

# APPLICATION BY NATIONAL HIGHWAYS FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE A66 NORTHERN TRANS-PENNINE PROJECT

Submission on behalf of Cumbria & Lakes Joint Local Access Forum in accordance with Deadline 1 (18 December 2022).

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This representation is from the Cumbria and Lakes Joint Local Access Forum (C&LJLAF). The C&LJLAF is a statutory body with its members appointed by the Lake District National Park Authority and Cumbria County Council under the Countryside and Rights of Way (CROW) Act 2000.

The statutory function of local access forums is to advise as to the improvement of public access to land in the area for the purposes of open-air recreation and the enjoyment of the area. As successors of Highways England and The Highways Agency, National Highways is one of the bodies to which s94 of the CROW Act 2006 makes it a statutory function of local access forums to advise.

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## Summary

This representation addresses issues relating to the provisions to be made for pedestrians, horse riders and pedal-cyclists (that is none-motorised users) arising from the sections of project that are in Cumbria, (that is sections 0102, 03, 04, 05 and 06); and how those public access provisions are represented in the Draft Consent Order, on the associated Rights of Way and Access Plans (library documents APP-342 to APP-345), and in the Walking, Cycling and Horse Riding proposals (WCH) (library document APP-010). And in particular it addresses some aspects of apparently inconsistent depicting of public access provision, especially as it relates to multiple use and use of private access roads; and the lack of east-west provision for off-carriageway horse-riding. [118]

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1. At library document PDL-031 this local access forum sought initially absent provision of east-west connectivity for non-motorised traffic, and suggested that sections of hitherto private access provision should be also made available for public use. That those suggestions have been adopted in some measure in the current Draft Consent Order (DCO) is welcomed.
2. The local access forum is aware that making previously proposed private / landowner access roads provision into access that is shared with members of the public is not supported by all landowners for security and safety reasons, and it is hoped that those concerns can continue to be worked through to the satisfaction of all interests.
3. However, some aspects of that east-west provision remain unclear. The WCH document refers throughout to 'proposed shared cycleway/ footway'; but the DCO Part 1 refers with reference to Scheme 0102 to provision of 'new shared cycleway'; but at Scheme 03 the terms 'new cycle track' or 'new cycleway' are employed (with no reference to 'shared') is used in some locations, and 'new shared cycleway' continues to be referenced in others. Since the WCH uses a term that doesn't feature in the Order, and at least three different terms are used in the Order do we assume that they mean different things – different forms of way for pedal cycles: some that will be shared by pedestrians and some that will not? Or has there been some 'untidy' or inconsistent referencing of terms relating to pedal-cycle provision?
4. It is realised that by reference to s329 Highways Act 1980 definitions of 'cycle track' and 'cycleway' are included in the Interpretation section of Part 1 of the DCO, but there is no definition of 'shared cycleway / footway' or of 'shared cycleway'. By definition a 'cycleway' is a way shared with pedal-cycles and pedestrians, so we wonder why the term 'shared' has been added in the text of the DCO? We wonder which other classes of user a 'shared cycleway' may

be shared with? Those terms need to be clarified.

5. Also, the definition of 'cycle track' is referenced to the definition contained in s329 Highways Act 1980. But that definition is not definitive concerning rights on foot.
6. Reassurance is sought that the whole of the new east-west provision for non-motorised users will be for pedestrians and pedal-cyclists, and for users with limited mobility and aided by trampers ...
7. ... and why not also for horse-riders?
8. It is regretted that, despite its apparently all-embracing title, and the Walking, Cycling and Horse Riding document's frequent references to horse riders, it includes little or no new provision for east-west connectivity for horse-riders ... and this lack is carried through to the DCO. It verges on the disingenuous that Map 1 at Appendix A of the WCH document, though titled *Walking, Cycling and Horse Riding Overview*, features no provision for horse riders. Indeed it specifically notes that the map relates to '... these new walking and cycling routes'. This general failure of the WCH to acknowledge the needs of horse-riders is reflected in the DCO. We understand that the British Horse Society continues to try to have this general oversight addressed and we ask the applicants to respond positively to that.
9. An issue which was raised in some representations to the Preliminary Hearing, relates to the nature of mapping supplied by the applicant at consultation stage. The notation employed to depict various aspects of proposals relating to public access rights, such as extinguishments, creations, and diversions were very confusing. The notation employed made it difficult to interpret with certainty what was proposed and consequently difficult to comment totally constructively at that time. Later expression of proposals relating to public rights of way as detailed in the Walking, Cycling and Horse-Riding document and the Rights of Way and Access Plans are improved ... but deciphering the complex notation that statute requires be used in Side-Road Orders isn't easy. And in a number of locations we believe they are in error. We won't take you through them all, but here are a few that we've identified:
  - 9.1 At 0102 a section of footpath 358006 falls within the curtilage of the project and ends at the carriageway, but appears not to be subject to any extinguishment. Is this an oversight?
  - 9.2 On sheet 2 of scheme 03, at the realigned junction with byway open to all traffic 311013 to Ninekirks (ref G on sheet 2), no provision is made for access from the westbound carriageway, but private crossing of the carriageway is provided by underpass which could usefully be employed to provide access to the byway from the westbound carriageway.
  - 9.3 On sheet 3 of scheme 3 there appears to be an error in the description of A\* which refers to a 'shared cycleway' with references to High Barn which possibly are wrongly orientated. And what happens at B\* where there is a section or 'shared cycleway' with no notation.
  - 9.4 At sheet 1 of scheme 06 reference to a length of new cycle way 'in a generally north-westerly direction' should read as 'in a generally south easterly direction'.
  - 9.5 A similar comment applies to cycleway ref. A\* on sheets 1 to 5 of Scheme 06 between Café 66 and Flitholme. The draughts-person appears to sometimes confuse east and west, north and south.

10. In the WCH document the lack of clarity relating to notation for public paths is repeated where the notation fails to clearly differentiate between existing paths that are to be diverted or extinguished and existing paths that are to remain unchanged.
11. We wonder if the draughtsperson for the plans at section 06 (APP-345) has been working to a set of different notation / plan key rules. The manner in which public rights of way that are intended to be coincident with private access routes are shown at APP-345 is different from the way they are depicted on other section plans (APP-342 to APP344), especially within the trunk road boundary line. On APP-345 the depiction of public paths on otherwise private roads is inconsistent with the way that such dual-routes are depicted on the mapping for the other sections of the proposals.
12. Those errors and oversights on the access and rights of way mapping need attention.
13. This local access forum commends to the ExA the further detailed points made in the representations from the Penrith Group of The Ramblers. There is every chance that neither the Ramblers nor the local access forum has identified all those errors. On the other points raised by The Ramblers, the responses made by the applicant at PDL-011 /RR-021 are not understood. Is there some misrepresentation or misunderstanding of what are public footpaths and what are footways?
14. This local Access Form also supports the comments made by the Penrith Group Ramblers concerning access to the Countess Pillar ...
15. ... and by The British Horse Society concerning lack of provision in the project proposals for horse-rider access.
16. In conclusion ..... a thorough checking system needs to be put in place to ensure that the Side-roads Orders that will result from the Development Consent Order are free of errors which once in a confirmed Side Roads Order are next to impossible to correct and can lead to future disputes.

[1221]