



A66 NORTHERN TRANS-PENNINE PROJECT

Written Representation

Cumbria County Council (Reference No. 20032142) and

Eden District Council (Reference No. 20031846)

18 December 2022

1 INTRODUCTION

Terms of Reference

- 1.1 Cumbria County Council (“CCC”) and Eden District Council (“EDC”) together referred to as “the Councils” and they are two of the host authorities for the National Highways (“NH”) A66 Northern Trans–Pennine Project (“the Project”).
- 1.2 The Project is being progressed by an application for Development Consent by NH (“the Applicant”) that was accepted by the Planning Inspectorate on 19th July 2022. If granted, the Development Consent Order (“DCO”) will permit the dualling of the remaining single carriageway sections of the A66 from the east of M6 Junction 40 (“J40”) at Penrith to Junction 53 of the A1(M) at Scotch Corner.
- 1.3 The Councils have engaged with NH throughout the process and made comments at each stage of public consultation, have attended technical workshops, engaged in the Statement of Common Ground (SoCG) [APP–277], the Principal Areas of Disagreement Summary Statement [AS–001, AS–003] and have submitted Relevant Representation [RR–123].
- 1.4 A summary of the Councils’ Written Representation is provided in Section 3.

The Councils’ Position

- 1.5 The Councils strongly support the principle and benefits of dualling the remaining single carriageway sections of the A66 between Penrith and Scotch Corner as well as the proposed improvements to key junctions along the route. A suitably designed Project will improve connectivity, road safety and journey time reliability all of which will significantly support economic growth aspirations of Eden and Cumbria and specifically:
 - 1.5.1 bolster connectivity to increase accessibility and support inward investment across Cumbria.
 - 1.5.2 better connect Cumbria and its businesses to national and international markets, which includes significant nuclear, manufacturing and energy sector activity centred on west Cumbria and Carlisle; areas which also see pockets of significant deprivation.
 - 1.5.3 bolster resilience of the route and improved safety for all users.
 - 1.5.4 accommodate predicted future traffic flows and the aims of the Northern Powerhouse and Levelling Up agenda.

- 1.5.5 better support local trips, providing improved access to employment, local services and education; and
- 1.5.6 provide better access to support the area's important visitor economy.
- 1.6 Whilst supportive of the principle of the proposed A66 dualling and the significant benefits it can provide; it is also the position of the Councils that there are a number of potentially adverse social, economic, and environmental impacts that require suitable mitigation for the Project to be fully consistent with the policies and objectives of the NN NPS and other relevant policy context. The Councils therefore anticipate that the examination process can be used to clarify impacts and secure additional mitigation to reduce any negative impacts.

2 WRITTEN REPRESENTATION

2.1 M6 Junction 40 ("J40") and Kemplay Bank

- 2.1.1 The Councils have set out in the LIR that the improvements to the above junctions must not only resolve the current delays, particularly at seasonal peaks, but also have sufficient capacity to meet the forecast demands of future traffic growth. The Councils, however, are particularly concerned that the capacity of the existing junctions in Penrith at M6 J40 and the proposed grade separated junction at Kemplay Bank will not accommodate the forecast increase in traffic levels and the potential traffic congestion that could arise around Penrith.
- 2.1.2 The traffic flow assumptions need to be evidenced to provide assurance on the robustness of the forecast capacity demands. A traffic modelling assessment is required to demonstrate to the Councils that the junction designs will provide sufficient capacity for the junctions to operate effectively and accommodate the future traffic flows; and does not result in congestion or delays. The design should also mitigate impacts on loss of connectivity for local communities. We expect that further modelling will be available from NH in due course, following a traffic survey carried out in September 2022. We look forward to reviewing these results to ensure that they address the above concerns.
- 2.1.3 The Councils are quite clear that the improvements to the junctions must not result in the current unacceptable delays and queues at both junctions. They are also concerned that proposed walking and cycling provision at both junctions does not meet the current guidance. It is recommended that the

safety audits carried out through the design process are shared by NH with the Councils, to agree the provision and safety of pedestrians and cyclists at these junctions and for the project as a whole.

2.1.4 Further detail of the above concerns is contained in the LIR.

2.1.5 The Councils expect a clear process to be established with NH involving them in agreeing the final design.

2.2 De-trunking

2.2.1 CCC has shared with NH its De-trunking principles document. Whilst there have been discussions with NH on various matters concerning de-trunking, there is as yet no agreement regarding transfer of assets and their future maintenance

2.2.2 The highway authority will not accept transfer of assets unless there is clear understanding and agreement relating to asset condition, liabilities, remedial works, timing of transfer and funding of future maintenance. There must be an agreement with NH on the principles for asset transfer and the method for assessing and agreeing commuted sum payments agreed as part of the Development Consent Order (“DCO”) process. Work will be needed to implement the de-trunking requirements and it is not yet clear if this will be undertaken by NH or the local highway authority. If the latter, the Councils will require NH to provide funding to enable this work.

2.2.3 The Project, which is at outline design stage, currently includes departures from accepted road design standards that represent a safety risk. These have been assessed by the Councils and the concerns shared with NH. As the Project goes through detailed design stage the Councils must approve any departures relating to the local road network. The division of responsibilities between NH and CCC in its capacity as local highway authority and the design of the interface between the local and strategic networks must be further clarified to the satisfaction of the local highway authority and agreed as part of the consenting process.

2.2.4 The matters set out in paragraph 2.2.2 above and set out in more detail in the LIR need to be agreed through a legal side agreement before the end of the examination.

2.3 Active Travel

- 2.3.1 The Councils have made strong representations on the active travel provision proposed as part of the scheme. Further technical details are contained in the accompanying LIR.
- 2.3.2 Walking, cycling and horse-riding (“WCH”) routes need to be provided in accordance with recognised standards and secured as permanent infrastructure. The Councils must have assurances that any gaps in the current WCH corridor will be resolved in the final design and that the design must be confirmed as acceptable by Active Travel England.
- 2.3.3 The Councils require clarity on the design of routes, proposed statutory status, ownership, suitability, functionality and maintenance responsibility (including a commuted sum for implementation and maintenance); these matters must be resolved to ensure the sustainability of the Project.
- 2.3.4 Where there is a move away from recognised design standards as set out in the LIR these need to be recorded and agreed, together with a safety audit of the detailed design.

2.4 Appleby Horse Fair

- 2.4.1 NH must have regard to Appleby Horse Fair in the design, management and mitigation of the Project.
- 2.4.2 The Councils require that NH engages in dialogue with them regarding:
 - (a) the design of the A66 to optimise access to the fair and management of traffic during the fair
 - (b) the amendment of the Appleby Fair traffic management plan to take account of project impacts, including traffic management, information systems, access routes, parking and stopping places
 - (c) The design of the project to consider the safety of horse drawn traffic during construction and operation, including minimising the need for such traffic to use the dual carriage way, to maximise use of local roads where possible, including appropriate design of de-trunked sections and to manage traffic on the A66 during the Fair to ensure the safety of all road users.

- 2.4.3 If these matters cannot be resolved by the end of May 2023, there needs to be a clear process established involving the Councils to agree the final design.

2.5 Diversions

- 2.5.1 Diversions during both construction and operation of the Project have the potential to impact significantly on local roads and communities. A Route Management Strategy is required to understand the impacts, inform and agree the choice of diversion routes and to identify appropriate mitigation to be delivered and / or funded by NH.
- 2.5.2 The Project presents an opportunity to introduce measures that would improve resilience of the route and driver information, including for example, improved variable messaging systems and better integration and data sharing with local stakeholders.

2.6 Heavy Goods Vehicles (HGVs)

- 2.6.1 The Project will result in increases in the volume of HGV traffic using this part of the A66, with volumes expected to double by 2051 (APP-237 Table 5.34).
- 2.6.2 Current and proposed HGV parking, toilets and services provision is inadequate, and this results in inappropriate parking of HGVs and associated anti-social behaviour, which will be exacerbated by the Project. Therefore, new provision of HGV facilities, including those for female drivers, must be included to complement upgrades to existing facilities.
- 2.6.3 NH has recently commissioned a freight study for the A66, to consider the provision of HGV facilities along the route. The Councils' view, which has been shared with NH, is that the scope of the study must include:
- (a) consideration of the forecast growth in HGV traffic arising from the Project;
 - (b) reviewing the adequacy of existing facilities to meet the HGV/logistics sector requirements and minimising anti-social behaviour
 - (c) identifying the need for additional/improved facilities for HGVs to meet the future demand from increased HGV traffic

- (d) identifying the need for additional/improved facilities to allow for the future changes in the HGV fleet with the transition to electric power or alternative sources of fuel
- (e) developing options for addressing the inadequacies – this could include improving existing facilities, but it could also include provision of new facilities.
- (f) assessing the value for money of the options, including benefits as well as costs, and making recommendations.
- (g) taking account of any growth in traffic on the M6 that would generate demand at the western end of the scheme around Junctions 40 and 41

2.6.4 The Councils welcome the freight study and look forward to engaging with NH in its development. The outcomes of the study must be used to shape the Project and ensure the necessary provision of HGV facilities to avoid adverse impacts arising.

2.7 Socio Economic Impacts

2.7.1 The area is characterised by a tight labour market and a limited supply of accommodation that supports its tourism and hospitality industry. It is important that clear plan for managing impacts, particularly during the construction process, is agreed with the Councils. This is set out in further detail in the LIR.

2.8 Environmental Management Plan (EMP)

2.8.1 The Councils have been in detailed discussions with NH over the development of appropriate mechanisms to ensure maximum benefit from, and to mitigate the impacts of, the Project. Given the overall strategic and local benefits of the Project, the Councils are fully supportive of efforts to deliver the scheme in as timely way as possible and support the aspiration for the Environmental Management Plan (EMP) to be developed so as to capture the wide range of mitigation measures in one single document. This support is on the proviso that the EMP process provides the same safeguards, level of consultation and involvement of the local authorities and CCC in its capacity as local highway authority and certainty with regard to management and mitigation of impacts as would normally be secured through requirements in a DCO.

- 2.8.2 In response to the A66 Section 42 consultation, the Councils identified a number of areas where mitigation was required to minimise negative local impacts and ensure the full benefits of the Project are realised.
- 2.8.3 These were identified as the Council's 'key tests' for the Project and represent the issues of greatest importance to the Council. The key tests are:
- (a) Connectivity: Improving Connections to Local Communities, maintaining north south connections and minimising severance;
 - (b) Key Junction Improvements;
 - (c) De-Trunking of the Existing A66;
 - (d) Active Travel;
 - (e) Network Resilience;
 - (f) Improved Facilities for HGVs;
 - (g) Maximising Socio-Economic Benefits;
 - (h) Construction impacts (including Diversion Routes); and
 - (i) Environmental Mitigation, including drainage.
- 2.8.4 The EMP has a key role in relation to all of the above matters and the Councils are concerned that appropriate safeguards are in place to ensure that as the relevant local planning authority, local highway authority and lead local flood authority they are appropriately engaged during the development, amendment and approval of the EMP
- 2.8.5 Some assessments presented within the Environmental Statement (ES) are not considered to be suitably progressed to the extent that the likely significant effects, that are predicted to be experienced by sensitive receptors within the statutory protection of the Councils, are adequately and appropriately mitigated. This is due to an absence of survey information or design information that would provide certainty about the effect.
- 2.8.6 The Councils reserve their position following discussion at Issue Specific Hearing 2 regarding the suitability of Article 53 and the EMP rather than including the usual requirements in the DCO. In advance of reviewing NH's

revised position (if any) the Councils have concerns regarding the proposed consultation processes in relation to the timescales for response and mechanisms for agreeing potential changes to the EMP. The volume of work involved in reviewing and commenting on the second iteration EMPs will be significantly increased, because they are to be developed on a scheme specific basis rather than as a single document. In summary the Councils would wish to see:

- (a) an extension from 20 working days to 30 working days for the relevant authorities to review information submitted to them; clarity regarding the Councils' involvement when a change to the EMP is proposed and, in particular, in some form of regulatory check being introduced to enable the Councils to have influence over whether a proposed change is referred to the Secretary of State for approval;
- (b) the wording of the DCO changed to make clear that the second iteration of the EMP should be prepared "substantially in accordance with" the first iteration EMP and not "substantially based upon"; and
- (c) more detail and clarity regarding the circumstances in which NH are able to exercise their self-approval powers and ensuring the local authorities are consulted as part of this process.

2.8.7 Within the context of the proposed EMP process the Councils would like to understand how the local planning authority can deal with the enforcement of non-compliance. In particular, the Councils wish to secure reassurance through a response to these representations is in terms of their ability to highlight breaches of the Order and ensure the relevant parties are held accountable and appropriate enforcement is undertaken.

2.9 Environmental Mitigation

- 2.9.1 The LIR, submitted by the Councils, has identified a range of environmental impacts of the Project that need to be effectively mitigated. It sets out the detail of the Councils' requirements and this representation summarises the key points and makes clear what the Council expects to happen to address its concerns.
- 2.9.2 In summary, the Councils believe that some assessments presented within the ES are not suitably progressed to the extent that the significant effects are

adequately and appropriately mitigated. It is essential that all necessary mitigation is identified and secured through the DCO.

Air Quality

- (a) EDC have considered and taken steps to declare an Air Quality Management Area (“AQMA”) on Castlegate in Penrith due to monitored exceedances of the nitrogen dioxide objective level. EDC is statutorily obliged to put measures in place to remove exceedances. It is the intention that an AQMA will be declared on Castlegate in 2023 and the Councils wish to see this aspect considered and taken into account by NH as the scheme is further developed.
- (b) A Scheme Air Quality Action Plan is requested for EDC’s approval prior to the commencement of construction. Potential measures will be included in the Environmental Management Plan (“EMP”) and Traffic Management Plan (“TMP”) and will be based on the standards in DMRB LA 105.

Biodiversity

- (c) Whilst NH has undertaken a number of surveys across the Order Limits, the Councils have concerns that the worst case findings could be insufficiently robust to enable eventual effects to be adequately mitigated.
- (d) There is a particular concern given the likely impacts to the River Eden Special Area of Conservation.
- (e) It is possible that mitigation measures may need to be introduced outwith the Order Limits if such measures cannot be accommodated within them. NH needs to consider how this would be achieved.

2.9.3 The following matters are of interest and concern to the Councils and all points raised are underpinned by the requirement for NH in the Infrastructure Planning (Environmental Impact Assessment Regulations) 2017 to describe the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment. The measures raised by the Councils are also consistent with the requirements of Paragraph 5.36 of the NPS NN which requires applicants to demonstrate how impacts

have been minimised and present how habitats and biodiversity can be enhanced:

Habitats

- Information from the applicant providing a full understanding of the impacts on watercourses is required,
- Further detail is required to enable a full assessment of impacts arising from attenuation ponds.
- The mitigation and enhancement for the River Eden SAC must be clearly referenced to the site restoration/enhancement objectives.
- The Councils would require the findings and conclusions of the Habitat Regulations Assessment and Water Framework Assessment to lead and inform the development of the EMP and Landscape and Ecological Management Plan.
- The Project will need to demonstrate 'nutrient neutrality'.
- The results of all National Vegetation Classification surveys completed should be provided in order to ensure adequacy of the proposed mitigation.
- Greater detail is required on what habitat (and associated condition) is expected to be lost in the Skirsgill Wood County Wildlife Site ("CWS"), Chapel Wood CWS, Ancient semi natural woodland County Site and Graham's Gill/Jack Wood Plantation on Ancient Woodland and reasons why the loss cannot be avoided?
- Tree, scrub and hedgerow species mixes for planting appear to be appropriate for mitigation (and enhancement), but the Councils would expect to see details of other measures (e.g., grassland seed mixes) at a later stage in the DCO process to ensure mitigation measures are appropriate throughout.
- Species-rich marsh/rush grassland (for example: around unnamed tributary of Mire Sike 6.12), as recorded in detail in the River Corridor Survey are high priority/high value communities. The Applicant must

explain why these areas cannot be fully retained and maintained as part of the design?

- The Councils would wish to see proposals to identify species rich grassland developed in future iterations of the LEMP prepared during the Examination.
- The non-targeted use of herbicides should be avoided (rather than just "where possible"), to avoid long term effects on pollinators.

Species

- More information must be provided on the surveys completed to date to determine their adequacy.
- The existing proposed mitigation should be reviewed when the detailed Project design is available and future iterations of the LEMP should provide this assurance.
- Confirmation is required that Natural England have agreed to mitigate for great crested newts through a District Level Licence, which can reduce the survey requirement. This must include clarity on which areas of land are proposed to be used for compensation and enhancement.
- Red squirrels: the time lag between loss of existing habitat during construction and mitigation planting being established must be satisfactorily addressed.

- 2.9.4 The Councils have identified two examples (not exhaustive) of environmental mitigation that they require NH to fund. These are: the continuation of the Get Cumbria Buzzing project, and the provision of a wildlife officer to protect the red squirrel population from the invasive non-native grey squirrel. It is expected that this mitigation will be secured thorough funding through a legal side agreement with NH to satisfy the policy requirements of paragraph 5.23 of the NPS NN.

Climate

- NH should use the multi-sector industry wide standard guidance document for the assessment of greenhouse gas emissions published by the Institute of Environmental Management and Assessment – the ‘EIA Guide to Assessing Greenhouse Gas Emissions and Evaluating their Significance’.
- The Councils would like NH to support local opportunities to mitigate the carbon emissions associated with the construction phase of the Project.

Cultural Heritage

- NH must undertake a holistic assessment of the archaeological survey results to allow real understanding of the nature, depth and importance of the archaeology that is likely to be present within the Order Limits.
- Detailed and appropriate mitigation must be put in place to ensure that archaeological assets are appropriately recorded before being lost, to ensure compliance the approach required of NH as applicant in Paragraph 5.140 of the NPS NN.
- Significant officer time will be required in the review of the Written Scheme of Investigations for archaeology which could delay the delivery of the Project. NH funding for additional officer resource to discharge this function is therefore requested and should be secured through a legal side agreement.

Geology and Soils

- A commitment is required from NH in the EMP that they will engage with the Councils to ensure that disposal of fill material is only permissible once all opportunities for re-use have been exhausted.
- It is agreed that the risks to human health and groundwater from the Scheme are not significant but suitable management of the risks must still be secured through the EMP.
- NH should demonstrate to how they are to offer enhancement measures that allow safe access to features of geological interest within the UNESCO Global Geopark.

Landscape and Visual

- The visual appearance of the area needs to be sensitively considered in the design of the project, given the geographic context in which the road sits, that is, two national parks a World Heritage Site and an AONB. The impression give to users of the road will have important impacts on our tourism economy which is very important to the area.
- Strong visual features that are present within the Order Limits, such as distinctive vegetation and mature tree belts, that are to be lost must be clearly identified along with the mitigation that will be put in place.
- The Applicant should provide details that show how vegetation outwith the Order Limits will be protected. This is of particular note at Skirsgill and at Wetheriggs Park and also in the area of Tree Preservation Orders (TPO) to the north of the alignment of the A66 as shown on Application Document 5.24
- The assessment within the ES refers to 'important views' (10.9.7) but there is no definition of what constitute an important view. Similarly, there is no definition of what constitutes a 'specific' viewpoint. These should be defined.
- Overbridge structures will be prominent features in the landscape in the Temple Sowerby to Appleby Scheme. The Councils require that an illustrative drawing of their appearance along with a material palette should be provided and secured through the Landscape and Ecological Management Plan so that their appearance can be clearly assessed.
- Whilst the bridges will be a key component of defining the aesthetic appearance of the route, the multitude of smaller structures e.g. signs, barriers and lighting columns will also have a noticeable visual impact especially when seen in close proximity to each other.
- The Councils require meaningful engagement in the design process for this new infrastructure, which will have a marked impact on the landscape and people's perception of the locality. Clarity on how these details are consulted on, agreed and approved is essential.

Minerals and Waste

- NH should demonstrate that they are making maximum use of site-won materials rather than importing materials from alternative sources.
- The landfills that will be used for disposal of material should be identified within a future iteration of the Site Waste Management Plan in order for the Councils to identify and ensure that capacity for other uses is not compromised.

Noise and Vibration

- The ES identifies that construction noise levels in certain locations will be significant and NH needs to show how they will be mitigated.
- The Councils need to see an updated assessment to identify what these noise impacts will be with mitigation applied.
- The Councils are concerned that no noise barrier is currently proposed for the Kirkby Thore area due to engineering constraints. The Councils would wish to see a detailed assessment of why such a barrier has been discounted as a viable option.
- The Councils are concerned that future iterations of the Noise and Vibration Management Plan will be approved by NH. As noise levels could have significant effects upon human health during the construction phase of the Scheme, the Councils require future iterations to be subject to external approval to ensure that mitigation measures are appropriately provided.

Road Drainage and the Water Environment

- The mitigation detail for drainage and water is lacking, with the Applicant stating that it will become available at the detailed design stage. The Councils are concerned that future iterations of the EMP may not be subject to the approval of the Councils, and this is of particular concern given the extent to which mitigation detail is deferred.
- The designs and principles for road drainage and water are not satisfactory, in particular aspects around the use of sustainable urban drainage principles, approach to storage ponds, mitigation for flooding, culvert

design, loss of habitats around watercourses and the responsibilities and costs of future maintenance.

Wetheriggs Country Park

- It is important that a detailed plan is prepared and agreed with the Councils that identifies the impacts on this area and the most appropriate layout and mitigation. The site is seriously affected by additional land take, removal of trees, change to the environment of the area and potential loss of sports pitches and associated informal facilities. The site adjoins the urban area with sensitive receptors including sheltered housing, residential areas and a hotel. The Councils require an opportunity to work with NH on a detailed plan for the area, that should be implemented through the DCO.

Compounds and Pre DCO applications

- Early clarity must be provided on the locations of compounds based on proper consideration of impacts and identification of mitigation and related land requirements. The Councils understand that NH is seeking advanced approval through the Town and Country Planning Act 1990 process and to ease this some certainty on agreement of impacts and mitigation would provide reassurance that these applications are relevant and in line with likely eventual outcome of the DCO.

2.10 Draft Development Consent Order

2.10.1 Article 3(1)(b) – Disapplication of Section 23 of the Land Drainage Act 1991

The application does not include the design details of watercourse crossings. Without this detail in the draft DCO (dDCO) [APP-285] there is no means to secure the designs of the watercourse crossings in the DCO itself. The design is constantly being changed and is already out of the date. The Councils cannot agree to the disapplication of the Land Drainage Consent process (a prescribed consent) unless this detail is included in the application or a legal side agreement is entered into requiring approval of details.

2.10.2 Article 19 – Compulsory Acquisition of Land

Article 19 onwards – Part 3 of the dDCO [APP-285] deals with powers of compulsory acquisition. In relation to land and rights required of the

Councils, the Councils would expect both protective provisions to be included in the DCO to protect its operational land and a legal side agreement with NH for voluntary acquisition of these rights and any requirement for the need for temporary possession of the Councils land.

Whilst CCC is supportive of the Project, it is unclear from NH as to the need for the extent of permanent or temporary land take particularly in relation to operational CCC land.

Skirsgill Depot

NH has identified essential operational land at Skirsgill for permanent land take including part of CCC's Highways Depot which services the majority of Cumbria's highway network including essential maintenance and gritting provision.

NH's intentions to date include the provision of a new access from CCC non-operational land into the operational Skirsgill site and NH's proposed compound. CCC has made numerous attempts to agree heads of terms for a lease for the compound and access on the non-operational land between the A66 and the Skirsgill site. To date despite NH appointing the valuation office agency to negotiate a lease of the proposed compound area and arrangements for the access, no meaningful progress has been made despite CCC making attempts to engage with NH. The relevant plots are 0102-01-43, 0102-01-29, 0102-01-38, 0102-01-31, 0102-01-30, and 0102-01-28 [AS-013].

CCC also has concerns that NH will close either temporarily or permanently its emergency exit from the Skirsgill Depot onto the southbound carriageway to the M6 as the access is included in Plot 0102-01-23 [AS-013] which is essential should the only other access/ egress onto the A66 become blocked/ closed.

The area of land included in Plot 0102-01-43 [AS-013] includes 2 offices known as the Eamont Building and Block N. These buildings provide accommodation for vital statutory safeguarding services for both vulnerable adults and children throughout Cumbria. NH has previously indicated that they were going to take these offices on a permanent basis despite its intended future use being on a temporary basis by NH throughout the construction phase of the Project. CCC strongly objects to such land being

taken either on a temporary or permanent basis as it has no alternative suitable options to relocate these vital statutory services.

CCC requires NH to clarify why it intends to only temporarily acquire Plot 0102-01-46 [AS-013] when the surrounding land is required by NH on a permanent basis. The temporary acquisition effectively severs CCC's land.

Kemplay Bank

CCC is unclear as to why NH intends to permanently acquire Plot 0102-02-44 [AS0-13] and the entirety of Plot 0102-02-47 [AS-013]. CCC (in particular Cumbria Fire and Rescue Service) has development proposals to build an essential county wide fire and rescue training and storage facility to the North of Plot 0102-02-47 [AS-013] and parts of Plot 0102-02-44 [AS-013]. After a 10 year search for suitable land across the county, this land has been identified as the only option to provide this facility for the county's Fire and Rescue service. CCC understand that NH potentially want to diver a sewer under this land and CCC requires clarity as to whether alternative diversions have been explored and whether their development aspirations on this land can still be achieved with the sewer diversion in situ. CCC would welcome some meaningful dialogue with NH to resolve this concern.

Fire Station

CCC is deeply concerned regarding the temporary and permanent acquisition of all the land where the access roads are situated as it represents the only access into the Fire Station. The Fire Station is also used as the Emergency Planning Headquarters for Cumbria in the event of any natural disaster and/or significant events in the county and therefore access to the Fire Station needs to remain unfettered and uninterrupted 24 hours per day. The Plot references relevant to the Fire Station and its access are Plots 0102-05-49 0102-02-51, 0102-02-55, 0102-02-56, 0105-02-59 and 0105-02-61 [AS-013].

2.10.3 Article 40(6) – Handover procedure for de-trunking

Article 9(5) of the dDCO [APP-285] refers to a date of de-trunking of roads listed in Schedule 7 to be set by NH on "such date as the undertaker may determine, unless otherwise agreed in writing with the local highway authority". CCC will only agree to a handover date for the de-trunked sections of highway when all due diligence has been undertaken, remedial repairs,

alteration, conversion and improvement works (if these are to be undertaken by NH rather than CCC – this has not yet been agreed) have been completed to the reasonable satisfaction of CCC which would include the removal of redundant assets (cables, services, plant and equipment or for funding to be made available to CCC to do this). The process and procedure for engagement between NH and CCC needs to be clearly set out in detail and secured through a legal side agreement. CCC requires further details to be provided in relation to the proposed areas to be de-trunked and CCC needs to be able to adequately evaluate the current condition, remedial works needed and who is to undertake these works secured through the legal side agreement. Until this time CCC does not agree with NH having the ability to determine the date of de-trunking in the dDCO.

2.10.4 Article 52 – Consents, agreements and approvals

Article 52(3) of the dDCO [APP-285] makes provision for consent, agreement or approval to be deemed if the relevant authority has received an application and fails to notify NH of its decision before the end of the period 28 days beginning with the date on which the application was received. Due to the scale of this Project, 28 days is too short a period for the Councils to consider any applications. The Councils would concur with the ExA in their First Written Questions at ISH2.DCO.16 that a 42 day period is a more reasonable period for consideration of the applications before deemed consent is provided and that Article 52 should be updated accordingly.

2.10.5 Article 53 – Environmental Management Plan

Article 53 of the dDCO [APP-285] effectively replaces the usual Requirements contained in the Schedule to a DCO and the Councils reserve their position to make further representations on the effectiveness of the EMP until a further draft DCO is submitted by NH at Deadline 2 and the Councils have had the opportunity to review the proposed amendments.

However, the Councils fundamentally have concerns regarding the self-approval process contained in Article 53 (4) and (5) whereby once the Secretary of State has approved the second iteration EMP, NH can make amendments to the EMP if they are “substantially in accordance with the relevant second iteration of the EMP that has been approved by the Secretary of State...and would not give rise to any materially new or materially worse

adverse environmental effects in comparison with those reported in the environmental statement”.

The Councils have concerns that there is no regulatory control/ checking mechanism to determine whether or not a proposed change from NH was such that it could legitimately be self-approved by NH or it had to be submitted to the Secretary of State for approval. In Issue Specific Hearing 2, there was discussion on this issue and the Councils seek assurance from NH that there will be a regulatory check requiring NH to notify the Secretary of State that a proposed change to the EMP was contemplated and to receive a determination from the Secretary of State as to whether this was agreed and if not, direction given to NH to submit the proposed amendments to the Secretary of State for approval.

EMP and the Site Specific Written Schemes of Investigation (SSWSI)

As previously stated the Councils are uncertain as to what mitigation measures are proposed and will be implemented prior to construction of the Project. The Councils therefore welcomes NH’s confirmation in Paragraph B3.3.5 of Annex B3 to the EMP [APP-023] that no works shall take place until the Local Authority is in agreement to the SSWSI for each site or group of sites. However, the draft DCO makes no reference to these SSWSIs being included as a requirement or in the EMP and the Councils therefore do not understand the process by which they are secured.

2.10.6 Article 54 – Detailed Design

Article 54(1) of the dDCO [APP-285] requires that “Subject to Article 7 (limits of deviation) that the authorised development must be designed and carried out so that it is compatible with (a) the design principles, (b) the works plans and (c) the engineering section drawings; plan and profiles and the engineering section drawings; cross sections”.

Whilst the Councils are content with the level of detail for the works, the Council are not satisfied with the level of detail in the environmental surveys, assessment assumptions and therefore mitigation that NH has put forward as part of the application.

The information should have been available to public and stakeholders. Clarity needs to be given to the mechanism by which adequate and



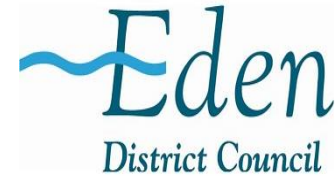
appropriate engagement and consultation takes place in lieu of the normal statutory consultation process.



3 SUMMARY OF WRITTEN REPRESENTATION

A summary of the suggested changes and requests set out in this Written Representation and the Councils other Deadline 1 submissions are provided for in the following table:

TOPIC	SUMMARY OF SUGGESTED CHANGES AND REQUESTS
M6 J40 and Kemplay Bank	<ul style="list-style-type: none"> • Further traffic modelling assessment is required to demonstrate that the junction designs in Penrith at M6 J40 and at the proposed grade separated junction at Kemplay Bank will provide sufficient capacity for the junctions to operate effectively and accommodate the future traffic flows; and not result in congestion or delays. • Safety audits carried out through the design process must be shared by NH with the Councils to agree the provision and safety of pedestrians and cyclists at these junctions and for the project as a whole
De-trunking	<ul style="list-style-type: none"> • Transfer of de-trunked assets to the local highway authority cannot take place unless there is clear understanding and agreement with NH relating to asset condition, liabilities, remedial works, timing of transfer and funding of future maintenance. • All departures from design standards relating to the local road network must be agreed by the Councils.
Active Travel	<ul style="list-style-type: none"> • WCH routes need to be designed in accordance with recognised standards • The design of routes, legal status and future maintenance must be clarified and agreed
Appleby Horse Fair	<ul style="list-style-type: none"> • NH must have regard to Appleby Horse Fair in the design, management and mitigation off the Project
Diversions	<ul style="list-style-type: none"> • A Route Management Strategy is required to mitigate for diversion impacts resulting from the Project



TOPIC	SUMMARY OF SUGGESTED CHANGES AND REQUESTS
Heavy Goods Vehicles (HGVs)	<ul style="list-style-type: none"> • Current and proposed inadequate HGV parking, toilets and services provision must be addressed by provision of new and additional HGV facilities, including those for female drivers, as well as upgrades to existing facilities. • The outcomes of the current freight study, being conducted by NH must be used to shape the Project, thereby ensuring the necessary provision of HGV facilities and avoiding adverse impacts arising.
Socio Economic	<ul style="list-style-type: none"> • A need to consider and mitigate impact on the local labour market and local accommodation
Environmental Management Plan (EMP)	<ul style="list-style-type: none"> • An extension to the timescales to provide the relevant authorities with 30 working days to review information submitted to them in relation to the EMP together with clarity regarding the Council’s involvement when a change to the EMP is proposed; • more detail and clarity regarding the circumstances in which NH are able to exercise their self–approval powers and ensuring the local authorities are consulted as part of this process.
Environmental Mitigation	<ul style="list-style-type: none"> • Updated environmental assessments presented to ensure that the scheme’s significant environmental effects are adequately and appropriately mitigated. It is essential that all necessary mitigation is identified and secured through the DCO. (More detail is contained in the LIR). • A Scheme Air Quality Action Plan to be developed and submitted for the local authority’s approval prior to the commencement of construction. • A mechanism needs to be provided that enables mitigation measures to be introduced out with the Order Limits if such measures cannot be accommodated within them. • financial support for additional officer resource to carry out archaeological assessments and to discharge local authority functions with regards to the historic environments impacted by the Project; • a commitment in the EMP that NH will engage with the Councils to ensure that disposal of fill material is only permissible once all opportunities for re–use have been exhausted.

TOPIC	SUMMARY OF SUGGESTED CHANGES AND REQUESTS
	<ul style="list-style-type: none"> • an illustrative drawing of the appearance of over bridges along with a material palette to be provided and secured through the LEMP so that their appearance can be clearly understood. • the landfills that will be used for disposal of material to be identified within a future iteration of the Site Waste Management Plan in order for the Councils to identify and ensure that capacity for other uses is not compromised. • Updated and more comprehensive designs and principles for road drainage and water, in particular detailing the proposals for the use of sustainable urban drainage principles, approach to storage ponds, mitigation for flooding, culvert design, loss of habitats around watercourses and the responsibilities and costs of future maintenance. • Wetheriggs Country Park---a detailed masterplan must be agreed between the Councils and NH.
Disapplication of the Land Drainage Consent	<ul style="list-style-type: none"> • Further detail to be provided to the Councils to make Article 3(1)(b) to be acceptable or a legal side agreement for the design detail to be submitted at a later stage subject to the consent of the Councils
Compulsory Acquisition	<ul style="list-style-type: none"> • Protective provisions to be included in the DCO to protect CCC's operational land and a legal side agreement with NH for voluntary acquisition of land/ rights either on a temporary or permanent basis
De-trunking and handover	<ul style="list-style-type: none"> • Date of de-trunking and details to be agreed/ condition of assets/ commuted sum to be provided through a legal side agreement
Deemed consent	<ul style="list-style-type: none"> • Timescale to be amended in Article 52 from 28 days to 42 days
Article 53 - Self Approval	<ul style="list-style-type: none"> • The Councils seek assurance from NH that there will be a regulatory check requiring NH to notify the Secretary of State that a proposed change to the EMP was contemplated and to receive a determination from the Secretary of State as to whether this was agreed and if not, direction given to NH to submit the proposed amendments to the Secretary of State for approval



TOPIC	SUMMARY OF SUGGESTED CHANGES AND REQUESTS
EMP	<ul style="list-style-type: none">• The Councils welcome NH's confirmation in Paragraph B3.3.5 of Annex B3 to the EMP [APP-023] that no works shall take place until the Local Authority is in agreement to the SSWSI for each site or group of sites. However, the draft DCO makes no reference to these SSWSIs being included as a requirement or in the EMP and the Councils therefore do not understand the process by which they are secured.
Design Detail	<ul style="list-style-type: none">• The Council are not satisfied with the level of detail in the environmental surveys, assessment assumptions and therefore mitigation that NH has put forward as part of the application. NH to confirm the further detail to be submitted to allow the application to be determined.• Clarity needs to be given to the mechanism by which adequate and appropriate engagement and consultation takes place in lieu of the normal statutory consultation process when the design detail is known.