

A66 Northern Trans-Pennine project

TR010062

7.1 Applicant's Responses to the Examining Authority's Issue Specific Hearing 2 Additional Questions

Planning Act 2008

**Infrastructure Planning (Examination Procedure) Rules 2010
Deadline 1**

Volume 7

16 December 2022

Infrastructure Planning

Planning Act 2008

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

A66 Northern Trans-Pennine project
Development Consent Order 202x

**7.1 Applicant's Responses to the Examining Authority's Issue Specific
Hearing 2 Additional Questions**

Deadline:	Deadline 1
Planning Inspectorate Scheme Reference	TR010062
Application Document Reference	NH/EX/7.1
Author:	A66 Northern Trans-Pennine project, Project Team, National Highways

Version	Date	Status of Version
Rev 1	16 December 2022	Deadline 1

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1. Introduction

1.1. Purpose of this document

- 1.1.1 This document sets out the National Highways (the Applicant) written responses to the Examining Authority's Issue Specific Hearing 2 Supplementary Agenda Additional Questions issued on 22 November 2022, relating to the A66 Northern Trans-Pennine project. These can be found in Table 1 in the following section.

2. Responses to the Examining Authority's ISH2 Written Questions

Table 1. Responses to the Examining Authority's ISH2 Written Questions

Ref Number	Subject	Response by	Question	Applicant's Response
AIR QUALITY				
ISH2.AQ.01	ES Chapter 5 Air Quality [APP-048]	Applicant	In respect to paragraph 5.3.2, The Environment Act 2021, confirm that the new air quality targets have been brought forward and if so, whether there are any implications for the assessment undertaken.	<p>The formal status of the new Air Quality targets (originally due to be before Parliament by 31 October 2022) is currently unknown. In March 2022 however, Government published consultation on what the targets should look like. They relate to PM2.5 and are:</p> <ul style="list-style-type: none"> • An annual mean concentrations target of 10 ug/m3 to be met by 2040. • A population exposure reduction target of 35% by 2040 (based on 2018). <p>In relation to the Environmental Statement submitted with the DCO application, no receptors are predicted to experience concentrations of PM2.5 in excess of 10ug/m³, either in the 2019 base year, or the 2029 opening year of the Project, either with or without the Project in place. Therefore, should the new air quality targets be brought forward, the impact of the Project on human health would remain negligible and not significant in relation to PM2.5.</p> <p>With regards to the second target around exposure reduction, this is related to the UK government's need to review population exposure as a whole. It is not a target for consideration on a project-specific basis and therefore has not been considered as part of the Environmental Statement</p>

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ISH2.AQ.02	ES Chapter 5 Air Quality [APP-048]	Applicant & Eden DC	In respect to paragraph 5.7.6, provide an update as to the potential future AQMA at Castlegate, Penrith.	<p>The Applicant considers that this question is primarily for Eden DC to respond to regarding the future AQMA status and history, however we would make the following comments:</p> <p>At the time of the Environmental Impact Assessment (EIA) and submission of the ES with the DCO application, whilst an AQMA was planned to be declared in 2013, it was not formally designated. At the time of writing, an AQMA does not exist on Defra's up-to-date AQMA register (available at https://uk-air.defra.gov.uk/aqma/maps/ (link accessed at time of writing and as of 16 December 2022)). The Castlegate, Penrith specific area was not identified within our Affected Road Network (ARN), which are those roads meeting the assessment criteria set out in DMRB LA105. Based on both of these points, Castlegate was not considered necessary to be considered as a receptor and assessed as part of the Chapter 5 Air Quality (Document Reference 3.2, APP-048) assessment..</p> <p>For further context, the following text is written within Eden District Council's Air Quality Updating and Screening Assessment 2015, dated March 2017:</p> <p><i>“Following Detailed Assessment completed in June 2013 Eden District Council introduced additional monitoring locations in line with the recommendations of this report and commenced the process of declaring Air Quality Management Areas in Penrith and Eamont Bridge. A report was written and approved by Eden District Council to declare the Air Quality Management</i></p>

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				<i>Areas. However, before this could be actioned by the Council's Legal team, further monitoring showed that there was no longer a likely breach of the Air Quality Regulations, for nitrogen dioxide, or any of the other pollutants of concern, in any of the proposed AQMA locations."</i>
BIODIVERSITY				
ISH2.BIO.01	Environmental Management Plan (EMP) [APP-019] - Barn Owl	Applicant	EMP REAC Commitment MW-BD-03 in respect to Barn Owl mitigation states <i>"Annual monitoring visits [of Barn Owls] undertaken in July and August for at least 5 years post construction/installation"</i> . It is not clear why these months have been selected. Please clarify (Shawyer, C. (2011) Barn Owl Tyto alba Survey Methodology and Techniques for use in Ecological Assessment: Developing Best Practice in Surveying and Reporting. IEEM, Winchester).	The requirement for barn owl visits to be undertaken in late summer is in line with the following guidance: Shawyer, C. (2011) Barn Owl Tyto alba Survey Methodology and Techniques for use in Ecological Assessment: Developing Best Practice in Surveying and Reporting. IEEM, Winchester. This is to avoid the early phase of breeding when barn owls are particularly vulnerable to disturbance, which would be likely to result in nest desertion.
ISH2.BIO.02	Environmental Management Plan (EMP) [APP-019] - Barn Owl	Applicant	In reference to ES Chapter 6 [APP-049] and the final bullet point of paragraph 6.8.6, also referred to in EMP REAC Commitment MW-BD-21 [APP-019] states <i>"any use of rodenticide should be avoided where possible on construction compounds so as to prevent deaths of barn owls through eating poisoned rodents"</i> .	National Highways can confirm that there will be no use of rodenticides and that traps/machines will be used as satisfactory rodent protection. The Environmental Management Plan REACH MW-BD-21 and the ES Chapter 6 (Document Reference 3.2, APP-049) will be updated accordingly as an errata. National Highways intend to submit this as an updated Errata document at deadline 3 of the examination.

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			The ExA is under the impression no rodenticides would be used. Please clarify.	
CUMULATIVE EFFECTS				
ISH2.CE.01	ES Chapter 15 Cumulative Effects [APP-058]	LPAs and LHAs	<ul style="list-style-type: none"> Paragraph 15.3.37 states that stakeholders were consulted and no comments were made on the methodology adopted. Confirm the list of developments is accurate and that you consider the assessment is robust. 	<p>Question ISH2.CE.01 is not targeted at the Applicant but National Highways can confirm that Stakeholders and local authorities had the opportunity to comment on the methodology of the cumulative assessment at both scoping and during statutory consultation, no concerns were raised. Information on planning applications and local plan allocations was gathered from the Planning Inspectorate, The Department of Transport, Cumbria County Council, Durham County Council, Eden District Council, North Yorkshire County Council, Richmondshire District Council.</p> <p>These planning authorities were contacted in July 2021 and January 2022 to identify development proposals within the ZOI (2km buffer around the Order Limits and up to 5km for major developments requiring EIA) that could potentially generate cumulative effects with the Project. Information was requested on planning applications received within five years preceding the date of the request. Therefore, it is possible that any project that has been granted planning permission in the last three to five-year period would remain capable of being implemented at the point the list was compiled. Where full datasets were not received from planning authorities, searches were undertaken of the relevant Planning Portal website for North Yorkshire County Council (North Yorkshire County Council, 2022) and</p>

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				Richmondshire County Council (Richmondshire County Council, 2022) to identify potential developments within 5km of the Order Limits.
DRAFT DCO				
ISH2.DCO.01	Article 3 (disapplication of legislation)	Applicant	<ul style="list-style-type: none"> • Explanatory Memorandum [APP-286] paragraph 6.16 states in relation to subparagraph (1)(f) <i>“This consent is not a prescribed consent for the purposes of section 150 of the 2008 Act and so the consent of the building authority is not required for its inclusion in the Order.”</i> The Applicant is requested to provide a further explanation as to why this is so and confirm whether CA powers are required to any of the buildings require demolition. • Explanatory Memorandum does not explain the reason for the disapplication of subparagraph (3). Update the Explanatory Memorandum accordingly with further justification. • Explanatory Memorandum does not explain the reason for the disapplication of Acts listed in subparagraph (4). Update the Explanatory Memorandum accordingly please including 	<ul style="list-style-type: none"> • Section 150 of the Planning Act 2008 confirms that an order granting development consent may include provision the effect of which is to remove a requirement for a prescribed consent or authorisation to be granted, only if the relevant body has consented to the inclusion of the provision. • The consents that are prescribed for the purposes of section 150 of the Planning Act 2008, i.e. those in relation to which the consent of the relevant body is required for their consenting requirements to be removed, are listed in Schedule 2 to the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015. The Building Act 1984 is not included in the list of prescribed consents to which section 150 of the Planning Act 2008 applies, therefore the consent of the relevant body is not required for the consent requirement to be disappplied. • The purpose and effect of article 3(3) is to treat development consent granted by the Order as though it were a planning permission for the purposes of Forestry Act 1967. This is required to address a lacuna in the legislative scheme to ensure that development consent is afforded equivalent status to a planning permission granted under the Town and

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			confirmation as to whether the three listed Acts are still in force.	<p>Country Planning Act 1990. The Applicant will update the Explanatory Memorandum accordingly at deadline 2.</p> <ul style="list-style-type: none"> Paragraph 6.19 of the Explanatory Memorandum (Document Reference 5.3, APP-286) explains the reasons for the inclusion of the local legislation listed in paragraph (4) of article 3: <i>“Paragraph (4) provides for the disaplication of the historic local legislation listed in the paragraph, in so far as the provisions still in force are compatible with the exercise by the undertaker of its functions conferred by this Order. The local legislation in question relates to Victorian enactments authorising the construction of railways.”</i> <p>When preparing the draft DCO (Document Reference 5.1, APP-285) the Applicant carried out a thorough review of local legislation that has the potential to interact with the draft Order. In the vast majority of cases the Applicant has been able to confirm to its satisfaction that either (i) the local legislation is no longer in force or (ii) the local legislation relates to a geographical area that is unaffected by the Order. The three enactments listed in paragraph (4) are the only remaining items where the Applicant was not able to confirm either of those facts. This is because local legislation of that vintage is not drafted in the same manner as modern legislation and is rarely accompanied by appropriate plans setting out their geographical extents. The enactments listed in paragraph (4) are proposed to be disapplied to ensure</p>

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				<p>that they do not act as an impediment to the delivery of the Project. However, the Applicant does seek to take a proportionate approach by only disapplying those enactments to the extent that their provisions are incompatible with the provisions of the Order.</p>
ISH2.DCO.02	Article 4 (development consent etc...)	Applicant	<p>Confirm that it has provided information on “<i>any enactments</i>” together with clarification about how far from the Order limits those provisions might bite.</p>	<p>As noted in the answer to ISH2.DCO.02 above, the Applicant undertook a thorough review of local legislation (i.e. “<i>enactments applying to land within or adjacent to the Order limits</i>”) and where any doubt persisted as to the potential for an adverse interaction with the draft Order, has sought to disapply those enactments in article 3(3).</p> <p>Article 4(2) is intended to address any such items of local legislation that were not revealed by the Applicant’s detailed and careful review of local legislation. The provision “<i>bites</i>” only insofar as there is conflict between the local legislation and the Order, in which case the local legislation would have effect subject to the Order (i.e. the draft DCO would take precedence). This provision is commonly included in development consent orders and the Applicant considers it to be justified in this case due to the existence of a reasonable body of historic local legislation in the vicinity of the Project.</p>
ISH2.DCO.03	Article 5 (maintenance)	Applicant	<p>Should the Article be subject to the provisions of Articles 7 and 9?</p>	<p>No. Article 7(2) applies the limits of deviations to the power to maintain. The concept of “<i>maintain</i>” as used in article 9 relates to the duty on the relevant body (be that the undertaker or the local highway authority) to maintain at their expense, the relevant street or structure.</p>

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ISH2.DCO.04	Article 8 (application of the 1991 Act)	Applicant	Subparagraph (3) sets out those provisions of the 1991 Act which do not apply. Confirm whether they should be set out in Article 3 (disapplication of legislative provisions)	No, the Applicant considers that article 8 (application of the 1991 Act) is appropriate as a standalone article and should not be combined with article 3. Article 8 applies provisions of the 1991 Act (see paragraphs (1) and (2)), modifies the application of other provisions (see paragraphs (4) and (5)) as well as disapplies the provisions in paragraph (3). In this case, the Applicant considers it to be appropriate to deal with the subject matter of this article in a single provision. The drafting of this provision is very well precedented in National Highways' DCOs, see for example the A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016, the A303 (Amesbury to Berwick Down) Development Consent Order and the A417 Missing Link Development Consent Order 2022.
ISH2.DCO.05	Article 10 (permanent stopping up...)	Applicant	Subparagraph (7) uses the words " <i>the undertaker must apply...</i> " Explanatory Memorandum paragraph 7.26 describes the need for the power as " <i>provision that would allow...</i> " The Applicant is requested to update the Explanatory Memorandum to reflect the wording in the Article.	The Applicant will amend the Explanatory Memorandum in its next iteration at deadline 2. It should be noted that the Explanatory Memorandum is intended to explain the purpose and effect of the provisions of the Order and that, inevitably, in so doing, the Explanatory Memorandum will depart from the wording of the DCO.
ISH2.DCO.06	Article 12 (access to works)	Applicant	Confirm that this Article should form " <i>associated development</i> " for the purposes of Schedule 1.	Accesses formed under this article are unlikely to constitute an NSIP in their own right. For the reasons set out in paragraphs 2.12 to 2.16 of the Explanatory Memorandum [Document Reference 5.3, APP-286], Schedule 1 does not distinguish between development

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				that meets the definition of an NSIP and associated development.
ISH2.DCO.07	Article 17 (felling or lopping of trees...)	Applicant	Confirm that the drafting of this Article has followed the Inspectorate's Advice Note 15 particularly around tree preservation orders. If not, please update accordingly.	The Applicant has had regard to paragraphs 22.2 and 22.3 of the Inspectorate's Advice Note 15 which advises applicants wishing to include a power to fell, lop or cut back trees subject to a tree preservation order to identify the relevant trees on a plan and detail them in a Schedule. The trees subject to preservation orders and details of the works proposed in relation to them are listed in Schedule 3 to the Order and are shown on the Tree Preservation Order Trees Location Plans [Document Reference 5.24, APP-378 to APP-380]. Please also refer to section 3.5 of the Applicant's Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case) (Document Reference 7.3) which summarises the discussion regarding trees which took place during the Hearing.
ISH2.DCO.08	Article 20 (CA...minerals code)	Applicant	The ExA considers that Explanatory Memorandum paragraph 8.3 is not explicitly clear on the reasons for Article 20(a) as to why paragraph 8(3) (of the Acquisition of Land Act 1981) is not incorporated into the Order. Update the Explanatory Memorandum accordingly with further justification.	The Applicant has chosen not to incorporate paragraph 8(3) of Schedule 2 to the Acquisition of Land 1981 and so it would not be open to it to seek to impose a £50 fine in circumstances where it is refused access to minerals. It is considered that in the circumstances of this project the imposition of a £50 fine is unlikely to result in an effective remedy where other remedies (such as injunctive relief) may be available and more appropriate. The Applicant will update the Explanatory Memorandum accordingly at its next iteration to be submitted at deadline 2.

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				<p>Please also refer to section 3.7 of the Applicant's Compulsory Acquisition Hearing 1 (CAH1) Post Hearing Submissions (including written submissions of oral case) (Document Reference 7.4) which summarises the discussion regarding this provision which took place during the Compulsory Acquisition Hearing.</p>
ISH2.DCO.09	Article 22 (CA rights and restrictive covenants)	Applicant	<p>The ExA considers that Explanatory Memorandum paragraph 8.9 is not explicitly clear on its wording that Article 22(3) is "<i>subject to various sections and schedules</i>". Update the Explanatory Memorandum accordingly with further justification.</p>	<p>Paragraph 8.9 of the Explanatory Memorandum Explanatory Memorandum [Document Reference 5.3, APP-286] explains that article 22(3) "<i>provides that, where National Highways needs only to acquire rights over land, it is not obliged to acquire any greater interest in that land.</i>" It is not clear to the Applicant where the text "<i>subject to various section and schedules</i>" has been quoted from.</p> <p>Article 22(3) is expressed as being subject to section 8 of, and Schedule 2A to, the Compulsory Purchase Act 1965 (which provides for the service of counter-notices in relation to the acquisition of part of certain qualifying landholdings) <i>as modified</i> by the provisions contained in Schedule 5 to the Order. As is explained in paragraph 8.10 of the Explanatory Memorandum, Schedule 5 includes a number of modifications that are necessary to give effect to the power to acquire rights and impose restrictive covenants. It is necessary for article 22(3) to make reference to these provisions to ensure that where the undertaker acquires rights over land, affected persons that qualify have the counter notice-provisions available to them.</p>

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				<p>Please see Appendix 3 to the Applicant's Compulsory Acquisition Hearing 1 (CAH1) Post Hearing Submissions (including written submissions of oral case) (Document Reference 7.4) which provides further background information on the changes to the procedures for the implementation of compulsory acquisition powers brought about by the Housing and Planning Act 2016.</p> <p>The Applicant is content to make a minor amendment to paragraph 8.9 of the Explanatory Memorandum (Document Reference 5.3, APP-286) at Deadline 2 to confirm that it is subject to the modifications included in Schedule 5 to the Order.</p>
ISH2.DCO.10	Article 24 (power to override easements...)	Applicant	The ExA considers that Explanatory Memorandum paragraphs 8.13 and 8.14 are not explicitly clear on a legal explanation for the powers sought in this Article. Update the Explanatory Memorandum accordingly with further justification.	<p>The Applicant considers the explanation and justification to be clear; article 24 is required to override existing rights and interests when exercising powers on land that do not benefit from the provisions of article 22 (private rights over land), such as its functions under articles 14 (authority to survey and investigate land) and 15 (protective to works to buildings). It provides in such circumstances for the affected persons to claim compensation. The Applicant will, however, review the justification in the Explanatory Memorandum in its next iteration provided at Deadline 2 to further improve clarity.</p> <p>Please also refer to section 3.9 of the Applicant's Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case) (Document Reference 7.3) which summarises the discussion</p>

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				regarding this provision which took place during the Hearing.
ISH2.DCO.11	Article 25 (modification of Part 1...)	Applicant	The ExA considers that Explanatory Memorandum paragraph 8.16 is not explicitly clear on why the notice periods introduced by the Housing and Planning Act 2016 do not apply. Update the Explanatory Memorandum accordingly with further justification.	<p>The Applicant will review paragraph 8.16 of the Explanatory Memorandum (Document Reference 5.3, APP-286) in its next iteration to be provided at Deadline 2</p> <p>It should be noted that the provisions of article 25 are necessary to enable the implementation of the powers of compulsory acquisition of land and rights contained in the Order. They seek to apply the provisions of the Compulsory Purchase Act 1965 that facilitate the service notices to treat and notices to enter, and their related provisions. This is necessary because as enacted the 1965 Act applies to compulsory purchase orders and not DCOs.</p> <p>The Housing and Planning Act 2016 changed some procedural aspects of how notices to treat and notices to enter are to be used (together with amendments to the equivalent notices that apply to general vesting declarations). The provisions of article 25 apply the provisions of the 1965 Act, as modified by the Housing and Planning Act 2016. The modifications follow those accepted by the Secretary of State for Transport in relation to National Highways DCOs since the coming into force of the Housing and Planning Act 2016.</p> <p>The reference in paragraph 8.16 of the Explanatory Memorandum Explanatory Memorandum [Document Reference 5.3, APP-286] to temporary possession and the powers in articles 14 (protective works to buildings), 15 (authority to survey and investigate land), 29</p>

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				<p>(temporary use of land for constructing the authorised development) and article 30 (temporary use of land for maintaining the authorised development) (referred to in this response as the “<i>relevant functions</i>”) relates to the express disapplication of the counter-notice provisions to the exercise of these powers. The counter-notice provisions enable certain qualifying persons to serve a counter-notice in relation to the compulsory acquisition of part of their landholding to require the acquisition of all of their landholding or the cessation of the acquisition.</p> <p>Schedule 5 to the Order modifies those provisions so they also apply to the acquisition of rights over land and the imposition of restrictive covenants.</p> <p>The Applicant considers that it is clearly appropriate to disapply such counter-notice provisions from applying to the relevant functions of the Order listed as those relevant functions do not involve the acquisition of land or rights over land (or the imposition of restrictive covenants). Note, this should not be confused with the temporary possession provisions contained in the Neighbourhood Planning Act 2017 which are not in force and which are disapplied by article 3(1)(h) of the Order (see paragraph 6.17 of the Explanatory Memorandum [Document Reference 5.3, APP-286]).</p> <p>Please see Appendix 3 to the Applicant's Compulsory Acquisition Hearing 1 (CAH1) Post Hearing Submissions (including written submissions of oral case) (Document Reference 7.4) which provides further background information on the changes to the</p>

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				<p>procedures for the implementation of compulsory acquisition powers brought about by the Housing and Planning Act 2016 and further explanation of the provisions of this article.</p>
ISH2.DCO.12	Article 26 (application of the 1991 Act)	Applicant	<p>The ExA considers that Explanatory Memorandum paragraph 8.18 should explain why the drafting this Article “takes into account the Housing and Planning Act 2016”. Update the Explanatory Memorandum accordingly with further justification.</p>	<p>As noted in the response to ISH2.DCO.12, the Housing and Planning Act 2016 amended some of the procedural requirements related to the implementation of compulsory acquisition powers by way of the making of a general vesting declaration under the 1981 Act. Article 26 takes into account those amendments, this is made clear by the footnotes in the article that refer to the amendments made to the 1981 Act by the Housing and Planning Act 2016. The Applicant will consider in the next iteration of the Explanatory Memorandum at Deadline 2 how this could be made clearer.</p> <p>Please see Appendix 3 to the Applicant's Compulsory Acquisition Hearing 1 (CAH1) Post Hearing Submissions (including written submissions of oral case) (Document Reference 7.4) which provides further background information on the changes to the procedures for the implementation of compulsory acquisition powers brought about by the Housing and Planning Act 2016 and further explanation of the provisions of this article.</p>
ISH2.DCO.13	Article 29 (temporary use of land...)	Applicant	<p>The ExA requests the Applicant clarify where, in reference to the explanation contained with Explanatory Memorandum paragraph 8.28 in respect to allowing the undertaker to build works on land</p>	<p>Please see article 29(1)(d) which confirms the undertaker may “construct any works on the land referred to in sub-paragraph (a) as are mentioned in Schedule 1 (authorised development).”</p>

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			taken temporarily but is intended for CA, where this is specifically set out in this Article.	
ISH2.DCO.14	Article 35 (Crown land)	Applicant	The Article will need updating to make reference to " <i>His Majesty</i> ".	The Applicant will update the Order accordingly at its next iteration to reflect the change of sovereign in its next iteration at Deadline 2.
ISH2.DCO.15	Article 46 (operational land)	Applicant	The ExA considers that Explanatory Memorandum paragraph 10.4 is not explicitly clear on the need for the powers contained in the Article. Update the Explanatory Memorandum accordingly with further justification.	<p>The Applicant notes that paragraph 10.4 of the Explanatory Memorandum (Document Reference 5.3, APP-286) relates to article 45 (application of landlord and tenant law) and not article 46 (operational land) and so it isn't clear which provision or explanation is the subject of this query.</p> <p>In relation to paragraph 10.4 of the Explanatory Memorandum (Document Reference 5.3, APP-286) and article 45 (application of landlord and tenant law), the provision applies to override the provisions of landlord and tenant law in relation to an agreement entered into by the undertaker under article 44 (consent to transfer benefit of Order). This is considered to be justified in the relatively unique circumstances of an agreement that would transfer the statutory functions conferred by the Order to another person, to ensure that the provisions of landlord and tenant law do not lead to unintended consequences where National Highways is unable to resume its functions under the Order as a result of the provisions of landlord and tenant law. The article is based on a model provision but has been narrowed in its application to apply only to agreements made under article 44, whereas the model provision applied to any agreement for leasing to any person the whole or any</p>

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				<p>part of the authorised development or a right to operate the same.</p> <p>In relation to article 46, this is a model provision that has not been modified by the Applicant. The effect of this article is that the land within the Order limits is to be treated as the operational land of a statutory undertaker for the purposes of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015.</p> <p>Although section 264 is entitled "<i>cases in which land is to be treated as not being operation land</i>", subsections (3) and (4) set out cases in which land is to be treated as operational land.</p>
ISH2.DCO.16	Article 52 (consents, agreements etc)	Applicant	<p>The ExA would welcome a further explanation within Explanatory Memorandum paragraphs 10.15 to 10.17 in respect to why the 28-days is deemed sufficient or necessary. The Applicant is asked to consider a period of 42-days to allow local authorities a greater time to consider the material before them.</p>	<p>The Applicant considers that 28 days is an appropriate time frame within which to consider whether to grant the consents sought under that article. It is important to note that it applies only to "<i>applications</i>" as defined in paragraph (4), which relates to matters such as confirming its satisfaction with an altered road, consent to the temporary closure of streets, consent to a discharge of water into an ordinary watercourse (noting that the environmental elements of this would remain to be regulated by the Environment Agency under the Environmental Permitting (England and Wales) Regulations 2016), consenting to boreholes on highway land or consenting to traffic regulation measures.</p> <p>The Applicant remains of the view that 28 days, the equivalent of a month, is ample time for a relevant authority (as defined in article 52) to either grant consent or to refuse it and that it is in the public interest</p>

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				<p>that benefits the Project would deliver are not unduly delayed.</p> <p>Furthermore, the Applicant notes that the period of 28 days is widely precedented, see for example the 28 day period specified in the temporary stopping up/prohibition of use of streets articles contained in the following Orders: A57 Link Roads Development Consent Order 2022, A47 North Tuddenham to Easton Development Consent Order 2022, the A47 Blofield to North Burlingham Development Consent Order 2022 and article 58 (consents, agreements and approvals) of the A303 (Amesbury to Berwick Down) Development Consent Order 2020.</p>
ISH2.DCO.17	Schedule 1	Applicant	<p>The Applicant is asked to review the term “<i>ancillary works</i>” both in the Schedule and the EM. The ExA considers that the term is essentially the same as “<i>associated development</i>”. The Applicant is required to either update the Explanatory Memorandum and the Schedule to use only one terminology or explain the difference between the two.</p>	<p>The Applicant is of the clear view that terms “<i>ancillary works</i>” and “<i>associated development</i>” have different meanings which should not be conflated.</p> <p>The works described in Schedule 1, including those listed under “<i>ancillary works</i>”, comprise the “<i>authorised development</i>” for which the Applicant seeks development consent (see the definition of “<i>authorised development</i>” in article 2(1) (interpretation)). In terms of definition and scope, the ancillary works are listed in Schedule 1 and support, and are ancillary to, the carrying out of the numbered works and are not to give rise to any materially new or materially worse adverse environmental effects than those assessed in the environmental statement. They must relate to the numbered works, since they must be “<i>For the purposes of or in connection with the construction of any of the works and other development mentioned above</i>”, as set</p>

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				<p>out in the paragraph preceding the list of ancillary works in Schedule 1.</p> <p>The ancillary works listed at the end of Schedule 1 are works that could be required in relation to any of the numbered works. They are listed at the end of the Schedule to avoid repeating them against each of the numbered works, which would make an already lengthy Schedule 1, excessively lengthy and repetitive.</p> <p>Ancillary works are set out separately to the numbered works so as to avoid the need to repeat them within the description of each of the numbered works. This approach aids the clarity and legibility of the description of the numbered works.</p> <p>In relation to the reasons why the Applicant has not differentiated between development that comprises the NSIP and associated development, please see paragraphs 2.12 to 2.16 of the Explanatory Memorandum [Document Reference 5.3, APP-286].</p> <p>Please also refer to Section 2.2 of the Applicant's Post-Hearing Submissions following Issue Specific Hearing 2 (Document Reference 7.3) for a summary of the discussions during the Hearing regarding the wording of sections of the draft DCO.</p>
ISH2.DCO.18	Schedule 7	Applicant	<p>Paragraphs 55 and 56 both reference the new B1066. A and B classified road numbers are usually approved by DfT and are usually unique. There is already a B1066 (south of Bury St. Edmonds). Additionally, the use of a number starting B1... is unusual in</p>	<p>The Applicant selected the B1066 on the basis that it is not a number used in Cumbria County Council's highway network. In light of this question, the Applicant is reviewing the classification of roads provided for in paragraphs 55 and 56 of Schedule 7 and would welcome further discussion with Cumbria County Council in relation to its preferences for the numbering</p>

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			road classification numbering to the west of the A1 which usually adopts the B6... sector convention. Confirm that this number been approved by DfT	convention to be applied, which, as noted in the question, ought to be unique on a national basis.
ISH2.DCO.19	Schedule 7	Applicant and Cumbria CC	Paragraph 56 (b) sets out that the B1066 ends at " <i>a point 254 metres west of the junction of Musgrave Lane and Main Street</i> ". Confirm that this is that a suitable point to start a classified road on the unclassified Main Street. Confirm whether it would be more conventional to connect the new B1066 to the existing B6276 on Main Street at its junction with New Road.	As noted in response to ISH2.DCO.18, the Applicant is reviewing the classification of roads provided for by paragraphs 55 and 56 of Schedule 7 to the draft DCO.
ISH2.DCO.20	Schedule 8, Part 4, Revocations and Variations of Existing TROs	Applicant	There is an existing signed no entry restriction for westbound traffic on the extension of Main Street to prevent westbound traffic accessing the existing eastbound off slip of the A66. Confirm whether this would need to be revoked as this is intended to become a two-way B1066.	It is the case that the Applicant is proposing for the road at this location to permit two way traffic. In the course of preparing Part 4 of Schedule 8, the Applicant carefully reviewed all existing traffic regulation orders that would be affected by its proposals and where revocations are required these are detailed in the relevant entries in Schedule 8. No extant traffic regulation order, making provision in support of the no entry sign was identified, which is why there is no provision for its revocation in Part 4 of Schedule 8. The Applicant will review the location of the signage and, if appropriate amend Part 4 of Schedule 8 and the corresponding Traffic Regulation Measures (Clearways

Ref Number	Subject	Response by	Question	Applicant's Response
				and Prohibitions) Plans for Scheme 06, to include a precautionary revocation of the no entry restriction.
GEOLOGY AND SOILS				
ISH2.GS.01	ES Chapter 9 Geology and Soils [APP-052]	Applicant, Natural England and Local Authorities	With regard to proportions of ALC survey that were not surveyed due to access issues, can the Applicant confirm any agreement with Natural England and the Local Authorities that a) an appropriate proportion of ALC surveys have been undertaken to inform the baseline of the assessment or b) whether the areas not yet subject to survey will be surveyed in the future.	Chapter 9 Geology and Soils (Document Reference 3.2, APP-052) outlines the assessment methodology and any subsequent assumptions or limitation factored into the approach (see Section 9.4 and Section 9.5). Regarding agricultural land classification surveys the Chapter states that a sufficient number of representative positions were surveyed, across the Order Limits, which allowed an overall value for land classifications and therefore constituted an appropriate proportion of surveys to inform the baseline of the assessment. This is based on the Natural England guidance (page 3 of Natural England (2012). Agricultural Land Classification: protecting the best and most versatile agricultural land. Technical Information Note TIN049 2 nd Edition) which defines one observation hole per ha (or one observation per 100m on narrow strips of land as for a road route), which was observed during sampling. Natural England and LPA's were consulted as part of the formal Scoping process with all relevant responses summarised in Table 9-8. The table reports that the proposed assessment approach was agreed upon. Therefore it is not currently proposed that any additional surveys will be undertaken in the future.

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LANDSCAPE AND VISUAL				
ISH2.LV.01	ES Chapter 10 Landscape and Visual [APP-053]	Applicant	<p>Paragraph 10.10.329 states that in year 15 there are predicted to be 13 visual receptors with significant residual adverse effects of which 4 of them are in the Cross Lanes to Rokeby scheme.</p> <p>Paragraph 2.5.8 of the Legislation and Policy Compliance Statement [APP-242] concludes (for Cross Lanes to Rokeby) <i>“No significant effects expected on any heritage asset present within this scheme during construction or operation.”</i></p> <p>There appears to be a contradiction between the LVIA conclusion about the Rokeby scheme and significant Year 15 visual effects on receptors in the RPG. Applicant to clarify the position.</p>	<p>The viewpoints have been selected to represent views from publicly accessible land with respect to visual impact assessment. It is possible for a visual receptor to experience a significant effect due to a change of view, without the same effect being experienced by local heritage assets.</p> <p>For the Cross Lanes to Rokeby scheme, View Point (VP) 8.4 is close to the edge of the Registered Park and Garden (RPG), being taken from the public footpath at the front of the Church of St Mary. It has been assessed as experiencing a significant residual visual impact due to the change in view. There are no visual receptors within the RPG that have significant Year 15 visual effects. Therefore, there is no contradiction between the LVIA conclusion about the Rokeby scheme and significant Year 15 visual effects on receptors in the RPG.</p> <p>The Environmental Statement Chapter 8 Cultural Heritage (APP 051) concludes in para 8.9.38 Construction and 8.9.39 operation that there are no significant Construction effects generated during construction of the Scheme and no significant effects will occur during the operational phase of the Project in relation to the Cross Lanes to Rokeby scheme. This is consistent with the statement made in the Legislation and Policy Compliance Statement.</p>

Ref Number	Subject	Response by	Question	Applicant's Response
				Please also refer to Section 3.1 of the Applicant's Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case) (Document Reference 7.3) for a summary of the discussion held during the Hearing regarding viewpoints and photomontages.
ISH2.LV.02	ES Chapter 10 Landscape and Visual [APP-053]	Applicant	Impacts on viewpoints are summarised in table 10-11 (construction) Table 10-12 (operation year 1) and table 10-7 (operation year 15). This table appears to be incorrectly numbered and it should be 10-13. Table 10-8 is incorrectly labelled; it should be 10-14. Applicant to clarify the position.	<p>That is correct and it is a typographical error.</p> <ul style="list-style-type: none"> • Table 10-8: ICCI assessment for operation likely effects should be 10-11 • Table 10-11: Summary of significant effects (construction) should be 10-12 • Table 10-12: Summary of significant effects (operation year 1) should be 10-13 • Table 10-7: Summary of residual significant effects (year 15 - summer) should be 10-14 • Table 10-8 Combined predicted residual effects should be 10-15 <p>This will be updated as an errata, which will be submitted in an updated Errata document at Deadline 3 of the Examination timetable.</p>
ISH2.LV.03	ES Chapter 10 Landscape and Visual [APP-053]	Applicant	Operational Phase: Table 1 Landscape Value Criteria affords a Very High value to the landscapes of National Parks but only a High value to those of AONBs. Clarify whether this needs amending to Very High, and, if so, whether the change would	The Design Manual for Roads and Bridges (DMRB) LA107 states that sensitivity is a combination of both the value of the receptor and assessing the receptors susceptibility to change. This is described in Appendix 10.2 Landscape and Visual Impact Assessment Methodology of the Environmental Statement (Document Reference 3.4, APP-198).

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			affect the scope and assessment within the ES.	<p>As the A66 already exists within the baseline environment of the North Pennines Area of Outstanding Natural Beauty (AONB), it is considered to have a high susceptibility to change, as opposed to very high, which might apply in instances where no highway was currently present.</p> <p>The Landscape and Visual Impact Assessment (LVIA) acknowledges and has set out in paragraph 10.10.204 the special qualities of the AONB and the assessment considers that in term of wildness, tranquillity and remoteness, these particular special qualities are not present due to the proximity of the existing A66. The statement in 10.10.207 therefore concludes that the study area is not fully representative of the special qualities, not that there is a requirement for all of the special qualities to be present to justify the designation. This is reflected in Table 1 Landscape Value Criteria of Appendix 10.2 Landscape and Visual Impact Assessment (Document Reference 3.4, APP-198).</p> <p>As such, on balance a high sensitivity has been utilised in relation to the North Pennines AONB.</p>
ISH2.LV.04	ES Chapter 10 Landscape and Visual [APP-053]	Applicant	There is a lack of consistency with regards to references to lighting, including where it is proposed. Can the Applicant confirm whether lighting at the new roundabout at Rokeby is proposed, and, if it is, how that has been assessed within the LVIA, in terms of night-time assessment,	The Applicant can confirm that it is not proposed to light the new roundabout at Rokeby and, as set out below, the assessment within ES Chapter 10 has been based on the correct assumption. An errata will be submitted to amend the text in ES Chapter 2 The Project (Document Reference 3.2, APP-045) to correct Section 2.5.36.

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			together with the overall significance of effect.	<p>The assumptions and limitation listed within Environmental Statement Chapter 10 Landscape and Visual effects states the following:</p> <p><i>"The majority of the Project would be unlit during operation with lighting columns installed only at Junction 40 M6 to Kemplay Bank, Bowes junction and Scotch Corner, where lighting is already part of the baseline environment."</i></p> <p>Therefore, the assessment has been undertaken on the assumption that there would be no lighting at the Rokeby Junction.</p>
ISH2.LV.05	ES Chapter 10 Landscape and Visual [APP-053]	Applicant	Paragraph 10.5.9 The vegetation growth rate is stated as conservative average to be 1m every three years. Clarify the basis of this assumption.	Trees grow at variable rates. Growth rate depends on species, growing conditions and climate. The proposed native mixes would contain nurse species that grow quickly and offer protection and provide mitigation effects early. Species such as willow or alder can grow more than 2m in three years while climax species such as oak or beech are slower growing and would achieve approximately 1m in three years. The conservative estimate we have taken is therefore the lower figure.
ISH2.LV.06	ES Chapter 10 Landscape and Visual [APP-053]	Applicant	Paragraph 10.10.225 states <i>"In relation to the Rokeby Historic Park and Garden character area, defined by the Applicant"</i> . The RPG is a defined area. Applicant to clarify why it has defined the RPG area differently.	The Rokeby Historic Park and Garden local landscape character area (LLCA) has been given a description that allows the specific landscape character of the area to be examined on its own merits. Character areas are defined by landscape characteristics which may differ from the designated boundaries of Registered Parks and Gardens (RPG). Due to intervisibility there may also be overlap between wider Landscape Character Types and more focussed LLCA's.

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				To ensure a robust assessment the impacts have been assessed across all landscape character designations. These are listed in Appendix 10.5 Schedule of Landscape Effects (Document Reference 3.4, APP-201).
POPULATION AND HUMAN HEALTH				
ISH2.PH.01	ES Chapter 13 Population and Human Health [APP-056, Document Reference 3.2]	Applicant	With regards to paragraph 13.4.15, clarify whether DMRB LA112 methodology in assigning magnitudes of impact has been amended with respect to professional judgement to take account of safety and environmental quality. If so, has any sensitivity analysis been undertaken using the unamended LA112 approach?	Within the introduction section of the DMRB LA112 methodology it is stated that the document provides a framework for assessing the effects. It is considered that this wording is suitable in allowing assessors to deviate from the guidance where appropriate and justifiable. As such it is considered that an update to the wording is not required to specifically state that there is an allowance for professional judgement to be applied and sensitivity testing is not required.
ISH2.PH.02	ES Chapter 13 Population and Human Health [APP-056, Document Reference 3.2]	Applicant	In respect to paragraph 13.5.3, confirm whether data was collated after 2019/20 to verify assumptions used in the analysis of effects on PROW, open space and community facilities usage.	No site visits have been undertaken for the usage of open spaces and community facilities, due to the Covid-19 pandemic potentially yielding inaccurate results. The baseline section of the Chapter 13 Population and Human Health (Document Reference 3.2, APP-056) for open space and community facilities, is based upon a mixture of desk-based research and the incorporation of consultation feedback. No walking, cycling and horse-riding surveys have been carried out as part of this assessment, due to the Covid-19 pandemic potentially yielding inaccurate results. Historical walking Cycling and horse-riding data was made available for the assessment, however due to the

Ref Number	Subject	Response by	Question	Applicant's Response
				<p>age of the data and sporadic coverage of the study areas, it has not been utilised.</p> <p>Currently active travel surveys are scheduled to be undertaken in spring 2023 when better weather conditions are expected. These will be used to inform detailed design, where applicable and time dependant, but mainly for the baselining for the post-opening evaluation and monitoring.</p> <p>In regard to public open spaces each local planning authority was contacted during the completion of the Environmental Statement in order to understand the value they placed on any open spaces within their constituency. This assisted in understanding the local value of such assets which was factored into the assessment.</p>
ISH2.PH.03	ES Chapter 13 Population and Human Health [APP-056, Document Reference 3.2]	LPAs and LHAs	In respect to paragraph 13.5.3, confirm that the data used in the analysis of effects is robust given the lack of observed data available at the time of assessment.	<p>LPA/LHA are being asked to respond on this but the Applicant's position is set out below to assist the ExA:</p> <p>Currently active travel surveys are scheduled to be undertaken in spring 2023 once the better weather starts. These will be to inform detailed design, where applicable and time dependant, but mainly for the baselining for the post-opening evaluation and monitoring</p> <p>In regard to public open spaces each local planning authority was contacted during the completion of the Environmental Statement in order to understand the value they placed on any open spaces within their constituency. This assisted in understanding the local value of such assets which was factored into the assessment.</p>

Ref Number	Subject	Response by	Question	Applicant's Response
ISH2.PH.04	ES Chapter 13 Population and Human Health [APP-056, Document Reference 3.2]	LPAs and LHAs	In respect to paragraph 13.10.37, confirm that the approach adopted to improve as far as possible the east west connection in the Walking Cycling and Horse-riders provision is satisfactory.	LPA/LHA are being asked to respond on this but the Applicant's position is set out below to assist the ExA: Following feedback at Statutory Consultation, an east west pedestrian/cycle link was incorporated into the preliminary design. Any existing north south WCH linkage that will be severed by the proposed upgrade to the A66 has been accommodated and an alternative provision allowed for. However, it is not proposed that this facility will cater for horse-riders. The proposed facility will be at least 3m wide and surfaced in material that is appropriate for the expected usage. However, National Highways is giving further consideration, as part of the detailed design process, as to the extent that it is able to accommodate requests for segregated private means of access and walking, cycling and horse-riding provision.
ISH2.PH.05	Environmental Management Plan [APP-019] Table 3.2 REAC	Applicant	D-PH-04, confirm whether consideration be given to improved/enhanced signing of HGV access to Barnard Castle. It is understood there are already signs advising of recommended HGV routes to Barnard Castle but given the constraint of the County Bridge on the A167 additional advisory signing may be of overall benefit for HGV traffic.	Commitment D-PH-04 has been included in recognition of the importance of the A66 for access to local tourism assets and hence HGV routes were not included. National Highways do, however, recognise how important clear signage will be for routes to Barnard Castle, especially for HGVs, and therefore commitment D-PH-04 will be expanded to include a requirement to agree enhanced signage for HGV access to Barnard Castle at the appropriate locations along the route, and for this to be consulted upon with the Local Highway Authority. This update will be made to the Environmental Management Plan and the revised draft will be submitted alongside the revised draft DCO at Examination Deadline 2.

Ref Number	Subject	Response by	Question	Applicant's Response
ISH2.PH.06	Environmental Management Plan [APP-019] Table 3.2 REAC	Applicant	MW-PH-03, comment on whether Brough Hill Fair be included in this Commitment.	<p>The Brough Hill Fair typically attracts less vehicles than the Appleby Horse Fair, and therefore management of the traffic associated with it was not identified as a significant issue for construction traffic management. National Highways does, however, recognise the importance of maintaining close engagement with the Brough Hill Fair and the impact that construction activities may have on the running of the Fair during construction. National Highways therefore proposes to amend the commitment so the first sentence reads:</p> <p><i>"The Appleby Horse Fair, and the Appleby Horse Fair Multi-Agency Strategic Coordinating Group (MASCg) and the Brough Hill Fair shall be consulted on the timing of works..."</i></p> <p>Please also refer to section 5.0 of the Applicant's Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case) (Document Reference 7.3) for a summary of the discussions during the Hearing regarding Brough Hill Fair.</p>
TRAFFIC AND TRANSPORT				
ISH2.TT.01	Transport Assessment [APP- 236]	Applicant	In Section 8.1 flows recorded in the tables do not appear to equate with flows in the associated figures. Additionally changes in flows tabulated are not always a result of comparing the DM and DS flows in the table. Explain and/ or correct as necessary.	The forecast traffic flow results (for Do Minimum Flows, Do Something Flows, and the Flow Change) reported in Figure 8-4 to Figure 8-27 and Table 8-1 to 8-7 contained within section 8.1 of the Transport Assessment [Document Reference 3.7, APP-236] were all rounded to two significant figures. The result of this is that the flows recorded in the tables of Section 8.1 do not always equate to the flows in the associated figures.

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				<p>A revised Transport Assessment will be submitted at Deadline 2 with forecast traffic flows reported to the nearest whole number, with updates to Figures 8-4 to Figure 8-27 and Tables 8.1 to 8.8 inclusive updated.</p>
ISH2.TT.02	Transport Assessment [APP- 236]	Applicant	<p>Table 8.6 (and Table 11.1) Confirm the capacity of the A67 Barnard Castle Bridge is correct given the traffic control over the bridge.</p>	<p>National Highways confirms that this is an erratum. The capacity stated refers to the theoretical capacity of the road itself, rather than the capacity through the signalised junction as a whole. The calculation of a Congestion Reference Flow of the A67 at this location is not appropriate given that the capacity of the link will be determined by the traffic signals at the Barnard Castle Bridge Junction of the A67 and the B6277. The capacity of the A67 at this location is considered by the LinSIG assessment contained in paragraph 8.3.12. The same capacity has been used in Tables 11.3 and 11.5 (but not in 11.1 as stated in the question). The TA (Document Reference 3.7, APP-236) will be updated with the capacity of the A67 removed from Tables 8.6 Table 11.3 and Table 11.5, and footnotes added to explain the position. The revised Transport Assessment document will be re-submitted alongside an Errata document at Deadline 2. Please also refer to Section 2.1 of the Applicant's Issue Specific Hearing 1 (ISH1) Post Hearing Submissions (including written submissions of oral case) (Document Reference 7.2) for a summary of the discussion during the Hearing regarding the traffic on the B6277, The Sills and around the A67.</p>

Ref Number	Subject	Response by	Question	Applicant's Response
ISH2.TT.03	Transport Assessment [APP- 236]	Cumbria CC	In respect to paragraph 8.3.3, confirm that the peak summer flows in and out of 800 vehicles / hour are robust for assessment purposes and reflect the peak summer period.	N/A to National Highways
ISH2.TT.04	Transport Assessment [APP- 236]	Durham CC	In respect to paragraph 8.3.3, confirm that the derived traffic flows associated with Mainsgill Farm Shop are robust for assessment purposes.	N/A to National Highways
ISH2.TT.05	Transport Assessment [APP- 236]	Applicant	In respect to paragraph 9.3.6, confirm whether the accident rates derived for the existing A66 similar to other trunk roads.	<p>Paragraph 9.3.6, of Transport Assessment (Document Reference 3.7, APP- 236) states that the single carriageway section accident rate (on the existing A66) is 0.11 accidents per million vehicle kilometres (mvkm), which is 73% higher than that of the dual carriageway sections (0.06 accidents per mvkm).</p> <p>Accident data is not available for Trunk Roads, therefore comparisons have been made with publicly available data supplied by DfT. The TAG (Transport Analysis Guidance), Databook (https://www.gov.uk/government/publications/tag-data-book) contains Combined Link / Junction Accident Rates and Change Factors on the 'COBALT3' table, for differing road types. The following existing road types within the table that are applicable to the current A66 design are;</p> <ul style="list-style-type: none"> • Modern Wide Single Carriageway (Road Type 6) • Modern Single Carriageway A Roads (Road Type 5) • Modern Dual Carriageway (Road Type 10)

Ref Number	Subject	Response by	Question	Applicant's Response								
				<p>Taking the accident rates and applying the change factors to generate 2016 accident rates (which would provide comparative rates to those stated in paragraph 9.3.6 as 2016 is the midpoint for the range of historic data shown), the accident rates per million vehicle kilometers (mvkm) are as follows:</p> <p>COBALT3 Accident Rates (rates as of 2016)</p> <table border="1" data-bbox="1339 592 2069 866"> <thead> <tr> <th data-bbox="1339 592 1839 662">Road Type</th> <th data-bbox="1839 592 2069 662">Accidents per mvkm</th> </tr> </thead> <tbody> <tr> <td data-bbox="1339 662 1839 740">Modern Single Carriageway A Roads</td> <td data-bbox="1839 662 2069 740">0.18</td> </tr> <tr> <td data-bbox="1339 740 1839 818">Modern Wide Single Carriageway Roads</td> <td data-bbox="1839 740 2069 818">0.12</td> </tr> <tr> <td data-bbox="1339 818 1839 866">Modern Dual Carriageway Roads</td> <td data-bbox="1839 818 2069 866">0.08</td> </tr> </tbody> </table> <p>The standard of the existing A66 single carriageway varies from location to location in terms of road width. For the purpose of this assessment it has been considered to be either a 'Modern Single Carriageway A Road', or a Modern Wide Single Carriageway Roads depending on the measured width of each particular modelled link. It is therefore noted that for the road types that have been used to represent the A66 within this assessment, single carriageway roads have an accident rate which is between 50% to 125% higher than dual carriageway roads.</p> <p>Therefore, the dual carriageway rate on the existing A66 (0.06 accidents per mvkm) is lower than, but similar to the average (0.08 accidents per mvkm).</p>	Road Type	Accidents per mvkm	Modern Single Carriageway A Roads	0.18	Modern Wide Single Carriageway Roads	0.12	Modern Dual Carriageway Roads	0.08
Road Type	Accidents per mvkm											
Modern Single Carriageway A Roads	0.18											
Modern Wide Single Carriageway Roads	0.12											
Modern Dual Carriageway Roads	0.08											

Ref Number	Subject	Response by	Question	Applicant's Response
				<p>The single carriageway rate on the A66 (0.11 accidents per mvkm) is 38% lower than the average (0.18 accidents per mvkm) for Modern / Older Single Carriageway A Roads, but is similar to that for Modern Wide Single Carriageways.</p> <p>It should be noted that there have been eight fatal accidents (6.6%) within the 122 accidents on A66 single carriageway sections shown in Table 9.2. This corresponds to a fatal accident rate of 0.006 fatal accidents per mvkm. Using expected proportions in table COBAL4 for Older Single Carriageway A Roads (Road Type 8) the expected rate is 0.004 fatal accidents per mvkm. Therefore, the observed rate of fatal accidents on the A66 is 50% higher than the average for this road type. Similarly, the observed A66 rate of serious accidents is 0.022 per mvkm, which is only slightly lower than the expected serious rate of 0.024 per mvkm. The observed rate of slight accidents 0.070 per mvkm is around half that expected within the averages (0.148 accidents per mvkm).</p> <p>It is therefore concluded that the accident rate on the existing A66 is broadly similar to that for other similar roads, as while the overall dual carriageway rate is similar, the single carriageway rate on the A66 is lower than the average rate. This is explained by a low slight accident rate on the single carriageway A66 sections, as the rate of fatal accidents is significantly higher, and the rate of serious accidents is similar to the average.</p>

Ref Number	Subject	Response by	Question	Applicant's Response
				<p>The new dual carriageway lengths of the A66 and junctions on the Project will be designed to modern safety standards. In dualling the A66, and ensuring a consistent road standard along the route, accidents along the route will be reduced.</p>
ISH2.TT.06	Transport Assessment [APP- 236]	Applicant	<p>Tables 9.6 and 9.7, Clarify why the scheme would lead to an increase in some cases of both accidents and casualties?</p>	<p>Table 9-6 and Table 9-7 show a breakdown of the COBALT assessment on each individual Scheme in the Project in terms of accidents and casualties saved. It should be noted that this analysis considers the impact of implementing the complete Project on each individual Scheme section. The calculations are based on multiplying the forecast vehicle kilometres travelled (itself a function of traffic flow and section length) on each Scheme section by accident rates that are published within the 'COBALT3' table within the TAG Databook. (as referenced in the table in ISH2.TT.05).</p> <p>The accident severity is defined by applying proportions of how many accidents are 'Fatal', 'Serious' and 'Slight' from rates published in the 'COBALT4' table within the TAG databook. Similarly, the number of casualties per accident is defined in the 'COBALT5' table within the TAG databook.</p> <p>These accident rates, and the proportion of accidents and casualties that are classed as 'Fatal', 'Serious' and 'Slight', differ depending on aspects such as road category and speed limit.</p> <p>The application of these rates to the forecast traffic within the A66 appraisal is reported within Tables 9-6 and 9-7.</p>

Ref Number	Subject	Response by	Question	Applicant's Response
				<p>The figures in Table 9-7 (casualties saved) are derived from the Table 9-6 assessment (accidents saved). The following characteristics can be seen within the accident rates defined in table 'COBALT4' and 'COBALT5':</p> <ul style="list-style-type: none"> • In table 'COBALT3' Single carriageway roads have an accident rate which is between 50% to 125% higher than the equivalent dual carriageway roads. (see rates for accidents per mvkm shown in the table in ISH2.TT.05). • In table 'COBALT4' Dual Carriageways, the proportion of accidents that are classified as 'fatal' (2.8%) and 'serious' (13.5%) accidents reduces compared to Single Carriageway A Roads (fatal accidents make up 4.6% of accidents, while serious accidents make up 20.6%), while those that are classified as 'slight' rises (i.e. 83.7% for Dual Carriageways and 74.8% for Single Carriageways A Roads). • Similarly in 'COBALT5' the 'fatal and serious' casualties per injury accident are proportionally higher for Single Carriageway A Roads than for Dual Carriageways. <p>The resultant casualties caused by these accidents follow the pattern described in ISH2.TT.05, such that in general terms the number of fatal and series casualties would reduce markedly on dual carriageways compared to a single carriageway, while there would be a somewhat smaller proportional decrease in 'slight' casualties.</p>

Ref Number	Subject	Response by	Question	Applicant's Response
				<p>Applying these varying accident rates to the forecast traffic volumes within the Do Minimum and Do Something scenarios, and calculating the resultant accidents and casualties saved results in the patterns largely observed within Tables 9-6 and 9-7:</p> <ul style="list-style-type: none"> • Traffic volumes are forecast to increase along the extent of the A66 as a result of the proposed Project. Therefore should the accident rate not reduce, then the number of accidents would increase. • However, as the accident rate of a dual carriageway is significantly lower than that of a single carriageway there is expected to be a significant decrease in accidents despite the increase in traffic volumes. • While this reduction is on the whole realised for 'Fatal' and 'Serious' accidents and casualties, the relative increase in the proportion of 'slight' accidents and personal injury casualties can result in instances where the drop in accident and casualty rate is not large enough to offset the increase in flows. <p>Therefore, considering the instances were 'slight' casualties (Table 9-7) increase in turn:</p> <ul style="list-style-type: none"> • At Scheme 07 (Bowes Bypass) and at Scheme 08 (Cross Lanes to Rokeby), the existing single carriageway has been classified as a Modern Wide Single Carriageway A Road therefore the accident rate is only 50% higher than that of a Modern Dual Carriageway Road (see ISH2.TT05). Therefore, the reduction in 'slight' casualty rate is not enough to offset the increase in traffic flows.

Ref Number	Subject	Response by	Question	Applicant's Response
				<ul style="list-style-type: none"> At Scheme 11 (A1(M) Junction 53 Scotch Corner, the classification of the road network has not been changed reflecting the more modest intervention at this location. Therefore, the forecast increase in traffic flow due to the Project at this location results directly in an increase in accidents and casualties calculated. <p>It should be noted that the figures consider the extent of the Scheme sections on the A66 only – traffic removed from other roads as a result of rerouting to the A66 will lead to a reduction of traffic volumes on the surrounding road network, resulting in a comparable reduction in accidents according to the standard rates, as discussed in paragraph 9.4.11.</p>
ISH2.TT.07	Transport Assessment [APP- 236]	Applicant	<p>Tables 9.8 and 9.9, it is acknowledged that there will be savings in fatal and serious accidents along the whole of the project, but these tables show that there will be an increase in injury accidents along the whole length of the A66 as result of the scheme. Confirm whether this is something that requires any intervention as part of this project.</p>	<p>Please see the response ISH2.TT06 describing the effects of using standard accident / casualty rates and the impact of increased traffic volumes on the A66 as a result of the Project.</p> <p>Table 9-3 shows that the existing dual sections of the A66 have a good accident record, (i.e. 0.06 accidents per mvkm), and is broadly similar to that of a Modern Dual Carriageway Road (see answer to ISH2.TT.05) then there is no justification for further expenditure on improving road safety on these existing dual sections, given that the Project leads to an overall saving of 9 fatalities and 83 serious casualties saved on the A66 as a whole, and a total of 281 accidents on the wider road network (as defined in paragraph 9.4.6..</p>

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ISH2.TT.08	Transport Assessment [APP- 236]	Applicant	Tables 10.9 and 10.10, do not show the Hodgsons Service 34 that stop on Middleton Tyas Lane at Scotch Corner. Confirm whether this an omission and if so, correct it.	National Highways confirms that this is an erratum. The Transport Assessment [Document Reference 3.7, APP-236] has been updated with Bus Service 34 Richmond-Middleton Tyas - Darlington added to Tables 10.9 and 10.10. This update will be included in a updated Transport Assessment. The revised Transport Assessment will be submitted alongside an Errata document at Deadline 2.
ISH2.TT.09	Transport Assessment [APP- 236]	Applicant	Table 10.14. This table records no impact on existing bus routes or stops at Scotch Corner (Scheme 11) but the General Arrangement Plan [APP-018] shows the existing bus stop being amended. This appears to be used by a service 34 from Darlington to Richmond. The works and possible disruption to the service needs to be recorded and also consideration should be given for pedestrian facilities to enable access to the services on the other side of Middleton Tyas Lane. Confirm.	The Transport Assessment [Document Reference 3.7, APP- 236] has been updated to include the following text in relation to Scheme 11 (A1(M) Junction 53 Scotch Corner) in respect of bus service 34. The revised Transport Assessment will be submitted at <u>Deadline 2</u> . <i>"The existing bus stop located on the SW bound side of Middleton Tyas Lane would be re-provided in the same location once widening works have been completed. Therefore, no impact on users is anticipated other than potential temporary impacts during construction of this Scheme. It is anticipated that if this stop is not accessible during the construction phase, suitable alternative locations would need to be found through the ongoing development of the CTMP. The need for this will be added to the CTMP at the next iteration"</i>
ISH2.TT.10	Transport Assessment [APP- 236]	Applicant	In respect to figure 11.1, the programming shown is different from the programme shown in the ES (Plate 2.1 [APP-045]) and the EMP (Plate 1.1 [APP- 019]). Confirm, and clarify whether there are any	There are some differences of detail in the programme available at the time of undertaking assessment of construction traffic in figure 11.1 of the Transport Assessment [Document Reference 3.7, APP-236] (referred to as the TA from here) compared to that presented in the ES (Plate 2.1 [Document Reference

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			<p>consequential implications for the construction traffic modelling undertaken</p>	<p>3.2, APP-045]) and the EMP (Plate 1.1 [Document Reference 2.7, APP- 019]).</p> <p>To provide a consistent programme within all documents it is proposed to align all programmes including those in the ES (Plate 2.1 [APP-045]) / EMP (Plate 1.1 [APP- 019]) to Figure 11.1 of the TA. This will be included within updated versions of the ES [APP-045], the EMP [APP-019] to be submitted at Deadline 2</p> <p>The programme has been used to inform the following assessments:</p> <ol style="list-style-type: none"> 1. Transport Assessment [APP-236], 2. ES Chapter 5 Air Quality [APP-048] 3. ES Chapter 6 Biodiversity [APP-048] 4. ES Chapter 7 Climate [APP-048] 5. ES Chapter 12 Noise and Vibration [APP-055] 6. ES Chapter 15 Cumulative Effects [APP-058] 7. Habitat Regulations Assessment (HRA) Stage 1 Likely Significant Effects Report [APP-235] <p>As the technical appraisal within each of the above chapters was based on the same programme as that used to inform the construction traffic assessments i.e. figure 11.1 of the TA, therefore there are no consequential implications.</p>
ISH2.TT.11	Transport Assessment [APP- 236]	Applicant	<p>Paragraph 11.8.4 does not mention bus stop on Middleton Tyas Lane that will be affected by Scheme 11 works.</p>	<p>Paragraph 11.8.4 of Transport Assessment [Document Reference 3.7, APP- 236] has been amended to confirm this:</p>

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			Clarify whether this be included in consideration of CTMP.	<p><i>"11.8.4 There are several bus stops that are adjacent to the work areas, most notably the existing bus bays on the A66 slip roads at the A66/A67 junction, and the stop on SW bound side of Middleton Tyas Lane. It is anticipated that if these bays are not accessible during the construction phase, suitable alternative locations would need to be found through the ongoing development of the CTMP. The need for this will be added to the CTMP at the next iteration"</i></p> <p>The updated Transport Assessment will be submitted to the ExA at Deadline 2.</p>
ISH2.TT.12	Transport Assessment Appendix F	Cumbria CC	Confirm whether consultation has occurred on the construction traffic diversion routes set out in Appendix F of the TA, in particular, about the use of the A685 as a local construction diversion route. It is assumed any issues you may have will be set out in written submissions.	Question ISH2.TT. 12 is not targeted at the Applicant
ISH2.TT.13	Transport Assessment Appendix F	Durham CC	Confirm whether consultation has occurred on the construction traffic diversion routes set out in Appendix F of the TA, in particular, about the use of Abbey Lane as a local construction HGV diversion route. It is assumed any issues you may have will be set out in written submissions.	Question ISH2.TT. 13 is not targeted at the Applicant

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ISH2.TT.14	Combined Modelling & Appraisal Appendix E Stage 3 Economic Appraisal [APP-241]	Applicant	<p>DfT "<i>Forthcoming change to TAG data book</i>" was announced in October 2022 and was expected to be released in November 2022. Confirm whether this been done and what impact, if any, do these changes have for the appraisal of the scheme.</p>	<p>In considering databook updates, the advice contained within Chapter 1 of 'Transport Analysis Guidance The Proportionate Update Process DfT January 2014' has been noted. Key paragraphs of this guidance state:</p> <p><i>1.3.1 While sound planning of business case development, assisted by the Orderly Release Process, can minimise the cost, resource, and time needed to ensure a business case remains in step with latest evidence, it is nonetheless reasonable for project sponsors to decide what updates to business cases it is proportionate to make when TAG, or other guidance / evidence changes. 1.3.2 The Department expects that such decisions should be made on a scheme by scheme basis, and be based on balancing the need to ensure decisions are based on up-to-date evidence with the need to support decision makers in delivering their programme. This should involve reasonably balancing (a) the greater time, cost, and/or resource needed to deliver programmes, with (b) the quality of the analysis submitted to assist the decision required, including its robustness against potential challenge from all sources.</i></p> <p>Therefore, following submission of the DCO application in June 2022, (based on Guidance released in November 2021 - TAG Databook v1.17) a Full Business Case is planned to be submitted to the Department for Transport in advance of the next DfT approval stage, which is separate to the DCO examination.</p>

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				<p>For the purpose of the Appraisal contained in Combined Modelling & Appraisal Appendix E Stage 3 Economic Appraisal [Document Reference 3.8, APP-241] which was based on TAG Databook V1.17, an assessment of the changes contained within the November 2022 release of the TAG Databook v1.20.1, together with those in TAG Databook v1.18 and TAG Databook v1.19 has been made within Table 1, contained in Appendix 1 of this document and concluded that none of the updates is considered to significantly change the outcomes of the appraisal undertaken.</p> <p>However, what is not included here is the release of NTEM v8 (National Trip End Model) data in May 2022. The DfT NTEM provides growth figures for trips. The forecasts consider population, employment, housing, car ownership and trip rates. For further details of how NTEM v7.2 was used please refer to paragraphs 5.3.1 to 5.3.5 of Combined Modelling & Appraisal Report [Document Reference 3.7, APP-236]. Initial modelling for the Full Business Case has shown that the impact of NTEM v8, has minimal impact on 2029 traffic flow forecasts, but reduces 2044 traffic flows forecasts by around 4%. This is due to lower population forecasts from 2030 onwards within NTEMv8. The overall impact of this drop in traffic (in both Do Something and Do Minimum Scenarios) is to reduce overall Transport Economic Efficiency Benefits by around 3.7%.</p> <p>It is likely that the lower traffic forecasts would result in lower vehicle emissions and lower noise levels as a result of the project from 2030 onwards. Therefore, it is</p>

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				<p>considered that the appraisal undertaken within 3.2 ES Chapter 5 Air Quality [APP048], 3.2 ES Chapter 7 Climate [APP050] and 3.2 ES Chapter 12 Noise and Vibration [APP055] will be based on worst case traffic forecasts.</p> <p>As the Project develops, and as more information becomes available around the Project costs, and also the Project benefits, so the Benefit Cost Ratio (BCR) will be refined. As part of the work to prepare the Full Business Case National Highways is looking to update our valuation of the BCR (across all costs and benefits) to reflect the latest Project costs and applying latest data from TAG.</p> <p>It should be noted that the November 2022 v1.20.1 forecast does not contain all elements promised within the October 2022 Forthcoming Change note, such as the update to A1.3.7 (Fuel and electricity price forecasts) the final forecasts underpinning these values have been delayed, although we expect these to be published imminently (https://www.gov.uk/government/publications/tag-data-book). In addition to this a new version of NTEM is also expected imminently, together with revised 'Road Traffic Forecasts 2022'. As the expected release date is yet to be confirmed, National Highways is yet unable to state definitively if all of these changes will be included within the Full Business Case Appraisal.</p>

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ISH2.TT.15	Walking, Cycling and Horse-riding Proposals [APP- 010]	Applicant	Section 2.1 - National Highways Context. This section sets out how the document " <i>Cycling Strategy, Our Approach</i> " has formed the approach. Confirm whether similar a vision statement for pedestrians and horse riders exists.	National Highways has not published any document similar to " <i>Cycling Strategy, Our Approach</i> " for the purpose of walkers and equestrian users respectively. Please refer to DCO Application Document Walking, Cycling, and Horse-riding Proposals (Document Reference 2.4, APP-010) section 2.2, which references various documents produced in setting the objectives, assessment and review criteria adopted by the Project in the consideration of WCH provision.
ISH2.TT.16	Walking, Cycling and Horse-riding Proposals [APP- 010]	Applicant	Detail the improvements/ betterments in addition to reconnecting existing bridleways, etc. specifically included for equestrians.	Please refer to DCO Application Document Walking, Cycling, and Horse-riding Proposals (Document Reference 2.4, APP-010) which sets out the Project's proposals for the infrastructure features aimed at improving facilities for Walking, Cycling and Horse-riding (WCH) on the local network around the A66. This is with particular reference to section 3 (East-West Connectivity) and section 4 (WCH Design Features). This includes details on the improvements / betterments for equestrians on each Scheme.
ISH2.TT.17	Draft SoCG with Cumbria CC & Eden DC [APP-277]	Applicant	Paragraph 8.1 - HGV parking and service provision across the route – It is understood that design of the laybys will be to DMRB standards and that there is acknowledged demand for improved HGV facilities on the A66. It also states that consideration of such improved facilities lies outside this project. Confirm whether the provision	Within the Order limits, laybys have been provided on the proposed sections of new dual carriageway for short duration stops at intervals that satisfy the requirements of National Highways' design standards. It is not proposed to include new laybys on existing dualled sections of the A66 out with the Order Limits of this project.

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			<p>currently proposed within the Order limits accommodate any part of the acknowledged need for improved facilities along the whole A66.</p>	<p>However, running in parallel with the DCO Examination is a separate nation-wide freight study. Local Highways Authorities will be consulted as part of this study. The aim of the study is to establish what interventions can be undertaken to improve the service National Highways provides for its freight customers.</p> <p>Parking, facilities, information provision and customer insight fall within the scope of the freight study.</p>

3. Appendices

3.1. Appendix 1

Table 1: Appendix 1

Version	Date	Changes from previous version	Impact on A66
November 2022 v1.20.1 (Interim release prior to fuel/energy price update)	Nov-22	Updated Annual Parameters and A5.3.1 with July 2022 OBR Fiscal Risk Sustainability data and November 2022 OBR EFO data	Small changes to Values of Cost and Time. Marginal impact expected on highway assignment
		Updated A1.3.10 to reflect latest bio energy penalty information (relevant to petrol and diesel car only)	minor update to bio-fuel blend information underpinning forecast petrol and diesel fuel efficiency changes in table A1.3.10 of the TAG data book.
		Updated A3.3 liquid fuel emissions factors to reflect latest biofuel blend rates and forecasts	Marginally higher emissions factors -0-4% over long-run (DfT estimate)
		Updated A5.4.7 with latest cycling diversion factors	Not used in A66 NTP Appraisal
		Updated M4.2.2 and M4.2.3 with car costs and car and bus journey times from NTMv2R (NRTP 2022 runs)	Not used in A66 NTP Appraisal
Previous versions (in reverse date order)			

Version	Date	Changes from previous version	Impact on A66
May 2022 v1.19 Forthcoming Change Version	May-22	Updated table A1.3.8 (plus calculations in A1.3.11 and A1.3.12) to reflect latest electric vehicle energy consumption parameter values.	Changes in cost lead to a marginal change in fuel and operating cost of travel averaged between 2019 and 2051, (refer to Tables 5-8, 5-10 and 5-11 of Combined Modelling & Appraisal Report [APP-236]) of circa 5% for business trips, less than 1% change for commute, other, LGV and OGV users. This will have a marginal impact upon traffic growth in the variable demand and the assignment of vehicles within the traffic model.
		Updated table A1.3.9 to reflect latest fleet mix by fuel type forecasts.	
		Updated table A1.3.10 to reflect latest vehicle fuel efficiency improvement forecasts.	
May 2022 v1.18	May-22	Updated Annual Parameters and A5.3.1 with Spring 2022 ONS outturn GDP and inflation data, March 2022 ONS Households data, and March 2022 OBR EFO.	The GDP deflators have been considered to see the change between the v1.18 and v1.20.1 databooks and it is considered to be relatively marginal. The v1.20.1 is around 2% higher for 2023 and 2024, reflecting the current higher inflation, but it slips back again in 2025 and 2026. This GDP deflator change will affect both costs and benefits in real terms, although we are likely to see an increase in PVC as construction inflation is currently higher than the GDP deflator. This will be considered within the Full Business Case submission to DfT
		Updated table A4.1.5 to align approach to uprating over time with road accident values	Minor Change to Values of accident cost
November 2021 v1.17	Nov-21	Databook	Databook used within the A66 Traffic Model