

Issue Specific Hearing 2

Supplementary Agenda Additional Questions

This document relates to an application for a Development Consent Order ('DCO') made on 21 June 2022 by National Highways (the 'Applicant') to the Secretary of State for Transport via the Planning Inspectorate ('PINS') under section 37 of the Planning Act 2008 (the 'PA 2008'). If made, the DCO would grant consent for the Northern Trans-Pennine Project between M6 Junction 40 at Penrith and the A1 junction at Scotch Corner (the 'Project').

The purpose of this document is to set out Cumbria County Council ('CCC') and Eden District Council ('EDC') singular or joint ('Councils') responses to the Examining Authority's ('ExAs') Supplementary Agenda Additional Questions issued on 22nd November 2022.

No.	Subject	Response by	Question	Councils' 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 been brought forward and if so, whether there are any implications for the assessment undertaken.	
ISH2.AQ.02		Applicant and Eden DC	In respect to paragraph 5.7.6, provide an update as to the potential future AQMA at Castlegate, Penrith.	Based on a detailed assessment, EDC's executive approved the declaration of AQMAs in December 2013 for A6 Victoria Road and A592 Castlegate in Penrith and the A6 through Eamont Bridge. Before the AQMA Order could be made, there was a significant drop in the monitored and predicted nitrogen dioxide annual mean levels across all three sites, due to improvements in vehicle design and emissions. Since then Victoria Road and Eamont Bridge have stayed well below the Objective Level of 40ug/m ³ of nitrogen dioxide but Castlegate levels have begun to increase

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				again. EDC is now in the process of addressing air quality on Castlegate and installed continuous monitors in 2021 to establish the extent of the potential AQMA. It is likely that the AQMA will be declared and come into force in 2023.
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.	
ISH2.BIO.02		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> ”. 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	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>Although we have no record of being consulted on the methodology, we are satisfied that it follows established guidance. The list of developments remains valid, and we are satisfied with the assessment of effects.</p> <p>The developments listed under ‘Local Authority’ as CCC should correctly be recorded as EDC (Eden District Council). Cumbria County Council (CCC) is the minerals and waste planning authority for Cumbria</p>

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				and has provided a list of relevant applications to the Applicant on 15/12/2022.
DRAFT DCO [APP-285]				
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 confirmation as to whether the three listed Acts are still in force. 	
ISH2.DCO.02	Article 4 (development consent etc..)	Applicant	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.	
ISH2.DCO.03	Article 5 (maintenance)	Applicant	Should the Article be subject to the provisions of Articles 7 and 9?	
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 set out in Article 3 (disapplication of legislative provisions)	

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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.	
ISH2.DCO.06	Article 12 (access to works)	Applicant	Confirm that this Article should form “associated development” for the purposes of Schedule 1.	
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.	
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.	
ISH2.DCO.09	Article 22 (CA rights and restrictive covenants)	Applicant	The ExA considers that explanatory 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.	
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.	

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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.	
ISH2.DCO.12	Article 26 (application of the 1991 Act)	Applicant	The ExA considers that Explanatory Memorandum paragraph 8.18 should explain why the drafting this Article " <i>takes into account the Housing and Planning Act 2016</i> ". Update the Explanatory Memorandum accordingly with further justification.	
ISH2.DCO.13	Article 29 (temporary use of land)	Applicant	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 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 "His Majesty".	
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.	
ISH2.DCO.16	Article 52 (consents, agreements etc)	Applicant	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.	

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ISH2.DCO.17	Schedule 1	Applicant	The Applicant is asked to review the term “ancillary works” both in the Schedule and the EM. The ExA considers that the term is essentially the same as “associated development”. 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.	
ISH2.DCO.18	Schedule 7	Applicant	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 road classification numbering to the west of the A1 which usually adopts the B6... sector convention. Confirm that this number been approved by DfT	As the local highway authority, CCC have not been consulted nor been involved in the exercise of requesting road numbers from DfT on behalf of the Project. CCC do not believe that this is the appropriate stage in the process to do so and request that the numbering of new roads is removed from all the Schedules in the draft DCO.
ISH2.DCO.19		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.	CCC does not believe that the point indicated in Schedule 7 for the B1066 is a suitable point to start a classified road. CCC confirms that it would be more appropriate to connect to the existing junction on B6276.
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 eastbound off slip of the A66. Confirm whether this would need to be revoked as this is intended to become a two-way B1066.	

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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.	EDC has no formal agreement with the Applicant on this matter but is nonetheless satisfied that an appropriate proportion of ALC surveys has been undertaken. We would expect those areas not yet surveyed to be surveyed prior to completion of the DCO Examination. CCC does not have a separate view on this matter and supports the comments from EDC
LANDSCAPE AND VISUAL				
ISH2.LV.01	ES Chapter 10 Landscape and Visual [APP-053]	Applicant	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. 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> 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.	
ISH2.LV.02		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.	

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ISH2.LV.03		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 affect the scope and assessment within the ES.	
ISH2.LV.04		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, together with the overall significance of effect.	
ISH2.LV.05		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.	
ISH2.LV.06		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.	
POPULATION AND HEALTH				
ISH2.PH.01	ES Chapter 13 Population and Human Health (APP-056)	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?	
ISH2.PH.02		Applicant	In response to paragraph 13.5.3, confirm whether data was collected after 2019/20 to verify assumptions used in	

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			the analysis of effects on PROW, open space and community facilities usage.	
ISH2.PH.03		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.	The absence of any baseline data on WCH usage of PROWs does present an issue in so far that the Applicant has not yet quantified the distance of each proposed diversion. Therefore, the Councils are being asked to comment upon the adequacy of PROW diversions without having any information on who uses these PROWs and how far they will need to travel. The Applicant's assessment is based upon the mitigation of a PROW for "a reasonable alternative distance" but without this distance being identified, or the use of the path being known, the Councils cannot agree that the analysis is robust. The Councils' concerns could be addressed through provision of a design and quantification of the duration and distance of PROWs affected by the Project.
ISH2.PH.04		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.	The approach adopted to improve the east-west connection in the walking, cycling and horse-riding provision is unsatisfactory. The provision is not continuous, with gaps in the network to the east of Kemplay Bank and to the west of Coupland. This creates a severance of the east-west route and threatens the viability of the intention of this strategic provision. There are also concerns with the standard of the proposed active travel infrastructure. Provision at Junction 40, Kemplay Bank Roundabout and the de-trunked A66 is not compliant with LTN 1/20 best practice. The proposals as they stand, would create an

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				<p>unattractive and undesirable route for pedestrians and cyclists.</p> <p>Some of the proposals require further information before they can be deemed appropriate. For example, the permitted usage and standard of the proposed cycle track and private means of usage is not clear, and detail of widths and surfacing should be provided. There is also a need to clarify the provision detail and the level of separation to be provided between pedestrians, cyclists, equestrians and vehicles for the numerous crossing points of the A66 (bridges, underpasses etc). The responsibility and arrangements for future maintenance is also unclear.</p>
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 to recommend 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.	
ISH2.PH.06		Applicant	MW-PH-03, comment on whether Brough Hill Fair be included in this Commitment.	
TRAFFIC AND TRANSPORT				
ISH2.TT.01	Transport Assessment (APP-236)	Applicant	In Section 81. 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.	
ISH2.TT.02		Applicant	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.	

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ISH2.TT.03		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.	<p>In the absence of traffic counts in the summer months for vehicles travelling to and from Center Parcs provided by the Applicant, we would require further justification in relation to a peak of 800 vehicles used in the assessment period. In addition, further justification is required from the Applicant to justify the assessment period being 15.00 to 16.00, particularly when combined with traffic travelling to other major tourist destinations along the A66 such as the Lake District, on a Friday afternoon during the summer months.</p> <p>Traffic counts on the A66 from National Highways' Webtrix website (which is a traffic count database) show a significant increase of traffic on the A66 on a summer Friday compared to midweek days (circa 20% increase).</p>
ISH2.TT.04		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.	
ISH2.TT.05		Applicant	In respect to paragraph 9.3.6, confirm whether the accident rates derived for the existing A66 similar to other trunk roads.	
ISH2.TT.06		Applicant	Tables 9.6 and 9.7, Clarify why the scheme would lead to an increase in some cases of both accidents and casualties?	
ISH2.TT.07		Applicant	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.	

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ISH2.TT.08		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.	
ISH2.TT.09		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.	
ISH2.TT.10		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 consequential implications for the construction traffic modelling undertaken.	
ISH2.TT.11		Applicant	Paragraph 11.8.4 does not mention bus stop on Middleton Tyas Lane that will be affected by Scheme 11 works. Clarify whether this be included in consideration of CTMP.	
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.	The description of diversion routes in Appendix F of the TA [APP-236] is similar to the plan referenced in the Construction Traffic Management Plan [APP-033]. Appendix 12.9 [APP-120] was shared with CCC in September 2021 during a call to provide an overview for the Councils. No further details have been provided since that time. The statutory consultation did not include this plan.

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				The LHA have undertaken their own assessment of potential diversion routes and shared the findings with the Applicant in April 2022. This includes the proposal to use the A685 as a local diversion route. This is referenced in the Councils' Local Impact Report.
ISH2.TT.13		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.	
ISH2.TT.14	Combined Modelling & Appraisal Appendix E Stage 3 Economic Appraisal (APP-241)	Applicant	DfT "Forthcoming change to TAG data book" 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.	
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 "Cycling Strategy, Our Approach" has formed the approach. Confirm whether similar a vision statement for pedestrians and horse riders exists.	CCC have not seen nor been consulted on a vision statement for horse riding included as part of the Application. CD 143 Designing for walking, cycling and horse-riding should be considered for design advice.
ISH2.TT.16		Applicant	Detail the improvements/ betterments in addition to reconnecting existing bridleways, etc. specifically included for equestrians.	
ISH2.TT.17	Draft SoCG with Cumbria CC &	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	CCC's assessment in October 2021 confirmed that there is currently insufficient provision of HGV parking and driver facilities on the A66 (both in terms of laybys

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	Eden DC (APP-277)		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 currently proposed within the Order limits accommodate any part of the acknowledged need for improved facilities along the whole A66.	and official parking sites). Growth (expected to lead to a doubling) in HGV flows in both directions will exacerbate this shortfall in both quantity and quality of suitable HGV parking spaces and driver facilities. Additional/enhanced layby provision will be of some benefit but there will remain an increasingly severe shortage of safe places with basic facilities for drivers (including female drivers) to park up for both breaks from driving and for daily/weekly rest periods. In coming years, as HGV fleets transition away from conventional diesel vehicles to battery electric (and other fuel types), recharging requirements, due to limited ranges, will further exacerbate the need for suitable HGV driver facilities on the A66.