgham Park;
- ownership and maintenance responsibilities for the sections of the A1 between Priests Bridge and Burgham Park to be passed to Northumberland County Council.

Part B comprises:

- the widening of the existing single carriageway to a dual carriageway for an approximately 8km section of the existing A1 between Alnwick and Ellingham;
- Improvements to the existing junction at Charlton Mires to be grade-separated.
- Construction of a new accommodation overbridge at Heckley Fence;

- The stopping-up and replacement of a number of Private Means of Access routes including new roads for East and West Linkhall, and from the B6347 and Rock South Farm;
 - The diversion of an extra high voltage cable, utility pipes and telecommunication cables, and the provision of new drainage features and extended culverts;
 - Temporary and permanent Public Rights of Way diversions.
6. In total, the Proposed Development comprises the widening of an approximately 20.6km stretch of the existing A1 between Morpeth to Ellingham, with approximately 14.5km of online widening and approximately 6.1km of new highway [ER 1.1.2 and ER 2.1.2].
7. The Secretary of State notes the proposed works for Part A and Part B as set out in Chapter 2 of the Report and changes made to the Application as the Examination progressed which the ExA considered to be material (“the Change Request”) and accepted by the ExA and which are discussed later under paragraph 115, 172 and 213.

Summary of the ExA’s Recommendations

8. The principal issues considered during the Examination on which the ExA has reached conclusions on the case for development consent are set out in the Report under the following broad headings:
- Need for the Proposed Development and Consideration of Alternatives
 - Traffic and Transport
 - Climate Change
 - Air Quality and Emissions
 - Landscape and Visual Effects
 - Design
 - Biodiversity, Ecology and the Natural Environment
 - Water Environment
 - Geology and Soils
 - Noise and Vibration
 - Social, Economic and Land Use Effects
 - Historic Environment
 - Material Resources and Waste Management
 - Combined and Cumulative Effects •
 - Habitats Regulations Assessment
 - Compulsory Acquisition and Related Matters
 - Draft Development Consent Order and Related Matters

9. For the reasons set out in the Report, the ExA recommend that the Secretary of State makes the DCO in the form recommended at Appendix C of the Report, subject to being satisfied on the accuracy of the detailed specifications in the ExA's proposed amendments to Work No. 5b [ER 9.2.16]. As described below, the Secretary of State is satisfied that this has been resolved.

Summary of Secretary of State's Decision

10. The Secretary of State has decided under section 114 of the PA2008 to make with modifications an Order granting development consent for the proposals in this application. This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the Planning Act 2008 and regulation 31(2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("the 2017 Regulations").

Secretary of State's Consideration

11. The Secretary of State's consideration of the Report, the representations received, responses to his consultation letters of 29 October and 22 December 2021, 4 February 2022, 11 October and 7 November 2023, 27 March 2024, 16 April 2024, 26 April 2024 and 10 May 2024 and all other material considerations are set out in the following paragraphs. Where not stated, the Secretary of State can be taken to agree with the ExA's findings, conclusions and recommendations as set out in the Report and the reasons given for the Secretary of State's decision are those given by the ExA in support of the conclusions and recommendations. Where consultation responses and representations received after the close of Examination are not otherwise mentioned in this letter, it is the Secretary of State's view that these representations do not raise any new issues that were not considered by the ExA and do not give rise to an alternative conclusion or decision on the DCO.
12. The Secretary of State is content that the Proposed Development is a Nationally Significant Infrastructure Project in accordance with section 14(1)(h) and section 22(1) to (3) of the PA2008 for the reasons set out at ER 1.1.5, and that section 104(2) of the PA2008 has effect in relation to the Proposed Development.
13. Under section 104(3) of PA2008, the Secretary of State must decide this Application in accordance with any relevant NPS which in this case is the National Policy Statement for National Networks ('NPSNN'), subject to any of the exceptions in section 104(4) to (8) of the PA2008 applying [ER 3.3.1]. The Secretary of State does not consider any of the exceptions apply to this case. The Secretary of State notes that the Proposed Development is an EIA development under Schedule 2 of the EIA Regulations and that the Applicant has provided an environmental statement ("ES") as part of the submitted application. As set out in 2.3 of the Report, parts of the ES have been updated during the Examination [ER 3.4.7] and after it closed. The Secretary of State has had regard to the environmental information associated with this Proposed Development as defined in regulation 3(1) of the 2017 Regulations.
14. With regard to the NPSNN, in a Ministerial Statement issued on 22 July 2021, the Secretary of State for Transport advised that a review of the NPSNN would begin later in 2021 for the reasons given in the Ministerial Statement. A new draft version was published on 14 March 2023 and, following public consultation and scrutiny by the Transport Select Committee, a revised version ("the revised NNNPS") was laid before Parliament on 6 March 2024. The revised NNNPS was

approved by the House of Commons on 26 March 2024 and designated by the Secretary of State on 24 May.

15. The Secretary of State notes paragraph 1.17 of the revised NNNPS and that it is potentially capable of being an important and relevant consideration in the decision-making process for applications accepted for examination before its designation but considers that it does not support a different outcome in this case. For those reasons, he has not given the revised NNNPS any material weight. The Secretary of State is satisfied that as set out in paragraph 1.16 of the revised NNNPS, for any application accepted for examination before designation of the revised NNNPS, the NPSNN should continue to have effect. The NPSNN therefor remains government policy in respect of the Proposed Development and continues to provide a proper basis on which the Planning Inspectorate can examine, and the Secretary of State can make decisions on, applications for development consent.
16. In determining this Application, the Secretary of State has had regard to the NPSNN, the Local Impact Report ('LIR') submitted by Northumberland County Council, the Development Plans [ER 3.8] and to all other matters identified in ER 3.2.4 and agrees with the ExA that they are important and relevant to the decision on this Application.
17. The Secretary of State notes the relevant legal and policy context for the Proposed Development as set out in Chapter 3 of the Report regarding European Law and related UK Regulations, other relevant legal provisions, previous Development Consent Orders, transboundary effects and other relevant policy statements and agrees these are matters to be considered in deciding this Application. Given the length of time since the close of Examination (5 October 2021) the Secretary of State's consultation dated 11 October 2023 requested that the Applicant confirmed whether any updates were necessary to their application or supporting documents. The Applicant responded and confirmed that there had been changes to national policy which had a neutral impact and changes to local policies that enhanced support for the Proposed Development. The Secretary of State's consideration on the revised NPSNN is set out above and he has no reason to disagree with the Applicant's conclusions in relation to local policies. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision.

The Need for the Proposed Development and Consideration of Alternatives

18. The Secretary of State notes the ExA's summary of policy considerations [ER 4.9.1-4.9.4] and the Applicant's response to the consultation dated 11 October 2023 which states that the recently adopted Northumberland Local Plan 2016 – 2036 (which replaced the Castle Morpeth District Local Plan, Alnwick District Wide Local Plan and Alnwick District Core Strategy) provides clear and enhanced policy support for the Proposed Development, with improvements to the A1 being a key outcome for the Northumberland Local Plan.
19. The Secretary of State notes the evolution of the proposed development as well as the route options considered as set out in ER 4.9. Following the publication of the A1 North of Newcastle Feasibility Study in 2015, three options were identified for the dualling the A1 for Part A and three options for Part B [ER 4.9.11]. Following further analysis and a non-statutory public consultation undertaken from November

- to December 2016 [ER 4.9.11–4.9.13], in September 2017 the preferred route announcement confirmed the ‘Green’ route as the preferred option for Part A [ER 4.9.14] and the ‘Orange’ route as the preferred option for Part B [ER 4.9.15].
20. The objectives for the Proposed Development are to: improve journey time [ER 4.9.18]; improve resilience and journey time reliability by addressing issues relating to a lack of over-taking opportunities, a high volume of HGV traffic and the current inability for the network to cope with disruptive events such as maintenance; [ER 4.9.19], improve safety [ER 4.9.20–4.9.23], maintain access for local traffic whilst improving the conditions for strategic traffic [ER 4.9.24] and facilitate future economic growth [ER 4.9.25 – 4.9.26] along the route.
 21. The Secretary of State notes the issues brought up in the Examination [ER 4.9.27 – 4.9.50] but that the need for the Proposed Development was not questioned in any relevant representations (“RRs”) or written representations (“WRs”) and there was considerable support from Interested Parties (“IPs”) including Northumberland County Council (“NCC”) in recognising the need for the proposed improvements to the A1 [ER 4.9.27].
 22. The Secretary of State has had regard to the objection to the proposed development in respect of the route alignment for Part B submitted by M E Beal and Sons who were concerned about the impact of the proposed Charlton Mires Junction on their property, Charlton Mires Farm [ER 4.9.31]. The ExA asked whether alternative alignments for this junction had been considered to avoid demolition of this and another property [ER 4.9.32]. The Applicant confirmed that two of the options considered for Part B (the Green and Blue Options) included offline sections that avoided demolition of the two properties but both were assessed as resulting in greater environmental impacts and habitat loss than the online option, that the Blue Option would potentially have had a greater impact on some protected species and that the Green Option would have been closer to areas of High Landscape Value [ER 4.9.32–4.9.33]. In addition, the two options were not sufficiently aligned with the budget allocations to constitute a deliverable scheme and would require more land take [ER 4.9.33 and ER 4.9.41]. In responses to a request for further information from the ExA [ER 4.9.40], the Applicant explained why the Orange Option was taken forward to the Preferred Route Announcement [ER 4.9.41] and explained how the Orange Option had been identified as offering the best value for money [ER 4.9.42].
 23. In addition to the issue of the route alignment of Part B in the vicinity of Charlton Mires the Examination also considered the layout of the proposed new junction at Charlton Mires and four options were considered [ER 4.9.43]. Option 2, a new grade separated junction to the north of the existing Charles Mires Junction was taken forward [ER 4.9.45]. Option 2 was further developed during the preliminary stage to comply with design and safety standards which resulted in the centreline of the new carriageway being moved to the east which in turn would require demolition of some of the Charlton Mires Farm buildings to accommodate the layout [ER 4.9.46]. Final comments submitted on behalf of M E Beal & Sons stated that alternative options for the location of a flyover which would have avoided the demolition of the property had not been considered. It also confirmed that no agreement had been reached on future accommodation [ER 4.9.50].
 24. The Secretary of State notes, as set out in Chapter 2 of the ES, there is longstanding support at national and local levels of planning, transport and

economic policy for the principle of dualling the A1 in Northumberland [ER 4.9.51]. The Secretary of State agrees with the ExA that the Proposed Development would positively address the objectives which, as mentioned above, are to: improve journey times on this route of strategic national importance; improve network resilience and journey time reliability; improve safety; maintain access for local traffic whilst improving the conditions of the strategic traffic and facilitate economic growth. The Secretary of State also agrees that those objectives are appropriately framed to address longstanding issues in the area. [ER 4.9.52].

25. The Secretary of State further agrees with the ExA that in line with the requirements of paragraphs 4.26 and 4.27 of the NPSNN the Applicant has demonstrated that a range of alternatives in terms of route options were considered over many years and were subject to extensive public consultation [ER 4.9.53].
26. Noting that in terms of route options and layout, the position at Charlton Mires junction remained in dispute between the Applicant and M E Beal & Sons at the end of the Examination [ER 4.9.54], and having considered the Applicant's justification, the ExA found that the environmental impacts of the offline alternatives would be much greater than the online Orange Option. Whilst the ExA were less convinced of the Applicant's reasons for rejecting the alternative options based on cost, they considered that even if those options were deliverable taking account of additional cost, the environmental benefits associated with the online option were enough to justify the Proposed Development [ER 4.9.55]. With regard to the junction layout, of the 4 options, the ExA did not consider that Option 2 was an unreasonable proposal to take forward [ER 4.9.58 and 6.2.21] and considered that none of the four options would have avoided severe impacts on M E Beal and Sons' property interests. The ExA concluded that Option 2 would be the optimum layout for the Proposed Development [ER 4.9.59]. The Secretary of State has no reason to disagree with this.
27. Paragraph 2.2 of the NPSNN identifies a critical need to improve the national networks to address road congestion. Paragraphs 2.12 to 2.14 of the NPSNN highlight the importance of the strategic road network in providing critical links between areas, enabling safe and reliable journeys and the movement of goods in support of national and regional economies. The Secretary of State considers that the Proposed Development complies with the overall principles of the NPSNN and agrees with the ExA that with regard to the need for the Proposed Development, there is very strong support and justification for it and that this carries very large weight in the planning balance [ER 6.2.23]. The Secretary of State is therefore satisfied that the need for the Proposed Development has been established. Subject to the detailed policies and protections in the NPSNN and the legal constraints set out in PA2008, there is (paragraph 4.2 of the NPSNN) a presumption in favour of granting development consent for national network Nationally Significant Infrastructure Projects ("NSIP") that fall within infrastructure established in the NPSNN, and the Secretary of State considers that the Proposed Development represents such a project.
28. The Secretary of State notes the representation from the Transport Action Network submitted on 14 May 2024 setting out that the Proposed Development has the lowest benefit cost ratio of all the scheme in RIS2 and argues that the need and need case for the Proposed Development has not been made as the economic case is so weak.

29. Paragraph 4.5 of the NPSNN states that the business case (which includes the benefit cost ratio) provides the basis for investment decisions on road projects, and it will normally be based on the Department for Transport's Transport Business Case guidance and WebTAG guidance. The NPSNN further states that the economic case prepared for a transport business case will assess the economic, environmental and social impacts of a development and the information provided will be proportionate to the development and important for the Secretary of State's consideration of the adverse impacts and benefits of a proposed development.
30. The Secretary of State considers the Applicant's business case has followed, and is compliant with, both the HM Treasury Green Book guidance and the WebTAG guidance. The Secretary of State is satisfied that the business case, which was compiled to inform investment decisions, has been undertaken in a way consistent with paragraph 4.5 of the NPSNN. The Secretary of State is satisfied that the Applicant will update and refine its business case as the project develops and more information becomes available as part of the approval stages of the business case and final funding decisions and that the benefit cost ratio will be recalculated accordingly.

Secretary of State's Conclusion on Need and Alternatives

31. Paragraph 2.2 of the NPSNN identifies a critical need to improve the national networks to address road congestion. Paragraphs 2.12 to 2.14 of the NPSNN highlight the importance of the strategic road network in providing critical links between areas, enabling safe and reliable journeys and the movement of goods in support of national and regional economies. The Secretary of State considers that the Proposed Development complies with the overall principles of the NPSNN and agrees with the ExA that with regard to the need for the Proposed Development, there is very strong support and justification for it and that this carries very large weight in the planning balance [ER 6.2.23]. The Secretary of State is therefore satisfied that the need for the Proposed Development has been established and that alternative options have been sufficiently considered in compliance with the NPSNN. Subject to the detailed policies and protections in the NPSNN and the legal constraints set out in PA2008, there is (paragraph 4.2 of the NPSNN) a presumption in favour of granting development consent for national network Nationally Significant Infrastructure Projects ("NSIP") that fall within infrastructure established in the NPSNN, and the Secretary of State considers that the Proposed Development represents such a project. Paragraph 4.3 of the NPSNN states that the Secretary of State, in considering any proposed development and in particular when weighing its adverse impacts against its benefits, should take into account: 1) potential benefits, including the facilitation of economic development, including job creation, housing and environmental improvement, and any long-term or wider benefits; and 2) potential adverse impacts, including any longer-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.
32. The Secretary of State is satisfied that the information provided to the Examination and in the post Examination consultations is sufficient for him to reach an up-to-date conclusion on the economic benefits and impacts of the Proposed Development and to weigh these against each other. Further, he considers that the Proposed Development would have no adverse effects such as to outweigh its

benefits and as such s104(7) PA2008 does not apply. The Secretary of State is satisfied that there is no requirement for the BCR calculation itself to be considered as part of the planning process, including in relation to need, as this is used to inform investment decisions.

Transportation and Traffic

33. The Secretary of State notes the policy considerations and the Applicant's Case set out in ER 4.10.1 – 4.10.32.
34. The Secretary of State notes that no IPs questioned the traffic or transportation case for the dualling of the A1 and there was support for the road safety improvements which the Applicant set out would materialise as a result of the Proposed Development [ER 4.10.119].

Non-motorised User Provisions

35. NCC raised concerns that the needs of Non-Motorised Users ("NMUs") had not been fully addressed and that the opportunity to make improvements to the de-trunked A1 to reduce impacts of the Proposed Development on NMUs had not been maximised. Pedestrian and cycle access, in particular within Part A, was also raised as a concern [ER 4.10.37] with NCC noting that Local Transport Note ("LTN") 1/20 "Cycle Infrastructure Design" sets out an expectation that opportunities to improve cycling provision would be considered in all future local highway schemes funded by Government [ER 4.10.46]. The Applicant argued, among other reasons, that LTN 1/20 is appropriate for new local highway schemes or changes to local highway schemes [ER 4.10.47] and that it did not apply to the de-trunked A1. The Applicant noted that the Proposed Development involves the transfer of an existing asset from the strategic road network to the local highway network, with no changes to the de-trunked section of the A1 required and considered that the change to the character of the de-trunked A1 was not an impact that needed mitigating [ER 4.10.48 and 4.10.51]. The Applicant considered that the provision of facilities for NMUs was satisfactorily addressed in compliance with the NPSNN and that a new north-south connection for NMUs was neither a requirement for mitigation nor of policy. NCC disagreed and maintained that the principles in LTN 1/20 applied to the Proposed Development [ER 4.10.52].
36. In addition, the Secretary of State notes the concerns raised by Mr Andrew Kirkham regarding east-west cycling provision across the A1, specifically the proposed Causey Park Bridge Overbridge. The Applicant responded, stating that surveys showed that east-west crossings of the A1 would be safer due to the provision of new, grade separated routes over or under the A1 at various locations [ER 4.10.53]. The Applicant also explained why in its view the Proposed Development had been adequately designed to address the needs of cyclists and pedestrians as regards east-west provision [ER 4.10.54 – 4.10.56].
37. The Secretary of State has had regard to the request from NCC for the inclusion of segregated north-south cycle path on the de-trunked section of the A1, which does not currently have NMU provision. The Secretary of State notes the disagreement between the Applicant and NCC regarding the need for and cost of including such a provision, and whether it could and should be accommodated as part of the Proposed Development [ER 4.10.57 – 4.10.61]. The Secretary of State notes that the Applicant considered that the provision of a shared footway/cycleway

as proposed by NCC would require additional land outside the Order Limits and that the proposed change could not be achieved during the Examination [ER 4.10.62].

38. The Applicant also considered that, as a result of the de-trunking, the former A1 would experience less traffic and be more suitable for use by cyclists without the requirement for separate cycleway provision, and that it would not be feasible to accommodate the proposed changes into the Proposed Development by the inclusion solely of a Requirement [ER 4.10.66].
39. The Secretary of State notes the ExA's view that while some improvements to conditions for NMUs would arise as a result of the Proposed Development it did not believe that the Applicant had worked effectively to enhance opportunities for cyclists. While accepting that LTN 1/20 post-dates the application, the ExA considered that the themes within that document are not new and the Applicant's approach to its applicability appeared to lack consistency [ER 4.10.121]. The ExA noted that NCC highlighted their wish for the Proposed Development to address cycle links to the Felton and Morpeth section of the route at the Preliminary Meeting. As a result, NCC brought forward its own proposals to provide enhanced opportunities for cyclists, but they were introduced to the Examination at a late stage and the ExA agreed with the Applicant that they had not been costed or developed to a sufficient degree to be incorporated into the Proposed Development. Consequently, the ExA said it could not recommend that NCC's proposals be supported [ER 4.10.122]. In the consultation letter of 29 October 2023, the Secretary of State invited the Applicant and NCC to comment on discussions and whether any further agreement on the NMU provision had been reached. Both parties responded that no agreement had been reached and the Applicant set out that their position remained unchanged in that they considered the provision of facilities for NMU's to be satisfactorily addressed by the Proposed Development in compliance with the NPSNN. The Secretary of State agrees with the ExA's reasons that NCC's proposals should not be incorporated into the DCO for NMUs and notes the ExA's conclusion that this appears to be a missed opportunity to provide NMU enhancements but the Secretary of State notes that the Proposed Development will not prevent further enhancements being made.

Safety Issues on the de-trunked A1

40. The Secretary of State notes that the Stage 1 Road Safety Audit highlighted the potential for increased vehicle speeds on the de-trunked A1. The Applicant confirmed that no consequential works would be undertaken as the de-trunked section of the A1 would become local highway for which NCC would be responsible [ER 4.10.67]. NCC argued that reducing the speed limit would not, in their view, reduce vehicle speeds or reduce driver behaviour and that a reduction of the road width should form part of the Proposed Development and the changes should be undertaken by the Applicant [ER 4.10.70]. The Applicant did not accept that the de-trunked section of the A1 was excessively wide and said that whilst the Road Safety Audit had highlighted the potential for increased vehicle speeds, it did not state that the carriageway would be unsuitable and unsafe [ER 4.10.72 – 4.10.73]. The ExA concluded that it did not appear to be equitable that NCC should have to address such measures at the time when they take responsibility for the de-trunked road but that Requirement 3 of the Recommended DCO, which requires the Secretary of State to approve the detailed designs following consultation with the relevant planning authority, should provide sufficient opportunity for NCC's views to be

addressed [ER 4.10.123]. The Secretary of State considers this matter can be addressed through the consultation necessary as part of Requirements 3 and welcomes continued discussion between parties on this matter.

Funding

41. The Secretary of State notes NCC's criticism of the Applicant's approach to Designated Funds to provide enhancements for NMUs [ER 4.10.77 - 4.10.79]. In response, the Applicant accepted that dialogue with NCC had been ongoing since 2018 but noted that matters relating to Designated Funds could not be progressed until a delivery partner had been identified. The Applicant confirmed that they would work with NCC to identify initiatives around sustainable transport and seek to secure alternative funding [ER 4.10.80].
42. The Secretary of State notes the responses from NCC and the Applicant to his consultation dated 11 October 2023. In its response, NCC stated that the Applicant established a working group with NCC in relation to prospective application for funding to review requirements for National Highways Designated Funds, but that the group was paused in March 2022 due to reliance on the de-trunking of the A1. That reflected the response of the Applicant, which further noted that a draft business case for alternative funding was produced with input from NCC. However, the business case is reliant on the granting of development consent so no further work to progress it was being undertaken but the Applicant noted that it hoped that the working group would recommence if consent was granted. The Secretary of State welcomes this approach.

Charlton Mires Junction

43. The Secretary of State has had regard to the concerns raised by NCC about capacity, speed limits, and public transport provision at Charlton Mires junction and the Applicant's response, stating that operational modelling analysis of the proposed junctions concluded that it is forecast to operate well within capacity and with minimal queueing. The Secretary of State notes that the Applicant has confirmed that the existing bus stops at Charlton Mires will be replaced by proposed stops along the B6341 to ensure that continued access to public transport is available. [ER 4.10.81].
44. The Secretary of State notes the strong support expressed by Dr Mark Green relating to the proposed Charlton Mires junction which, subject to the inclusion of clearly marked cycle lanes and signage, has the potential to make the route safe and attractive to cyclists. In response, the Applicant confirmed that finalised requirements for and details of cycling infrastructure, including signage, would be addressed during detailed design and be subject to independent road safety audits. The Secretary of State notes the inclusion of a signage strategy within Requirement 4 of the draft Order [ER 4.10.82].

Junction Capacity Assessments and Traffic Modelling

45. The Secretary of State notes the Applicant's response to NCC's requests for information, which confirmed that peak flow hours had been used across various assessments in the ES, including air quality, climate, and population and human health assessments. The Secretary of State notes that section 4.9 of the Case for the Scheme [APP-344] detailed the junction modelling and that all junctions assessed were forecast to operate well within capacity and with minimal queueing in all time periods on both the Strategic Road Network and local highways. The

Secretary of State notes that detailed junction modelling on the existing A1 had not been undertaken due to forecast reductions in flows [ER 4.10.83]. The Secretary of State has had regard to the Applicant's response in relation to the long-term impact of the COVID-19 pandemic on traffic behaviour. At the time of the examination, updated appraisal guidance had not yet been released, and thus was considered to be outside the scope of the examination [ER 4.10.85 – 4.10.86].

46. In his consultation letter of 11 October 2023 (followed up by his letter of 7 November 2023), the Secretary of State invited the Applicant to say if any updates were necessary to any of the application documentation or other documentation provided during the Examination (or in response to previous consultations by the Secretary of State). In its response of 21 March 2024, the Applicant said that its submission of the environmental case for the scheme was based on the Pre-Application traffic appraisal. This appraisal was based on NTEM7 and RTF2015, (with a sensitivity test undertaken with RTF2018) and an opening year of 2023. The Applicant explained that during the Examination the appraisal was updated with an opening year of 2025. The Applicant said that due to the postponement of the DCO decision, new growth data has been released via NTEM8 and RTP2022, as well as updated TAG parameters. Furthermore, the opening year of 2025 is no longer feasible for the scheme and a later opening year of 2029 is expected. A review of the likely changes in traffic flow resulting from changes to guidance and the Scheme opening year (set out in Annex B of the Updated Biodiversity Air Quality Assessments Report) showed that there may be a marginal (2-3%) increase in traffic flows in the Scheme opening year in comparison to the flows assessed in the Air Quality Updated Assessment (Scheme Opening Year 2024) but the Secretary of State is content that this does not materially change his consideration of this matter as is discussed in his conclusions at paragraph 53.

Junction Locations

47. The Secretary of State notes Amble Town Council's objection to the Proposed Development due to the loss of access at Causey Park, to be replaced by the Fenrother junction. The Council was also concerned that continued use of the de-trunked A1 to reach coastal settlements would not increase road safety, and that maintenance on the section of road to be de-trunked would be reduced. The Secretary of State notes Amble Town Council's proposals regarding access via Causey Park Bridge in place of or in addition to that at Fenrother, and Mr Tom Lloyd's opposition to the proposed Fenrother junction in favour of improvements to access at Causey Park Bridge, for which he cites savings in journey times, less pollution and noise on the sections of the A1 to be de-trunked, more even spacing of junctions, and the potentials for improved bus services [ER 4.10.87 4.10.88].
48. In its response, the Applicant noted that drivers from Amble and other coastal settlements travelling southwards could access the A1 via the de-trunked section of the A1 at Fenrother, and that the increased distance to join the A1 and associated journey time increase was shown to be offset by the forecast overall journey time savings in the traffic modelling. The Applicant said that the modelling also showed a reduction in traffic volumes approaching 90% on the sections of the A1 to be de-trunked, with no significant air quality or safety impacts, and that maintenance would be to established standards [ER 4.10.89]. Furthermore, the Applicant explained that relocating the Fenrother junction to Causey Park Bridge would not improve journey times, particularly for longer journeys. The location of Fenrother was chosen based

on traffic model forecasts, improved east-west connectivity across the A1, and the suitability of the local traffic network to deal with forecast traffic movements generated by the new junction [ER 4.10.90]. The Applicant also noted that an additional junction at Causey Park Bridge would militate against the objectives of the Proposed Development, particularly to rationalise the number of junctions along the stretch of the A1 to be developed [ER 4.10.91].

49. The Secretary of State has had regard to the further justification and comments from Mr Lloyd regarding time savings [ER 4.10.92] and alternative layouts at Causey Park Bridge [ER 4.10.94] and the Applicant's responses, noting that consideration was given to the overall impact of the Proposed Development on traffic assignment across the study area, the impact on overall average journey times, and that this feeds in to the benefit to cost ratio for the Proposed Development, and therefore into the options selection process [ER 4.10.93]. The Applicant provided critique of Mr Lloyd's alternative proposals, responding to all points raised, and also noted that they would extend beyond the Order Limits [ER 4.10.95]. The ExA concluded that the Applicant's case on the representations from Amble Town Council and Mr Lloyd demonstrated that the wider benefits and traffic benefits arising from its junction strategy would outweigh the limited adverse effects for residents of Amble and neighbouring communities [ER 4.10.119]. The Secretary of State agrees with this conclusion.

Royal Mail Services

50. The Secretary of State notes that responses from Royal Mail expressing support for the Proposed Development, noting the sensitivity to changes in the capacity of the highway network and requests for advanced consultation and notification of works by means of requirements within the Order and as an amendment to the Construction Traffic Management Plan ("CTMP") [ER 4.10.96]. The Applicant responded that as no adverse effects had been identified that would impact on Royal Mail's service as a result of the Proposed Development and Royal Mail had not provided any evidence that it would be, or was likely to be, adversely affected, it would not be appropriate for protections to be inserted in to the Order, but instead through the CTMP, which would include a commitment to liaise with Royal Mail in advance of key phases of traffic management [ER 4.10.97]. The Secretary of State notes Royal Mail's response, confirming that the amendments to the Outline CTMP were acceptable, and withdrawing its objection [ER 4.10.98 and ER 4.10.118]. As such, the Secretary of State considers the matter closed.

Access Issues in the West View/Warreners House Area

51. The Secretary of State notes the issues raised during the Examination on access issues in the West View / Warreners House Area. [ER 4.10.99- 4.10.103]. Mr Gareth Moor and Mr Colin Moor raised concerns about access in the vicinity of West View, Morpeth, including suggesting that alternative routes to properties in the north would be shorter and would ensure that West View remained a cul-de-sac [ER 4.10.99]. The Applicant set out the alternative route would be longer and would also have greater adverse impacts on biodiversity, heritage, landscape and flooding and that West View would remain as a cul-de-sac. [ER 4.10.102]. The Secretary of State also notes that some local residents supported the Applicant's proposed changes to West View [ER 4.10.104]. The ExA concluded that it found the Applicant's proposals for access through West View had been appropriately tested

during the Examination and that for the reasons which the Applicant has set out none of the proposed alternative routes to provide access to the Warreners House area would be more suitable. The proposals would result in very little additional traffic using West View although this would include some agricultural vehicles. Moreover, the ExA notes that the proposals have been subject to a safety audit with no concerns identified [ER 4.10.124]. The Secretary of State agrees with these conclusions.

52. The Secretary of State notes the issues relating to the proposed private means of access (“PMA”) to Northgate Farm brought up by Mr Hawes on behalf of its residents, and in particular the question of shared access over the land belonging to Mr Davidson, the owner of Capri Lodge, and matters discussed at the Examination [ER 4.10.105 – 4.10.115]. As the matter had not been resolved between the relevant parties prior to the close of the Examination, It was confirmed in the Applicant’s response to the consultation letter dated 11 October 2023 that agreement between the Applicant and representatives of the Hawes family has been reached, and that option 5b(c) of the three options presented will be taken forward in the Order as Works No. 5b, noting that this remains to be documented formally. As such, the Secretary of State considers this matter to be resolved.

Secretary of State’s Conclusions on Transport and Traffic

53. The Secretary of State agrees with the ExA that the Applicant has assessed the traffic and transportation effects of the Proposed Development in compliance with applicable NPSNN policy. Like the ExA, he considers that the transport and traffic effects during construction will be negative, but agrees that all reasonable steps to minimise these negative effects have been taken by the Applicant, and that the CTMP has been secured in the Order. The ExA also concluded that the effects of the Proposed Development during operation, whilst neutral for NMU’s, would be strongly positive for motorised road users, as would the road safety benefits [ER 4.10.127]. The Secretary of State agrees. Furthermore, and as discussed above, he does not consider that the marginal increase in traffic volumes now anticipated in the opening year of the Proposed Development change these conclusions.

Climate Change

Background

54. Section 104 of the PA2008 states that the Secretary of State must decide an application for a national networks Nationally Significant Infrastructure Project in accordance with the NPSNN unless he is satisfied that one or more of the following exceptions contained in section 104(4) to (8) apply: doing so would lead to him being in breach of any duty imposed on him by or under any enactment; doing so would be unlawful by virtue of any enactment; the adverse impact of the proposed development would outweigh its benefits; or doing so would lead to the UK being in breach of its international obligations.
55. The UK’s international obligations include its obligations under the Paris Agreement, which was ratified by the UK Government in 2016, after the NPSNN was designated in 2014. This is translated in the UK by way of the carbon budgets set under the Climate Change Act 2008. In June 2019, the Government announced a new carbon reduction ‘Net Zero target’ for 2050 which was given effect by the

Climate Change Act 2008 (2050 Target Amendment) Order 2019 [ER 3.6.12]. This is a legally binding target for the Government to cut carbon emissions to net zero, against the 1990 baseline by 2050.

56. The Climate Change Act requires five-yearly carbon budgets to be set 12 years in advance so as to meet the 2050 target. Six carbon budgets have been adopted. The time periods covering the third (“3CB”), fourth (“4CB”), fifth (“5CB”) and sixth (“6CB”) carbon budgets are 2018-2022, 2023-2027, 2028-2032 and 2033-2037 respectively. Achieving net zero will require future greenhouse gas (“GHG”) emissions to be aligned with these and any future new or revised carbon budgets that may be set out by Government to achieve the 2050 target. Compliance with the Climate Change Act 2008 (as amended) would provide a route towards compliance with the Paris Agreement. Article 4(2) of the Paris Agreement requires States Parties to prepare, communicate and maintain successive nationally determined contributions that it intends to achieve and to pursue domestic mitigation measures with the aim of achieving the objectives of such contributions.
57. The Applicant’s assessment of the Proposed Development’s impact on Climate is set out in Chapter 14 of its ES and updated after the close of Examination. This includes an assessment of GHG emissions (assessed as carbon dioxide equivalent emissions and referred to here as carbon emissions) with regard to construction and operational effects of the Proposed Development.

Assessing the Impacts of the Proposed Development

58. The Secretary of State notes that the ExA considered the Applicant’s ES at the time of the Examination when the impacts of the construction phase emissions were calculated at 59 ktCO₂e with the total net operational emissions over a 60-year period calculated at 2,428 ktCO₂e. The ExA noted that net carbon emissions equated to an impact on carbon budgets between 0.00824% -0.01074% [ER 4.11.36]. Following the publication of CB6 in April 2021, the Applicant confirmed that that impact on CB6 would be 0.02024% [ER 4.11.44] meaning the contributions in any of the carbon budgets were expected to be a maximum of 0.02024%. The Applicant’s climate assessment concluded that the impact from the Proposed Development would not material impact on the ability of Government to meet its carbon reduction plan targets and carbon budgets [ER 4.11.22].
59. The ExA concluded that it considered that the Proposed Development would be unlikely to result in an increase in carbon emissions so significant that it would result in any significant effects in respect of climate change or carbon emissions and, therefore agreed with the Applicant, that it would be unlikely to have a material impact on the ability of the Government to meet its carbon reduction plan targets, which would be in line with paragraph 5.18 of the NPSNN [ER 4.11.67 and ER 6.2.39].
60. Following the close of Examination and in response to requests from the Secretary of State, the Applicant updated its assessment of the impact of the Proposed Development in January 2022 which took account of the updated Emissions Factor Toolkit (version 11) and included a sensitivity test to account for the “Decarbonising Transport: A better, Green Britain” (“TDP”) published in July 2021. It also provided a further update on 24 April 2024 to reflect the updated dates for construction and operation which set out that the carbon emissions are expected to be less than that considered by the ExA with the impact of 0.0015% on CB4,

0.0089% on CB5 and 0.0151% on CB6. This amounts to an overall impact of less than 0.0151% of any carbon budget. The Secretary of State notes that this identifies the impact of the emissions of the Proposed Development itself. The Secretary of State also considers that this is an acceptable way to approach an assessment of the in combination impacts of the Proposed Development for the reasons set out more fully below. The Secretary of State has had regard to paragraphs 3.8 and 5.17 of the NPSNN. Paragraph 3.8 sets out that the impact of road development on aggregate levels of emissions is likely to be very small and that the impacts of road development need to be seen against significant projected reductions in carbon emissions as a result of current and future policies to meet the Government's legally binding carbon budgets. Paragraph 5.17 sets out that it is very unlikely that the impact of a road project will, in isolation, affect the ability of Government to meet its carbon reduction plan targets [ER 4.11.2 – 4.11.3].

61. The Secretary of State considers that there is no set significance threshold for carbon but, like the ExA, acknowledges that as set out in paragraph 5.18 of the NPSNN, an increase in carbon emissions is not a reason to refuse development unless any increase is so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets. The question of whether there is a material impact is a judgement to be made by the decision maker. In this case, the Secretary of State is satisfied with the assessment of the Proposed Development's impact on carbon emissions (including cumulative effects), that it complies with the requirements of paragraphs 5.16, 5.17 and 5.18 of the NPSNN and, noting the predicted impact on carbon budgets as set out above, is satisfied that the Proposed Development would be unlikely to materially impact the ability of the Government to meet its carbon reduction targets. The Secretary of State further notes the IEMA Guidance, which sets out that the crux of significance is not whether a project emits GHG emissions, nor even the magnitude of GHG emissions alone, but whether it contributes to reducing GHG emissions relative to a comparable baseline consistent with a trajectory towards net zero by 2050. The Secretary of State also considers that the Applicant's TDP sensitivity assessment demonstrates that its assessments represent a conservative assessment and therefore, as recognised by paragraph 5.18 NPSNN, he considers that the impacts may ultimately be lower than those assessed given the range of non-planning policies adopted by Government which seek to reduce carbon emissions from road transport which are now in force (such as the Zero Emission Vehicle mandate) or likely to come into force in the future through the TDP.
62. The Secretary of State notes that the revised NPSNN states at paragraph 5.42 that approval of schemes with residual carbon emissions is allowable and can be consistent with meeting carbon budgets, net zero and the UK's Nationally Determined Contribution. In this respect, insofar as relevant to the Proposed Development, the Secretary of State does not consider there to be a material difference between the requirements of the NPSNN and the revised NPSNN and that emerging policy on carbon emissions does not weigh against granting consent for the Proposed Development.
63. With regard to the Paris Agreement, the UK's Nationally Determined Contributions ("NDC") commits it to reduce net GHG emissions by at least 68% by 2030 compared to 1990. This represents an increase of ambition on the 5CB, which covers the period 2028-2032. The Government has set out wider policies and proposals for decarbonising all sectors of the UK economy to meet the 2050 target

in 'The Net Zero Strategy: Build Back Greener', published by Government in October 2021, and the Carbon Budget Delivery Plan, published in March 2023, (together referred to as the 'Net Zero Strategy'). It identified how the UK will therefore need to overachieve on 5CB to meet its international climate targets and stay on track for 6CB. This Net Zero Strategy sets out the action Government will take to keep the UK on track for meeting the UK's carbon budgets and the 2030 NDC and establishes the UK's longer-term pathway towards net zero by 2050. The Secretary of State notes that there has been a successful challenge to the Secretary of State for Energy Security and Net Zero's assessment for the purposes of s.13 Climate Change Act 2008 reflected in the Carbon Budget Delivery Plan ("CBDP") and that Government is required to produce a revised CBDP within the next 12 months (see *R (Friends of the Earth) v Secretary of State for Energy Security and Net Zero* [2024] EWHC 995). He has also had regard to the representations made by the Transport Action Network, dated 14 May 2024, which drew attention to this judgement. The CBDP was not quashed and remains government policy and sets out Government's commitment to comply with Carbon Budgets and the NDC in the Paris Agreement.

64. The Secretary of State is satisfied, in light of the net construction and operation emissions that have been identified, that consenting the Proposed Development will not affect the delivery of the Net Zero Strategy (including any updated strategy) or net zero in principle, nor will it have a material impact on the ability to meet the national targets, including 5CB (and overachievement in the Net Zero Strategy) or 6CB, and it will not lead to a breach of the UK's international obligations in relation to the Paris Agreement or any domestic enactments or duties. The Secretary of State is satisfied that the Applicant has assessed carbon emissions from the Proposed Development against UK carbon budgets, which are a means for the UK to achieve compliance with the Paris Agreement and is content that assessment against the carbon budgets is sufficient for consideration of compliance with the UK's international obligations. In considering section 104 of the PA2008, the Secretary of State agrees with the ExA that the Proposed Development would be unlikely to cause the UK to be in breach of its international obligations including the obligations contained in the Paris Agreement 2015 [ER 4.11.65].
65. The Secretary of State notes the recent progress report of the Climate Change Committee ("CCC") submitted to Parliament on 23 June 2023. The CCC's advice was that the rate of emissions reductions in the UK will need to significantly increase to meet its 2030 NDC and the 6CB. The CCC advice included a recommendation that the Government should carry out systematic review of current and future road-building schemes to assess their consistency with environmental goals and to ensure that decisions do not lock in unsustainable levels of traffic growth and develop conditions that only permit schemes to be consented where they are consistent with net zero. The Government responded to the CCC's report on 26 October 2023 stating in particular that National Highways already provide environmental impact assessments to allow consenting authorities to take decisions that are consistent with environmental policy and legislation and that, as set out in the Transport Decarbonisation Plan, the Government will continue to adapt and take further action if needed to decarbonise transport. Whilst the Secretary of State notes this has been raised by parties, the Secretary of State notes that the CCC's advice is not planning policy but simply advice to Government, which Government is free to accept or reject. The CCC's advice is directed at the issue of achieving compliance with carbon budgets overall and the CCC has not set out any

recommendations with respect to individual planning decisions or development consent applications. The approach to development consent applications is set out in the NPSNN. There are other policy mechanisms available outside of the PA2008 and NPSNN which can address any difficulties in meeting the NDC and/or the 6CB. The Secretary of State therefore gives the CCC's advice neutral weight.

Examination Issues

66. The Secretary of State notes the main objections to this matter were put forward by Transport Action Network in relation to carbon emissions, the impacts on achieving net zero emissions by 2050 and that they did not agree that the increase in carbon emissions that would result from construction are 'not significant' as concluded in the Applicant's ES [ER 4.11.34].
67. The Applicant responded that all up to date and appropriate methodologies had been followed when considering the assessment of the effect of the Proposed Development on climate change [ER 4.11.35 – 4.11.36].
68. The Secretary of State also notes the further explanation provided by the Applicant at the time as regards the phase out of fossil fuel vehicles by 2030, noting that this did not factor into its assessment as no data had been produced incorporating this policy and that the ExA accepted this [ER 4.11.38]. The Secretary of State acknowledges that since the close of Examination, the Prime Minister announced on 20 September 2023, a postponement in the ban on the sales of new petrol and diesel cars to 2035. Noting the Applicant's response to his consultation letter of 10 October 2023 which confirms that this postponement does not have an impact on the assessment of the Proposed Development's impact on carbon budgets, the Secretary of State is content that it is not necessary to update the carbon assessment or any related assessment as a result of this announcement and that it provides for a reasonable worst case.
69. The Secretary of State has had regard to the Applicant's responses to questions from the ExA relating to variations in figures for total regional traffic and related emissions [ER 4.11.39] and accepts the Applicant's reasoning that differences in relation to the figures relating to Parts A and B in isolation of one another and the Proposed Development as a whole are a result of variations in traffic data forecasts dependent on the models used [ER 4.11.48].
70. The ExA highlighted that since the close of Examination the Government published in July 2021 the TDP "and set out that it was a matter for the Secretary of State to take account of the implications of this in relation to climate change [ER 4.11.66]. The Secretary of State considers that this is one of a number of policy documents setting out how Government will meet net zero and that this does not impact the ExA's consideration of this matter. However, the Secretary of State notes that in response to his consultations since the close of Examination the Applicant, in its responses of 27 January 2022 and 24 April 2024 and as set out above, included the results of its sensitivity test to reflect the policies in the Transport Decarbonisation Plan in relation to operational emissions.

Cumulative Impacts

71. The Secretary of State notes that that ExA asked the Applicant whether the cumulative effects of carbon emissions from the Proposed Development had been

considered with those from other developments and/or relevant programmes such as RIS1 and RIS2. At the time the Applicant responded that it was in active talks with the Department for Transport about this [ER 4.11.46]. Following the close of Examination, the Secretary of State asked the Applicant various questions relating to the cumulative effects of carbon.

72. The Applicant's response of 27 January 2022 set out that the traffic model used to support the scheme assessment is inherently cumulative with regard to operational carbon emissions. This is because traffic models include data on the emissions resulting from the proposed scheme and the adjoining Strategic Road Network and the LRN as well as other schemes promoted by the Applicant in the vicinity of the scheme that have a high certainty of being progressed. The Applicant also sets out that this was informed by discussion with the local planning authorities to identify foreseeable developments promoted by third parties and likely to be developed in a similar timeline to the Proposed Development and took account of national Government regional growth rates. With regard to operational carbon, the Applicant's approach to assessing the impact on carbon emissions is to consider the changes in carbon emissions resulting from the Proposed Development by comparing changes in the road traffic on the Strategic Road Network and LRN between the 'without scheme scenario' and the 'with scheme scenario', with the former providing the baseline for assessment. The Applicant considers that this takes into account the Proposed Development and all other developments likely to have an influence on the Development and on the area the Development is likely to influence. The Applicant considers that as both the with and without scheme scenario includes all likely developments and traffic growth factors the assessment is inherently cumulative.
73. The Secretary of State considers that as there is no single prescribed approach to assessing the cumulative impacts of carbon emissions, there are a number of ways such an assessment can acceptably be undertaken and that this does not necessarily need to be done at RIS level. Furthermore, the Secretary of State considers that whilst an assessment at RIS level would provide a cumulative assessment of the RIS schemes that are planned or being, it would not capture development in the surrounding area to the Development that could also have an impact.
74. The Secretary of State also notes the IEMA Guidance and that for the impact and effect of carbon emissions on climate change, unlike other environmental topics, there is only a single receptor impacted by carbon emissions (the atmosphere) and it is a global one.
75. The Secretary of State considers that as carbon budgets and the 2050 target relate to the whole of the UK economy and society and are legally binding, they reflect a reasonable assessment, based on current knowledge, of what the UK's impact will be on this receptor as they set out what carbon levels can reasonably be expected to occur in the future (because they represent a legal limit on what can be emitted). It is therefore considered that as legally binding budgets they provide a reasonable reference point for considering the effects of carbon from the Proposed Development and that these legally binding budgets are relevant to a consideration of cumulative effects in that they represent the limit of the emissions that are permitted within each carbon budget period from a range of sectors including transport. Given the global nature of the impacts of carbon, the Secretary of State considers that the alternative approach of assessing the impact of the

Proposed Development with other RIS schemes against the cumulative carbon budget would be arbitrary. This is because the nature of carbon emissions is that their impact will not be local meaning assessing schemes from just one sector i.e. surface transport only will provide limited additional information and selecting one scheme to include over another (regardless of its sector or location) would again be arbitrary. Further, the wider the geographic area considered the greater the impact will inevitably be, again providing little more detail of the impact of the Proposed Development. The purpose of the carbon budgets is to ensure the cumulation of emissions from a range of sectors across the UK do not exceed those budgets. A detailed assessment of how Government compensates for emission from one sector through reductions in another and the policies that are put in place to meet carbon budgets are outside the scope of consideration for this application, although the Secretary of State notes that there are policies in place within the TDP and for the economy as a whole such as the Net Zero Strategy (which remains government policy as set out above) which are designed to help ensure that compliance with carbon budgets is achieved. The Secretary of State therefore considers that the Applicant's approach which takes account of these carbon budgets for the purposes of its cumulative assessment is reasonable, proportionate, and accords with the principles set out in the IEMA guidance that a) GHG emission impacts are global rather than affecting one localised area and b) there is no basis for selecting one or more particular cumulative projects for assessment over any other(s).

76. With regard to assessing the cumulative impact of the emissions on climate and the scale used in this assessment, the Applicant has set out that carbon budgets (which as set out above aim to limit the significant effects of climate change) are only set out at a national scale and that these are themselves cumulative as they are a sum of carbon emissions for a range of sectors. The Applicant considered that it was unable to produce a baseline at a local or regional scale and that there was therefore no reasonable basis upon which it can assess the effects of carbon emissions for anything other than at the national level. The Secretary of State agrees that the only statutory carbon targets are those at a national level.
77. The Secretary of State also notes that the Applicant's approach to cumulative assessment of carbon emissions for road schemes has been upheld by the courts. In its judgment dated 7 July 2023 (R (on the application of) Andrew Boswell v Secretary of State [2023] EWHC 1710), the High Court dismissed claims challenging the same approach and methodology as that used by the Applicant for the Proposed Development. This decision was upheld by the Court of Appeal in its judgment dated 22 February 2024 (R (on the application of) Andrew Boswell v Secretary of State for Transport [2024] EWCA Civ 145). The Court concluded that the Applicant's approach to assessing cumulative effects was lawful and complied with the EIA Regulations 2017 and that the Secretary of State had not acted unlawfully in concluding that there was sufficient information to assess the cumulative effects of the road schemes in issue in that case. While the Secretary of State appreciates these cases are the subject of an application to the Supreme Court for leave to appeal, the position of the Secretary of State is that these cases currently support his overall view that the Applicant's assessments and methodology are reasonable and provide a sufficient basis for reaching a conclusion on the likely significant effects of the Proposed Development when taken together with other existing and/or approved projects on climate.

78. The Secretary of State considers that the Applicant's approach overall, to both the assessments of the Proposed Development's impact on carbon emissions and its cumulative impact, is adequate.

Climate Change Vulnerability

79. The Secretary of State notes the Applicant's assessment of Climate Change vulnerability as set out at ER 4.11.24 - 4.11.32 and its conclusion that climate change will not have a significant effect on Part A or Part B. The ExA concluded that the proposed mitigation and adaptation measures align with the NPSNN and improve resilience to climate change [ER 4.11.59]. The Secretary of State has no reason to disagree with that.

The Secretary of State's Conclusion on Climate Change

80. The Secretary of State is content that the Applicant has adequately assessed the likely significant effects of the Proposed Development on climate and its cumulative impacts on climate taking account of both construction and operation as required by the 2017 Regulations and this information has been taken into consideration when assessing whether development consent should be granted. The Secretary of State agrees with the ExA, that the Applicant has submitted evidence that appropriate mitigation measures in both design and construction which would ensure carbon emissions are limited as far as possible [ER 4.11.58].

81. Overall, the Secretary of State considers that the information provided by the Applicant on the impact of the Proposed Development on carbon emissions (including the cumulative effects of carbon emissions from the Proposed Development with other existing and/or approved projects in relation to construction and operation) is sufficient to understand the impact on carbon emissions, to assess the effect of the Proposed Development on climate matters and represents the information that the Applicant can reasonably be required to compile having regard to current knowledge and in light of the information about the national carbon budgets.

82. Overall, the Secretary of State considers that: over time the net carbon emissions resulting from the Proposed Development's operation will decrease as measures to reduce emissions from vehicle usage are delivered; the magnitude of the increase in carbon emissions resulting from the Proposed Development is predicted to be a maximum of 0.0151% of any carbon budget and therefore can be considered to be very small [ER 6.2.39]; and notwithstanding the *Friends of the Earth* judgment, for the reasons set out in this section of the Decision Letter, there are a range of non-planning policies which will help to reduce carbon emissions over the transport network as a whole over time such as the TDP, and help to ensure that carbon reduction commitments are met such as the Net Zero Strategy.

83. The Secretary of State is satisfied that the Proposed Development is compatible with these policies and that the very small increase in emissions that will result from the Proposed Development can be managed within Government's overall strategy for meeting net zero and the relevant carbon budgets. In addition, the Secretary of State is satisfied that construction and operation emissions from the Proposed Development are a very small proportion of the relevant carbon budgets and therefore, even in circumstances where a revised CBDP is to be published and delivery risk in the pathway to meeting carbon budgets on a whole-economy basis will be addressed through that process, the Secretary of State is satisfied that

granting consent would not have any material impact on the Government's ability to comply with carbon budgets.

84. The Secretary of State considers that there are appropriate mitigation measures secured in the Order to ensure carbon emissions are kept as low as possible and that the Proposed Development will not materially impact the Government's ability to meet its net zero targets.
85. The Secretary of State agrees with the ExA that the Proposed Development complies with the NPSNN and will not lead to a breach of any international obligations that result from the Paris Agreement or Government's own policies and legislation relating to net zero [ER 4.11.65].
86. The Secretary of State is aware that all emissions contribute to climate change. Whilst the Proposed Development will result in an increase in carbon emissions, as set out above, the Secretary of State considers that the Proposed Development needs to be considered in the context of existing and emerging policy and legal requirements to achieve the UK's trajectory towards net zero. The Secretary of State notes the ExA's conclusion that subject to his consideration of the TDP climate change and carbon emission effects do not weigh significantly for or against the DCO being made [ER 4.11.68]. The Secretary of State's consideration of the TDP is set out above. The Secretary of State considers that the Proposed Development's effect on climate change would be minor adverse and therefore negative. However, the Secretary of State considers that the carbon emissions from construction and operation of the Proposed Development on their own and cumulatively will not significantly impact government's ability to meet carbon targets and therefore Net Zero and the Paris Agreement 2015 and the likelihood of the Government's legally binding targets decreasing carbon emissions over the lifetime of the Proposed Development, meaning that limited negative weight is attached to this.

Air Quality

87. The Secretary of State notes the policy considerations of air quality and emissions as set out in the NPSNN [ER 4.12.1- 4.12.6] and the Applicant's case as set out in ER 4.12.7- 4.12.25.
88. The Secretary of State has had regard to the matters raised during the Examination, in particular those raised by NCC in relation to the identification of sources of dust and particulate generation, and the methods proposed to mitigate these [ER 4.12.26]. The Applicant's Construction Environmental Management Plan ("CEMP") was amended to include specific reference to Dust Management Plan to be produced prior to construction commencing [ER 4.12.27]. The Secretary of State notes that NCC's did not highlight any major air quality concerns [ER 4.12.28].
89. The Secretary of State notes the disagreement between the Applicant and Natural England during the Examination regarding the approach to air quality assessment and the effects on the River Coquet and Coquet Valley Woodlands SSSI [ER 4.12.29 – 4.12.36]. Following further discussion and the provision of an Updated Biodiversity Air Quality DMRB Sensitivity Assessment the Statement of Common ground between the two parties noted that although agreement was not reached on methodology, agreement was reached on the levels of appropriate mitigation [ER 4.12.37]. This matter is considered further below.

90. Mr Mark Hawes, on behalf of the residents of Northgate Farm, raised concerns regarding the effects of the proposed development on air quality, particularly in relation to Northgate Farm. In its responses, the Applicant highlighted that, in light of the proposed mitigation measures, no significant air quality effects were predicted from the Proposed Development for Northgate Farm [ER 4.12.40 – 4.12.41].
91. The Secretary of State notes that the ExA concluded that it was content that the measures proposed in the Outline CEMP will mitigate fugitive dust emissions and the predicted impacts of air quality and emissions at sensitive receptors during the construction stage to an acceptable level in line with paragraph 5.14 and 5.14 of the NPSNN. Consequently, it found that there will no significant adverse or beneficial effects during the construction resulting from the Proposed Development [ER 4.12.46].
92. With regard to the operational phase, concerns were raised by residents of some properties in close proximity to the A1 and the Proposed Development, the evidence demonstrated that in respect of both Parts A and B, local air quality would not be significantly adversely affected by the Proposed Development, with a similar number of human receptors experiencing an improvement in air quality to those experiencing a slight decrease through increases in annual mean NO₂ concentrations. One receptor would experience an increase in Annual Mean NO₂ Concentrations and in Annual Mean PM₁₀/ PM_{2.5}. The ExA concluded that evidence demonstrates that local air quality would not be significantly adversely affected by the Proposed Development, while increases would not exceed the assessment thresholds for all human receptors [ER 4.12.48 - 4.12.49]. The ExA was also satisfied that no significant effects were identified for the operational phase of the Proposed Development, and therefore there would be no need for monitoring of air quality impacts during the operation of the Proposed Development [ER 4.12.51]. The Secretary of State has no reason to disagree.
93. Given the length of time since the Examination, in his consultation letter of 11 October 2023, the Secretary of State requested the Applicant to set out if any updates were necessary to any of the application documents. In response to that letter, the Applicant provided additional information in its letter dated 21 March 2024, updating the Biodiversity Air Quality Assessment. The Applicant said that its review of the likely changes in traffic flow resulting from the delay to the scheme opening year, moving from 2025 to 2029, and from changes to guidance, showed that there may be a marginal increase of 2-3% in traffic flows in the opening year. However, it stated that air quality impacts of this increase in traffic flows will likely be more than offset by a decrease in emissions per vehicle and considered the results presented a robust and conservative worst-case assessment. Noting that no further comments were received during consultation, the Secretary of State has no reason to disagree.
94. In its response of 21 March 2024, the Applicant also discussed the impact of increased nitrogen deposition and atmospheric ammonia concentrations. These matters are discussed further in the Biodiversity, Ecology and Natural Environment section at paragraphs 108 and 120 – 125, below.

The Secretary of State's Conclusion on Air Quality

95. The Secretary of State agrees with the ExA that the proposed development would not conflict with any national or local air quality limits or objectives, and it would comply with the air quality sections of the NPSNN. The Secretary of State

also agrees with the ExA that with regard to air quality and emissions, the proposed development would have, overall, a neutral impact on sensitive receptors other than ecological receptors both during construction and operation [ER 4.12.53]. In the same way that the ExA noted, when reaching its findings, that air quality impacts on sensitive ecological receptors were addressed elsewhere in its Report, the Secretary of State similarly notes that those impacts are dealt with below in the Biodiversity, Ecology and Natural Environment section of this letter.

Landscape and Visual Effects

96. The Secretary of State notes the policy considerations as set out in the NPSNN [ER 4.13.1 – 4.13.8] and the Applicant’s assessment of the potential landscape and visual impacts as set out in Chapter 7 of the ES and the ExA’s consideration of this [ER 4.13.9 – 4.13.45].
97. The Secretary of State notes that NCC considers that landscape and visual effects of the proposal would be one of the most significant impacts of the Proposed Development. NCC’s LIR stated that agreement had not been reached on certainty and clarity of design and mitigation measures, adequacy of mitigation measures, consideration of sensitivity and effects within landscape character, effects on viewpoints and, visual effects on communities [ER 4.13.46 - 4.13.47]. The ExA explored these matters during the examination and the Secretary of State notes that at the end of Examination, the SoCG between the Applicant and NCCC confirmed that there were no outstanding issues of disagreement between them in relation to landscape and visual effects [ER 4.13.64].
98. It is noted that, throughout the examination one party raised concerns in relation to the visual effects of the proposed development on Northgate Farm. The main concerns were linked with the perspective from which the assessment of predicted visual effects was carried out, in so much as that it failed to access the impacts to the west and north of the property and the appropriateness of the proposed mitigation measures [ER 4.13.65]. The Secretary of State notes the Applicant’s response in relation to those concerns as set out in ER 4.13.66 – 4.13.67 and that agreement on visual effects was not reached by the parties at the close of Examination [ER 4.13.68]. Like the ExA, the Secretary of State is satisfied that whilst the overall effect would remain negative, mitigation measures secured in the DCO will mitigate the predicted effects of the proposed development at the operational phase, on Northgate Farm [ER 4.13.77]. The Secretary of State also notes that, in their response to his consultation of October 2023, the Applicant states that once the detailed design for the Proposed Development is finalised it does not anticipate any ‘material obstacle’ to concluding the finalised design and its delivery.
99. The ExA concluded that landscape and visual effects would be predominantly caused by the loss of vegetation with Part A being relatively more affected, in part due to the offline section introducing new development in an area of largely open countryside [ER 4.13.69]. The ExA highlighted that adverse landscape impacts would occur as a result of construction activities which would be substantial with trees, hedges, woodland, including some trees which make up Coronation Avenue, and three residential properties removed, creating newly exposed views. Construction activities will also result in temporary adverse visual impacts through the presence of construction compounds, construction activities, material storage and temporary lighting [ER 4.13.70 - 4.13.71]. The Secretary of State agrees with

the ExA that whilst these impacts would be managed through appropriate construction management measures, residual adverse effects would still result [ER 4.13.72].

100. The ExA noted that the design of the proposed development has sought to retain existing vegetation and reflect the existing landscape wherever possible but nevertheless, the proposals would affect a number of local Landscape Character Areas (“LCAs”). Even taking into account proposed mitigation measures, during construction three local LCAs in Part A would experience a moderate adverse effect with others being directly impacted, but to a lesser extent ranging from neutral to slight adverse. Three local LCAs in Part B would experience an effect of moderate magnitude, while on others it would be minor [ER 4.13.26 and ER 4.13.30]. For those LCAs in Part 1 directly affected by the Proposed Development at the winter of year 1, the effects would remain moderate adverse (significant) with the exception of the Coquet Valley which, due to the proposed construction of the bridge, would have a large adverse (significant) effect, whereas in Part 2 there would be no significant effects predicted to any of the local LCAs directly affected by the Proposed Development [ER 4.13.37 and 4.13.41]. However, over time the landscape would mature such that by year 15 the effects would not be significant [ER 4.13.73]. The ExA also considered that visual impacts would reduce over time as Part A’s landscape planting matures to integrate Part A into the landscape, with only 9 of 19 properties which will experience significant effects, when Part A opens continuing to experience significant visual impacts at year 15 [ER 4.13.74].

The Secretary of State’s Conclusion on Landscape and Visual Effects

101. Whilst noting that the effects of the Proposed Development would lessen over time, the ExA noted that even by year 15 at operation some receptors would still experience significant adverse effects [ER 4.13.75 – 4.13.76]. The ExA concluded that whilst mitigation measures contained in the CEMP and Landscape Mitigation Plans would mitigate the predicted effects of the proposed development at the operational phase, including Northgate Farm, the overall effect would still be negative [ER 4.13.77]. Consequently, the ExA concluded that whilst designed and mitigated in line with the NPSNN, the Proposed Development would have adverse landscape impacts at both construction and operation stages and would result in visual harm to sensitive receptors. The Secretary of State agrees with the ExA that overall, the proposed development would have a moderate adverse effect which must carry some weight against the benefits of the Proposed Development [ER 4.13.78].

Design

102. The Secretary of State notes the policy considerations as set in the NPSNN in relation to “good design” [ER 4.14.1 – 4.14.4] and the Applicant’s case as set out in ER 4.14.5 - 4.14.10.

103. The Secretary of State acknowledges that design did not feature in any Relevant Representations or Written Representations during the Examination [ER 4.14.12], but that NCC expressed concerns about landscape design and mitigation measures, considering that a greater level of detail could be provided to give some certainty over the effectiveness and delivery of the landscape proposals whilst retaining flexibility. The Applicant responded that measures secured in the DCO meant the final designs would be approved by the Secretary of State following consultation with NCC and observed that its Statement of Common Ground with

NCC did not identify any landscape or design matters as not agreed [ER 4.14.12 – 4.14.13]. The ExA also asked a number of questions about design and the Secretary of State has noted the discussion around these [ER 4.14.14 - 4.14.26].

The Secretary of State's Conclusion on Design

104. The Secretary of State's notes the ExA's conclusions at ER 4.14.27 - 4.14.36. Whilst the Proposed Development is largely based on the online widening of an existing road, the Secretary of State recognises that this does not negate the need for design and aesthetics to be given appropriate consideration as NPSNN paragraph 4.32 indicates [ER 4.14.33]. NPSNN paragraph 4.35 requires applicants to demonstrate how the design process was conducted and how the design evolved. The ExA accepted that the Applicant has done this in a broad sense but in terms of good aesthetics this was much less well developed in the submitted application [ER 4.14.35]. The Secretary of State notes the consideration given by the ExA to requirement 3 in the rDCO and whether there was any need to amend this to require independent advice, but for the reasons set out by the ExA agrees this is not necessary [ER 4.14.30 – 4.14.31]. The Secretary of State notes that no parties raised any concerns about this aspect of the Proposed Development and agrees with the ExA that overall, there is a neutral effect with regard to design of the Proposed Development [ER 4.14.36].

Biodiversity, Ecology and Natural Environment

105. The Secretary of State notes the policy considerations set out in the NPSNN covering biodiversity and ecological considerations [ER 4.15.2 - ER 4.15.8]; the Applicant's case set out in the ES [ER 4.15.9 – 4.15.32] and the issues considered during the examination [ER 4.15.33 - 4.15.82].

The Effect on Protected Habitats and Species

106. The Secretary of State notes that, in relation to identified nature conservation issues within its remit, Natural England commented that there was no fundamental reason of principle why the project should not be permitted. It noted that whilst the proposals would directly impact the River Coquet and Coquet Valley Woodlands SSSI both permanently and temporarily, acceptable compensation for the loss of irreplaceable habitats had been identified [ER 4.15.36]. The Secretary of State is satisfied that, with regard to European Protected species licences, the Applicant confirmed that it had produced draft licences for bats, badger, and great crested newts and NE have provided Letters of No Impediment for each of the drafts issued [ER 4.15.37].

107. The Secretary of State notes that discussions took place about the time lapse since various surveys were undertaken and that the Applicant has since been invited to set out if any updates were necessary to any of the application documents (with an opportunity for Interested Parties to respond) since the Examination closed and in the light of the responses received. In relation to this matter, the ExA was satisfied that the CEMP and Requirement 7 of the Order ensure checks will be done before construction commences [ER 4.15.38-4.15.40] and, having also considered the additional information provided in response to his consultations, the Secretary of State agrees.

Air Quality Impacts

108. On air quality impacts, as set out in the Air Quality section, the Secretary of State notes that NE did not agree with the Applicant's approach on air quality assessment on the River Coquet and Coquet Valley Woodlands SSSI at the close of examination [ER 4.15.41]. However, NE confirmed that the conclusion, for the River Coquet and Coquet Valley SSSI, of no likely significant effect was accepted. This was based on various factors including the long-term downward trend in nitrogen deposition at the SSSI which would be delayed rather than reversed by the Proposed Development and because the additional deposition would not impact the decline of background levels too substantially [ER 4.15.42]. It was agreed between the Applicant and NE that there would be significant effects on two veteran trees (T682 and T701), Borough Wood Local Nature Reserve/ancient woodland located along the River Wansbeck and Well Wood ancient woodland located along the River Blyth. It was noted the compensation for the veteran trees is secured via the DCO and that compensation for potential damage, as assessed at the close of Examination as resulting from increased nitrogen deposition at Borough Wood and Well Wood, would be secured by a legal agreement between the Applicant and NCC, which manages the two woodland sites [ER 4.15.43]. These matters are considered further at paragraphs 120 – 125, below, under the heading "Matters Arising Since the Close of Examination".

Effect on Ancient Woodland

109. The Secretary of State has had regard to paragraph 5.32 of the NPSNN regarding the loss of ancient woodland and understands consent should not be granted in the case of loss or deterioration of irreplaceable habitats, including ancient woodland, unless the national need for and benefits of the development, in that location, clearly outweigh the loss.

110. The Secretary of State considers, as outlined below, that there are wholly exceptional reasons for the loss in this case given that the public benefit clearly outweighs the loss, and that a suitable compensation strategy exists in the Ancient Woodland Strategy ("AWS"), and is therefore satisfied that the revised NPSNN would not impact his decision in this regard.

111. The Secretary of State notes that the impact of the Proposed Development on ancient woodland was raised by a number of Interested Parties [ER 4.15.45], including an objection from the Woodland Trust to the direct loss of parts of Duke's Bank Wood ancient woodland. In response, the Applicant referenced its AWS and its Case for the Scheme to demonstrate compliance with paragraph 5.32 of the NPSNN and paragraph 175 of the NPPF (now paragraph 186). The Applicant's case for compliance with paragraph 175 (referring to the footnote to that paragraph which identifies examples of "wholly exceptional reasons") was that the Proposed Development is a Nationally Significant Infrastructure Project, where the public benefit of the Proposed Development would clearly outweigh the loss of habitat; a conclusion shared by NCC [ER 4.15.46]. The Woodland Trust also recognised that the Proposed Development would be compatible and consistent with paragraph 5.32 of the NPSNN as a result of the AWS looking to minimise the impact on the ancient woodland [ER 4.15.47].

112. The Applicant acknowledged that alternative routes were considered that would avoid the ancient woodland, however these were not in keeping with the objectives of the Proposed Development due to significant additional length of dual carriageway being required, and noted that the Outline CEMP included measures

to reduce the indirect impacts of the Proposed Development [ER 4.15.48]. The Secretary of State notes and accepts the changes made to the Order in respect of Requirement 15 which references the AWS specifically [ER 4.15.49].

113. Concerns were raised by the Woodland Trust relating to the transfer of invasive species due to the translocation of ancient woodland soil, and that even though the Applicant stated that baseline studies had not recorded invasive species within the Order Limits, as a precaution the AWS detailed appropriate mitigation [ER 4.15.50]. The Secretary of State notes the increased compensation to be provided due to the proposed Stabilisation Works and Southern Access Works [ER 4.15.51 – 4.15.52] (see further on that subject below under the heading “Proposed Changes”). Furthermore, the Secretary of State is confident that Requirement 15, which sets out that there must be an approved AWS in place before any removal of ancient woodland occurs, and that construction of the Proposed Development must be in accordance with the approved AWS, provides appropriate protection to the ancient woodland [ER 4.15.53]. Natural England confirmed that the AWS as drafted was acceptable, acknowledging that further detail would be developed during detailed design, and the Forestry Commission also considered that the AWS was appropriate to minimise the effects of the Proposed Development, providing adequate compensation as regards the ancient woodland. [ER 4.15.54]. The Secretary of State sees no reason to disagree with this assessment.
114. On the Woodland Trust’s concern on the number of ancient and veteran trees to be lost [ER 4.15.56], the Secretary of State notes the Applicant reduced by four the number of veteran trees previously outlined for removal and, at Deadline 9, submitted a revised version of the Impacts to Ancient and Veteran Trees document and the proposals in it about the planting of trees as compensatory measures, as set out in ER 4.15.58 [ER 4.15.57 – 4.15.58]. The SoCG between the Applicant and the Forestry Commission noted that, while the Proposed Development would involve the loss of approximately 20ha of woodland, with the creation of approximately 39ha of woodland the proposed mitigation and compensation measures were appropriate and acceptable [ER 4.15.59].

Proposed Changes

115. The Secretary of State notes that the Applicant predicted permanent moderate adverse effects as a result of the Stabilisation Works and Southern Access Works Change Request (referred to above as “The Change Request”) which would result in loss of riverbank habitat in the River Coquet and Coquet Valley SSSI and Habitats of Principle Importance [ER 4.15.60]. The Applicant considered that, following the implementation of the revised AWS, the significance of the effect to the Local Wildlife Sites due to the loss of habitat remained as moderate adverse. In respect of other effects, it found that significance had increased for some receptors, but remained not significant [ER 4.15.61]. Natural England considered that, although they had no concerns in relation to the effects of The Change Request, they disagreed with the Applicant’s determination that the nature and scale of the impact would be minor adverse, suggesting that the Applicant must provide compensation for the impacts associated with the stabilisation and southern access [ER 4.15.62]. The Secretary of State has had regard to the agreement between the Applicant, the Environment Agency, and Natural England that the loss of natural riverbank habitat would require compensation and notes that the Applicant had explored opportunities for such compensation but had not identified viable opportunities. The

Secretary of State notes the proposals from the Environment Agency regarding financial contributions to the Water Environment Investment Fund, and notes this was agreed by the Applicant, Environment Agency, and Natural England [ER 4.15.63].

Effect on Watercourses

116. The EA raised concerns about the loss of watercourses in Part B and the extension of culverts creating a barrier to the movement of wildlife and increased fragmentation of habitats [ER 4.15.65]. At Deadline 9 the EA's submission noted that the Applicant has not provided sufficient compensation within the DCO boundary for the impacts of the Proposed Development, specifically the impacts on and losses of watercourses and riparian habitat through culverting and associated infrastructure [ER 4.15.73]. By the close of Examination, a legal agreement regarding compensation for the impact on the riverbank habitat on the River Coquet; and securing compensation to offset culverting of watercourses by the Proposed Development was in place [ER 4.15.74].

Other Examination Issues

117. The Secretary of State notes that a number of detailed ecological matters were raised by the Environment Agency which the Applicant addressed through amendments to measures in the Outline CEMP [ER 4.15.75] including the presence of otters within the Order Limits, with measures deemed to be sufficient at the close of Examination by the Environment Agency and NCC [ER 4.15.76].

118. Matters relating to secured environmental management plans within the Order are discussed at paragraph 123 - 125.

Biodiversity No Net Loss

119. Whilst noting that there is currently no legal requirement for NSIPs to provide for Biodiversity Net Gain, the Secretary of State has had regard to the reports produced by the Applicant for the Proposed Development quantifying biodiversity losses and gains in working towards national and local policies, including the aims of the NPSNN [ER 4.15.78 - 4.15.79]. The Secretary of State notes that, despite biodiversity net gains for hedgerow and area-based biodiversity, no net loss could not be claimed across the entirety of the Proposed Development due to losses of irreplaceable habitat, and medium distinctiveness woodland and scrub and river habitat; in particular there would be a net loss of 11.69% in river biodiversity units [ER 4.15.80 and ER 4.15.82]. The Secretary of State has had regard to the SoCG between the Applicant and the Environment Agency, as well as the view from Natural England that the loss of ancient woodland as a result of the Proposed Development had been addressed in the AWS [ER 4.15.81 – 4.15.82].

Matters Arising Since the Close of Examination

120. The Secretary of State's consultation letter dated 11 October 2023 requested the Applicant to set out whether any updates were necessary to its application or other examination documents, given the length of time since the close of examination (5 October 2021). The Applicant responded in October 2023 saying that they considered that for the bulk of environmental topics, the information was

satisfactory, but that further consideration would need to be given as to the topics of air quality and biodiversity.

121. The Applicant provided an Updated Desk Study and Habitat Verification Survey Report on 21 March 2024. This concluded that no additional designated sites or areas of Habitats of Principle Importance and ancient woodland were identified in comparison to those assessed within Chapter 9 of the ES, and Phase 1 habitats identified during the verification survey were found as broadly the same as those identified during the original assessment. No further data was found during the 2023/2024 habitat walkover survey either. The Applicant concluded that due to the findings above, the mitigation and compensation measures outlined in the Outline CEMP remained valid. No interested parties raised any concerns regarding the Applicant's conclusions in response to the Secretary of State's consultation of 27 March 2024. The Secretary of State has therefore no reason to disagree with the conclusions set out by the Applicant.
122. The Applicant's Updated Biodiversity Air Quality Assessment (provided on 21 March 2024) found that air quality impacts of the marginal (2-3%) increase in traffic flows in the Proposed Development's opening year in comparison to the flows assessed at Deadline 3 will likely be more than offset by a decrease in emissions per vehicle. By using updated 2024 AQ assessment methodology it also identified an increase in operational nitrogen deposition and an increased atmospheric ammonia concentration as a result of the Proposed Development, which was greater than the levels predicted in the original 2021 assessment. As a result, significant adverse effects were identified at River Coquet and Coquet Valley Woodlands SSSI, Duke's Bank Ancient Woodland, Park Wood / Bothal Bank Ancient Woodland, Cotting Wood Ancient Woodland, Davies Wood LNR / Ancient Woodland, Borough Wood LNR / Ancient Woodland, Well Wood Ancient Woodland and ten veteran trees. In respect of six other sites, increases in nitrogen deposition and/or ammonia concentration that exceeds the applicable habitat thresholds were recorded but the effects were identified as slight adverse (not significant), whereas at three further sites there were either slight or large beneficial effects.
123. As no viable mitigation measures were identified, the Applicant proposed measures to compensate for the identified significant adverse effects and an update to the commitments in the REAC to secure these. In its response of 11 April 2024 to the Applicant's updated environmental information, Natural England set out that they agreed with the approach used to assess the impacts of ammonia and the conclusions regarding its ecological impacts. However, they disagreed with the Applicant that the previously agreed Woodland Creation area was sufficient to compensate for the additional impacts identified. Natural England highlighted that additional woodland planting connected to the SSSI would be the most effective way of compensating for the additional effects and recommended that a comprehensive Landscape and Ecological Management Plan ("LEMP") be provided by the Applicant with a commitment to securing a specific hectareage of additional woodland planting and details of how the planted areas will be managed to ensure that the woodland reaches maturity. NCC and Northumberland Wildlife Trust echoed the recommendation that the Applicant provide a LEMP.
124. The Applicant and Natural England updated the Secretary of State in their responses to his consultation of 16 April 2024 regarding their position on the revised compensation. The Secretary of State notes that an additional 2.4 ha of compensatory woodland planting has been agreed between the Applicant and

Natural England and will be located immediately west of the previously agreed woodland planting, as compensation for the increased impacts to the River Coquet and Coquet Valley Woodlands SSSI, and appropriate arrangements as a fall back should that land not be secured. Natural England is also content with the Applicant's proposed amendment to Requirement 15 of the DCO and Measure A-B3 of the Outline Construction Environmental Management Plan ("OCEMP"), to make provision for the additional woodland planting. Furthermore, Natural England is satisfied with the long-term management of the compensation planting detailed in the updated OCEMP and Ancient Woodland Strategy and no longer requires a LEMP for the compensation planting connected to the SSSI and NCC were similarly satisfied. As such, the Secretary of State considers that a mandatory LEMP is not required and that the combination of making one discretionary and the power for him to require one following consultation by the Applicant with the Environment Agency, Natural England and NCC, is sufficient. Requirements 1, 4 and 17 have been amended accordingly.

125. In their correspondence of 14 April 2024, NCC raised concerns that Local Wildlife Sites ("LWS") were not identified as being of at least county importance, but accepted that this was not a significant issue affecting decision making. The Secretary of State notes that no other Interested Parties raised any issues with the above agreements between the Applicant and Natural England in his consultation of 26 April 2024, with NCC confirming in their response of 3 May 2024 that the classification of LWS was not a significant issue affecting decision-making. Therefore, the Secretary of State is satisfied that the proposals agreed sufficiently deal with the issues that arose from the updated Environmental information. In addition, the Secretary of State notes that no other party has raised concerns that any further update to the environmental information is necessary. The Secretary of State is therefore content with the update provided and considers that he has sufficient information to understand the impacts of the Proposed Development.

The Secretary of State's Conclusions on Biodiversity, Ecology and Natural Environment

126. The Proposed Development would result in the loss of irreplaceable habitats including ancient woodland and veteran trees. Para 5.32 of the NPSNN advises that the Secretary of State should not grant development consent in such cases unless the national need for the benefits of the development clearly outweigh the loss [ER 4.15.86]. To mitigate this loss, the Applicant has devised the AWS which has the support of Natural England, and has the in-principle support of the relevant planning authority (NCC), the Woodland Trust and the Forestry Commission. The Secretary of State notes the representation from the Transport Action Network submitted on 14 May 2024 setting out that the Proposed Development has the lowest benefit cost ratio of all the scheme in RIS2 and, with reference to paragraph 5.63 of the revised NPSNN, arguing that that the public benefit of the Proposed Development does not clearly outweigh the loss of ancient woodland and veteran trees. The wording in the revised NPSNN at paragraph 5.63 which was raised by Transport Action Network states that, "*The Secretary of State should not grant development consent for any development that would result in the loss or deterioration of irreplaceable habitats including ancient woodland and ancient and veteran trees unless there are wholly exceptional reasons (for example, where the*

public benefit would clearly outweigh the loss or deterioration of habitat) and a suitable compensation strategy exists”.

127. As has been stated in paragraph 14 of this letter, the Secretary of State does not consider the revised NPSNN supports a different outcome in this case and so has not given the revised NPSNN any material weight.
128. The national need for and benefits of the Proposed Development are established in the Case for the Scheme which demonstrates that there is no practical means of dualling the A1 between Morpeth and Felton which would avoid the River Coquet and Coquet Valley Woodlands SSSI. The Secretary of State is therefore satisfied that the Proposed Development is in compliance with the tests for the justification of impacts on ancient woodland and veteran trees under both the NPSNN and the NPPF (the latter of which shares the “wholly exceptional reasons” test used in the revised NPSNN). Nevertheless, the ExA concluded that the loss of irreplaceable habitat would have a considerable adverse effect which must be weighed against the benefits of the Proposed Development. The Secretary of State agrees with this conclusion [ER 4.15.87].
129. The Secretary of State notes for the loss of riverbank habitat, the Applicant had secured a financial contribution towards offsite compensation works as requested by the EA, through a legal agreement signed by both parties. However, the ExA concluded that the loss of riverbank habitat would have a significant adverse effect which also weighs against the benefits of the Proposed Development notwithstanding the proposed application measures [ER 4.15.88]. The Secretary of State agrees.
130. Construction phase mitigation measures would be secured through the REAC, the CEMP and through requirements set out within the recommended DCO and the ExA were satisfied that all short-term adverse effects would be minimised to the extent reasonably feasible [ER 4.15.91]. The Secretary agrees with the ExA’s findings, though has amended Requirements 1 and 17 as discussed in paragraph 234.
131. Overall, the ExA find that there would be considerable harm to biodiversity and an adverse effect overall. The Secretary of State concurs with the ExA, noting also that whilst compensation has been agreed, additional significant adverse effects relating to air quality have been identified since the close of the Examination. In line with paragraph 5.35 of the NPSNN this harm must be weighed against the benefits of the proposed development [ER 4.15.92] and this is covered in the Planning Balance section below.

Water Environment

132. The Secretary of State notes the requirements of the NPSNN as set out in ER 4.16.1- 4.16.9 and the Applicant’s assessment of the water environment as set out in Chapter 10 of the ES [ER 4.16.10- 4.16.22].
133. The Secretary of State notes that, in their LIR, NCC agreed with the Applicant’s conclusion that the impact of the Proposed Development on the water environment would be neutral, noting that all assessment and modelling was in compliance with national policy and best practice guidance, and that flood risk would not increase as a result of the mitigation measures proposed to address flood risk, surface water flood risk, and water quality which NCC considered to be appropriate [ER 4.16.23 – 4.16.24].

134. The effects of the proposed development on the water environment including the loss of watercourses and its impact on biodiversity are covered in paragraphs ER 4.16.25 – 4.16.38. The Secretary of State notes that, at the close of examination, disagreements between the Applicant and the Environment Agency relating to the water environment had been resolved, with the Environment Agency and the Applicant in agreement in relation to the Flood Risk Assessment (“FRA”) and the CEMP and that no points of contention remained between the Applicant and the Environment Agency [ER 4.16.38].

The Secretary of State’s Conclusion on Water Environment

135. The Secretary of State notes the ExA’s conclusion at ER 4.16.39 – 4.16.45 including that the Applicant had demonstrated that both during construction and operation, the Proposed Development is policy compliant in flood risk terms and has demonstrated how an allowance had been made for climate change within the design [ER 4.16.40]. The Water Framework Directive (“WFD”) assessment has shown that the Proposed Development is compliant under the WFD and that cumulative effects will not undermine that compliance [ER 4.16.41]. Where feasible the applicant has taken the opportunity to improve upon the quality of existing discharges [ER 4.16.42]. The Secretary of State agrees with the ExA’s assessment that no adverse effects on the water environment would result during either the construction or operation of the Proposed Development [ER 4.16.44]. The Secretary of State also agrees with the ExA that the Applicant has adequately addressed the requirements of the NPSNN and finds in terms of water quality and flood risk that the effects would be neutral [ER 4.16.45].

Geology and Soils

136. The Secretary of State notes that Chapter 11 of the ES sets out the Applicant’s assessment of the potential effects of the Proposed Development on geology and soils [ER 4.17.3] and the NPSNN policy considerations are set out at ER 4.17.1 – 4.17.2.

137. During construction, it is noted that Part A of the proposal would require 63ha of temporary agricultural land take and 109ha of permanent agricultural land take, including a loss of 9ha of agricultural land categorised as best and most versatile [ER 4.17.5 and ER 4.17.53]. The construction of Part B would require the temporary take of 62ha of agricultural land and a further 42.2 ha of permanent land take. 25.9ha of this land is categorised as the best and most versatile agricultural land [ER 4.17.6]. The permanent loss of the best and most versatile land for the construction of both parts would result in a significant effect. The Applicant confirmed that the temporary land used for construction would be reinstated as agricultural use after construction is completed, which is secured in the Outline CEMP [ER 4.17.7]. The Secretary of State agrees with the ExA that the impact of this would therefore not be significant [ER 4.17.55]. However, the Secretary of State also agrees with the ExA’s conclusion that due to the permanent loss of 34.9ha of the best and most versatile agricultural land that would result from the Proposed Development, this would result in a large adverse significant effect. Having had regard to paragraph 5.176 of the NPSNN, the Secretary of State agrees that this effect must be weighed against the benefits of the Proposed Development [ER 4.17.56].

138. The Secretary of State notes that the Environment Agency raised concerns on changes proposed by the Applicant to the DCO and the potential impact of these

on the River Coquet, in particular the disruption to the geomorphology of the river, the impact of the proposed temporary bridge and river training, the installation of rows, the bank stabilisation works and the increased construction area [ER 4.17.35 - 4.17.36]. Natural England raised similar concerns around the long-term implications for the local sediment supply, due to the break in the connectivity between the riverine and terrestrial habitat, caused by scour protection works. The Applicant considered the impact of the long-term fixing of the riverbank to be minor adverse whereas the Environment Agency considered it to be greater, the Environment Agency considering it moderate adverse [ER 4.17.38 and ER 4.7.41 – 4.17.45]. The Secretary of State notes that although the parties did not agree on the level of impact from the proposed changes, an agreement regarding the compensation for the loss of the riverbank habitat was secured. The Secretary of State agrees with the ExA's conclusion that significant adverse effects would arise from the loss of the riverbank habitat which would weigh against the benefits of the Proposed Development [ER 4.17.52].

The Secretary of State's Conclusion on Geology and Soils

139. The ExA concluded that in relation to geology and soils, once the proposed mitigation is taken into consideration there would be no significant effects identified within Part A or Part B [ER 6.2.99]. The Secretary of State however considers that given the moderate adverse impacts of the loss of riverbank and the significant adverse impacts on habitats and from the loss of BMV land, this matter weighs against granting Development consent.

Noise and Vibration

140. The Secretary of State notes the policy considerations of the NPSNN are set out in ER 4.18.1 – 4.18.7 and the Applicant's case as set out in Chapter 6 of the ES [ER 4.18.8]. The ExA highlighted that the Examination focussed on construction effects and the management and monitoring of operational effects [ER 4.18.35].

141. The ExA noted that the Applicant has undertaken a noise assessment in line with the NPSNN and that NCC was in agreement with the Applicant's methodology and baseline used for the assessment [ER 4.18.36 and ER 4.18.51].

Construction

142. It is noted that Mr Mark Hawes on behalf of the residents of Northgate farm, raised concerns in relation to the additional noise expected to be generated by vehicles accessing the proposed topsoil area (Topsoil Storage Location 1) during construction. The Applicant stated that associated noise generating activity had been considered as part of the earthworks activity and that construction mitigation measures were included in the Outline CEMP to minimise the effects from noise. The Applicant also highlighted that, once the proposed mitigation measures were in place, no significant adverse effects would be predicted during the construction stage of the Proposed Development [ER 4.18.47 – 4.18.47].

143. The ExA concluded that with regard to construction, they were satisfied that negative noise and vibration impacts would be appropriately mitigated and that there would be no significant adverse or beneficial effects from either Part A or Part B of the Proposed Development [ER 4.18.52]. The ExA also noted that measures

were secured in the CEMP to minimise the effects of vibration on sensitive receptors and that protocols were in place to monitor vibration [ER 4.18.53].

Operation

144. With regard to the operation, for Part A the ExA highlighted that there would be a decrease in noise for 13 properties and 3 other sensitive receptors and that these receptors would experience moderate to major beneficial effects [ER 4.18.54] and for Part B, a decrease in noise at 5 dwellings and one other sensitive receptor due to new low noise road surfacing and that these receptors would experience moderate beneficial effects [ER 4.18.57]. The Applicant identified 6 properties within Part A which would experience an increase in noise and vibration above the Significant Observed Adverse Effect Level (the level above which significant adverse effects on health and quality of life occur) in the long term as a result of the operation of the Proposed Development [ER 4.18.23]. The Applicant confirmed during the Examination that, with the exception of noise barrier PNB4 which would warrant further investigation to determine whether the barrier can be built and if it would meet the value for money criteria, noise barriers that were initially only proposed would be erected as mitigation for the significant adverse effects from operational road traffic at both Parts A and B [ER.4.18.4]. The Secretary of State notes the ExA's conclusion that if noise barrier PNB4 cannot be constructed because of design constraints, the moderate or major beneficial effects arising from a decrease in noise levels at Felmoor Park and Bockenfield Holiday Park would not be realised [ER 4.18.55].

145. The Secretary of State also notes that the ExA raised queries regarding the alternative mitigation measures explored in relation to a receptor, which although anticipated to experience a significant adverse effect, had no noise barrier or earth bund proposed as mitigation. In response, the Applicant confirmed that measures were considered but none were suitable as road speed and vehicle restrictions would reduce the benefits brought by the Proposed Development and were likely to increase traffic flows on local roads whilst modifications to affected buildings were found to provide insufficient benefit [ER 4.18.45].

146. Concerns were also raised on behalf of the residents of Northgate farm in relation to the additional noise created by other sources, including the proposed new access road to secure access to Northgate farm [ER.4.18.46] and the effectiveness and certainty of the proposed noise barrier (PNB1) [ER 4.18.48]. It was noted that at the close of examination there was no agreement by Mr Hawes in relation to Northgate Farm on the effect on noise from the Proposed Development [ER 4.18.49]. The ExA noted that PNB1 is proposed and would be secured through measure A-N4 in the Outline CEMP, which if introduced could result in potential moderate beneficial decreases in noise levels at three properties including Northgate farm [ER 4.18.55]. However, the ExA noted that if due to design constraints, the noise barrier cannot be built, these properties would experience significant adverse effects from the Proposed Development [ER4.18.48 and ER 4.18.55] but that if that was the case, Northgate farm would likely be eligible for compensation under the Noise Insulation Regulations [ER 4.18.56]. The Applicant confirmed in a response to the Secretary of State's Consultation letter of 11 October 2023 that they had come to an agreement with Mr Hawes on the route of the access road in November 2021, but this has yet to be documented formally.

Secretary of State's Conclusion on Noise and Vibration

147. Overall, the ExA concluded that the Proposed Development would contribute to improvements to health and quality of life through effective noise control and management, avoid significant adverse impacts and mitigate and minimise other adverse impacts on health and quality of life, in line with the considerations set out in the NPSNN [ER 4.18.58]. Whilst the ExA notes that there would be some positive impacts associated with noise, as there was some uncertainty with some of the proposed mitigation, the operational effects on surrounding sensitive receptors were found to be neutral. The ExA concluded that noise and vibration matters do not weigh significantly against the Order being made [ER 4.18.59]. The Secretary of State agrees with the ExA's conclusions.

Social, Economic and Land Use Effects

148. The Secretary of State notes that the policy considerations of the NPSNN are set out at ER 4.19.2 – 4.19.11 and the Applicant's assessment on Population and Human Health is set out in Chapter 12 of the ES. The Applicant's case is set out in ER 4.19.12 - 4.19.57, covering economic development, community effects, land use effects, public right of ways ("PRoWs") and Non-Motorised Users ("NMU"), driver stress and the Green Belt.

149. NCC raised concerns around how the Applicant had assessed the effects of the Proposed Development on the amenity and the quality of the user's experience of the PRoW network and local roads [ER 4.19.59]. In response, the Applicant set out that the assessment was conducted in line with DMRB guidance [ER 4.19.59 – 4.19.60]. Following further comments from NCC, the Secretary of State notes that the Applicant provided a summary of impacts on communities within 1 km of the Proposed Development, which demonstrated that no new effects were presented [ER 4.19.61]. The Secretary of State further notes that a SoCG has been signed between the Applicant and NCC, identifying no outstanding issues and an agreement between both parties regarding the PRoW network [ER 4.19.61].

150. The Secretary of State notes that 18 PRoWs in Part A would be temporarily closed during construction, while 11 PRoWs would be permanently closed or diverted at the operational stage, with users of 3 of the 11 experiencing moderate adverse effects from the Proposed Development. In contrast, 8 out of 11 PRoWs would be expected to experience a slight beneficial effect [ER 4.19.43 and APP-044, Tables 12-45 and 12-46]. For Part B, 11 PRoWs are proposed to be permanently or temporarily closed during the construction period, with 9 of the 11 to experience moderate adverse effects [ER 4.19.47 and APP-055, Table 12-49]. The EA asked for further information from the Applicant regarding the proposed consultation with affected individuals, groups and NCC regarding the temporary and permanent closures of PRoWs. In response, the Applicant highlighted that the consultation would be in relation to the timings, duration and location of the closures, rather than whether a diversion or closure would be required or not [ER 4.19.64]. Although the Secretary of State notes that a number of PRoWs are to experience moderate adverse effects, he agrees with the ExA's conclusion that the findings of the ES are reasonable and that, where necessary, mitigation measures could be secured through the recommended DCO, which are proportionate to the adverse effects that would result. Also, a significant number of PRoWs have been assessed as having a beneficial impact from the Proposed Development, which would improve its safety for the local community [ER 4.19.76].

151. The Applicant highlighted that the Proposed Development is located within an area of the Green Belt [ER 4.19.51]. The Secretary of State notes that in regard to the Green Belt, the NPPF sets out in paragraph 15 that inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances [ER 4.19.53]. Paragraph 5.178 of the NPSNN also sets out that inappropriate development is by definition harmful to the Green Belt and there is a presumption against it except in very special circumstances [ER 4.19.80].
152. The ExA agrees with both the Applicant and NCC, that within the overall context of the NPSNN, it would be appropriate to consider the Proposed Development against the policy test of the NPPF in so far as it would represent inappropriate development in the Green Belt, as defined in the NPPF [ER 4.19.81]. The Secretary of State notes that paragraph 5.178 of the NPSNN, through footnote 110, refers to the NPPF for consideration of whether a project represents inappropriate development.
153. The potential harm to the Green Belt would arise from the expansion of the existing A1 into areas of farmland that are currently undeveloped as well as the construction of above ground structures such as the bridges and embankments. The Applicant noted that above ground structures may be considered to be detrimental to the openness of the Green Belt with additional impacts to the openness resulting from temporary buildings and structures during construction [ER 4.19.54]. The ExA concluded that consequently, the proposed development would conflict with the purpose of safeguarding the countryside from encroachment [ER 4.19.82]. The Applicant acknowledged that the Proposed Development may on a strict interpretation represent inappropriate development in the Green Belt (paragraph 6.4.33 of its Case for the Scheme [APP-344] and [ER 4.19.53]). In order to demonstrate that very special circumstances exist, the Applicant considered a series of key issues set out in the case for the scheme including compatibility with Planning Policy, contribution to the delivery of government policy and programmes, delivery of planning policy, objectives of Green Belt policy and availability of alternatives [ER 4.19.83]. The ExA agreed with the Applicant and NCC that although the Proposed Development would be inappropriate development in the Green Belt, the very special circumstances required to justify its development within have been demonstrated even allowing for the 'great weight' that has to be attached to any harm to the Green Belt [ER 4.19.84]. The Secretary of State concurs with this assessment and is satisfied that the need for the Proposed Development as set out at ER 4.19.56 and APP-344, paragraphs 6.4.16 – 6.4.34 outweighs the harm to the green belt and that this is in line with the NPSNN and NPPF and that there is no viable alternative to the Proposed Development.
154. The Secretary of State notes that the Levelling Up and Regeneration Act 2023 ("the 2023 Act") took effect from 26 December 2023. Section 245 of the 2023 Act amends (insofar as is relevant to this matter) section 11A of the National Parks and Access to the Countryside Act 1949 so as to impose a duty on relevant authorities, including the Secretary of State, to seek to further the purposes of National Parks. Section 85 of the Countryside and Rights of Way Act 2000 was similarly amended to impose the same duty in respect of areas of outstanding natural beauty. In his consultation letter of 27 March 2024, the Secretary of State invited the Applicant to provide comments on the implication of this amendment on their Application. The Applicant responded on 12 April that as detailed in their Environmental Statement

the assessment of impacts on areas of outstanding natural beauty (now known as National Landscapes) was scoped out of the assessment presented in Chapter 7 (Landscape and Visual) of their ES for Part A and Part B on the basis that the Applicant and consultees including NCC and Natural England agreed that there were no areas of outstanding natural beauty in sufficient proximity to the Proposed Development such that they were likely to be adversely impacted. They highlighted that at its closest point, the Northumberland Coast Area of Outstanding Natural Beauty is approximately 7.5 km to the north-east of Part A and 3 km east of Part B. The Northumberland National Park is approximately 11 km to the west at Rothbury at its closest point and that given these distances, no impacts have been identified. In addition, the Applicant confirmed that there had been no change to this position, since the close of the examination. The Applicant concluded that on the basis that no National Parks or areas of outstanding natural beauty are in sufficient proximity to the Proposed Development to be impacted, their position remained that the duties (as amended by the 2023 Act) are not triggered. Noting the Applicant's reasoning, the Secretary of State agrees with this conclusion.

155. The Secretary of State notes that during the Examination the ExA queried why the sensitivity level of the human health receptors was "medium" and not "high" due to the levels of health inequalities and deprivation surrounding the Proposed Development [ER 4.19.69]. He further notes that the issue of the area having a larger than average number of road fatalities and injuries was also raised [ER 4.19.70]. In response, the Applicant stated that despite the pockets of deprivation, the general area along the A1 is more affluent, while also confirming the Proposed Development is expected to save 414 accidents and 708 casualties over a 60-year period. The Applicant also confirmed that traffic management during construction would be designed to minimise accidents as set out in the Construction Traffic Management Plan [ER 4.19.69 - ER 4.19.70]. The ExA noted that there would be adverse effects on health and quality of life during the construction process but was satisfied that these would only be temporary and that the measures proposed to mitigate against undesirable effects were proportionate and appropriate [ER 4.19.79], the Secretary of State agrees with this conclusion.

The Secretary of State's Conclusion on Social, Economic and Land Use Effects

156. The Secretary of State agrees with the ExA's conclusion that no significant effects are predicted, due to the proposed mitigation measures in relation to economic development, access to community or recreational facilities, land use or driver stress [ER 4.19.73].

157. The Secretary of State notes that the ExA concluded that significant temporary and permanent economic benefits are expected from the Proposed Development, including significant benefits for commuting users and other user benefits [ER 4.19.77 – 4.19.78].

158. The Secretary of State also agrees with the ExA's overall conclusion that there would be general accord with the relevant policies within the NNNPS, that the adverse effects during construction of the Proposed Development would not weigh significantly against the Order being made and that, overall, the positive economic and social benefits would weigh in favour of the Order being made [ER 4.19.85].

Historic Environment

159. The Secretary of State notes the policy considerations of the NPSNN are set out in ER 4.20.1 – 4.20.5 and the Applicant’s case is set out in Chapter 8 of the ES [ER 4.20.6]. The Secretary of State also notes regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010 [ER 3.6.17 – 3.6.18]. The ExA is satisfied that the historic environment assessment conducted by the Applicant included sufficient detail and identified the potentially affected heritage assets, finding it to be in line with the NPSNN [ER 4.20.48]. The ExA also noted that Historic England (“HE”) and NCC were satisfied that the effects on designated heritage assets had been identified and assessed appropriately, in line with paragraph 5.130 of the NNNPS [ER 4.20.50].
160. For Part A, the Applicant identified a total of 149 heritage assets within the inner (500m from the Order Limits) and outer (up to 1km from the Order Limits) study areas, 64 being designated heritage assets. 85 non-designated heritage assets were also recorded within the inner study area [ER 4.20.8]. Six designated assets were identified within the Order Limits, all being Grade II Listed mileposts, and nine non-designated below ground heritage assets were also found. A further 71 historic landscape areas were identified within the Order Limits, and 15 areas containing geographical anomalies of potential archaeological origin [ER 4.20.9 - 4.20.10]. The Secretary of State notes the summary of the ExA’s consideration of the impact of the Proposed Development on these assets and that the adverse effects resulting from construction would range from large or very large to slight, but there would be no significant adverse or beneficial effects expected during the operation of Part A [ER 4.20.51 - 4.20.52].
161. For Part B, the Applicant identified a total of 111 heritage assets within the inner and outer study areas, with 60 being designated and the other 51 being non-designated. The ES identified 7 Scheduled Monuments within the study area and Order Limits of Part B, with a further 38 Listed Buildings, one Conservation Area, one Grade 1 Registered Park and Garden and 48 non-designated heritage assets [ER 4.20.11]. A further 30 below ground heritage assets and earthworks were also identified in the study areas and non-designated below ground heritage assets were recorded at three locations within the Order Limits [ER 4.20.12]. The Secretary of State notes the ExA’s consideration of the impact of the Proposed Development on heritage assets. The adverse effects resulting from construction would range from very large to slight and, during operation, the only significant effect would be to the Grade II listed Dovecote to the east of Heckley Fence Farmhouse due to the change in its setting resulting in a moderate adverse effect [ER 4.20.53 - 4.20.54]. The Secretary of State has no reason to disagree with this.
162. The Secretary of State notes that HE expressed in principle support for the Proposed Development whilst seeking assurances about the impacts on the Scheduled Monuments and relocation of the Grade II listed milepost. The Applicant responded that the Order limits abut the boundaries of the Scheduled Monuments of North Charlton medieval village and Camp at West Linkhall and that no land within the scheduled monument was within the Order Limits and that they will establish additional protection to the boundary of the North Charlton Scheduled Monument through an exclusion zone, secured through Measure B-CH1 of the Outline CEMP. It also agreed to establish an exclusion zone where the Order Limits directly abut the boundary of the North Charlton Scheduled Monument to provide

additional protection with a plan showing the construction exclusion zone provided as Appendix A of the Outline CEMP [ER 4.20.33 and 4.20.47].

163. The Secretary of State notes that measures have been secured through the DCO to protect Grade II listed milestones following comments from NCC and the ExA [ER 4.20.37]. It is also noted that for both the built heritage and archaeology, NCC considered the impacts of the Proposed Development to be neutral [ER 4.20.34]. The Secretary of State also notes the mitigation measures secured in the rDCO by requirements 4, 9 and 10, and agrees with the ExA that with these measures in place, the significance of effects would be mitigated as far as possible [ER 4.20.55]. The Secretary of State's consultation dated 26 April 2024 invited all Interested Parties to set out if they had any comments on the responses received on the Secretary of State's previous consultation letter dated 16 April 2024. Historic England responded on 7 May 2024, setting out there remained a few minor issues which they previously raised regarding the Outline CEMP and the Appendix A of the same document which had been left blank. The Secretary of State requested in his consultation dated 10 May 2024 that the Applicant confirms if the version of Appendix A included in the Outline CEMP Rev 10 at REP11 remains correct and for Historic England to provide comments on this. Historic England confirmed to the Secretary of State in their response dated 15 May 2024 that the Applicant had corrected the Outline CEMP and they had no further comments on this matter. The Secretary of State is therefore content with the update provided and considers that he has sufficient information to understand the impacts of the Proposed Development.

The Secretary of State's Conclusion on Historic Environment

164. The Secretary of State agrees with the ExA that there would be less than substantial harm to a number and range of designated heritage assets, including to the setting of some of them [ER 4.20.56], as set out in more detail in ER 4.20.57-4.20.58. Paragraph 5.134 of the NNPS states that where the proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this should be weighed against the public benefits of the proposal. In line with paragraph 5.134, the Secretary of State agrees with the ExA that this harm is outweighed by the public benefits that will result from the Proposed Development as set out above [ER 6.3.14]. In coming to this conclusion, the Secretary of State has had regard to the matters mentioned in regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010.

Materials and Resources and Waste Management

165. The Secretary of State notes that the ExA's policy consideration of the NPSNN relating to materials and resources and waste management is set out at ER 4.21.1 – 4.21.2 and the Applicant's case is set out in Chapter 13 of the ES [ER 4.21.3 - 4.21.9].

166. NCC raised concerns regarding limited availability of temporary storage areas for transported materials. The Secretary of State notes that the Applicant highlighted that mitigation measures will be developed by the Applicant and that would be through the Construction Traffic Management Plan secured through

requirement 11 of the rDCO [ER 4.21.13]. The Secretary of State is satisfied that this issue is adequately dealt with by the Applicant.

167. NCC's Local Impact Report raised concerns about potential pressure on the County's natural minerals resources due the large quantities of materials to be consumed. It was also concerned about that production and disposal of waste during the demolition, site preparation and construction phases. The Secretary of State notes that NCC outlined support for the production of a Material Management Plan and Site Waste Management Plan and that recognising the need for a Traffic Management Plan, it was satisfied with the approach taken with respect to the transport of minerals and waste and that, overall, it considered the effects to be neutral [ER 4.21.11].

168. The EA raised concern that a historic land fill site east of the A1 carriageway was not included in the Applicant's ES. The Secretary of State notes that in response, the Applicant confirmed that the site would not be impacted during construction as it is more than 250m away from the works and not within the Order Limits. The Applicant highlighted that should groundwater containing contaminants associated with the landfill arise, there are measures in place to ensure the limitation of potential pollution of controlled waters [ER 4.21.14].

169. The Secretary of State further notes that the Earthworks Amendments to the application included proposed changes to temporary and permanent earthworks within the Order Limits along both Part A and Part B, reducing the volume of materials required to be imported, resulting in an overall reduction in disposal volumes with tonnage diverted from landfill sites. The Applicant concluded that the Earthworks Amendments would result in no change to the conclusion of the assessments of construction effects as reported in Chapter 13 [ER 4.21.15 - 4.21.16].

The Secretary of State's Conclusion on Materials and Resources and Waste Management

170. The Secretary of State agrees with the ExA's conclusion that mitigation has been adequately provided to deal with the concerns relating to the management of materials and waste, in line with the NPSNN and in turn, the issue of material resources and waste attracts neutral weight to the planning balance of the Proposed Development [ER 4.21.17]

Combined and Cumulative Effects

171. The Secretary of State has had regard to the policy considerations as set out in the NPSNN, noting in particular the need to account for the potential adverse impacts of the Proposed Development, including any long-term and cumulative adverse impacts, as well as measures to avoid, reduce, or compensate for those adverse impacts [ER 4.22.1- 4.22.2], and notes the Applicant's case as set out in ER 4.22.3 – 4.22.18.

172. The Secretary of State has had regard to the questions posed to the Applicant by the ExA and the responses provided relating to combined effects, including those related to the Change Request on the River Coquet and their significance, as suggested by Natural England [ER 4.22.26 - 4.22.28]. The Applicant concluded

that there would be a significant cross topic combined residual effect of moderate adverse during construction as a result of biodiversity and road drainage and water environment effects on the river Croquet. Whilst NE and the Applicant did not agree on the level of significance of the impact, compensation was agreed in line with that requested by the Environment Agency and set out in a legal agreement [ER 4.22.28].

173. The Secretary of State notes the concerns raised by Mr Mark Hawes as regards the cumulative effects of the Proposed Development on Northgate Farm as an individual residential receptor and the impact of the Morpeth Northern Bypass Scheme. In its response, the Applicant provided further information on the assessment of these considerations including on how, as an individual receptor, Northgate Farm was considered as part of the assessment of combined effects, and the adequacy and efficacy of the proposed mitigation measures [ER 4.22.29 – 4.22.33]. The Applicant also clarified that as the Morpeth Northern Bypass scheme had already been constructed and was in operation, it formed part of the existing environment (i.e baseline conditions). The Secretary of State notes that, at the close of Examination, Mr Hawes' concerns remained [ER 4.22.34].

The Secretary of State's Conclusion on Combined and Cumulative Effects

174. The Secretary of State notes that the ExA concluded that significant effects are predicted for combined and cumulative effects resulting from the Proposed Development, particularly during construction and that some residential properties, particularly those located near the existing A1 in both Part A and Part B, are likely to experience significant adverse visual effects and noise effects during operation [ER 4.22.-35 – 4.22.36]. The Secretary of State also notes that there will be some beneficial effects for some receptors [ER 4.22.37]. The Secretary of State has no reason to disagree with the ExA's conclusion on this matter and like the ExA has considered the significant effects further in the overall planning balance, below.

FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

175. Under regulation 63 of the Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations"), the Secretary of State (as the Competent Authority) is required to consider whether the scheme would be likely, either alone or in-combination with other plans and projects, to have a significant effect on a European Site.
176. The Secretary of State must undertake an appropriate assessment ("AA") if likely significant effects on the conservation objectives of a European Site, either alone or in combination with other plans or projects, cannot be ruled out. In the light of any such assessment, the Secretary of State may grant development consent only if it has been ascertained that the project will not, either on its own or in combination with other plans and projects, adversely affect the integrity of such a European Site, unless there are no feasible alternatives or imperative reasons for overriding public interest apply.
177. The Secretary of State notes that the Proposed Development is not directly connected with or necessary to the management of a European Site [ER 5.2.3].

Likely Significant Effects

178. A screening assessment was undertaken to identify potential likely significant effects between the Proposed Development on the following European Sites:

- Northumbria Coast Special Protection Area (SPA) (scoped in for Parts A and B);
- Northumbria Coast Ramsar (scoped in for Parts A and B);
- Northumberland Marine SPA (scoped in for Parts A and B);
- North Northumberland Dunes Special Area for Conservation (SAC) (scoped in for Part As and B);
- Coquet Island SPA (scoped in for Part A);
- Berwickshire and North Northumberland Coast SAC (scoped in for Part B);
- Newham Fen SAC (scoped in for Part B); and
- River Tweed SAC (scoped in for Part B).

179. Following the inconsistency in qualifying features listed for the River Tweed SAC an amended/revised HRA was provided and the ExA was satisfied that the Applicant had correctly identified all the relevant European sites and relevant qualifying features for consideration within the HRA [ER 5.2.5- ER 5.2.6].

180. The Secretary of State notes that an Updated HRA was provided by the Applicant at D4 as part of the Change Request. The changes relevant to the HRA were in relation to works associated with Part A: Stabilisation Works to the north bank of the River Coquet and proposed alternative access to the south bank during construction via a temporary bridge [ER 5.2.7].

181. The Applicant screened the above sites and considered each against the following possible impact:

- habitat loss (habitat loss; spread of invasive plant species);
- displacement (displacement from noise, lighting or odour; displacement from visual disturbance);
- emissions (vehicle emissions; waterborne pollution); and
- in combination effects.

182. The Applicant concluded for all but one impact pathway that the Proposed Development was unlikely to have significant effects either alone or in combination with other plans or projects on the above European sites [ER 5.3.2]. This pathway was due to the hydrological connection of the River Coquet between Part A and the European sites [ER 5.3.2].

183. The Secretary of State further notes the principal matters considered in relation to the HRA during the Examination as set out in ER 5.3.3 - 5.3.10 were construction traffic, forecasts and diversions; bird surveys and impacts to black-headed gull.

184. With regard to the construction traffic, forecasts and diversions, the Applicant updated its HRA Report following a query from the discrepancy between the forecast traffic values in the Applicant's HRA and those provided in their Case for the Scheme and the Construction traffic assessment. This demonstrated that despite the higher forecast traffic values, the conclusions were correct and the screening for air quality impacts was based on the right values [ER 5.3.4]. The

Applicant also explained that the birds would not be impacted by diverted traffic movements as the road for the diversion (A1068) is an existing road and the birds using the low tide would already be habituated to road traffic noise and movements and are not likely to be impacted by the diverted traffic movements. The Outline Construction Traffic Management Plan (“CTMP”) was revised in consultation with Natural England to minimise the number of days of diversions were needed in any given time period [ER 5.3.5]. The Outline CTMP was further amended to state that drivers and suppliers should avoid the use of roads within 200m of European sites [ER 5.3.6].

185. With regard to the bird surveys, the ExA queried the age of the breeding bird survey undertaken in 2016 for Part A of the Proposed Development. The Applicant had submitted a verification bird survey completed in 2020 at Deadline 1 which did not identify any significant changes to the original 2016 surveys and considered the survey to be valid [ER 5.3.7].
186. A discrepancy was noted in the Coquet Island SPA black-headed gull population data used for screening. In response the Applicant’s HRA Report was clarified that there were no likely significant effects owing to the low numbers of black-headed gulls on Coquet Island SPA rather than their absence [ER 5.3.9].
187. Natural England confirmed their satisfaction with the scope and methods used by the Applicant to gather baseline data for traffic modelling and air quality, with its approach to the in-combination assessment and confirmed their agreement with the conclusions of the HRA overall for the Proposed Development [ER 5.3.10].
188. The Secretary of State is satisfied that the Applicant has concluded no LSE from Part B of the Proposed Development, both alone and in combination with other plans and projects due to there being no impact pathway between Part B and any European Site. LSE was also ruled out, for Berwickshire and North Northumberland Coast SAC, Newham Fen SAC and River Tweed SAC.
189. Whilst the ExA concludes that the Proposed Development can Proceed without an AA [ER 5.6.2], the Secretary of State disagrees. The Secretary of State is satisfied that the Applicant’s HRA Report has correctly identified LSE from Part A of the Proposed Development, both alone and in combination with other plans and projects, on the following European sites due to potential impacts arising from pollution events during construction associated with proposed changes to the development via the hydrological connection of the River Coquet between the European Sites and Part A.
 - Northumbria Coast SPA,
 - Northumbria Coast Ramsar,
 - Northumberland Marine SPA,
 - North Northumberland Dunes SAC
 - Coquet Island SPA
190. The Secretary of State therefore progressed this aspect of the Proposed Development to Stage 2 Appropriate Assessment.
191. In reaching the conclusion on the screening assessment, the Secretary of State took no account of any measures intended to avoid or reduce the potentially harmful effects on the European sites.

Appropriate Assessment

192. The Secretary of State notes the Applicant's HRA Report acknowledges that mitigation measures are required to avoid Adverse Effect on the Integrity of the five identified European sites. The mitigation measures are detailed in the Outline CEMP and summarised in the Applicant's HRA Report. The Secretary of State notes the range of measures in the outline CEMP including:

- Appointment of a suitably qualified and experienced (or team of suitably qualified and experienced) Ecological Clerk of Works to provide ecological advice during the entire construction programme and oversee and monitor ecological conditions and implement mitigation measures during construction (measure S-B5).
- Monitoring of water quality throughout construction works where working with concrete in or close proximity (within 10m) to waterbodies or watercourses. Creating dry working areas when using concrete, allowing concrete to dry before it is exposed to water. Using quick drying cement where appropriate. Where use of pre-cast concrete is not feasible, wet concrete would be allowed to dry before it is exposed to water. Monitoring of watercourses would be undertaken by suitably trained personnel, with the use of a multiparameter probe that can accurately detect changes in pH. Should a rise in pH be detected then work would stop until the cause has been identified and resolved. Concrete mixing and washing areas shall be contained and located more than 10m from any watercourse (measures S-B14, S-W11 and S-W12).
- Chemicals and fuels must be stored in secure containers located away from watercourses and waterbodies (at least 10m away if possible). All fuel, oil and chemicals would be stored in a designated secure area, with secondary containment provided (measures S-B14, S-W12 and S-G9).
- Standing machinery will have drip trays placed underneath to prevent oil or fuel leaks causing pollution. Should leaks or spills occur during construction, a detailed incident response plan would be formulated. There would be a requirement for regular toolbox talks outlining the incident response plan and measures required to minimise the potential for pollution of surface watercourses (measure S-GS8).
- CEMP to set out how construction activities would be undertaken in accordance with appropriate good practice guidance, such as CIRIA's control of water pollution from construction sites (C532). Although withdrawn, the Pollution Prevention Guidelines (PPG) published by the Environment Agency still provide good practice guidance and will particularly 'PPG1 – General guide to the prevention of water pollution'; 'PPG5 – Works in, near or liable to affect watercourses'; and 'PPG6 – Working at construction and demolition sites' (measure S-W8).
- Management of surface water runoff to intercept and, where necessary, treat runoff. Surface water runoff and excavation dewatering would be captured and settled out prior to being tested and disposed of either to foul sewer under licence or to surface water courses, subject to the test results and environmental permit (measures S-W11 and S-G9).
- Avoidance of works during high flow events and intense rainfall to reduce risk of fine sediment release into watercourse. Any plant or machinery would be

moved away from the banks of the river following heavy rainfall events (measures S-W12 and S-W13).

- Provision of sediment barriers and/or traps to prevent sediment from washing into the river and treat sediment that does reach the watercourse. Silt management would be implemented not only adjacent to the watercourse, but also up valley sides and at the valley top to minimise fine sediment input into watercourse. An exclusion zone around construction works of 8 m from the watercourse and top of valley sides would be maintained as far as practicable (measure A-W15).

193. The Secretary of State notes that additional measures have been included in the Register of Environmental Actions and Commitments (“REAC”) for the stabilisation works and the southern access works. The REACs add to or elaborate the measures already in the Outline CEMP and will be secured by an update to the Outline CEMP. The Secretary of State notes the range of measures in the REAC include, for example:

- All plant and vehicles using the temporary bridge (Southern Access Works) are to be well maintained and serviced. Use of biodegradable oils for all plant and equipment working in the vicinity of the River Coquet.
- An assessment of biological water quality and chemistry to be undertaken prior to and during construction to monitor river during works. The main contractor will monitor and take appropriate action if water quality deteriorates, following agreement with Natural England and the Environment Agency where required (for example where permit or licence is in place with conditions/restrictions). The monitoring would assess pH, suspended solids, Biological Oxygen Demand and Chemical Oxygen Demand.
- A surface water drainage system would be developed by the main contractor for the temporary bridge structure. This would ensure runoff or spillages on the bridge do not enter the River Coquet and transfer any collected runoff to appropriate treatment measures. The system may include the implementation of containment screen on the underside of the temporary bridge to prevent any falling debris or sediment entering the River Coquet.
- Deploy in-channel silt barriers (i.e. silt curtains or similar) as far as reasonably practicable or a similar form of silt barrier if silt runoff is discharging into the River Coquet to control downstream dispersion of suspended solids.

194. The Applicant’s HRA Report concluded that the measures described in the Outline CEMP are suitable to prevent pollutants, sediment or contaminants from reaching the European sites. Following the implementation of mitigation the Applicant concluded that there are no adverse effects on integrity of the European sites identified during construction of the Proposed Development both alone and in combination with other plans and projects.

195. To clarify the certainty implementation of these measures the Applicant explained how any constraints and Natural England’s comments were taken into account through meetings and discussions regarding the Outline CEMP [ER 5.5.2].

196. Natural England confirmed that they agreed with the conclusions of the Applicant’s Updated HRA Report, and that the mitigation strategy proposed was sufficient to ensure that the proposals set out will not have adverse effects on

integrity of the relevant European sites either alone or in combination with other plans and projects [ER 5.5.3].

Conclusions of the Habitats Regulations Assessment

197. As the competent authority in relation to the application for development consent, the Secretary of State has undertaken an appropriate assessment under regulation 63 of the Habitats Regulations for the Northumbria Coast SPA, Northumbria Coast Ramsar site, Northumberland Marine SPA, North Northumberland Dunes SAC and Coquet Island SPA. Likely significant effects were ruled out for Berwickshire and North Northumberland Coast SAC, Newnham Fen SAC and River Tween SAC.
198. Based on the submissions to the Examination as summarised in the ExA's Recommendation Report together with further consultations undertaken by the Secretary of State after the close of Examination, the Secretary of State is satisfied that the views of NE, as the appropriate nature conservation body have been considered and that they are in agreement with the scope and conclusions of the Applicant's HRA Report.
199. Having carried out the appropriate assessment, the Secretary of State concludes that the Proposed Development would not adversely affect the integrity of the Northumbria Coast SPA, Northumbria Coast Ramsar site, Northumberland Marine SPA, North Northumberland Dunes SAC and Coquet Island SPA. The Secretary of State has therefore concluded that taking into account the mitigation measures it is permissible for him to give consent for the Proposed Development.

Planning Balance

200. Like the ExA, and as discussed above, the Secretary of State considers that the Proposed Development would meet the specific identified need for an improved A1 in Northumberland and would contribute to meeting the strategic need for the development of the national road network in accordance with the NPSNN and other national and local policies ER 6.2.14 – 6.2.23].
201. The ExA considered that the following matters weigh in favour of the Proposed Development:
- Need for the Proposed Development – strong positive weight consistent with the NPSNN [ER 6.2.23 and 6.3.9];
 - Transportation and Traffic – strong positive weight for motorised users and road safety benefits [ER 6.2.35 and 6.3.9];
 - Social, Economic and Land Use Effects – positive weight for the economic and social benefits of the Proposed Development, including improved access to new and planned employment [ER 6.2.120 and 6.3.10];
202. The following are considerations the ExA has weighed against the Proposed Development:
- Biodiversity and Ecology: negative weight against the Proposed Development as a result of adverse impacts on and considerable harm to biodiversity, including the loss of ancient woodland [ER 6.2.85 and 6.3.12];

- Landscape and Visual: moderate negative weight due to adverse landscape impacts during construction and operation at some sensitive receptors, despite appropriate mitigation [ER 6.2.69 and 6.3.13];
203. The ExA has concluded that the remaining matters weigh neutrally in the planning balance for the Proposed Development.
- Air Quality impacts [ER 6.2.60 and 6.3.15]
 - Design [ER 6.2.75]
 - Water Environment [ER 6.2.91 and 6.3.16]
 - Noise and Vibration [ER 6.2.107 and 6.3.16]
 - Transportation and Traffic impacts on non-motorised users [ER 6.3.16]
 - Material Assets and Waste [ER 6.2.132 and 6.3.17]
204. Whilst the ExA considered at the close of Examination that the impacts of the Proposed Development on Climate Change were neutral in the planning balance [ER 6.2.48], as discussed above, the Secretary of State considers the effect on climate change would be minor adverse and therefore has attached limited negative weight to this issue in the planning balance.
205. Whilst the ExA considered that matters relating to Geology and Soils were neutral in the planning balance, as discussed above, the Secretary of State considers that, these matters weigh against granting Development consent due to the moderate adverse impacts of the loss of riverbank and the significant adverse impacts on habitats and from the loss of BMV land.
206. The Secretary of State has also considered the less than substantial harm to heritage assets as a result of the Proposed Development and, in weighing this against the public benefits, has attributed it neutral weight in the planning balance.
207. As set out in paragraphs 18 – 32 above, the Secretary of State is satisfied that there is a need for the Proposed Development which accords with the need case established by the NPSNN and therefore affords substantial weight to the contribution the Proposed Development would make to meeting the need set out in the NPSNN. Like the ExA, the Secretary of State is of the view that the need and other benefits substantially outweigh the potential negative impacts that will result from the Proposed Development.

COMPULSORY ACQUISITION AND RELATED MATTERS

208. The Secretary of State notes that the Proposed Development includes proposals for the Compulsory Acquisition (“CA”) and temporary possession (“TP”) of land and rights over land as set out at ER 7.4.3.
209. The PA2008, together with related case-law and guidance, sets out that CA can only be granted if certain conditions are met. This includes Section 122(2) of the PA2008 which requires that the land for CA must be required for the development to which development consent relates or is required to facilitate or be incidental to that development, or is replacement land. The Guidance Related to Procedures for the Compulsory Acquisition of Land (September 2013) published by what was then the Ministry of Housing, Communities and Local Government (“the CA Guidance”) states that in respect of the land required for the development, the Secretary of

State will need to be satisfied that the land must be no more than is reasonably required and that in respect of land required to facilitate or be incidental to that development, be no more than is reasonably required and be proportionate [ER 7.2.2]. Section 122(3) of the PA2008 requires that there must be a compelling case in the public interest for the land to be acquired compulsorily [ER 7.2.3]. Section 123 of the PA2008 requires that one of three procedural conditions must be met, namely: (i) the application for the order included a request for CA of the land to be authorised, (ii) all persons with an interest in the land consent to the inclusion of the provision, or (iii) the prescribed procedure has been followed in relation to the land. The Secretary of State notes in the case of the current application the first of these conditions is met [ER 7.2.4]. In addition, a number of general considerations from the CA Guidance need to be addressed [ER 7.2.5].

210. Section 127(3) and (5) of the PA2008 state that an Order may include provision authorising the compulsory acquisition of statutory undertakers' land or the creation of a new right over statutory undertakers' land, providing that it can be done without serious detriment to the carrying out of the undertaking or (in the case of acquisition of land) the land can be replaced by other land, or (in the case of the creation of a new right) any detriment can be made good by the undertaker by the use of other land [ER 7.2.7]. Section 138 of the PA2008 enables an Order to include provision for the extinguishment of the relevant rights, or the removal of the relevant apparatus of statutory undertakers only if the Secretary of State is satisfied that such actions are necessary for the purposes of carrying out the development to which it relates [ER 7.2.8].

211. The PA2008 requires that if changes are sought to the application, whether material or non-material, then the ExA must consider whether to accept the changes into the Examination. If the changes require additional land, then if the consent of persons with an interest in the land is not obtained by the Applicant, the procedures prescribed in regulations 5 to 19 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 ("CA Regulations") would apply [ER 7.2.10]).

212. The Secretary of State notes the request for CA powers and TP powers as set out in ER 7.3 and the purposes for which the land is required at ER 7.4.

213. The Secretary of State notes the changes/amendments made to application documents as the Examination progressed set out in ER 2.3.17- 2.3.23. The Applicant submitted a formal material change request which had 3 elements –

- Change 1: Earthwork Amendments;
- Change 2: Stabilisation Works; and
- Change 3: Southern Access works.

214. Whilst Change 1 would not give rise to any additional land requirements under CA Regulations, Changes 2 and 3 would require a permanent extension to the Order Land and therefore the CA regulations applied [ER 7.5.14]. In accordance with regulation 6 of the CA Regulations, the ExA decided on behalf of the Secretary of State to accept the proposed provisions as part of the application. In reaching this decision the ExA was satisfied that they complied with the requirements of Regulation 5 of the CA Regulations [ER 7.5.15] and noted that, with the proposed submission of additional information at D7, sufficient time would remain in the

Examination for the proposed changes to be properly examined, and for written submissions and oral representations to be considered [ER 2.3.22].

215. The Secretary of State notes at ER 7.6 the Applicant's position that the powers of CA and TP sought in the DCO are necessary, proportionate, and justified and that its case for CA was set out in section 5 of its Statement of Reasons with reference to section 122 of the PA2008 and the CA Guidance.
216. The Secretary of State notes the Applicant's position that the CA powers sought were also required to override existing rights and interest, as well as to grant the right to take TP of land for construction and maintenance purposes and that, without those rights being granted, delivery of the Proposed Development would be prevented [ER 7.6.5].
217. The Secretary of State has had regard to the arguments put forward by the Applicant as to there being a compelling case in the public interest for the CA powers under the Order [ER 7.6.7 – 7.6.10]. The Secretary of State notes that in its Case for the Scheme, the Applicant said the Proposed Development would meet the requirements of paragraph 2.2 of the NPSNN by addressing the critical need to improve the national networks to address road congestion, and that the way in which the Proposed Development's strategic objectives are aligned with the NPSNN demonstrates the public benefits of the Proposed Development which, in the Applicant's view, would outweigh any negative impacts [ER 7.6.9 – 7.6.10].
218. The Statement of Reasons sets out why CA powers are necessary in relation to each individual parcel of land [ER 7.7.3]. The ExA reviewed the land requirements and accepted that the Applicant is seeking to acquire the minimum necessary to construct, operate, maintain and mitigate the Proposed Development based on tightly drawn limits of deviation. Consequently, the ExA found that the Section 122(2) and CA Guidance test that the land in question is needed and that it is no more than is reasonably required for the purposes of the development, has been met [ER 7.7.4]. The Secretary of State agrees with that finding.
219. The need for the case has previously been set out in paragraphs 18 – 34. In addition, the ExA considered that a compelling case in the public interest can also be made in the basis of the widespread support for the Proposed Development from interested parties including from the local planning authority [ER 7.7.7]. The Secretary of State agrees with the ExA that the proposal would therefore comply with S122(3) of the PA2008 [ER 7.7.8].
220. The Secretary of State notes the ExA's findings that the Applicant has followed the advice of paragraph 25 of the CA guidance to seek to acquire land by negotiation wherever practicable recognising that the power to acquire land compulsorily should only be sought if attempts to acquire by agreement fall [ER 7.7.17]. The Applicant engaged with all landowners and occupiers with a view to acquiring their land interest by agreement and throughout the Examination continued to engage with numerous landowners on this basis. However, by the end of the Examination not all negotiations had been successfully completed [ER 7.7.19].

Consideration of individual objections

221. The Secretary of State notes at ER 7.8 the ExA's summary of the consideration given to individual objections and that at the end of the Examination, objections in respect of CA/TP were outstanding [ER 7.8.7].
222. The Secretary of State notes the ExA's consideration of individual cases as set out in ER 7.8.8 - 7.8.177. In all cases where the Applicant is seeking the granting of CA and/or permanent rights, the ExA has recommended that they be granted. The Secretary of State agrees with the ExA's recommendation in these individual cases for the reasons set out by the ExA. In the cases where there would be no direct land take (Mr Matthew Gray, Ms Ann Riley, Mr Craig McLaren) but the individuals have expressed concerns about access to their property, the ExA set out how these impacts would be managed or minimised through the outline CEMP, the outline Construction Traffic Management Plan ("CTMP") or the Landscape Mitigation Plan. The Secretary of State agrees with the ExA's conclusions and that measures to minimise the impact on access have been secured through the Order and control documents.

Statutory Undertakers

223. The Secretary of State notes the Statutory Undertakers impacted by the Proposed Development are dealt with at ER 7.9.
224. The Secretary of State notes at Deadline 11, National Grid Gas confirmed that it had agreed an appropriate form of Asset Protection Agreement with the Applicant and indicated that it was satisfied that appropriate contractual and statutory protections had been agreed in respect of their apparatus and withdrew their objection. Consequently, and on the basis of the inclusion of the protective provisions in Part 4 of Schedule 10 provided at Deadline 10, the ExA concluded that the recommended DCO would provide an appropriate form of protection for National Grid Gas and that the test in s127(5) of the PA2008 is met. [ER 7.97.5]. The Secretary of State agrees with the ExA's conclusions, and is also satisfied that the tests in s127(3) and 138(4) of the PA2008 are met.
225. The Secretary of State notes that, at the close of Examination, Northern Gas Networks maintained an objection to the Proposed Development, but the Applicant and Northern Gas Networks confirmed they were close to an agreement on outstanding matters and Asset Protection Agreements [ER 7.9.6 – 7.9.8]. NGN initially withdrew their objection in the letter dated 4 October 2021, but in response to the Secretary of State's consultation of 26 April 2024 objected once more. Following clarification, NGN ultimately withdrew their objection in their letter dated 16 May 2024.
226. For Northumbrian Water, in response to the Secretary of State's consultation letter of 29 October, the Applicant said that agreement has been reached on Protective Provisions on 1 September 2021 and this was confirmed by a letter dated 9 November 2021 from Birketts LLP representing Northumbrian Water.
227. The Secretary of State notes objections from Northern Powergrid about Protective Provisions and that agreement had not been reached at the end of the Examination [ER 7.9.14 – 7.9.19]. In its response to the Secretary of State's consultation letter of 11 October 2023, the Applicant confirmed that agreement with Northern Powergrid had been reached and a side agreement was completed on 17 May 2022, with Northern Powergrid subsequently withdrawing their objection on 18 May 2022 as evidenced by Appendix B of the Applicant's consultation response.

228. In the light of the above, the Secretary of State concludes that appropriate protection for Northern Gas Networks', Northumbrian Water's and Northern Powergrid's undertakings have been provided.

229. On the basis of the evidence presented, the ExA was satisfied that the provisions contained within Schedule 10 of the recommended DCO would ensure that an appropriate degree of protection would be given to affected undertakers such that there would be no serious detriment to the carrying on of their undertakings. The ExA was also satisfied that the interference with apparatus and extinguishment of rights would be necessary for the purposes of carrying out the development. Accordingly, having regard to the provision of s138(4) of the PA2008, the ExA recommended that the Order include provision for the extinguishment of the relevant rights or the removal of the relevant apparatus. [ER 7.9.21- 7.9.22]. The Secretary of State agrees and is also content that in accordance with section 127 of the PA2008, the CA powers sought would not lead to any serious detriment to the carrying on of any statutory undertaker's undertaking.

Human Rights and Equalities Considerations

230. The Secretary of State has had regard to the human rights considerations relating to the exercise of CA/TP powers as set out in ER 7.7.21 – 7.7.27. In response to questions from the ExA, the Applicant explained the methodology used in carrying out proportionality tests for each plot of land, and said it was based on the CA Guidance. The results of a plot-by-plot assessment of the private loss of individuals impacted by CA/TP against the public benefits of the Proposed Development [ER 7.7.21]. The ExA considered the rights that would be interfered with having regard to the Human Rights Act, and were satisfied that [ER 7.7.27]:

- In relation to Article 1 of the First Protocol, the proposed interference with individuals' rights would be lawful, necessary, proportionate and justified in the public interest;
- In relation to Article 6, all objections were either resolved or the objector had the opportunity to present their case in writing and at the compulsory acquisition hearings; and
- In relation to Article 8, interference is in accordance with the law and is necessary in the interests of the economic well-being of the country.

231. The Secretary of State considers that the owners and occupiers of the property at or near the Proposed Development were provided with a fair opportunity to participate in the Examination and agrees with the ExA that the CA and TP powers sought can be delivered in a manner that fully accords with all relevant human rights considerations [ER 7.7.28]. The Secretary of State considers that the ExA ensured a fair and public hearing and the requirements of Article 6 of the European Convention on Human Rights ("ECHR"), as incorporated in the Human Rights Act 1998 were met, that any interference with rights under Article 8 of ECHR is in accordance with the law and is necessary in the interest of the economic well-being of the country, and that the proposed interference with persons' rights in respect of their property would be lawful, necessary, proportionate and justified in the public interest in accordance with Article 1 of the First Protocol [ER 7.7.27].

232. S149 of the Equalities Act 2010 and the Public Sector Equality Duty require a public authority, in the exercise of its functions to have due regard to the need to eliminate the discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not [ER 7.7.24]. The ExA considers that there is no evidence that the Proposed Development would have any specific impact in relation to persons who share a protected characteristic as compared who do not or any indication that allowing the application would have any harmful equality implications [ER 7.7.26]. The Secretary of State agrees with this assessment.

The Secretary of State's Conclusions on Compulsory Acquisition and Related Matters

233. The Secretary of State agrees with the ExA's conclusions about the purpose for which CA is sought and that the requirements of s122 and s123 of the PA2008 are met. He is also satisfied that the land to be acquired by CA powers would be required and are proportionate to facilitate or to be incidental to the Proposed Development [ER 7.10.2]. The Secretary of State is also satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily for the reasons set out by the ExA at ER 7.10.4. He notes that the ExA considered that there is sufficient funding available to meet any compensation liabilities for CA and/or TP and there is no need for any special or additional guarantees for funding [ER 7.10.4]. On 4 October, in the Network North announcement, the Prime Minister set out that Government would provide funding to dual the A1 between Morpeth and Ellingham. As such, the Secretary of State is satisfied that adequate funding remains available for CA/TP requirements in line with the Compulsory Acquisition Guidance. The Secretary of State also considers that the public benefits associated with the Proposed Development would strongly outweigh the private loss suffered by those whose land would be affected and that there is no disproportionate or unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998 [ER 7.10.8].

Draft DCO and Related Matters

234. The Secretary of State has made a number of minor textual amendments to the rDCO in the interests of clarity, consistency and precision. Further to the textual amendments the Secretary of State also makes the following modifications:

- In the preamble paragraphs 8 and 16 of Part 1 of Schedule 5 to PA2008 have been cited as the Proposed Development includes the appropriation of Green Belt land and diversion of watercourses.
- In article 2(1) (interpretation):
 - terms used only in Schedule 2 (requirements) have been moved to paragraph 1 (interpretation) of Part 1 of that Schedule;
 - terms used only in article 8 (limits of deviation) have been moved to that article; and
 - the names of statutory utilities only used in article 10 (consent to transfer benefit of the Order) have been moved to that article.

- In article 2(1) and Part 4 (for the protection of national grid as gas undertaker) of Schedule 10 (protective provisions), corrections have been made to the names and addresses of the Applicant and statutory undertakers following the Applicant's consultation response dated 12 April 2004.
- Article 2(7) has been moved to a new article 3 (disapplication of legislative provisions) as it does not relate to interpretation.
- Article 10(4) has been inserted to ensure compensation is paid for land taken.
- In articles 16 (power to alter layout etc. of streets), 16 (temporary alteration, diversion, prohibition and restriction of the use of streets), 22 (traffic regulation), 24 (discharge of water), and 26 (authority to survey and investigate the land) and 41 (felling or lopping of trees and removal of hedgerows), paragraphs have been inserted requiring the Applicant to include in an application to the relevant authority to which a deeming provision applies, notification that the application will be deemed as being consented to if the authority does not notify the Applicant of its decision before the end of the relevant specified period.
- In article 15 (classification of roads, etc.):
 - ex-paragraph (2) has been moved to article 14 (Construction and maintenance of new, altered or diverted streets), which better relates to the purpose of the paragraph, and has been redrafted to address the objectives identified in the Applicant's response dated 21 January 2022 to the Secretary of State's consultation letter dated 22 December 2021; and
 - paragraph (2) has been redrafted to address the objectives identified in the Applicant's Explanatory Memorandum (EM) and its response dated 21 January 2022 to the Secretary of State's consultation letter dated 22 December 2021.
- In articles 16 (temporary alteration, diversion, prohibition and restriction of the use of streets), 17 (permanent stopping up and restriction of the use of streets and private means of access), 23 (powers in relation to watercourses), 25 (protective work to buildings), 26 (authority to survey and investigate the land), 31 (private rights over land), 35 (rights over or under streets), 36 (temporary use of land for carrying out the authorised development), 37 (temporary use of land for maintaining the authorised development), 41 (felling or lopping of trees and removal of hedgerows) and 52 (trees subject to preservation orders), "as if it were a dispute" is inserted to improve clarity.
- In article 16, references relating to vehicular traffic have been removed to address the objective identified in the EM that the article applies to both vehicular traffic and pedestrians. These changes also rendered ex-paragraph (5) unnecessary.
- Article 23 (powers in relation to relevant watercourse) has been moved to Part 4 (supplemental powers) as it does not relate to the articles in Part 3 (streets).

- In article 32 (modification of Part 1 of the 1965 Act), paragraphs (3) and (5) have been inserted at the request of the Applicant in its consultation response dated 22 December 2022.
- In article 36 (temporary use of land for carrying out the authorised development), text has been added to paragraphs (1) and (2) to improve clarity.
- Text has been omitted from articles 36(4)(c) and 37(6) (temporary use of land for maintaining the authorised development) as no justification is provided in the EM for its inclusion and it does not appear necessary.
- In Schedule 1 (authorised development), Work No. 5b has been amended as discussed in paragraph 52 of this letter.
- In Part 1 (requirements) of Schedule 2:
 - Requirements 1 (interpretation) and 17 (landscape and ecological management plan) have been amended to provide for a discretionary LEMP, as proposed by the Applicant and accepted by NE and NCC in their consultation responses dated 24 April, 24 April and 3 May 2024 (respectively); and
 - Requirement 15 (ancient woodland and compensatory planning) has been amended discussed in paragraphs 112 – 113 and 124 of this letter.
 - In Part 1 (trunk roads) of Schedule 3 (classification of roads, etc.), Part 3 (private means of access to be stopped up and for which a substitute is to be provided) of Schedule 4 (permanent stopping up of streets, public rights of way and private means of access), Schedule 5 (public rights of way to be temporarily prohibited and for which a substitute is to be provided) and Part 4 of Schedule 10, corrections have been made in accordance with paragraphs 2.7 to 2.10 and 2.12 of the Applicant's consultation response dated 27 January 2022.
 - In paragraph 4 of Schedule 7 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants), clearer and precedented text has been substituted as no explanation is provided in the EM for the text proposed.
 - In Schedule 9 (trees and hedgerows):
 - corrections have been made to entries in accordance with paragraph 2.11 of the Applicant's consultation response dated 27 January 2022; and
 - the list of hedgerows has been separated into Part 1 (removal of hedgerows) and Part 2 (removal of important hedgerows) following the Applicant's consultation response dated 12 April 2004.
 - In Schedule 11 (traffic regulation measures) the final four entries have been corrected to refer to the colour green.

General Considerations

Public Sector Equality Duty

235. The Equality Act 2010 established the public sector equality duty which requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Act; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following “protected characteristics”: age; gender; gender reassignment; disability; marriage and civil partnerships; pregnancy and maternity; religion and belief; and race.

236. The Secretary of State has complied with the public sector equality duty and has had due regard to the matters set out in section 149(1) of the Equality Act 2010 in accordance with section 149(3) to (5) concerning the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic or persons who do not.

Natural Environment and Rural Communities Act 2006

237. The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006 has to consider what action he can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective and, in accordance with regulation 7 of the Decisions Regulations, have regard to conserving biodiversity and in particular to the United Nations Environmental Programme on Biological Diversity of 1992. He has had regard to both of these when deciding on whether to grant development consent. The Secretary of State notes that the ExA has had regard to the 2006 Act and biodiversity duty in the relevant sections of the Report but did so with regard to the section 40(1) duty prior to it being amended by section 102(3) of the Environment Act 2021. In reaching a decision to grant development consent, the Secretary of State has had due regard to conserving biodiversity.

SECRETARY OF STATES OVERALL CONCLUSION AND DECISION

238. For all the reasons set out in this letter, the Secretary of State has decided to grant development consent, subject to the changes in the Order mentioned above. The Secretary of State is satisfied that none of these changes constitutes a material change and is therefore satisfied that it is within the powers of section 114 of the PA2008 for the Secretary of State to make the Order as now proposed.

CHALLENGE TO DECISION

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

PUBLICITY FOR THE DECISION

240. The Secretary of State’s decision on this Application is being publicised as required by section 116 of the PA2008 and regulation 31 of the 2017 Regulations.

Yours faithfully,

Natasha Kopala

ANNEX A

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

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

The A1 in Northumberland: Morpeth to Ellingham Development Consent Order 2024 (as made) is being published on the Planning Inspectorate website at the following address:

<https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/TR010059>

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