

A66 Northern Trans-Pennine project

TR010062

7.7 Applicant's Response to Written Representations made by Interested Parties subject to an SoCG at Deadline 1

Infrastructure Planning (Examination Procedure) Rules 2010

Deadline 2

Planning Act 2008

15 January 2023

Infrastructure Planning

Planning Act 2008

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

A66 Northern Trans-Pennine project
Development Consent Order 202x

**7.7 Applicant's Response to Written Representations made by
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1. Introduction

1.1. Purpose of this document

- 1.1.1. This document has been prepared by National Highways (the Applicant) for submission to the Examining Authority (ExA) under Deadline 2 of the Examination of the A66 Northern Trans-Pennine Development Consent Order (DCO) application.
- 1.1.2. This document provides the Applicant's response to Written Representations submitted to the ExA by Interested Parties subject to a Statement of Common Ground (SoCG) at Deadline 1.
- 1.1.3. In total, 7 Written Representations were submitted by Interested Parties subject to an SoCG to the ExA at Deadline 1 on 18 December 2022 and were published by the ExA on the project's examination webpage.

1.2. Structure of this document

- 1.2.1. In many instances, the matters and topics raised within the Written Representations are similar in content to those already raised in Relevant Representations submitted by Interested Parties on or before 4 September 2022 and matters subsequently raised at hearings held on 30 November, 1 December and 2 December 2022. National Highways provided a response to such matters and topics in its submission 'Applicant's Response to Relevant Representations' Parts 1 to 4 (Document Reference 6.5, PDL-010 to PDL-013) at the Pre-Examination Procedural Deadline on 16 November 2022 and a subsequent Addendum and Errata (Document Reference 6.6, PDL-013.1) submitted on 29 November 2022. Furthermore, some of the matters raised are addressed in the Post Hearing Submissions made by National Highways, including Issue Specific Hearing 1 (ISH1) Post Hearing Submissions (REP1-006), Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (REP1-009) and Compulsory Acquisition Hearing 1 (CAH1) Post Hearing Submissions (REP1-007).
- 1.2.2. In light of the above, and to avoid unnecessary duplication, in this document National Highways has sought to respond only to *new* issues and therefore National Highways refers all readers (Interested Parties, Affected Persons and the Examining Authority) to the *Applicant's Examination Responses Navigator* document (Document Reference 7.10). The reader will then be able to cross-check points made in a Written Representation to which this document does not respond with what National Highways has previously said on the point in its response to Relevant Representations and / or in Deadline 1 submissions, as referenced above.
- 1.2.3. National Highways continues to engage with Interested Parties subject to a Statement of Common Ground.

2. Response to Written Representations made by Interested Parties subject to a Statement of Common Ground

2.1. Introduction

- 2.1.1. This section provides the National Highways response to Written Representations made by Interested Parties who have entered into a Statement of Common Ground (SoCG) with National Highways. This includes the following parties: Cumbria County Council and Eden District Council, North Yorkshire County Council and Richmondshire District Council, Environment Agency, Historic England, Natural England, Sport England and Billy Welch (Representative for the Gypsy Traveller Community).
- 2.1.2. National Highways have also responded to the Deadline 1 Submission made by Durham County Council entitled 'Response to Examination Document PDL-013 (Response to Relevant Representations' (REP1-022) in Table 2 of this document.
- 2.1.3. National Highways will continue to engage on these matters throughout the course of the Examination. Therefore, this section includes a summary of the status of engagement at the time of writing, recognising that further correspondence may be required.
- 2.1.4. The Written Representation reference, Interested Party name and National Highways response is set out in the following Table 1.

2.2. Response to Written Representations made by Interested Parties subject to a Statement of Common Ground

Table 1. Response to Written Representations made by Interested Parties subject to a Statement of Common Ground

Examination Library Reference	Interested Party	Response Topic(s)	Written Representation	National Highways Response
REP1-019.1	Cumbria County Council and Eden District Council	Design and Engineering	2.1 M4 Junction and Kemplay Bank (paragraphs 2.1.1-2.1.15) that relies on the findings of the LIR (J40 and Kemplay Bank Roundabout at paragraphs 4.14-4.20)	National Highways has responded to this matter in its response to the Councils' Local Impact Report; Applicant's Comments on Local Impact Report (Document Reference 7.9) (at paragraphs 3.2.10 – 3.2.32).
REP1-019.1	Cumbria County Council and Eden District Council	Design and Engineering	2.2 De-Trunking (paragraphs 2.2.1-2.2.4) that relies on the findings of the LIR (De-Trunking at paragraphs 5.1-5.13))	National Highways has responded to this matter in its response to the Councils' Local Impact Report; Applicant's Comments on Local Impact Report (Document Reference 7.9) (at paragraphs 3.3.1 – 3.3.10).
REP1-019.1	Cumbria County Council and Eden District Council	Transport	2.3 Active Travel (paragraphs 2.3.1-2.3.4) that relies on the findings of the LIR (Active Travel at paragraphs 6.1-6.14)	National Highways has responded to this matter in its response to the Councils' Local Impact Report; Applicant's Comments on Local Impact Report (Document Reference 7.9) (at paragraphs 3.4.1 – 3.4.12).
REP1-019.1	Cumbria County Council and Eden District Council	Design and Engineering	2.4 Appleby Horse Fair (paragraphs 2.4.1-2.4.3) that relies on the findings of the LIR (.Appleby Horse Fair 6.15-6.21)	National Highways has responded to this matter in its response to the Councils' Local Impact Report; Applicant's Comments on Local Impact Report (Document Reference 7.9) (at paragraphs 3.4.13-3.4.19).
REP1-019.1	Cumbria County Council and Eden District Council	Design and Engineering	2.5 Diversions (paragraphs 2.5.1-2.5.7) that relies on the findings of the LIR (7. Diversions paragraphs 7.1-7.9)	National Highways has responded to this matter in its response to the Councils' Local Impact Report; Applicant's Comments on Local Impact Report (Document Reference 7.9) (at paragraphs 3.5.1 – 3.5.21).
REP1-019.1	Cumbria County Council and Eden District Council	Design and Engineering	2.6 HGVs (paragraphs 2.6.1-2.6.4) that relies on the findings of the LIR (8. HGVs at paragraphs 8.1-8.9)	National Highways has responded to this matter in its response to the Councils' Local Impact Report; Applicant's Comments on Local Impact Report (Document Reference 7.9) (at paragraphs 3.6.1 – 3.6.9).
REP1-019.1	Cumbria County Council and Eden District Council	Socioeconomics	2.7.1 Socioeconomics that relies on the findings of the LIR (9. Socioeconomics at paragraphs 9.1-9.16)	National Highways has responded to this matter in its response to the Councils' Local Impact Report; Applicant's Comments on Local Impact Report (Document Reference 7.9) (at paragraphs 3.7.1-3.7.16).

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REP1-019.1	Cumbria County Council and Eden District Council	Environment and 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.	National Highways welcomes the support for the principle of the EMP.
REP1-019.1	Cumbria County Council and Eden District Council	Environment and EMP	<p>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.</p> <p>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.</p> <p>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.</p>	National Highways are committed to continue working closely with the Councils on the further development of the EMP (Document Reference 2.7, APP-019) and finalising how the mitigation contained therein will be implemented. The EMP, within Section 1, sets out the consultation procedures that will be implemented with regard to the development of the second iteration of the EMP. A commitment has also been added to the EMP REAC table (Table 3.2. commitment D-GEN-22), prescribing that National Highways shall set up regular engagement forums with the prescribed consultees to continue ongoing engagement. This amendment shall be included in an updated version of the EMP which will be submitted to the examination at Deadline 3.
REP1-019.1	Cumbria County Council and Eden District Council	Environment and 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.	National Highways has responded to this matter in its response to the Council's LIR: Applicant's Comments on the Local Impact Reports (Document Reference 7.9) at paragraphs 3.8.2 – 3.8.9.
REP1-019.1	Cumbria County Council and Eden District Council	Environment and EMP	<p>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:</p> <p>(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.</p> <p>(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</p> <p>(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.</p>	<p>National Highways notes the comments made.</p> <p>It should first be noted that it is not yet confirmed that second iteration EMPs will be brought forward on a scheme by scheme as opposed to another geographic basis – that will need to be determined by the contractor, post consent (for example, certain schemes could, instead, be 'bundled up' into a single second iteration EMP).</p> <p>Turning to the primary points made in terms of the consultation process in respect of the EMP, amendments to second iteration EMPs, specific drafting of article 53 and the mechanisms for determinations able to be made by National Highways in respect of the Environmental Management Plans, National Highways has addressed all of these in its Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case) [REP1-009]. In particular:</p> <p>1. It is acknowledged that there may be circumstances where extensions to the consultation time periods are required and, as such, National Highways intends to include provisions in the next draft of the first iteration EMP (to be submitted at Deadline 3) to provide for extensions to be agreed between the parties on a case-by-case basis. However, it is critical to the timely delivery of the Project that a clear, consistent process applies, in general, to consultation in respect of the EMPs;</p>

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				<p>2. New provisions have been included in article 53 (a revised version of which has been submitted into the examination at this Deadline 2) to introduce a mechanism whereby the Secretary of State must be informed where National Highways intends to determine an amendment to an approved second iteration EMP, with a mechanism for the Secretary of State to 'call-in' such a determination; and</p> <p>3. Article 53 has been amended to refer to 'substantially in accordance with'.</p> <p>National Highways will continue to engage with the Councils on these points, particularly in terms of the circumstances where National Highways can determine matters itself and how the prescribed consultation provisions in the first iteration EMP would apply in such circumstances.</p>
REP1-019.1	Cumbria County Council and Eden District Council	Environment and EMP	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.	<p>Section 7 of the first iteration EMP (which would need to be carried forward into a second iteration EMP) contains provisions dealing with monitoring of activities under the EMP and remedying non-compliance with the commitments therein. This includes commitments in respect of record keeping and inspections by regulatory bodies, such as the Councils. National Highways also intends to amend the first iteration EMP to provide that the relevant local planning authority must be notified (alongside other regulatory bodies) of any non-compliance with the EMP commitments, having regard to the nature and scale of the non-compliance issue in question. Such an amendment will be reflected in the revised version of the first iteration EMP submitted at Deadline 3.</p> <p>It should also be noted that any breach of the EMP provisions would be treated as a breach of the terms of the DCO (given compliance with the EMP is secured within article 53 of the DCO). As such, the enforcement provisions in Part 8 of the Planning Act 2008 would apply. Under these provisions, a local planning authority can take enforcement action (section 161). This extends to seeking injunctions from the court (section 171). In addition it would of course be open to any party to apply to the court for a judicial review of any action taken by the Applicant under the terms of the DCO.</p> <p>National Highways will continue to engage with the Councils on this point.</p>
REP1-019.1	Cumbria County Council and Eden District Council	Environment and EMP	<p>Wetheriggs Country Park:</p> <p>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."</p>	National Highways have responded to the points regarding Wetheriggs Country Park in the Procedural Deadline submission – Applicant's Response to Relevant Representations Part 4 of 4 (Document Reference 6.5, PDL-013). National Highways will continue to engage with CCC and EDC on these points, which will be documented within the Statement of Common Ground (Document Reference 4.5, APP-277).
REP1-019.1	Cumbria County Council and Eden District Council	Design, Engineering and Construction	<p>Compounds and Pre DCO applications</p> <p>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.</p>	Should any compounds be sought to be advanced 'early', the proposals would be subject to engagement and the consultation requirements of a conventional Town and Country Planning Act 1990 planning application, should this be the chosen consenting route. Any application submitted under this regime would need to be determined in the normal way by the local planning authority, in line with local planning policy unless material considerations indicate otherwise. National Highways will continue to the engage with the local planning authorities on this topic.

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REP1-019.1	Cumbria County Council and Eden District Council	DCO – Policy and Guidance	<p>Draft DCO:</p> <p>Article 3(1)(b) – Disapplication of Section 23 of the Land Drainage Act 1991</p> <p>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.</p>	<p>A set of protective provisions for the benefit of drainage authorities has been included in the revised draft of the DCO submitted at this Deadline 2. These provide for the approval of works by the authorities that would otherwise be subject to the proposed disapplying consenting regime under the Land Drainage Act 1991. National Highways will continue to engage with the drainage authorities on the form of these protective provisions, with a view to reaching agreement on them before the end of the examination.</p>
REP1-019.1	Cumbria County Council and Eden District Council	DCO – Policy and Guidance	<p>Article 19 – Compulsory Acquisition of Land</p> <p>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.</p>	<p>The land identified by National Highways as being required to be subject to compulsory land powers in the DCO has been carefully considered, having regard to the engineering and environmental requirements of the Project. However, as the detailed design of the Project is progressed, more accurate information about exactly what land is required, and for what purpose, is expected to become available, and this will inform the extent of land which does actually need to be acquired or used to enable the delivery of the Project, should the DCO be granted. As such, the current land shown as being subject to compulsory land powers in the DCO can be seen as a 'worst case'. How this principle is reflected in the draft DCO was discussed at CAH1 and is set out in some detail under agenda item 2.2 in the Applicant's Compulsory Acquisition Hearing 1 (CAH1) Post Hearing Submissions (including written submissions of oral case) [REP1-007].</p> <p>Ultimately it is National Highways' aim to reach agreement with all affected landowners, including the Councils, as opposed to having to resort to exercising compulsory land powers contained in the DCO. As such, National Highways will continue to engage with the Councils in respect of their affected land interests</p> <p>It should be noted however, that National Highways does not consider there to be a need to include protective provisions in the DCO for the Councils' benefit as described. This point, amongst others, will be the subject of continued engagement between the parties.</p>
REP1-019.1	Cumbria County Council and Eden District Council	DCO – Policy and Guidance	<p>Skirsgill Depot</p> <p>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 is intending to only temporarily acquire Plot 0102-01-46 [AS-013] when the</p>	<p>National Highways original intention for a compound on Scheme 0102 was to lease the empty office on plot on 0102-01-35 in late 2022 / early 2023 and then expand into plot 0102-01-43. Please note that the inclusion of the occupied office at the Northern point of plot 0102-01-35 was an error and it was never National Highways intention to take possession of this facility.</p> <p>National Highways contacted CCC regarding the lease of the empty office on plot 0102-01-35 and was informed that, due to a change of circumstance, CCC required this facility to relocate staff that were based at Penrith Hospital.</p> <p>Plot 0102-01-43 required more time to discuss, due to the sensitive nature of its use by a local charity. National Highways informed CCC that negotiations on this plot could not progress until the position was agreed with the local charity. The agreed position has been progressed and negotiations with CCC have since resumed albeit with the detail set out below.</p> <p>In addition, and as a result of the above, National Highways re-evaluated its compound strategy for Scheme 0102. Another existing building, outside of Skirsgill depot, has been identified to replace the empty office on plot on 0102-01-35. Negotiations are underway to secure a lease.</p> <p>It is envisaged that the compound on this plot will be constructed after the DCO has been made, but early access will be required for surveys.</p>

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			surrounding land is required by NH on a permanent basis. The temporary acquisition effectively severs CCC's land.	<p>National Highways are in dialogue with CCC regarding licences for survey access and this will continue.</p> <p>National Highways will continue to work with CCC with regards to access arrangements and these will be confirmed with CCC as a part of the on-going negotiations.</p> <p>National Highways will not seek to acquire either of the occupied office buildings or their associated facilities, such as car parking, on plot 0102-01-43.</p> <p>National Highways will not seek to acquire Plot 0102-01-46 now that the associated building is not available.</p>
REP1-019.1	Cumbria County Council and Eden District Council	DCO – Policy and Guidance	<p>Kemplay Bank</p> <p>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.</p>	<p>A United Utilities wastewater diversion is required to facilitate the grade separation of Kemplay Bank roundabout. United Utilities were asked to look at the possible routes to divert this asset and they advised National Highways that options are limited because</p> <p>i) Upstream – there is a need to ensure that the number of flooding events in Weatheriggs Country Park is not worsened*.</p> <p>ii) Downstream – there is a need to ensure that the number of spillages from the combined sewer overflow is not worsened.</p> <p>United Utilities advised that the optimal route for the diversion is across plots 0102-02-44 & 0102-02-56 & 0102-02-61, but if surveys (topographical and ground investigation) find this is not feasible then the alternative would be across plots 0102-02-44 & 0102-02-47.</p> <p>National Highways subsequently became aware of aspirations to expand the facilities at the Fire and Rescue centre and asked United Utilities to re-evaluate the options previously considered. National Highways also consulted with CCC and agreed, subject to surveys, to amend the diversion route along the boundary of plot 0102-02-44. National Highways is now in the process of procuring the surveys to inform the route alignment. National Highways are grateful to CCC for their assistance to date in progressing the licence required.</p> <p>National Highways have assured CCC that whilst these plots are shown as permanent acquisition, this would only be relied on as a last resort, and it is hoped that through negotiation the landowner would grant directly the easements required by United Utilities for the diversion of its apparatus. Even were compulsory acquisition powers to be used as a last resort on completion of the diversion this land could be returned to CCC, albeit with an easement associated with the diversion, in accordance with the Crichel Down Rules.</p> <p>* National Highways is in dialogue with United Utilities to understand if there is an opportunity to design the diversion such that it reduces the impact of flooding on Weatheriggs County Park; albeit this is strictly outside the scope of the project.</p>
REP1-019.1	Cumbria County Council and Eden District Council	DCO – Policy and Guidance	<p>Fire Station</p> <p>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 [AS013].</p>	<p>Please see National Highways' response above for discussion on the route alignment.</p> <p>National highways understand, from discussions with CCC, that whilst the preferred entry route of the fire appliance is via plots 0102-02-56 & 0102-02-61 it can also gain entry via the car park and manual gate access.</p> <p>National Highways will endeavour to minimise disruption to the Fire Station, but will ensure that at least one of the above accesses is maintained at all times and this is communicated in advance to avoid confusion.</p>

Examination Library Reference	Interested Party	Response Topic(s)	Written Representation	National Highways Response
REP1-019.1	Cumbria County Council and Eden District Council	DCO – Policy and Guidance	<p>Article 40(6) – Handover procedure for de-trunking</p> <p>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.</p>	<p>National Highways issued draft de-trunking documents to CCC, between 14/9/22 and 21/9/22, which include proposed pre-requisites to handover. This includes, but is not limited to commuted sums for</p> <ul style="list-style-type: none"> i) Any outstanding issues from the safety audit to be remediated ii) Renewal of elements that are at or nearing (defined as less than half) of their serviceable life. iii) Minor repairs, which are not cost-effective to undertake by themselves, but could and should be incorporated into the next significant intervention <p>In addition, National Highways have committed to undertaking structural assessments / or reviews to ensure that the all the certification is in place. National Highways have repeatedly tried to contact WSP, who CCC have appointed as their Consultant to advise on the de-trunking proposals, with no success.</p> <p>For completeness, National Highways has provided CCC and the other Local Authorities with details of the assets to be de-trunked and reports on their condition, where available.</p>
REP1-019.1	Cumbria County Council and Eden District Council	DCO – Policy and Guidance	<p>Article 52 – Consents, agreements and approvals</p> <p>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.</p>	<p>National Highways has responded to this point in its response to the ExA's question reference ISH2.DCO.16 – this is contained in the Applicant's Responses to the Examining Authority's Issue Specific Hearing 2 Additional Questions [REP1-005].</p>
REP1-019.1	Cumbria County Council and Eden District Council	DCO – Policy and Guidance	<p>Article 53 – Environmental Management Plan</p> <p>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.</p>	<p>A summary of National Highways' position on this point is set out in the Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case [REP1-009] – see from page 15. In particular, please note the 'post hearing note' section from page 16, with particular reference to the following text:</p> <p><i>“However, taking on board both these difficulties and comments made at the Hearing, the Applicant proposes to instead include a mechanism in either the draft DCO or first iteration EMP (the appropriate 'home' for this is still to be confirmed, pending further consideration) whereby the Secretary of State is notified when the Applicant wishes to determine a change to the second iteration EMP itself. There would then be a prescribed period within which the Secretary of State could 'call-in' that decision, should they consider that the change is more properly determined by them, having regard to the parameters summarised above.</i></p> <p><i>This mechanism will be included in the next draft of the relevant document submitted into the examination”</i></p> <p>National Highways has included these provisions in the revised version of the draft DCO submitted at this Deadline 2 – see article 53. It is hoped this gives the authorities the necessary assurances. National Highways intends to record agreement on this point in the Statement of Common Ground between the parties.</p>
REP1-019.1	Cumbria County Council	DCO – Policy and Guidance	<p>EMP and the Site-Specific Written Schemes of Investigation (SSWSI)</p> <p>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</p>	<p>Article 53 of the draft DCO sets out the process for how the commitments in the first iteration EMP, including those relating to SSWSIs, would be secured. Ultimately, if a commitment is included in the first iteration EMP, it is secured through article 53 and would not need to be repeated 'on the</p>

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	and Eden District Council		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.	<p>face' of the DCO. As National Highways set out in its Issue Specific Hearing 2 Post Hearing Submissions [REP1-009], commitments contained in the first iteration EMP, given its proposed status a document to be certified for the purposes of the DCO, have equivalent legal enforceability as commitments given on the face of the DCO.</p> <p>Article 53 provides that a second iteration EMP, including the commitments in the first iteration EMP, must be consulted on and approved by the Secretary of State prior to the start of works. Specifically, commitment number D-CH-01 within the first iteration EMP (Document Reference 2.7, APP-019) requires that a Site-Specific Written Scheme of Investigation is produced for each scheme and included as part of a Detailed Heritage Mitigation Strategy, which, in turn, must be consulted upon and approved by Secretary of State as part of a second iteration of the EMP.</p>
REP1-019.1	Cumbria County Council and Eden District Council	DCO – Policy and Guidance	<p>Article 54 – Detailed Design</p> <p>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.</p>	<p>National Highways considers that the environmental surveys and the likely significant effects reported across the Environmental Statement (ES) (Document Reference 3.2, APP-044 to APP-059) provide a robust assessment of the likely significant effects arising from the Project. Across each of the topic chapters, embedded and essential mitigation is reported in sub section 9 whilst likely significant effects are reported in subsection 10, accounting for the mitigation measures outlined. This is fully in line with the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) and relevant guidance and policy, as reported in each topic chapter of the ES.</p> <p>Any assumptions utilised to complete the assessment have also been described. As reported in the ES, any assumptions or limitations identified have not prevented the ES from reporting a reasonable worst-case scenario, in line with the established ‘Rochdale envelope’ approach (and National Highways has had regard to PINS Advice Note Nine in this regard). This is the approach adopted on numerous DCOs where a level of flexibility is required and is by no means unusual.</p> <p>Based on the likely significant effects reported in the ES, derived from this ‘Rochdale envelope’ approach, mitigation proposals have been developed and secured through the first iteration Environmental Management Plan, Project Design Principles or by way of, for example, the definition of the limits of deviation set out in the DCO. Where National Highways considers a likely significant effect needs to be mitigated, sufficient and effective mitigation has been developed and secured. In places, the ‘outcome’ of that mitigation has been secured, with the ‘how’ to come later, as part of detailed design. It is important to note that compliance with these documents would be legally enforceable commitments, should the DCO be made. The local authorities can engage with the information provided by National Highways as part of this DCO examination process, as they are doing.</p> <p>It should be noted that much of the mitigation is contained within the first iteration Environmental Management Plan. This, along with article 53 of the DCO, sets out the process by which detailed second iteration Environmental Management Plans need to be developed and consulted on (including with the local authorities) prior to submission to the Secretary of State for approval. All of this must be undertaken prior to the start of works. As such, the authorities will be consulted on and engaged with throughout the detailed design process, including in relation to detailed mitigation proposals.</p> <p>Finally, National Highways consulted on preliminary environmental information during the statutory consultation process, as it is required to.</p>

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				There is no obligation to consult on full environmental information prior to a DCO application being submitted. National Highways will continue to engage with the authorities on these issues, amongst others.
REP1-019.1	Cumbria County Council and Eden District Council	Environment and EMP	2.9.1 Environmental Mitigation that relies on the findings of the LIR (Environmental Mitigation 10.1-10.2)	National Highways has responded to this matter in its response to the Councils' Local Impact Report; Applicant's Comments on Local Impact Report (Document Reference 7.9) (at paragraphs 3.8.1-3.8.9).
REP1-019.1	Cumbria County Council and Eden District Council	Air Quality	2.9.2 Air Quality (bullet points a-b) that relies on the findings of the LIR (Air Quality at paragraphs 10.3-10.14)	National Highways has responded to this matter in its response to the Councils' Local Impact Report; Applicant's Comments on Local Impact Report (Document Reference 7.9) (at paragraphs 3.8.10-3.8.25).
REP1-019.1	Cumbria County Council and Eden District Council	Biodiversity	2.9.2 Biodiversity (bullet points c-e) that relies on the findings of the LIR (Biodiversity 10.15-10.21)	National Highways has responded to this matter in its response to the Councils' Local Impact Report; Applicant's Comments on Local Impact Report (Document Reference 7.9), as follows: <ul style="list-style-type: none"> • Biodiversity (paragraphs 3.9.1-3.9.10) • Habitats (paragraphs 3.10.1-3.10.19) • Species (paragraphs 3.11.1-3.11.10) BNG (paragraphs 3.12.1 – 3.12.5)
REP1-019.1	Cumbria County Council and Eden District Council	Climate	2.9.4 Climate Change (page 12) that relies on the findings of the LIR (Climate Change at paragraphs 10.22-10.25)	National Highways has responded to this matter in its response to the Councils' Local Impact Report; Applicant's Comments on Local Impact Report (Document Reference 7.9) (at paragraphs 3.13.1-3.13.8)
REP1-019.1	Cumbria County Council and Eden District Council	Cultural Heritage	2.9.4 Cultural Heritage (page 12) that relies on the findings of the LIR (Cultural Heritage at paragraph 10.26-10.29)	National Highways has responded to this matter in its response to the Councils' Local Impact Report; Applicant's Comments on Local Impact Report (Document Reference 7.9) (at paragraphs 3.14.1-3.14.11).
REP1-019.1	Cumbria County Council and Eden District Council	Geology and Soils	2.9.4 Geology and Soils (page 12) that relies on the findings of the LIR (Geology and Soils at paragraphs 10.30-10.32)	National Highways has responded to this matter in its response to the Councils' Local Impact Report; Applicant's Comments on Local Impact Report (Document Reference 7.9) (at paragraphs 3.15.1-3.15.17).
REP1-019.1	Cumbria County Council and Eden District Council	Landscape and Visual	2.9.4 Landscape and Visuals (page 13) that relies on the findings of the LIR (Landscape and Visuals at paragraph 10.33-10.42)	National Highways has responded to this matter in its response to the Councils' Local Impact Report; Applicant's Comments on Local Impact Report (Document Reference 7.9) (at paragraphs 3.16.1-3.16.27).
REP1-019.1	Cumbria County Council and Eden District Council	Minerals and Waste	2.9.4 Minerals and Waste (page 14) that relies on the findings of the LIR (Minerals and Waste at paragraph 10.43-10.46)	National Highways has responded to this matter in its response to the Councils' Local Impact Report; Applicant's Comments on Local Impact Report (Document Reference 7.9) (at paragraphs 3.17.1-3.17.23).
REP1-019.1	Cumbria County Council and Eden District Council	Noise and Vibration	2.9.4 Noise and Vibration (page 14) that relies on the findings of the LIR (Noise and Vibration at paragraph 10.47-10.50)	National Highways has responded to this matter in its response to the Councils' Local Impact Report; Applicant's Comments on Local Impact Report (Document Reference 7.9) (at paragraphs 3.18.1-3.18.33).
REP1-019.1	Cumbria County Council and Eden District Council	Road Drainage and the Water Environment	2.9.4 Road Drainage and the Water Environment (page 14-15) that relies on the findings of the LIR (Road Drainage and Water Environment at paragraph 10.55-10.58)	National Highways has responded to this matter in its response to the Councils' Local Impact Report; Applicant's Comments on Local Impact Report (Document Reference 7.9) (at paragraphs 3.20.1-3.20.14).

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REP1-040	North Yorkshire County Council and Richmondshire District Council	DCO – Policy and Guidance	<p>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.</p> <p>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”.</p> <p>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.</p>	<p>A summary of National Highways’ position on this point is set out in the Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case [REP1-009] – see from page 15. In particular, please note the ‘post hearing note’ section from page 16, with particular reference to the following text:</p> <p><i>“However, taking on board both these difficulties and comments made at the Hearing, the Applicant proposes to instead include a mechanism in either the draft DCO or first iteration EMP (the appropriate ‘home’ for this is still to be confirmed, pending further consideration) whereby the Secretary of State is notified when the Applicant wishes to determine a change to the second iteration EMP itself. There would then be a prescribed period within which the Secretary of State could ‘call-in’ that decision, should they consider that the change is more properly determined by them, having regard to the parameters summarised above. This mechanism will be included in the next draft of the relevant document submitted into the examination”</i></p> <p>National Highways has included these provisions in the revised version of the draft DCO submitted at this Deadline 2 – see article 53.</p>
REP1-040	North Yorkshire County Council and Richmondshire District Council	Environment and EMP	<p>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 [Document Reference 2.7, 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.</p>	<p>The DCO Article 53 sets out (and secures) the process for how the commitments in the first iteration EMP, including those relating to SSWSIs, will be secured. A second iteration EMP, including the commitments in the first iteration EMP, must be consulted on and approved by the Secretary of State prior to the start of works. Specifically, commitment number D-CH-01 within the first iteration EMP (Document Reference 2.7, APP-019) requires that a Site-Specific Written Scheme of Investigation is produced for each scheme and included as part of a Detailed Heritage Mitigation Strategy, which, in turn, must be consulted upon and approved by Secretary of State as part of a second iteration of the EMP.</p>
REP1-040	North Yorkshire County Council and Richmondshire District Council	Environment and EMP	<p>Article 54(1) of the dDCO [Document Reference 5.1, 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”.</p> <p>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.</p>	<p>National Highways has responded to the comment on the level of detail in the Environmental Statement (surveys, assessment assumptions and mitigation) in its response to the Local Impact Report; Applicant’s Comments on Local Impact Report (Document Reference 7.9, section 5.21).</p>
REP1-040	North Yorkshire County Council and Richmondshire District Council	Engagement and consultation process	<p>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.</p>	<p>The consultation activities undertaken to date has included the provision of all information available at the time the consultation was conducted.</p>
REP1-040	North Yorkshire County Council and Richmondshire District Council	Walking, Cycling, Horse Riding Design, Engineering and Construction	<p>Road schemes must respect existing public rights of way and avoid significant changes to the historic network.</p> <p>Advice on the existing alignment of public rights of way should be sought from NYCC’s Countryside Access Service (CAS) prior to the commencement of detailed design work.</p> <p>It is recommended that CAS be consulted on proposed public rights of way diversions, extinguishments or creations before public consultation on a side roads order is undertaken in order to resolve any clerical or drafting errors.</p>	<p>National Highways considers that these matters are addressed in the following document: Walking, Cycling and Horse-riding Proposals (Document Reference 2.4, APP-010), with section 2.4 providing detail on ongoing WCH engagement.) In relation to the reasons why no Side Roads Order is proposed, please see National Highways Response to Durham County Council’s relevant representations (page 8 of [PDL-013]) which explains how the draft DCO makes equivalent provision to a Side Roads Orders made under the Highways Act 1980.</p>

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			<p>It is the presumption that any new or diverted public rights of way should be barrier free. Consent must be given by CAS prior to any structure being installed on existing or proposed public rights of way and will only be given either for the purpose of the control of livestock or in limited circumstances for public safety. New structures on public rights of way must comply with BS 5709-2018.</p> <p>Use of verges alongside busy roads to link public rights of way and minor roads should be avoided.</p> <p>Where practicable all public rights of way should be accessible to wheelchair users with a firm, stable non-slip surface and maximum gradient of 20%.</p> <p>The minimum width for new public footpaths is 2.0 metres and public bridleways 4.0 metres. Where public rights of way are enclosed by hedges, fences or walls this will need to be extended to 3.0 metres and 5.0 metres respective to maintain the minimum usable width without users being exposed to boundary features or overgrowth from adjacent hedges or other vegetation.</p> <p>Public bridleway construction should comply with British Horse Society guidelines.</p>	<p>Please also refer to the Draft Development Consent Order (Document Reference 5.1, APP-285) and Rights of Way and Access Plans Scheme 09 Stephen Bank to Carkin Moor (Document Reference 5.19, APP-348) and Rights of Way and Access Plans Scheme 11 A1(M) Junction 53 Scotch Corner (Document Reference 5.19, APP-349) for details on the Public Right of Way (PROW) proposals within North Yorkshire County and Richmondshire District Council.</p> <p>In addition, we have provided a response to the outstanding matters here: North Yorkshire County Council and Richmondshire District Council as well as focus group organisations such as the British Horse Society have been consulted on the locations of new PROW provision. Ongoing engagement on WCH will continue as referenced in section 2.4 of the Walking, Cycling and Horse-riding Proposals (Document Reference 2.4, APP-010)</p> <p>It is proposed that some diverted or proposed rights of way have rights over a private means of access. Where this occurs, consideration will be given at detailed design stage regarding the provision of gates, barriers, and stiles in accordance with BS 5709-2018 to address landowner security concerns.</p> <p>Surfacing options will be considered at detailed design and will be appropriate for the various PROW users entitled to use the relevant public rights of way.</p> <p>Widths of PROWs have been designed in accordance with the Design Manual for Roads and Bridges CD 143 – Designing for walking, cycling and horse-riding.</p> <p>Public bridleway construction will be in accordance with the DMRB and will take cognisance of British Horse Society guidelines.</p>
REP1-040	North Yorkshire County Council and Richmondshire District Council	Draft DCO	<p>Draft DCO errors (public rights of way)</p> <p>Scheme 09 sheet 3 Footpath 20.23/8/1 change northwards to southwards</p> <p>Scheme 09 sheet 4 Reference M change 46 to 82 metres</p> <p>Scheme 09 sheet 4 Reference M – junction is BW 20.33/17/1 and Warrener Lane (not A66)</p> <p>Scheme 09 sheet 4 Bridleway 20.30/8/1 Carking Moor Farm replace with Warrener House and change south-east to south</p> <p>Scheme 09 sheet 4 Reference N – junction is BW 20.33/17/1 and Warrener Lane (not A66)</p> <p>Scheme 09 sheet 4 Reference N change 180 metres to 222 metres, replace easterly with westerly</p>	<p>National Highways acknowledge the comments made on the drafting errors and can confirm the following amendments will appear in a future iteration of the Draft Development Consent Order (Document Reference 5.1, APP-285, page 111 and 113)</p> <p>Footpath 20.23/8/1 - northwards to change to southwards</p> <p>Reference M – distance to be changed from 46 to 82 metres</p> <p>Reference M – description text to be updated to reference “20.33/17/1 and Warrener Lane” (not A66)</p> <p>Scheme 09 sheet 4 Bridleway 20.30/8/1 Carking Moor Farm replace with Warrener House and change south-east to south</p> <p>Reference N – description text to be updated to reference “20.33/17/1 and Warrener Lane” (not A66)</p> <p>Reference N distance to be changed from 180 metres to 222 metres.</p>
REP1-040	North Yorkshire County Council and Richmondshire District Council	Environment and EMP Cultural Heritage	<p>I support the proposal to appoint a PC Archaeological Clerk of Works. It is not clear from the document if this will be a single post, a post for each section of the scheme or perhaps a single Clerk of Works with a support team. The proposed timetable for the schemes shows that the main North Yorkshire Section from Stephen Bank to Carkin Moor will take place alongside three other schemes and overlap with three more (Plate 1-1). The PC Archaeological Clerk of Works needs to be properly resourced to be able to respond to the requirements of the EMP. The document currently lacks detail in this respect.</p> <p>Table 2-1 details the key responsibilities for the PC Archaeological Clerk of Works. I am presuming that this post will be one of the principal points of liaison with 4.3 local authority curators and other heritage professionals. This should be picked up in the key responsibilities</p>	<p>The EMP (Document Reference 2.7, APP-019) provides for flexibility in resourcing of key roles due to the nature of the project to be delivered. There may be an archaeological clerk of works per scheme or one covering multiple schemes, depending on the timing of the works to be carried out. The details of who is appointed to the role for each scheme (and therefore the level of resourcing for each scheme) will be included in a second iteration of the EMP, which will be consulted upon with local authorities prior to approval by the Secretary of State.</p> <p>NH agrees that the Archaeological Clerk of Works will be a key point of contact for the local authorities and this responsibility is set out at paragraph B3.1.6 of the Detailed Heritage Mitigation Strategy (DHMS), (Document Reference 2.7, APP-023).</p>

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			<p>The Register of environmental actions and commitments are set out in Table 3-2. D-CH-01 sets of a list of actions required. Further bullet points are essential to set out the full procedure, particularly in relation to post excavation works. I would recommend an additional bullet point to address the requirements for post-excavation analysis and final publication. There should be an additional bullet point detailing the requirement for archive rationalisation and deposition. There should be a final bullet point addressing the provision of public benefit throughout the scheme.</p> <p>MW-CH-03 – This objective sets out the actions required to record and relocate milestones and other roadside markers. An aspirational action could be added to research any missing markers and to replace these with suitable facsimiles. Missing roadside markers may well 'turn up' during the works and a strategy for conserving and re-siting these should also be included.</p>	<p>The points made in relation to D-CH-01 are included in the Outline Heritage Mitigation Strategy (OHMS), but an additional bullet to summarise these points will be added to the EMP. The updated EMP will be submitted at Deadline 3.</p> <p>MW-CH-03 relates to the Method Statement for working within Scheduled Ancient Monuments, we assume this reference should read MW-C-02. Engagement with the Milestone Society was undertaken during the collection of baseline material for the ES. The society provided data on both known and missing markers. Text will be added to MW-C-02 to address the potential for missing markers to be found during the works, requiring them to be treated the same as known markers. This amendment will be made to the draft Heritage Mitigation Strategy (to be renamed Outline Heritage Mitigation Strategy) and form part of the revised EMP which will be submitted at Deadline 3.</p>
REP1-040	North Yorkshire County Council and Richmondshire District Council	Environment and EMP Cultural Heritage	<p>These sections relate to Environmental Management Information including cultural heritage data. This is a long running project and I would recommend that this data is updated at regular intervals. The PC may wish to engage with local authorities to provide a mechanism to ensure that their data is regularly refreshed via the relevant Historic Environment Record. This might include building additional capacity into local authorities to allow new information to be entered into the Historic Environment Record in a timely fashion.</p> <p>I am unclear as to who has responsibility for raising non-compliance reports. Would a visiting local authority representative have the authority to do this or could this be requested if there were concerns?</p> <p>Archaeological Toolbox talks should be added to the paragraph regarding site induction.</p>	<p>Paras 5.2.3 to 5.2.5 of the EMP (Document Reference 2.7, APP-019) refer specifically to information uploaded by the Contractor(s) to National Highways for inclusion in their Environmental Inventory System. However National Highways recognises the benefit of regularly providing updates to the Historic Environment Record. This will be added to the Outline Heritage Mitigation Strategy (OHMS) as a requirement for the archaeology contractors. The updated OHMS, forming part of the EMP (Document Reference 2.7, APP-019) will be submitted to the examination at Deadline 3.</p> <p>Section 6 of the EMP (Document Reference 2.7, APP-019) sets out the procedures for auditing compliance with the EMP. The Contractor(s) is responsible for self-auditing and submitting regular reports to National Highways. National Highways also have the right to audit the site at any point, or to follow up on compliance reports with targeted visits. National Highways can raise a non-conformance with the contractors at any point. The EMP has been amended following ISH2 to include the commitment for regular stakeholder engagement forums to be established. Should a visiting local authority have any concerns to raise, it is recommended they are raised via these forums or via open engagement channels with the project team. National Highways will then follow up and investigate the concern..</p> <p>Archaeological toolbox talks are a valuable process and explicit reference to them will be included in the updated EMP at Deadline 3.</p>
REP1-040	North Yorkshire County Council and Richmondshire District Council	Cultural Heritage Environment and EMP	<p>D-CH-01 Detailed Heritage Mitigation Strategy</p> <p>The word 'Detailed' needs to be removed from the title of this document and all references to it. None of the other management plans, strategies or method statements presented include the word 'Detailed'. It is clear from subsequent wording within the document that this is a high-level strategy. It contains a fairly detailed 'Overarching Written Scheme of Investigation' (OWSI) but the intention is to supplement this with 'Site-Specific Written Schemes of Investigation' (SSWSI) which will include the highest level of detail. The Table of Contents, subsequent sub-heading (B3) and individual paragraphs (e.g. B3.1.15 and B3.1.16) all seem to brand the document as an 'Outline Historic Environment Mitigation Strategy'. This point aside I also wonder if the 'Overarching Written Scheme of Investigation' should be presented as a separate document as it is more of a specification than an overarching strategy and the two parts of the document appear to have distinct purposes.</p> <p>B3.1.9 – This list of specialists is not exhaustive. There will be a much wider range of finds specialists than those identified. There will also be requirements for access to other specialist services such as scientific dating and conservation. B3.1.10 goes on to state that further specialists might be required but I think that a much broader field of external</p>	<p>An updated EMP (Document Reference 2.7, APP-019) will be submitted to the examination at Deadline 3, including an updated version of Annex B3 which will amend the title to Outline Heritage Mitigation Strategy.</p> <p>The statement at B3.1.10 leaves open the possibility that a wider list of specialists may be required. A definitive list of specialists relevant to individual interventions can most effectively be presented at a later stage in the Scheme Specific Written Schemes of Investigation.</p> <p>An updated EMP (Document Reference 2.7, APP-019) will be submitted to the examination at Deadline 3, including an updated version of Annex B3 which will amend the title to Outline Heritage Mitigation Strategy In the updated document paragraph B3.3.55 will be amended to read " there will be monitoring of all excavations carried out by the project manager, the Local Authority Archaeological Curators and, where appropriate, Historic England at a frequency to be agreed in advance by National Highways and relevant stakeholders." This will allow for the appropriate level of monitoring to be determined considering the nature of the works being undertaken, and thereby assist with resource management.</p>

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			<p>specialists can be identified at this stage and this will help to manage expectations of the range of services that might be required.</p> <p>B3.1.12 – The paragraph states that the archaeological mitigation will be monitored by Local Authority Curatorial Archaeologists. I welcome inclusion in the document but I am concerned about the burden this places on Local Authorities. Later in the document paragraph B3.3.55 states that there will be weekly monitoring of all excavations by the Local Authority curator. This is quite a commitment for my authority and additional resources are likely to be needed to accommodate this. Further requirements of the Local Authorities will include review and approval of all DCO requirements and all documentation relating to the works (para. 3.3.92). There will also be a requirement for site induction and training which from experience can last several days for a scheme of this magnitude.</p>	
REP1-040	North Yorkshire County Council and Richmondshire District Council	Cultural Heritage	<p>B3.3.84 – The public outreach should attempt to engage with groups who would not normally be involved in archaeology. Whilst I have no objection to engagement with the specialist societies listed I would prefer to see a strategy that engages local communities directly impacted by the proposal.</p> <p>The preparation and deposition of archive should involve early engagement with the recipient museums at the earliest possible stage in the process. Novel approaches to use of the archaeological materials may also be acceptable such as compilation of education packs with actual archaeological material for local schools for example. Bulk materials that do not require permanent curation such as unstratified pottery sherds might be used to create public artworks or similar.</p>	<p>An updated EMP will be submitted to the examination at Deadline 3, including an updated version of Annex B3 which will amend the title to Outline Heritage Mitigation Strategy. In the updated document paragraph B3.3.84 will be amended to include “local communities directly impacted by the proposal.”</p> <p>National Highways accepts the desirability of early engagement with recipient museums, Paragraph B3.3.90 details the requirement for SSWSIs to address the specific requirements of the depositing archive which will require early engagement with the receiving museum.</p> <p>Likewise, Paragraph B3.3.68 requires the SSWSIs to detail the approach to bulk and registered finds which will allow novel approaches to archaeological material as suggested. National Highways looks forward to continued engagement with North Yorkshire and other authorities to develop innovative approaches to engagement with local schools.</p>
REP1-024	Environment Agency	N/A – Introductory Text	<p>Where the EA have not raised an issue or concern in relation to part of the DCO application or a proposed scheme, we agree with those parts of the application.</p> <p>2.2. The EA has not identified any further issues or concerns with this project in addition to those that were identified in our RR. The specific issues and concerns identified in the RR are included in Table 1 (below).</p> <p>2.3. The applicant has provided responses to some of the issues and concerns in our RR in document PDL-013 (Document Reference 6.5). We have reviewed the responses provided and we have added further commentary where necessary. We have also highlighted whether we consider that the issue or concern in the RR has been resolved or whether it remains outstanding.</p> <p>2.4. Where the applicant has agreed to review or amend the material that forms part of the DCO application in response to our comments, we note the commitment to do so but we cannot confirm that our concern has been resolved until such time as we have had an opportunity to review the updated documentation. We have marked such comments as outstanding by highlighting them as amber in Table 1.</p> <p>2.5. Where the applicant has proposed that they continue to work with us to try and address a comment from our RR, we note the commitment and look forward to doing so. We have marked such comments as outstanding by highlighting them as amber in Table 1.</p> <p>2.6. Where the applicant has provided a response to a comment in our RR that we consider resolves the concern identified, we have marked this as green in Table 1.</p> <p>2.7. Where the applicant has not provided a response in PDL-013 to an issue identified in the EA RR, the RR issue remains to be addressed. We have not marked these issues as either amber or green to make it clear which issues the applicant has not responded to in PDL-013 (Document Reference 6.5).</p>	Noted.

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REP1-024	Environment Agency	DCO – Policy and Guidance	<p>Issue: For National Highways to depart from the approved Design Principles Document (DPD) requires approval from the Secretary of State after they consult with the relevant local authority. No consultation with other relevant consultees is required.</p> <p>Impact: The significance of any environmental impacts of a detailed design that deviates from the approved DPD may be unknown.</p> <p>Suggested solution: Further engagement between National Highways and us to identify alternative wording to address this concern</p> <p>EA additional commentary:</p> <p><i>We note the applicant's response in PDL-013 and accept that the wording within the DCO makes it clear that the Secretary of State (SoS) must be satisfied that the departure would not give rise to any materially new or materially worse adverse environmental effects when compared to those reported in the Environmental Statement. However, if the SoS is only consulting the relevant planning authorities, are they able to advise the SoS on whether there is a materially new or materially worse adverse environmental effect arising from a proposed change in relation to a matter that they may not have technical expertise on, for example fluvial flood risk? We continue to feel that alternative wording within the DCO to allow the SoS to consult the relevant planning authority and statutory environmental bodies would address our concern.</i></p>	<p>National Highways considers that the current drafting of article 54 of the draft DCO (Document Reference 5.1, APP-285) is suitable and no amendments are required. Indeed, it reflects that approved by the Secretary of State in other made DCOs in similar provisions (see paragraph 11(1) of Schedule 2 to the A417 Missing Link Development Consent Order 2022)</p> <p>As explained, National Highways' Relevant Representations (Part 4 of 4) (PDL-013), article 54(2) provides that the Secretary of State may approve a detailed design which departs from documents, e.g. the Project Design Principles, following consultation with the relevant local planning authority.</p> <p>To the extent necessary when consulted, the relevant local planning authority may choose to engage with relevant statutory environmental bodies for input in respect of technical matters. This would be with a view to informing the relevant local planning authority's response to the Secretary of State's consultation. In addition, the Secretary of State has discretion to consult any other party as they see fit depending on the circumstances, albeit it may not be appropriate in all instances, depending on the scope of the amendment sought. The current drafting allows a degree of appropriate flexibility as to how the Secretary of State wishes to carry out the required consultation.</p> <p>The Secretary of State can only approve a revised detailed design where they are satisfied that there are no materially new or materially worse adverse environmental effects compared with those reported in the Environmental Statement. As such, it is inconceivable that, should there be any doubt, the Secretary of State would not consult the statutory environmental bodies as required, prior to making a decision.</p> <p>National Highways will continue to engage with the Environment Agency on this point, amongst others.</p>
REP1-024	Environment Agency	DCO – Policy and Guidance	<p>Issue: The Statutory Environmental Bodies (Natural England, Environment Agency and Historic England) share general concerns over the National Highways self-approval process as there are many elements of the project still to be worked up.</p> <p>Impact: The self-approval process may pose a risk of detrimental impacts to the environment without sufficient regulatory review.</p> <p>Suggested solution: We will all continue to engage with National Highways to work through and advise on the proposed self-approval process and seek further clarification as to what the National Highways self-approval process will entail to enable a fuller assessment of the proposals against our respective statutory remits.</p> <p>EA additional commentary:</p> <p><i>We were reassured by the Examining Authority (ExA) during Issue Specific Hearing 2 on 1 December 2022 that the self-approval proposals proposed by the applicant will be considered in depth during the examination process. We have made specific comments regarding timescales for the review of material submitted under the EMP self-approval process and while the comments from the applicant in PDL-013 about pre-application engagement are noted, we do not consider that they wholly address our concerns and we will continue to engage with the applicant and other SEBs during the examination in relation to the self-approval process. We want to ensure that if this process is accepted by the ExA and it becomes a template for other DCO applications in the future, we have a clear role in the decision-making processes set out in the EMP and there is flexibility around our consultation arrangements where necessary. We also consider that the significance of any changes proposed to later versions of the EMP that the Secretary of State is asked to consider should be informed by the views of all relevant statutory parties and we would hope to see this reflected in the DCO.</i></p>	<p>A summary of National Highways' position on these points is set out in the Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case [Document Reference 7.3, REP1-009] – see from page 15. In particular:</p> <ul style="list-style-type: none"> National Highways intends to add further provisions to the first iteration EMP, to allow some flexibility to the consultation processes on a case-by-case basis, by agreement. In addition, engagement forums outside of the 'formal' consultation period will need to be set up, to allow for the sharing of information 'in advance' as appropriate; and National Highways has added drafting to article 53 of the draft DCO (a revised version of which has been submitted at this Deadline 2) to provide that the Secretary of State must be informed of any intention of National Highways to determine a change to an approved second iteration EMP to allow the Secretary of State to 'call in' any decision should it be considered appropriate. <p>It should also be noted that any proposed changes to a previously approved second iteration EMP must be consulted upon – this is secured in article 53 of the draft DCO (Document Reference 5.1, APP-285).</p> <p>It is hoped these points will satisfy the Environment Agency's concerns, but engagement between the parties on this (and other points) will continue.</p>

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REP1-024	Environment Agency	Environment and EMP	<p>Issue The Environmental Management Plan (EMP) includes words or phrases which could be ambiguous in relation to the expected mitigation requirements, for example “where appropriate”, “where reasonably practicable” etc.</p> <p>Impact There is the potential for ambiguity in relation to securing mitigation measures that are necessary to protect the environment.</p> <p>Suggested solution Review the wording of the EMP to avoid ambiguity and uncertainty in relation to identifying and securing mitigation measures necessary to protect the environment as part of the proposed development.</p> <p>EA additional commentary: <i>We note the applicant's response in PDL-013 and will continue to work with them to address this issue.</i></p>	<p>The response is noted and National Highways will continue to engage with the Environment Agency on this point as noted in PDL-013 (Document Reference 6.5).</p>
REP1-024	Environment Agency	Flooding and Drainage Environment and EMP	<p>Issue There is no specific requirement to secure detailed flood risk modelling and mitigation where temporary construction works within flood risk areas are unavoidable.</p> <p>Impact The flood risk impacts of temporary construction works will not be understood or managed effectively.</p> <p>Suggested solution A new site-wide requirement should be added, or an existing requirement should be modified to ensure sufficient assessment and investigations are undertaken to support temporary construction works that must take place within flood risk areas.</p> <p>EA additional commentary: <i>We note the applicant's response in PDL-013 however we do not agree with the statement that “specific flood modelling for the construction phase is not considered necessary, as flood modelling for the operational phase of the development has been undertaken and will be updated as detailed design progresses”. As modelling is being undertaken for detailed design, this should include modelling for the detailed design of the temporary works, where the potential magnitude for deleterious impacts is entirely foreseeable as evidenced in the detailed design modelling exercise. This is particularly relevant where it can be identified the temporary works phase could impact on existing more vulnerable receptors, and where such circumstances are apparent (and not discounting ecological or designatory impacts) then these should be subject to enhanced detail design flood risk modelling. Where deleterious effects are identified they should be mitigated and receptors protected. These can be deemed to relatively isolated instances along the linear scheme, and as a result it is not considered that due diligence in relation to site specific detailed temporary works modelling would be either excessively difficult or prohibitively expensive. There is no reason to support the statement that specific flood modelling for the construction phase is not considered necessary and we maintain that sufficient assessment and investigations are undertaken to support temporary construction works that must take place within flood risk areas prior to the commencement of construction in those areas</i></p>	<p>REAC commitment number D-RDWE-01 in the EMP (Document Number 2.7, APP-019) shall be amended to include the requirement for the contractor to provide sufficient evidence to demonstrate that construction activities will not lead to additional flood risk out with the construction site or impact on flood flow conveyance. This would include provision of modelling evidence and mitigation design as required. The wording of the amendment will be agreed with the Environment Agency and included in the amended EMP to be submitted at Deadline 3.</p>
REP1-024	Environment Agency	DCO – Policy and Guidance	<p>Issue The proposed consultation procedure identified in the EMP does not include any provision for consultees to request and agree extensions to the consultation and we have concerns that the approach being taken may exert challenging demands upon us that would be difficult to service.</p> <p>Impact An inflexible process may not allow sufficient time for consultees to determine whether submissions pose a risk of harm to the environment.</p> <p>Suggested solution The procedure should be revised to include the ability for consultees to ask National Highways if they would agree to an extension where it is reasonable to do so, such as during incident response work or where resource constraints limit how much we can engage on the proposals.</p> <p>EA additional commentary: <i>We note the applicant's response in PDL-013 and we appreciate the need for certainty in relation to responses to submissions under the EMP and delivery of the project. We also</i></p>	<p>As set out above, National Highways committed at Issue Specific Hearing 2 to considering whether any amendments to the relevant consultation provisions are required in response to this point raised by the Environment Agency.</p> <p>Please see the Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case (Document Reference 7.3, REP1-009) – page 6. This includes a summary of the Applicant's proposal to introduce certain aspects into the first iteration EMP in the next draft submitted to the Examination. In particular this relates to:</p> <p><i>“1. formal commitment that the Applicant (and its principal contractors) will set up and run regular engagement meetings (or ‘forums’) with the prescribed consultees, with the aim of providing as much visibility on materials coming to those consultees for consultation as practicable; and</i></p>

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			<i>note the suggestion that prior to submission for approval under the EMP, informal engagement between the applicant and statutory bodies could take place through pre-submission discussions or reviews. However, such discussions are not mandatory and so we maintain that a mechanism in the EMP to allow consultees to seek extensions to the 20 / 10-day consultation periods where there are reasonable grounds to do so is necessary.</i>	<i>2. amendments to the consultation process, such that the Applicant would be able to agree a longer consultation period with a consultee where circumstances justify it. Such circumstances would need to be considered on a case-by-case basis."</i>
REP1-024	Environment Agency	DCO – Policy and Guidance	<p>Issue In accordance with the process proposed in the EMP, the proposed consultation procedure allows for one period of re-consultation with consultees before National Highways can determine a submission. However, there is no mechanism to allow for further consultation or discussion before a decision is made should any consultee concerns remain unresolved.</p> <p>Impact Consultees may identify concerns with submissions that are not resolved prior to determination leading to detrimental impacts for the environment</p> <p>Suggested solution Where consultee concerns remain unresolved after the second period of consultation, the consultees should make it clear whether their concerns can be resolved and if so, explain how to give National Highways an opportunity to a) update the submission or b) justify why they do not need comply with the consultee's advice. All opportunities to resolve concerns should be exhausted before a decision is made.</p> <p>EA additional commentary: <i>We note the applicant's response in PDL-013 and we appreciate the need for certainty in relation to responses to submissions under the EMP and delivery of the project. We also note the suggestion that prior to submission for approval under the EMP, informal engagement between the applicant and statutory bodies could take place through pre-submission discussions or reviews. However, such discussions are not mandatory, and this solution does not specifically resolve the issue we have identified regarding a process for exhausting all avenues for resolution prior to a decision on EMP submissions.</i></p>	<p>National Highways committed at Issue Specific Hearing 2 to considering whether any amendments to the relevant consultation provisions are required in response to this point raised by the Environment Agency.</p> <p>Please see the Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case (Document Reference 7.3, REP1-009) – page 6. This includes a summary of the Applicant's proposal to introduce certain aspects into the first iteration EMP in the next draft submitted to the Examination. In particular, this relates to:</p> <p><i>"1. formal commitment that the Applicant (and its principal contractors) will set up and run regular engagement meetings (or 'forums') with the prescribed consultees, with the aim of providing as much visibility on materials coming to those consultees for consultation as practicable; and</i></p> <p><i>2. amendments to the consultation process, such that the Applicant would be able to agree a longer consultation period with a consultee where circumstances justify it. Such circumstances would need to be considered on a case-by-case basis."</i></p>
REP1-024	Environment Agency	Environment and EMP	<p>Issue The role of Environment Manager(s) includes the following duty, but there is no requirement to self-report any transgressions / incidents to relevant regulators</p> <ul style="list-style-type: none"> <i>Keep a record of all activities on site, environmental problems identified, transgressions noted, and a schedule of all remedial tasks undertaken.</i> <p>Impact In the absence of a requirement to self-report any incidents, harm to the environment may arise where relevant authorities should be notified.</p> <p>Suggested solution Amend the role to include the following:</p> <ul style="list-style-type: none"> <i>Keep a record of all activities on site, environmental problems identified, transgressions noted, and a schedule of all remedial tasks undertaken. The Environment Agency, Natural England and / or other relevant regulatory authorities will be notified where appropriate, having regard to the nature and scale of the incident.</i> 	National Highways considers that these points are addressed in the response to Relevant Representations (PDL-013, Document Reference 6.5, pages 112 and 113). Consultation is ongoing with the Environment Agency regarding the exact wording amendments to be proposed, and the proposed updates will be included in the updated EMP to be submitted at Deadline 3.
REP1-024	Environment Agency	Environment and EMP	<p>Issue The role of Ecological Clerk(s) of Work(s) has no duty to self report any transgressions / incidents to the relevant regulators.</p> <p>Impact In the absence of a requirement to self-report any incidents, harm to the environment may arise where relevant authorities should be notified.</p> <p>Suggested solution Add the following requirement to the ECOW role:</p> <ul style="list-style-type: none"> <i>Ensure that any environmental problems identified, or transgressions noted, are reported to the Environmental Manager(s) so that where appropriate the Environment Agency, Natural England and / or other relevant regulatory authorities will be notified, having regard to the nature and scale of the incident.</i> 	National Highways considers that these points are addressed in the response to Relevant Representations, PDL-013, Document Reference 6.5, pages 112 and 113. Consultation is ongoing with the Environment Agency regarding the exact wording amendments to be proposed, and the proposed updates will be included in the updated EMP to be submitted at Deadline 3.
REP1-024	Environment Agency	Design, Engineering and Construction	<p>Issue There is no requirement to locate construction works outside areas at high risk of flooding where possible.</p> <p>Impact Construction works may be unnecessarily located in areas at a high risk of flooding.</p>	National Highways considers that these points are addressed in the response to Relevant Representations, PDL-013, Document Reference 6.5, page 113 and 114. Consultation is ongoing with the Environment Agency regarding the exact wording amendments to be proposed, and the

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		Flooding and Drainage	<p>Suggested solution Update D-GEN-08 to ensure temporary compounds, haul routes and storage areas avoid areas at a high risk of flooding where possible:</p> <p><i>Compound locations, haul routes and storage areas will be selected to avoid designated sites, and be as far away from sensitive receptors as reasonably practicable (for example local residential properties, priority habitats and known locations of protected species, areas at risk of flooding (those in Flood Zone 3))</i></p>	proposed updates will be included in the updated EMP to be submitted at Deadline 3.
REP1-024	Environment Agency	Design, Engineering and Construction	<p>Issue There is a requirement for hoarding and fencing in Flood Zone 3 to be permeable to flood flows but there is no reference to how other construction works that may be necessary in areas at a high risk of flooding will be managed, for example temporary buildings within compounds, access tracks, storage areas etc</p> <p>Impact Some construction features may be at risk of or increase the risk of flooding elsewhere without suitable management / mitigation</p> <p>Suggested solution Update D-GEN-08 requirement to incorporate broader flood risk management controls:</p> <ul style="list-style-type: none"> Temporary development associated with construction shall avoid areas at risk of flooding (those in Flood Zone 3) where possible. Where features (including but not limited to hoarding and fencing, access tracks, compounds and storage areas, temporary buildings) must be in areas at a high risk of flooding, National Highways will demonstrate that the fluvial floodplain and areas liable to other sources of flooding continue to function effectively for storage and conveyance of floodwater without increasing risk elsewhere. 	National Highways considers that these points are addressed in the response to Relevant Representations, PDL-013, Document Reference 6.5, pages 114 to 116. Consultation is ongoing with the Environment Agency regarding the exact wording amendments to be proposed, and the proposed updates will be included in the updated EMP to be submitted at Deadline 3.
REP1-024	Environment Agency	Flood Risk and Drainage	<p>Issue The action is not specific enough in relation to Trout Beck, i.e. it is not just necessary that new watercourse crossings are open span across the river, it needs to ensure the minimum number of piers with no embankments across the whole floodplain. The foundation type/depth of piers on Trout Beck floodplain should be designed such that no modifications/new revetment will be required in the long term if the river migrates, and the pier(s) become(s) located within the river channel.</p> <p>Impact The action does not specify all the measures necessary to avoid any impact on the aquatic environment.</p> <p>Suggested solution Update D-BD-04 to refer to additional requirements:</p> <p><i>New watercourse crossings of the SAC (Trout Beck) shall be open span and the length of the crossing minimised to avoid impacts on the aquatic environment and allow natural river processes to continue, unless otherwise agreed with Natural England and the Environment Agency. The crossing will utilise the minimum number of piers with no embankment across whole floodplain. The foundation type/depth of piers on Trout Beck floodplain will be designed such that no modifications/new revetment would be required in the long term if the river migrates, and the pier(s) become(s) located within the river channel. In addition to the Trout Beck viaduct, the majority (five out of six) of new watercourse crossings of functionally linked watercourses in the Appleby to Brough scheme shall also be open span, unless otherwise agreed with Natural England and the Environment Agency. These are specified in the ES Chapter 6: Biodiversity.</i></p>	National Highways considers that these points are addressed in the response to Relevant Representations, PDL-013, Document Reference 6.5, pages 114 to 116. Consultation is ongoing with the Environment Agency regarding the exact wording amendments to be proposed, and the proposed updates will be included in the updated EMP to be submitted at Deadline 3.
REP1-024	Environment Agency	Design Engineering and Construction	<p>Issue In relation to the reference to the use of culverts, there is a lack of detail regarding the necessary design detail.</p> <p>Impact The absence of detail to support culvert design may lead to culverts that lead to detrimental impacts on the aquatic environment.</p> <p>Suggested solution Update D-BD-04 to refer to additional requirements:</p> <p><i>Where culverts are used, they shall be bottomless (or sunk/inverted 30cm below natural bed level to allow natural substrate to be deposited) and aim to maintain natural bank features. Culverts should also comply with the Institute of Fisheries Management - Fish Passage Manual taking account of other factors including but not limited to maximum</i></p>	National Highways considers that these points are addressed in the response to Relevant Representations, PDL-013, Document Reference 6.5, pages 114 to 116. Consultation is ongoing with the Environment Agency regarding the exact wording amendments to be proposed, and the proposed updates will be included in the updated EMP to be submitted at Deadline 3.

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			<i>gradient, minimum pipe diameter, maximum drop at intake and outfall etc having regard to relevant fish species and the length of the culvert.</i>	
REP1-024	Environment Agency	Environment and EMP Biodiversity	<p>Issue The action requires that some habitats, including waterbodies and watercourses, be replaced with two for each one lost. It is not clear how a watercourse could be replaced on a two for one basis</p> <p>Impact If the mitigation requirements are undeliverable, there is the potential for harm to the aquatic environment because of the proposed development.</p> <p>Suggested solution Update D-BD-05 to ensure that requirements for mitigating for the loss of aquatic features on a two for one basis are clear and deliverable.</p>	<p>National Highways considers that these points are addressed in the response to Relevant Representations, PDL-013, Document Reference 6.5, page 117 and 118. This point has been further discussed with the Environment Agency at a meeting held on 4th November 2022. Watercourse mitigation is secured through the Environmental Management Plan (APP-019), in several locations referenced in the response to relevant representations (PDL-013).</p> <p>The proposed inclusion of 2 for 1 replacement was a measure related to ponds, not watercourses, and the wording will be amended to make this clear. The proposed updates will be included in the updated EMP to be submitted at Deadline 3.</p>
REP1-024	Environment Agency	Biodiversity	<p>Issue It is stated that fish and crayfish translocations will be required where an entire channel is dewatered, however fish and crayfish translocations will be required if <u>any</u> part of the channel is dewatered. Translocations will also be needed if an in-river work area is to be contained/bunded but not dewatered – unless agreed with the Environment Agency given the risk of pollution/ disturbance/risk of direct harm in contained in-river work areas.</p> <p>Impact Fish and crayfish will be detrimentally impacted by the development if they are not translocated when works within the channel require it.</p> <p>Suggested Solution Update MW-BD-02 as follows: <i>Dewatering of any part of the channel of any watercourse will be avoided.</i> <i>If evidence demonstrates that dewatering cannot be avoided:</i></p> <ul style="list-style-type: none"> • <i>All fish (including juvenile lamprey that live in marginal sediments) will be translocated prior to dewatering works</i> • <i>Prior to dewatering or intrusive in-channel works, all crayfish present shall be translocated by a suitably licenced white-clawed crayfish surveyor</i> • <i>Translocations will also be needed if an in-river work area is to be contained/bunded but not dewatered</i> <p><i>Methods and translocation sites shall be confirmed following consultation with Natural England and the Environment Agency</i></p>	<p>Noted. National Highways considers that these points are addressed in the response to Relevant Representations, PDL-013, Document Reference 6.5, page 118. Consultation is ongoing with the Environment Agency regarding the exact wording amendments to be proposed, and the proposed updates will be included in MW-BD-02 within the updated EMP to be submitted at Deadline 3.</p>
REP1-024	Environment Agency	Road Drainage and Water Environment	<p>Issue The action includes a requirement to ensure any in channel works are sensitively timed, but there is no reference to when that is.</p> <p>Impact In river works at inappropriate times could pose a risk of harm to aquatic species and habitats.</p> <p>Suggested solution Update MW-BD-03 to ensure that sensitively timed in river works should avoid 1st October to 15th June, unless there is information confirming there are no fish in the watercourse or Environment Agency/Natural England agree to works during this period, dependent on the exact location and type of in-river work. Where there is a proposal for in-river working in the spawning season, it is recommended that two redd (fish nest) surveys are carried out in Nov and Dec or Jan. This would provide information to allow an informed decision as to whether works could be continued into the spawning season.</p>	<p>Following discussion with the Environment Agency an amendment will be made to the EMP requiring the timing of in-channel works to avoid the most sensitive seasons and the timing of these to be agreed with the Environment Agency (and, where relevant, Natural England). A set time period has not been specified because of the varying species composition at each watercourse, meaning the most sensitive time periods may differ between locations. The proposed amendment will be included in the updated EMP to be submitted to the examination at Deadline 3.</p>
REP1-024	Environment Agency	Environment and EMP	<p>Issue This action makes no reference to the need for a HRA to assess the Method of Works (as well as the permanent works).</p> <p>Impact The impacts of the works on the River Eden SAC and functionally linked habitats will not be adequately assessed in the absence of a HRA.</p> <p>Suggested solution Update MW-BD-15 to ensure the need for a HRA is referenced</p>	<p>The HRA (Application Document 3.6 Habitats Regulations Assessment (HRA) Stage 2 Statement to Inform Appropriate Assessment, APP-235 considers the potential for both construction and operation phase effects. National Highways considers that these points are addressed in the response to Relevant Representations, PDL-013, Document Reference 6.5, pages 120 and 121. Consultation is ongoing with the Environment Agency regarding the exact wording amendments to be proposed, and the</p>

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				proposed updates will be included in the updated EMP to be submitted at Deadline 3.
REP1-024	Environment Agency	Materials, Assets and Waste	<p>Issue There is no reference to the requirement to identify maximum stockpile heights in the Materials Management Plan as stated in document 2.9 Mitigation Schedule (Rev 1; dated 13/06/2022).</p> <p>Impact Unrestricted stockpile heights may have an impact on local environmental quality.</p> <p>Suggested solution Update D-GS-01 to include clear reference to the need to identify maximum stockpile heights.</p>	National Highways considers that these points are addressed in the response to Relevant Representations, PDL-013, Document Reference 6.5, page 121. Consultation is ongoing with the Environment Agency regarding the exact wording amendments to be proposed, and the proposed updates to D-GS-01 will be included in the updated EMP to be submitted at Deadline 3.
REP1-024	Environment Agency	Flooding and Drainage	<p>Issue The action proposes that “water abstracted through dewatering shall be discharged to the same groundwater catchment and downgradient of the dewatered element”.</p> <p>Impact Dewatering discharged to the same groundwater catchment downgradient of the dewatered element may lead to some local stretches of watercourses being impacted through flow depletion.</p> <p>Suggested solution Water abstracted through dewatering may need to be discharged on a more refined local scale if it is to be used as potential mitigation against flow depletion in watercourses so update D-RDWE-01 to reflect this and make it clear that an abstraction licence or licences will be required from the Environment Agency for this.</p>	National Highways considers that these points are addressed in the response to Relevant Representations, PDL-013, Document Reference 6.5, pages 122 and 123. Consultation is ongoing with the Environment Agency regarding the exact wording amendments to be proposed, and the proposed updates will be included in the updated EMP to be submitted at Deadline 3.
REP1-024	Environment Agency	Flooding and Drainage Environment and EMP	<p>Issue Having regard to our comments on the hydrogeological impact assessment methodology paragraph 14.6.8.5, the list of Ground Water Dependent Terrestrial Ecosystem (GWDTE) might need to be widened.</p> <p>Impact The proposed development may have potential adverse impacts on GWDTEs not currently identified.</p> <p>Suggested solution Alternative methods of assessing the zone of influence of dewatering activities may be required to satisfy the requirements of D-RDWE-06.</p>	National Highways considers that these points are addressed in the response to Relevant Representations, PDL-013, Document Reference 6.5, page 109. Consultation is ongoing with the Environment Agency regarding the exact wording amendments to be proposed, and the proposed updates will be included in the updated EMP to be submitted at Deadline 3.
REP1-024	Environment Agency	Environment and EMP	<p>Issue There is no reference to any consultation with the Environment Agency in relation to agreeing the scope and extent of site-specific measures required to mitigate the impacts of the detailed design in relation to WFD impacts</p> <p>Impact The scope and extent of site-specific measures necessary to mitigate the WFD impacts of the development may not be adequate</p> <p>Suggested solution Update D-RDWE-08 to ensure the Environment Agency is consulted on the scope and extent of site specific mitigation required in relation to WFD impacts based on survey and assessment of the detailed design.</p>	National Highways considers that these points are addressed in the response to Relevant Representations, PDL-013, Document Reference 6.5, page 123. Consultation is ongoing with the Environment Agency regarding the exact wording amendments to be proposed, and the proposed updates will be included in the updated EMP to be submitted at Deadline 3.
REP1-024	Environment Agency	Environment and EMP	<p>Issue The additional surveying to be undertaken at the detailed design stage will need to include licensed abstractions as it has been established that some will be impacted (Hydrogeological Impact Assessment paragraph 14.6.8.53).</p> <p>Impact Potential for unacceptable impacts on licensed abstractions without mitigation being provided.</p> <p>Suggested solution Update D-RDWE-09 to ensure both licenced and unlicenced surface and ground water abstractions will be included in the further surveys.</p>	National Highways considers that these points are addressed in the response to Relevant Representations, PDL-013, Document Reference 6.5, page 124. Consultation is ongoing with the Environment Agency regarding the exact wording amendments to be proposed, and the proposed updates will be included in the updated EMP to be submitted at Deadline 3.
REP1-024	Environment Agency	Design, Engineering and Construction Road Drainage and Water Environment	<p>Issue The western end of the A66 project (as far as Brough) lies almost entirely on Penrith sandstone, i.e. non calcareous. Use of limestone may be an issue on Schemes as far as Brough for any temporary stone imports e.g. for tracks/piling platforms or in areas where there is likely to be significant run off through the stone. It will likely depend on volumes of stone, size of stone and proximity to sensitive receptors as to whether this is an issue.</p> <p>Impact Potential detrimental impacts on watercourses associated with run-off through limestone imports</p>	National Highways considers that these points are addressed in the response to Relevant Representations, PDL-013, Document Reference 6.5, page 124. Consultation is ongoing with the Environment Agency, and the proposed updates will be included in the updated EMP to be submitted at Deadline 3.

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			Suggested solution Update MW-RDWE-08 to ensure that it states that limestone will not be imported to be used on Schemes 1, 2, 3, 4, 5 and 6 without Natural England and/or Environment Agency agreement.	
REP1-024	Environment Agency	Road Drainage and Water Environment Environment and EMP	<p>Issue The action does not make it clear that temporary watercourse crossings should generally be clear span bridges. Where temporary culverts are used, the crossing should comply with the Institute of Fisheries Management Fish Pass Manual for new culverts unless otherwise agreed with the Environment Agency. Temporary in-river crossings will not be placed or removed during the fish spawning season (generally 1st Oct to 15th June).</p> <p>Impact In the absence of guidance regarding temporary watercourse crossings, there is the potential for inappropriate solutions to be proposed that will detrimentally impact upon the water environment.</p> <p>Suggested solution Update MW-RDWE-09 to ensure requirements for temporary watercourse crossings are clear.</p>	National Highways considers that these points are addressed in the response to Relevant Representations, PDL-013, Document Reference 6.5, pages 125 and 126.
REP1-024	Environment Agency	Environment and EMP	<p>Issue We are not aware of an Internal Drainage Board (IDB) regulating works on land relevant to the scheme.</p> <p>Impact Incorrect understanding of regulatory roles could lead to detrimental impacts on the environment because of the proposals.</p> <p>Suggested solution Update this section to refer to Lead Local Flood Authority (LLFA) who have a regulatory remit under S23 of the Land Drainage Act 1991, for work that would normally require Ordinary Watercourse Flood Defence Consent (OWFDC)</p>	The amendment proposed will be made to the EMP Annex B7 Ground and Surface Water Management Plan (Document Reference 2.7, APP-027), and an updated version submitted at Deadline 3.
REP1-024	Environment Agency	Environment and EMP	<p>Issue The mandatory conditions for working within flood zones need to be expanded as they are not sufficiently precautionary and need to be developed further to reflect and address the individual and unique flood risks around the different construction areas on the scheme.</p> <p>Impact Mitigation to minimise the risk of working in flood zones during the construction phase is inadequate.</p> <p>Suggested solution Additional conditions for working within flood zones shall include (but not be limited to)</p> <ul style="list-style-type: none"> • Provide inductions and toolbox talks for construction teams in areas identified as being at risk of flooding. • Ensure that construction teams are aware of the source, nature, onset and duration of potential flooding 	The amendment proposed will be made to the EMP Annex B7 Ground and Surface Water Management Plan (Document Reference 2.7, APP-027), and an updated version submitted at Deadline 3.
REP1-024	Environment Agency	Environment and EMP	<p>Issue We support the use of Environment Agency Forecasts, Flood Alerts and Warnings, but any high risk works in flood risk areas should also be registered of our Flood Warning Duty Officers List of Works and Defects system (or Schedule 8 register) for their duration. Our 24/7 duty team will directly call the relevant responsible person(s) listed on our Schedule 8 register to provide early warnings, which would include Heavy Rainfall Alerts (HRAs) in and out of normal working hours.</p> <p>Impact The flood warning and alert arrangements currently proposed may not allow the issue to be managed in the most effective way.</p> <p>Suggested solution Update the proposals to refer to adding high risk works to the Environment Agency Flood Warning Duty Officers List of Works and Defects system (or Schedule 8 register) liaising with the Environment Agency Flood Incident Management Team to add any high risk works to the Schedule 8 register.</p>	The amendment proposed will be made to the EMP Annex B7 Ground and Surface Water Management Plan (Document Reference 2.7, APP-027), and an updated version submitted at Deadline 3.
REP1-024	Environment Agency	Environment and EMP	<p>Issue We do not recognise the 7 metre and 9 metre offset distances referred to with reference to main river and they do not align with the Environmental Permitting (England and Wales) Regulations 2016 or standard Environment Agency protective provisions.</p> <p>Impact Risk of detrimental impacts to the environment where regulatory requirements are not understood.</p>	The amendment proposed will be made to the EMP Annex B7 Ground and Surface Water Management Plan (Document Reference 2.7, APP-027), and an updated version submitted at Deadline 3.

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			Suggested solution Update this section having regard to Schedule 25 of the Environmental Permitting (England and Wales) Regulations 2016 and the Environment Agency protective provisions to be agreed within the DCO.	
REP1-024	Environment Agency	Biodiversity	<p>Issue There is a potential risk of importing aquatic plant species (for SUDS ponds, new ditches etc) from sources that could be contaminated by alien crayfish/crayfish plague. If possible and practicable, an additional section within the INNS management plan should be added to address this.</p> <p>Impact The importation of plant species from sources that could be contaminated by alien crayfish/crayfish plague has the potential to detrimentally impact upon the aquatic environment.</p> <p>Suggested solution Update the INNS management plan to identify and manage this potential risk.</p>	The amendment proposed will be made to the EMP Annex B15 Invasive Non-Native Species Management Plan (Document Reference 2.7, APP-035), and an updated version submitted at Deadline 3.
REP1-024	Environment Agency	Environment and EMP	<p>Issue The works associated with the crossing over Trout Beck in the Temple Sowerby to Appleby scheme are incorrectly described. Reference is made to the use of a multi-span bridge solution with "multiple piers located in the Trout Beck" but no piers should be constructed in Trout Beck.</p> <p>Impact The construction of piers within Trout Beck would have a detrimental impact on the River Eden SAC.</p> <p>Suggested solution The description of the works over Trout Beck should be corrected as follows: <i>As part of the Temple Sowerby to Appleby scheme, there is the requirement to construct a large overbridge over the Trout Beck, using a multi-span solution with multiple piers located within the floodplain of Trout Beck to cover a distance of approximately 400m (in order to prevent disruption of flood flows and geomorphological processes).</i></p>	The amendment proposed will be made to the EMP Annex C1 Working in and near SAC Method Statement (Document Reference 2.7, APP-036), and an updated version submitted at Deadline 3.
REP1-024	Environment Agency	Environment and EMP	<p>Issue The works associated with the Appleby to Brough scheme identify a requirement "to construct single span viaducts over the tributaries of the Trout Beck, which include the Moor Beck and Cringle Beck", however Moor Beck and Cringle Beck are not tributaries of Trout Beck.</p> <p>Impact The use of inaccurate information may lead to incorrect conclusions about potential environmental impacts.</p> <p>Suggested solution The description of the works in the Appleby to Brough scheme should be corrected: <i>For the Appleby to Brough scheme there is a requirement to construct single span viaducts over the Moor Beck and Cringle Beck. Land has also been identified in the area of the Moor Beck and Cringle Beck for Flood Compensation areas to be provided based on final design details to be agreed with the Environment Agency and Cumbria County Council (as Lead Local Flood Authority)</i></p>	The wording of Paragraph C1.3.1 will be clarified to make it clear which watercourses it relates to, and require consultation with the Environment Agency and Cumbria County Council in accordance with the consultation process defined in the EMP. The amendment will be made to the EMP Annex C1 Working in and near SAC Method Statement (Document Reference 2.7, APP-036), and an updated version submitted at Deadline 3.
REP1-024	Environment Agency	Environment and EMP	<p>Issue It is stated that temporary haul roads across the floodplain will be constructed of clean stone or suitable alternative, but this conflicts with EMP Action MW-RDWE-09 which states that "Temporary infrastructure would avoid the introduction of foreign sediments into the floodplain or watercourses by using modular metal folding roads/grids rather than imported materials, so to not impact the geomorphology of the sensitive area".</p> <p>Impact There is the risk of detrimental impacts on the geomorphology of watercourses by using imported materials.</p> <p>Suggested solution C1.3.8 must be updated to ensure it is consistent with EMP Action MW-RDWE-09 and imported materials will not be used to construct temporary infrastructure within the floodplain</p>	National Highways recognise the points made and are working with the Environment Agency to agree an appropriate update through ongoing discussions. Any proposed amendment will be submitted at Deadline 3.
REP1-024	Environment Agency	Flooding and Drainage	<p>Issue It is stated that works within the floodplain would avoid building up materials to ensure flood flows can operate as normal, however there is not mention of managing flood storage in the floodplain</p>	The amendment proposed will be made to the EMP Annex C1 Working in and near SAC Method Statement (Document Reference 2.7, APP-036), and an updated version submitted at Deadline 3.

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			<p>Impact No mitigation proposed for the potential loss of flood storage in the floodplain as part of any temporary works.</p> <p>Suggested solution Include wording on floodplain storage and reference to how other work streams and documents being developed will assess and devise any necessary mitigation for loss of flood storage.</p>	
REP1-024	Environment Agency	Environment and EMP	<p>Issue There is no reference to the fact that the pier foundations will be located on the floodplain, but they will be designed to be structurally sound if the river moves. If the piers become located within a watercourse, there is an expectation that there would be no need for revetting the river to prevent lateral movement.</p> <p>Impact It is not clear that the construction activities within the floodplain seek to avoid long-term detrimental impacts to the water environment.</p> <p>Suggested solution Update these sections to confirm that the design of the pier foundations will be such that they are structurally sound in the event of movement of river channels.</p>	The amendment proposed will be made to the EMP Annex C1 Working in and near SAC Method Statement (Document Reference 2.7, APP-036), and an updated version submitted at Deadline 3.
REP1-024	Environment Agency	Environment and EMP	<p>Issue We support the use of Environment Agency Forecasts, Flood Alerts and Warnings, but any high risk works in flood risk areas should also be registered of our Flood Warning Duty Officers List of Works and Defects system (or Schedule 8 register) for their duration. Our 24/7 duty team will directly call the relevant responsible person(s) listed on our Schedule 8 register to provide early warnings, which would include Heavy Rainfall Alerts (HRAs) in and out of normal working hours.</p> <p>Impact The flood warning and alert arrangements currently proposed may not allow the issue to be managed in the most effective way</p> <p>Suggested solution Update the proposals to refer to adding high risk works to the Environment Agency Flood Warning Duty Officers List of Works and Defects system (or Schedule 8 register) liaising with the Environment Agency Flood Incident Management Team to add any high risk works to the Schedule 8 register.</p>	The amendment proposed will be made to the EMP Annex C1 Working in and near SAC Method Statement (Document Reference 2.7, APP-036), and an updated version submitted at Deadline 3.
REP1-024	Environment Agency	Environment and EMP	<p>Issue It is stated that “the construction footprint of the Trout Beck crossing, and crossings of its functionally linked tributaries will be reinstated as soon as practicable following completion of the crossing works”. If this refers to the Moor Beck and Cringle Beck, they are not tributaries of Trout Beck.</p> <p>Impact The use of inaccurate information may lead to incorrect conclusions about potential environmental impacts.</p> <p>Suggested solution The description of the works in the Appleby to Brough scheme should be corrected: <i>The construction footprint of the Trout Beck crossing, and crossings of other watercourses functionally linked to the River Eden SAC will be reinstated as soon as practicable following completion of the crossing works.</i></p>	The amendment proposed will be made to the EMP Annex C1 Working in and near SAC Method Statement (Document Reference 2.7, APP-036), and an updated version submitted at Deadline 3.
REP1-024	Environment Agency	Environment and EMP	<p>Issue The works associated with the crossing over Trout Beck in the Temple Sowerby to Appleby scheme are incorrectly described. Reference is made to the use of a multi-span bridge solution with “multiple piers located in the Trout Beck” but no piers should be in Trout Beck.</p> <p>Impact The construction of piers within Trout Beck would have a detrimental impact on the River Eden SAC.</p> <p>Suggested solution The description of the works over Trout Beck should be corrected as follows: <i>As part of the Temple Sowerby to Appleby scheme, there is the requirement to construct a large overbridge over the Trout Beck and its associated floodplain, using a multi-span solution with multiple piers located within the floodplain of Trout Beck to cover a distance of approximately 400m in order to prevent disruption of flood flows and geomorphological processes.</i></p>	The amendment proposed will be made to the EMP Annex C2 Working in Watercourses Method Statement (Document Reference 2.7, APP-037), and an updated version submitted at Deadline 3.

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REP1-024	Environment Agency	Flooding and Drainage	<p>Issue Temporary works are identified as being at risk during potential flood events. Temporary works design needs to be assessed for suitability for given location and temporary works should be subject to hydraulic modelling to understand likely depth and velocity changes compared to baseline flood risk.</p> <p>Impact Flood risk to temporary works will present a danger of damage and environmental impacts and potentially increased flood risk elsewhere</p> <p>Suggested solution Update C2.4.7 to make it clear that the risk of flooding to temporary works activities is fully assessed and mitigated having regard to hydraulic modelling to understand likely depth and velocity changes compared to baseline flood risk.</p>	The amendment proposes links to flood modelling for construction works. This is under discussion with the Environment Agency and any proposed update will be submitted with the updated EMP at deadline 3.
REP1-024	Environment Agency	Flooding and Drainage	<p>Issue Where drainage is designed to tie into existing outfalls, the location and suitability of these existing structures for the lifetime of the development needs to be considered</p> <p>Impact Existing outfalls that are not of an appropriate size or outfalls in poor condition may create increased flood risks associated with the proposed development.</p> <p>Suggested solution Update C2.4.11 to require the condition and size of existing outfalls to be assessed where they are proposed to be utilised as part of the proposed drainage network to ensure they are suitable and do not need to be replaced. Existing structures should be replaced or upgraded where investigations determine it is necessary based on the condition and / or size of the structure.</p>	National Highways acknowledge the point made. An additional bullet point shall be added to REAC commitment D-RDWE-02 in the Environment Management Plan (Document Reference 2.7, APP-019) to capture this commitment. Any proposed amendment will be included with the updated EMP at Deadline 3.
REP1-024	Environment Agency	Environment and EMP	<p>Issue We note that in Appendix A – Environmental Incident Action Sheets, the triggers determine a de minimis and selective approach to notifying us of environmental incidents using qualitative rather than quantitative criteria.</p> <p>Impact There is a danger that environmental incidents may be reported by third parties, but not by National Highways or their contractors which may lead to erosion of trust and enforcement action.</p> <p>Suggested solution Consider the points made around the wording and setting the levels for reporting at a more open and precautionary level and allow satisfactory and open self-reporting to relevant regulatory authorities. Avoid the use of triggers that require a judgment over the scale of the event, e.g. deciding the “likelihood” of a spillage entering controlled waters or deciding what a “large volume” of silty runoff should be</p>	The point made will be considered. Any proposed amendment will be included with the updated EMP at Deadline 3.
REP1-024	Environment Agency	Environment and EMP Climate	<p>Issue The mitigation measure is incorrectly linked to EMP REAC Ref D-CL-03, which does not exist.</p> <p>Impact Lack of clarity over the appropriate mitigation measures may result in detrimental impacts on the environment.</p> <p>Suggested solution Update the measure to ensure it is linked to EMP REAC Ref D-CL-01.</p>	This amendment was made within the corrected Mitigation Schedule, submitted to the examination with the Issue Specific Hearing 2 meeting response. Document Reference 2.9, REP1-004.
REP1-024	Environment Agency	Materials, Assets and Waste	<p>Issue The mitigation measure is incorrectly linked to EMP REAC Ref D-GS-02 (Soils Waste Management Plan).</p> <p>Impact Lack of clarity over the appropriate mitigation measures may result in detrimental impacts on the environment.</p> <p>Suggested solution Update the measure to ensure it is linked to EMP REAC Ref D-GS-01 (Materials Waste Management Plan).</p>	This amendment was made within the corrected Mitigation Schedule, submitted to the examination with the Issue Specific Hearing 2 meeting response. Document Reference 2.9, REP1-004. Note D-GS-02 was retained as a reference as well as D-GS-01 being added, as mitigation from this section of the ES is contained in both documents.
REP1-024	Environment Agency	Road Drainage and Water Environment	<p>Issue The mitigation measure is incorrectly linked to Project Design Principle (PDP) Reference LI18.</p> <p>Impact Lack of clarity over the appropriate mitigation measures may result in detrimental impacts on the environment.</p> <p>Suggested solution Update the measure to ensure it is linked to PDP Ref LI17.</p>	This amendment was made within the corrected Mitigation Schedule, submitted to the examination with the Issue Specific Hearing 2 meeting response. Document Reference 2.9, REP1-004.
REP1-024	Environment Agency	Road Drainage and Water Environment	<p>Issue The mitigation measure is incorrectly linked to Project Design Principle (PDP) References 0405.12 and 06.08.</p>	This amendment will be made to the Mitigation Schedule and a further revised version will be submitted alongside the updated EMP at Deadline 3.

Examination Library Reference	Interested Party	Response Topic(s)	Written Representation	National Highways Response
			<p>Impact Lack of clarity over the appropriate mitigation measures may result in detrimental impacts on the environment.</p> <p>Suggested solution Update the measure to ensure it is linked to PDP Ref 0405.11 and 06.07</p>	
REP1-024	Environment Agency	Road Drainage and Water Environment	<p>Issue The mitigation measure is incorrectly linked to Environmental Management Plan (EMP) REAC Ref MW-RDWE-12.</p> <p>Impact Lack of clarity over the appropriate mitigation measures may result in detrimental impacts on the environment.</p> <p>Suggested solution Update the measure to ensure it is linked to EMP REAC Ref MW-RDWE-09.</p>	This amendment will be made to the Mitigation Schedule and a further revised version will be submitted alongside the updated EMP at Deadline 3.
REP1-024	Environment Agency	Road Drainage Water Environment Geology and Soils	<p>(Refer to mitigation schedule and page 23 of WR)</p> <p>Issue The mitigation measure is incorrectly linked to Project Design Principle (PDP) Reference 0405.12.</p> <p>Impact Lack of clarity over the appropriate mitigation measures may result in detrimental impacts on the environment.</p> <p>Suggested solution Update the measure to ensure it is linked to PDP Ref 0405.11.</p>	This amendment will be made to the Mitigation Schedule (Document Reference 2.9, APP-042) and a further revised version will be submitted alongside the updated EMP at Deadline 3.
REP1-024	Environment Agency	Climate Environment and EMP Drainage and flood risk	<p>Issue We understood that the latest EA guidance in relation to the climate change peak rainfall allowances had not been used, although the latest values have been used in a sensitivity analysis within the Flood Risk Assessment (FRA).</p> <p>Impact The impacts on flood risk associated with the latest climate change allowances for peak rainfall levels are uncertain.</p> <p>Suggested solution Ensure that detailed design is based on updated modelling that takes account of the latest EA climate change guidance for peak rainfall allowances.</p>	<p>The Project's drainage design, presented in Appendix 14.2 of the Flood Risk Assessment and Outline Drainage Strategy (Document Reference 3.4, APP-221) was developed based on rainfall climate changes that have since been superseded. Sensitivity testing has been undertaken using the latest climate change allowances to ensure the proposed attenuation systems can accommodate the increased attenuation requirements within the Project Order Limits. This is included in the Climate change section (one section per scheme) of the Flood Risk Assessment and Outline Drainage Strategy (Document Reference 3.4, APP-221).</p> <p>Item D-RDWE-02 of the Environmental Management Plan (Document Reference 2.7, APP-019) includes the following requirement for the development of the detailed design "Where ponds are designed for highway run-off attenuation (as retention ponds), they must have sufficient capacity to retain run-off from all events with an annual exceedance probability of greater than 1%, plus allowance for climate change in line with DMRB CG 501 and Environment Agency guidance."</p>
REP1-024	Environment Agency	Road Drainage and Water Environment	<p>Issue There is no reference to the need for structures within watercourses to also comply with the Text redacted</p> <p>Impact Structures within watercourses may not allow for fish passage in accordance with the necessary guidance.</p> <p>Suggested solution Ensure that design principle LI17 in document 5.11 Project Design Principles is amended to include compliance Text redacted when designating structures within watercourses.</p>	This commitment is located in the EMP rather than the PDP as the drainage (including design) is largely within the EMP. REAC table commitments number D-BD-04 and MW-RD-09 have been amended to refer specifically to this manual. The amendments proposed will be included in the Project Design Principles (Document Reference 3.2, APP-302) LI17 referencing the guidance manual. This will be included in the revised draft of the PDP for Deadline 3.
REP1-024	Environment Agency	Climate Environment and EMP	<p>Issue We understood that the latest EA guidance in relation to the climate change peak rainfall allowances had not been used, although the latest values have been used in a sensitivity analysis within the Flood Risk Assessment (FRA).</p> <p>Impact The impacts on flood risk associated with the latest climate change allowances for peak rainfall levels are uncertain</p> <p>Suggested solution Ensure that detailed design is based on updated modelling that takes account of the latest EA climate change guidance for peak rainfall allowances</p>	<p>Item D-RDWE-02 of the Environmental Management Plan (Document Reference 2.7, APP-019) includes the following requirement "Where ponds are designed for highway run-off attenuation (as retention ponds), they must have sufficient capacity to retain run-off from all events with an annual exceedance probability of greater than 1%, plus allowance for climate change in line with DMRB CG 501 and Environment Agency guidance."</p> <p>This commitment will be amended to reflect the fact that all forms of attenuation must comply with this requirement. The proposed amendment will be included with the updated EMP at Deadline 3.</p>

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REP1-024	Environment Agency	Road Drainage and Water Environment Biodiversity	<p>Issue No specific mitigation is identified for the Greta from Sleightholme Beck to Ellder Beck (GB103025072140) or Greta from Gill Beck to River Tees (GB103025072130) water bodies which have been identified in the WFD assessment as being impacted by the scheme.</p> <p>Impact The proposed scheme may have a detrimental impact on WFD water bodies without specific mitigation.</p> <p>Suggested solution Ensure that specific mitigation proposals for the Greta from Sleightholme Beck to Ellder Beck (GB103025072140) and Greta from Gill Beck to River Tees (GB103025072130) water bodies are identified and agreed in accordance with EMP D-RDWE-08.</p>	To ensure compliance with WFD objectives and to cause no detriment to the current WFD condition of potentially impacted water bodies, an assessment of the compliances of the detailed design to the WFD will be undertaken prior to the start of that part of the project. Mitigation will be further developed using detailed design and further survey and agreed in accordance with commitment D-RDWE-08 within the Environmental Management Plan (Document Reference 2.7, APP-019).
REP1-024	Environment Agency	Flooding and Drainage Environment and EMP	<p>Issue We have reviewed the baseline hydraulic models used to assess flood risk and inform the conclusions of the FRA for each of the schemes but we have not yet accepted them as fit for purpose so we cannot advise on the accuracy of the flood risk conclusions and any associated mitigation proposals that are relevant to our remit.</p> <p>Impact The predicted impacts of the proposed development flood risk and suitability of any mitigation proposals (in so far as they relate to our remit) cannot be verified at this time.</p> <p>Suggested solution National Highways should provide a response to our reviews of their baseline hydraulic models and allow us to determine whether they are fit for purpose as soon as possible.</p>	<p>National Highways considers that this matter was addressed in Issue Specific Hearing 2 and section 3.3 of the Post Hearing Submission document (Document Reference 7.3, REP1-009).</p> <p>National Highways is looking forward to receiving acceptance or further comments from the Environment Agency and will work with them to ensure the models are fit for purpose.</p>
REP1-024	Environment Agency	Flooding and Drainage	<p>Issue It is stated "baseline fluvial modelling undertaken for the scheme has highlighted an increased flood risk extent at Eamont Bridge for the 1 in 100-year fluvial event with a 94% climate change allowance and a slightly reduced extent associated with Dog Beck when compared to the Environment Agency Flood Map for Planning. This area is south of the proposed dual carriageway and does require further modelling or mitigation". However, it is not clear which area required further modelling / mitigation or what is proposed.</p> <p>Impact The risk of flooding and the need for any mitigation is not fully understood.</p> <p>Suggested solution Confirm what further modelling and / or mitigation is proposed for the M6 to Kemplay Bank scheme.</p>	<p>This question relates to Paragraph 14.2.2.74 of document 3.4 Environmental Statement Appendix 14.2 Flood Risk Assessment and Outline Drainage Strategy (Document Reference 3.4, APP-.221).</p> <p>National Highways agree that this text is unclear and can confirm that the baseline hydraulic modelling using the new 94% climate change allowance shows and increased baseline flood extent south of the scheme when compared to the EA Flood Maps for planning. This area of increased risk is not impacted by the proposed scheme and therefore does <i>not</i> require further modelling.</p>
REP1-024	Environment Agency	Flooding and Drainage	<p>Issue A total of 43 properties also flooded in Eamont Bridge in 2009.</p> <p>Impact Lack of clarity in relation to flood history in vicinity of proposed development.</p> <p>Suggested solution Update evidence base to ensure historic flood risk is fully understood.</p>	<p>This question relates to Paragraph 14.2.2.81 of document 3.4 Environmental Statement Appendix 14.2 Flood Risk Assessment and Outline Drainage Strategy (Document Reference 3.4, APP-.221).</p> <p>The design team are aware of the property flooding at Eamont bridge, and this information has been used to validate the hydraulic models, but was erroneously missed out of the FRA text. The correct paragraph is below: Environment Agency data show historic flooding events associated with Thacka Beck within Penrith in 2002 and 2005. Historic flooding associated with the River Eamont has also occurred south of the existing A66 around the area of Skirsgill in 1995, 1997, 2005 and 2015. Further flooding was reported in 2005 associated with the River Eamont and River Lowther in the east of the study area, around Brougham and from the River Eamont in 2009 where 43 properties were impacted.</p>
REP1-024	Environment Agency	Flooding and Drainage	<p>Issue Reference is made to 6.4.6 in relation to compensatory storage within Flood Zone 3b, but there is no section 6.4.6 within the FRA.</p> <p>Impact The suitability of the compensatory flood storage proposals in FZ3b for the Appleby to Brough scheme are unknown.</p> <p>Suggested solution Update the FRA to refer to the necessary details for the scheme for compensatory flood storage in Flood Zone 3b to allow it to be reviewed.</p>	<p>It is unclear which document contains reference 6.4.6 relevant to compensatory storage.</p> <p>For the Appleby to Brough scheme, refer to paragraphs 14.2.5.131 to 14.2.5.133 of Environmental Statement Appendix 14.2 Flood Risk Assessment and Outline Drainage Strategy (Document Reference 3.4, APP-221). See also the Appleby to Brough Hydraulic Modelling Report in Annex E of the above document.</p>

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REP1-024	Environment Agency	Flooding and Drainage	<p>Issue Table 25 gives the total volume of storage provided in each location. There is no information provided on how much storage is lost due to the scheme and the flood magnitude at which both the lost storage and the compensatory storage comes online.</p> <p>Impact The suitability of the compensatory flood storage proposals to mitigate the increased risk of flooding for the Appleby to Brough scheme are unknown.</p> <p>Suggested solution Provide additional information to confirm how much storage is lost due to the scheme and the flood magnitude at which both the lost storage and the compensatory storage comes</p>	The reduction in flood storage areas due to the scheme and the compensatory storage areas are contained within the hydraulic models and 3D alignment design models, so have been taken into account in the assessment and mitigation design, but have not been tabulated in the reports. National Highways will work with the EA to assist with the EA's review of the compensatory storage proposals.
REP1-024	Environment Agency	Flooding and Drainage	<p>(Referring to Annex E)</p> <p>Issue It is hard to see from the details provided (including those in the modelling report) how the compensatory storage areas work and how they are designed. Are they excavated into existing floodplain? How and at what return period / flow magnitude do they fill? How do they drain?</p> <p>Impact The suitability of the compensatory flood storage proposals to mitigate the increased risk of flooding for the Appleby to Brough scheme are unknown.</p> <p>Suggested solution Provide additional information to confirm how the scheme is designed, whether it is excavated into existing floodplain, how and at what return period / flow magnitude it fills and how it subsequently drains.</p>	The proposed compensatory storage areas are contained within the hydraulic models and 3D alignment design models, and have been taken into account in the assessment and mitigation design, but have not been described in detail in the reports at this stage. National Highways will work with the EA to assist with the EA's review of the compensatory storage proposals.
REP1-024	Environment Agency	Flooding and Drainage	<p>(Referring to Annex E)</p> <p>Issue In relation to the figures showing changes in flood depths because of the scheme, it is not always easy to interpret what is causing the changes in depth (changes in peak water level, changes in ground level, changes in flow, cut off flow routes) without also showing the depth grids that have been used to generate these. For example, it is surprising that that the new road embankments at Warcop Junction are not more pronounced within these maps and it is not clear why there are a broad section of increased flood depths passing through the embanked slip road at Warcop Junction (Figure 8-8).</p> <p>Impact The suitability of the compensatory flood storage proposals to mitigate the increased risk of flooding for the Appleby to Brough scheme are unknown.</p> <p>Suggested solution Provide additional information to address this issue.</p>	<p>The change in flood depth due to the scheme and the compensatory storage areas is contained within the hydraulic models and 3D alignment design models, so has been taken into account in the assessment and mitigation design, but have not been described in detail in the reports at this stage. National Highways will work with the EA to assist with the EA's review of any changes in flood depth.</p> <p>In response to the example, the increased flood depths at Warcop junction the proposed scheme increases ground levels at the junction and therefore prevents an existing flow path which occurs over the A66 in the baseline 1 in 100 event. Without this flow path water backs up immediately upstream of it, increasing water levels approximately 0.3m over a small area approximately 500m².</p>
REP1-024	Environment Agency	Flooding and Drainage	<p>(Referring to Annex E)</p> <p>Issue There is no schematic provided showing locations where before and after level and flow results have been extracted from the model (also confirming that, where applicable, combined 1D 2D flows have been extracted).</p> <p>Impact The suitability of the compensatory flood storage proposals to mitigate the increased risk of flooding for the Appleby to Brough scheme are unknown.</p> <p>Suggested solution Provide a schematic showing locations where before and after level and flow results have been extracted from the model and confirm that, where applicable, combined 1D 2D flows have been extracted.</p>	National Highways will engage with the EA on this point with a view to assisting its review of the proposals.
REP1-024	Environment Agency	Flooding and Drainage	<p>Issue No detailed information is provided on the effects of the scheme on Low Gill Beck between the Lowgill Beck crossing and Warcop. Figure 8-13 in the modelling report shows increased water levels in a few places along this reach and the summary at the end of this section of the report highlights this and concludes that it is "likely these increases are associated with areas of ground level change in the proposed scheme". For the most part this looks to be the case in Figure 8-13 in which case there needs to be an assessment of lost floodplain storage because of this and compensatory storage provided as required. The fact that the most downstream area of increased depth on Lowgill Beck shown in figure 8-13 appears to be downstream of any proposed earthworks suggests the possibility of increased pass on flows which needs to be investigated.</p>	<p>There are three key areas on Low Gill Beck between the Lowgill Beck crossing and Warcop where moderate increases in flood risk can be seen in the Appleby to Brough Hydraulic Modelling report in Annex E of document 3.4 Environmental Statement Appendix 14.2 Flood Risk Assessment and Outline Drainage Strategy (Document Reference 3.1, APP-221).</p> <p><u>Location 1 – Eden Valley Railway</u></p> <p>There are no changes to ground levels occurring at this location as a result of the proposed scheme. Increases in flood risk here are solely from the impact of upstream Locations 2 and 3 discussed below.</p> <p><u>Location 2 - Flithome</u></p>

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			<p>Impact The suitability of the compensatory flood storage proposals to mitigate the increased risk of flooding for the Appleby to Brough scheme are unknown.</p> <p>Suggested solution Provide additional information to address this issue.</p>	<p>The scheme designs show a tie in point here to an existing bridge. No changes are proposed to this structure and the differences in flood depths at this location are a combination of the impacts upstream at Location 3 and quality of the LiDAR and design model interface at this location. Alteration to this tie-in location within the model will remove any influence of this effect along with the application of more detailed existing and proposed ground models to be used in the next design stage. Any design changes/refinement that affects the hydraulic models will be subjected additional hydraulic modelling as secured in item D-RDWE-02 the Environmental Management Plan (Document Reference 2.7, APP-019)</p> <p><u>Location 3 - Landrigg</u></p> <p>A small reduction in the floodplain can be seen at location 3, this is due to the footprint of the proposed balancing pond encroaching on the floodplain. This causes increases in flood depths between 0.01 – 0.1m. The location of this balancing Pond is due to be moved from this location as part of the proposed design changes therefore this impact and its effects downstream may be removed and prevent the need for further mitigation.</p> <p>National Highways will shortly be holding a consultation on the proposed changes to the preliminary design of the Project, as presented in the DCO application. Following careful consideration of the responses to consultation, National Highways will decide: (i) whether to submit a request to the Examining Authority to accept all, some or none of the proposed design changes for inclusion in the DCO application being examined, and (ii) what form the proposed changes will take.</p>
REP1-024	Environment Agency	Flooding and Drainage	<p>Issue Evidence indicates that the Tutta Beck and the Punder Gill have been modified in the past so using these channels as reference conditions to inform the design of a mitigation scheme may not be appropriate.</p> <p>Impact The proposed development may have detrimental impacts on the water environment in the absence of a suitable mitigation scheme.</p> <p>Suggested solution To comply with D-RDWE-08, National Highways should take the opportunity to restore the watercourses to optimal natural conditions rather than copying existing channel dimensions and conditions. The design of the new channel must include an accessible, and active floodplain. Ground condition and local topography may mean that this needs to be a cut inset floodplain.</p>	<p>This is noted by National Highways. National Highways will seek to restore the watercourses to optimal natural conditions where this is practicable and appropriate. The design of the new channel will be developed following the survey and assessment of the detailed design and agreed in accordance with D-RDWE-08 of the Environmental Management Plan (Document Reference 2.7, APP-019).</p>
REP1-024	Environment Agency	Flooding and Drainage	<p>Issue It is incorrectly stated that where the existing A66 crosses it at Brougham Castle, the River Eamont flows in a westerly direction towards the River Eden.</p> <p>Impact Lack of clarity over the hydrology of the River Eamont could impact on the validity of the assessment of impacts on the aquatic environment.</p> <p>Suggested solution Update the assessment to confirm that the River Eamont flows easterly towards the River Eden from where the existing A66 crosses it.</p>	<p>It is unclear which document includes this apparent error; however, the watercourse direction is described correctly within Table 1, Table 7 and Annex E of the Environmental Statement Appendix 14.2 Flood Risk Assessment and Outline Drainage Strategy (Document Reference 3.4, APP-221). This description error does not change the results of the hydraulic modelling or Flood Risk Assessment conclusion.</p>
REP1-024	Environment Agency	Flooding and Drainage	<p>Issue In relation to the potential impacts to groundwater related features, much of the work in the HIA and other documents relies on the extent of the zones of influence, but the approach taken to estimate the zone of influence relies on an empirical equation and the inflow on a theoretical equation. The actual zone of influence may be more complex as confirmed in paragraph 14.6.8.5.</p> <p>Impact There is a risk that water features outside the zone of influence could be impacted, such as through loss of groundwater inflow.</p> <p>Suggested solution Identify alternative methods of assessing the zone of influence when considering what might be impacted by dewatering activities and do not just a focus on the estimated zones of influence through submissions to satisfy EMP requirement DRDWE-09.</p>	<p>The Sichardt equation provides an empirical estimation of the zone of influence which, as noted by EA document SC040020/SR1, is not consistent with the principle of the impact of an abstraction (or in this case cutting drainage) spreading until it has 'captured' sufficient water. As per the EA's comment, it is appreciated that the actual zone of influence will be more complex for each cutting.</p> <p>To compensate for the limitations of the empirical and theoretical equations used, conservative parameters were utilised to provide inflow and zone of influence outputs. A conservative approach was taken in the drawdown assessment, using the following assumptions and criteria, as are presented</p>

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				<p>in ES Appendix 14.6 Hydrogeological Impact Assessment (Document Reference 3.4, APP-225), Page 92, Section 14.6.8.8:</p> <ul style="list-style-type: none"> • Cutting depth taken as the maximum cutting height along the design element • Groundwater table assumed at ground surface (unless otherwise noted), due to limited monitoring data available from the winter period • Target water level taken as 1.0m below the road level • Cuttings are assumed to be open excavations (i.e. no retaining structures considered) • Hydraulic conductivity values selected to provide a conservative estimate of the zone of influence • Aquifer base taken as 1.5 times the maximum cutting depth <p>These outputs are considered to be sufficiently conservative to capture the likely zone of influence of the cuttings based on our conceptual understanding of the hydrogeology in the area and ascertain receptors that may be impacted by any cuttings.</p> <p>When assessing the impact to receptors within the study area, our conceptualisation of each area was also considered when determining if groundwater level/flow impacts were likely. Further conservative assumptions included the assumption that each property has the potential to include a small private groundwater supply (as presented in ES Appendix 14.6 Hydrogeological Impact Assessment (Document Reference 3.4, APP-225), Page 18, Section 14.6.3.76.</p>
REP1-024	Environment Agency	DCO, Policy and Guidance	<p>Issue The draft DCO accompanying the application allows for the Secretary of State to approve a detailed design that departs from the approved design principles, works plans and engineering drawings subject to consultation with the relevant planning authority. No consultation with other relevant consultees (i.e. the Environment Agency) is required.</p> <p>Impact The significance of any environmental impacts of a detailed design that deviates from the approved DCO may be unknown.</p> <p>Suggested solution Further engagement between National Highways and us to identify alternative wording to address this concern</p> <p>EA additional commentary:</p> <p><i>We note the applicant's response in PDL-013 and accept that the wording within the DCO makes it clear that the Secretary of State (SoS) must be satisfied that the departure would not give rise to any materially new or materially worse adverse environmental effects when compared to those reported in the Environmental Statement. However, if the SoS is only consulting the relevant planning authorities, are they able to advise the SoS on whether there is a materially new or materially worse adverse environmental effect arising from a proposed change in relation to a matter that they may not have technical expertise on, for example fluvial flood risk? We continue to feel that alternative wording within the DCO to allow the SoS to consult the relevant planning authority and statutory environmental bodies would address our concern.</i></p>	<p>See comments made on this point above.</p> <p>Consultation is ongoing with the Environment Agency, and the proposed updates will be included in the updated EMP (Document Reference 2.7, APP-019) to be submitted at Deadline 3.</p>
REP1-024	Environment Agency	DCO, Policy and Guidance	<p>Issue The Draft DCO has not included protective provisions which are acceptable to the Environment Agency.</p> <p>Impact We are unable to agree to disapply Flood Risk Activity Permit (FRAP) requirements if we are not satisfied that the necessary protective provisions are secured through the DCO.</p> <p>Suggested solution Further engagement between National Highways and us is required to secure a suite of protective provisions that we would consider acceptable and allow us to disapply FRAPs.</p>	<p>Noted. National Highways will continue to engage with the Environment Agency with a view to agreeing a form of protective provisions for inclusion within the DCO.</p>

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			EA additional commentary: We note the applicant's response in PDL-013 and will continue to work with them to address this issue.	
REP1-024	Environment Agency	DCO, Policy and Guidance Legal	Issue Consent to erect structures in, over or under a main river will be subject to National Highways obtaining either a permit under the EPR or, if disapplication and suitable protective provisions are agreed, to consent under the protective provisions but this is not stated. Impact Lack of clarity. Suggested solution Amend the wording as follows: <ul style="list-style-type: none"> Consent to erect structures in, over or under a main river (subject to National Highways obtaining either a permit under the EPR or, if disapplication and suitable protective provisions are agreed, to consent under the protective provisions) EA additional commentary: We note the applicant's response in PDL-013 and will continue to work with them to address this issue.	Noted. National Highways will continue to liaise with the Environment Agency with a view to agreeing a form of protective provisions for inclusion within the DCO to facilitate the Environment Agency granting its consent to the proposed legislative disapplication's (see article 3 of the draft DCO (Document Reference 5.1, APP-285) and the Consents and Agreements Position Statement (Document Reference 5.4, APP-287)).
REP1-024	Environment Agency	DCO, Policy and Guidance Legal	Issue The book of reference identifies the Environment Agency as having an interest in several pieces of land that National Highways intends to acquire to construct the proposed scheme. Impact The proposed development may have an impact on land we have an interest in. Suggested solution We will continue to review the Book of Reference and DCO documentation to determine how the proposal impact upon our interests and whether we need to provide further comments through the Written Representations stage. At this stage our Relevant Representation should be regarded as an objection to the acquisition of any land in which we have an interest by way of the DCO.	The Environment Agency's position is noted. As is stated in the Schedule of Negotiations (Document Reference 5.10, APP-301), the Applicant issued an offer of negotiations letter on the 28 th March 2022, inviting Environment Agency to complete and return a form expressing their willingness to discuss the acquisition by National Highways of the interests it requires for the Project by agreement. National Highways will continue to engage with the Environment Agency with a view to securing the necessary land / land interests by voluntary agreement.
REP1-024	Environment Agency	Design, Engineering and Construction	(Referring to Project Design Principles) Issue The Project Design Principles document includes words or phrases which could be ambiguous in relation to the expected mitigation requirements, for example "where appropriate", "where reasonably practicable" etc. Impact There is the potential for ambiguity in relation to securing mitigation measures that are necessary to protect the environment. Suggested solution Review the wording of the Project Design Principles document to avoid ambiguity and uncertainty in relation to identifying and securing mitigation measures necessary to protect the environment as part of the proposed development.	The response is noted and National Highways will continue to engage with the Environment Agency on this point as noted in PDL-013 with regards to mitigation as secured in the Environmental Management Plan (Document Reference 2.7, APP-019).
REP1-024	Environment Agency	Design, Engineering and Construction	(Referring to Project Design Principles) Issue The principle identifies the need to design new overbridges and structures to have regard to the need to conserve and maintain the integrity of riverbanks to prevent erosion, but it fails to identify that consideration will also need to be taken in relation to the risks to the structures themselves due to increased erosion over the lifetime of the development because of natural geomorphological process and climate change. Impact The impacts of climate change and natural geomorphological processes on erosion may not be considered. Suggested solution Update LI04 to make it clear the design of overbridges and structures must be designed to prevent erosion of riverbanks because of the development but also be able to adapt to the increased risks of riverbank erosion because of climate change and natural geomorphological processes.	The amendments proposed will be included in the Project Design Principles (Document Reference 3.2, APP-302) with an updated version submitted at Deadline 3.
REP1-024	Environment Agency	Flooding and Drainage	(Referring to Project Design Principles) Issue The principle states that "where vegetated drainage features are to be provided adjacent to an existing watercourse, an appropriate margin is to be provided to allow for	National Highways will continue to work with the drainage authorities and the Environment Agency to ensure appropriate commitments are provided to ensure continuing access for maintenance purposes. Whilst it is noted that the comment made is in the context of the Project Design Principles, it

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		Design, Engineering and Construction	<p>access and maintenance by riparian owners and land drainage authorities” but it is unclear how an “appropriate margin” will be defined.</p> <p>Impact There is a risk that access to watercourses for maintenance and / or repair purposes will not be sufficient, leading to a potential increase in flood risk.</p> <p>Suggested solution Update LI14 to confirm that National Highways will work with relevant land drainage authorities (Environment Agency, Lead Local Flood Authorities, Local Authorities) to ensure that access to watercourses for maintenance and repair purposes, now and in the future, is agreed and will be retained in perpetuity unless otherwise agreed with the drainage authorities.</p>	<p>may be more appropriate to include commitments elsewhere (e.g. in the protective provisions for the benefit of certain parties).</p>
REP1-024	Environment Agency	Biodiversity	<p>(Referring to Project Design Principles)</p> <p>Issue Most species used in drainage features (or restorations of watercourses) are likely to spread downstream over time.</p> <p>Impact Potential risk of species that are not native to the water catchment spreading downstream to the detriment of downstream features and designations</p> <p>Suggested solution Update LI14 and LI15 to make it clear that for aquatic/emergent/marginal plants used to vegetate drainage features, only species native to that water catchment may be used</p>	<p>The amendments proposed will be included in the Project Design Principles (Document Reference 3.2, APP-302) and EMP Annex B15 Invasive Non-Native Species Management Plan (Document Reference 2.7, APP-035) and an updated version submitted at Deadline 3.</p>
REP1-024	Environment Agency	Biodiversity Environment EMP	<p>(Referring to Project Design Principles)</p> <p>Issue Biosecurity risks associated with sourcing aquatic plants are not referenced.</p> <p>Impact There is the potential for aquatic plants to be sourced from catchments with alien crayfish or crayfish plague if the plant nurseries use any natural river water</p> <p>Suggested solution Update LI14, LI15 and LI16 to make it clear that for aquatic/emergent/marginal plants used to vegetate drainage features, species will be obtained from sources that do not pose biosecurity risks to the catchment.</p>	<p>The amendments proposed to will be included in the Project Design Principles (Document Reference 3.2, APP-302) and EMP Annex B15 Invasive Non-Native Species Management Plan (Document Reference 2.7, APP-035) and an updated version submitted at Deadline 3.</p>
REP1-024	Environment Agency	Biodiversity Design, Engineering and Construction	<p>(Referring to Project Design Principles)</p> <p>Issue The principle states that <i>“the size of an attenuation pond is governed by the catchment area draining into it. The design and form of new attenuation ponds must use the layout and form of their context (i.e. respond to local topography) to reduce use of materials and minimise visual impact where reasonably practicable (having regard to the functions of the pond), supported by strategic planting, drawn from an appropriate native species palette (local to the appropriate catchment where reasonably practicable)”</i>.</p> <p>It is true that plants may not always be available to source locally, but there is no reason why the “native species palette” cannot be local to the appropriate catchment.</p> <p>Impact There is the potential for the use of a native species palette that is not local to appropriate catchment, increasing the risk of species that are not native to the water catchment spreading downstream to the detriment of downstream features and designations.</p> <p>Suggested solution Update LI16 the principle as follows: <i>The size of an attenuation pond is governed by the catchment area draining into it. The design and form of new attenuation ponds must use the layout and form of their context (i.e. respond to local topography) to reduce use of materials and minimise visual impact where reasonably practicable (having regard to the functions of the pond), supported by strategic planting, drawn from a native species palette (local to the catchment).</i></p>	<p>The amendments proposed will be considered by National Highways and appropriate amendments included in the Project Design Principles (Document Reference 3.2, APP-302) and EMP Annex B15 Invasive Non-Native Species Management Plan (Document Reference 2.7, APP-035) and an updated version submitted at Deadline 3.</p>
REP1-024	Environment Agency	Design, Engineering and Construction Environment EMP	<p>(Referring to Project Design Principles)</p> <p>Issue The principle states that the size of an attenuation pond is governed by the catchment area draining into it, but this potentially misses an opportunity for betterment in catchments where providing a greater volume in attenuation ponds could provide additional flood protection downstream.</p>	<p>The amendments proposed will be included in the Project Design Principles (Document Reference 3.2, APP-302) and an updated version submitted at Deadline 3.</p>

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			<p>Impact The wording limits opportunities for betterment which would provide environmental benefits downstream.</p> <p>Suggested solution Revise the wording of the principle as follows: <i>The minimum size of an attenuation pond is governed by the catchment area draining into it.</i></p>	
REP1-024	Environment Agency	Design, Engineering and Construction	<p>(Referring to Project Design Principles)</p> <p>Issue The principle states that “where ponds are constructed near to existing watercourses, engineering structures must be avoided in proximity to such watercourses to reduce bank erosion” but it is unclear what proximity means and what aspect of the design of the pond is actively reducing the bank erosion.</p> <p>Impact New attenuation ponds may detrimentally impact on existing watercourses by constructing them in inappropriate locations.</p> <p>Suggested solution Update LI17 to provide greater clarity and allow for consideration to be given to erosion from rivers encroaching onto drainage assets. Out of bank flows from watercourse or surface water flows have potential to damage and subsume ponds.</p>	The amendments proposed will be considered by National Highways and where appropriate amendments will be included in the Project Design Principles (Document Reference 3.2, APP-302) and EMP Annex B15 Invasive Non-Native Species Management Plan (Document Reference 2.7, APP-035) and an updated version submitted at Deadline 3.
REP1-024	Environment Agency	Design, Engineering and Construction	<p>(Referring to Project Design Principles)</p> <p>Issue The principle makes no reference to the need for structures within watercourses to also comply with the (Missing words of WR here)</p> <p>Impact Structure within watercourses may not allow for fish passage in accordance with the necessary guidance</p> <p>Suggested solution Revise the wording of the principle as follows: <i>Structures within watercourses are to be designed in accordance with CD 529 (Design of outfall and culvert details), CIRIA C786 and the Institute of Fisheries Management fish pass manual.</i></p>	The proposed amendment, with regards to the design of instream structures complying with the Institute of Fisheries Management Fish Pass Manual will be included in the Project Design Principles (Document Reference 3.2, APP-302) under LI17 and an updated version submitted at Deadline 3.
REP1-024	Environment Agency	Design, Engineering and Construction	<p>(Referring to Project Design Principles)</p> <p>Issue The principle does not seek to specifically avoid the use of hard engineering and permanent (non-biodegradable) geotextiles.</p> <p>Impact Schemes for new/realigned/improved channels may include engineering options that would not improve the quality of the aquatic habitat and may not be acceptable to regulatory authorities.</p> <p>Suggested solution Reword the principle as follows: <i>Any realigned watercourses must provide a 10m buffer strip on both sides of the new channel, to allow for implementation of marginal and riparian habitat improvements. Schemes should avoid the use of hard engineering and permanent (non-biodegradable) geotextiles. Where a 10m buffer strip on both sides of the watercourse cannot be provided, evidence will be submitted to the relevant drainage authority (Environment Agency, Lead Local Flood Authority and / or Local Authority) for approval to justify any reduction of buffer width.</i></p>	The amendments proposed will be considered by National Highways and appropriate amendments will be included in the Project Design Principles (Document Reference 3.2, APP-302) and an updated version submitted at Deadline 3.
REP1-024	Environment Agency	Design, Engineering and Construction	<p>(Referring to Project Design Principles)</p> <p>Issue The principle encourages the extension of blue infrastructure, but it does not limit connection between catchments where there may be a biosecurity risk, i.e. improved connectivity/reduced proximity between headwaters of the Tees catchment with signal crayfish and the Eden catchment.</p> <p>Impact There could be risk that the extension of blue infrastructure may inadvertently lead to detrimental impacts where separate catchments pose a biosecurity risk.</p> <p>Suggested solution Reword the principle to specifically exclude opportunities for extension of blue infrastructure where this will pose a biosecurity risk: <i>Where blue infrastructure is to be extended it should where reasonably practicable create resilient, connected wetland networks. Opportunities to extend blue infrastructure should be</i></p>	The amendments proposed will be included in the Project Design Principles (Document Reference 3.2, APP-302) and an updated version submitted at Deadline 3.

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			<i>reviewed if there is evidence to demonstrate that it would cause harm to species or habitats in adjacent catchments.</i>	
REP1-024	Environment Agency	Project Design Principles	<p>(Referring to Project Design Principles)</p> <p>Issue As a project-wide design principle, climate resilience focuses on planting and landscaping but there is no reference to ensuring the design takes account of the increased flood risk which will be exacerbated by more frequent and extreme events.</p> <p>Impact The project wide design principles do not account for all aspects of climate change relevant to the project.</p> <p>Suggested solution Ensure all relevant aspects of climate resilience are considered in the project wide design principles, particularly those related to flood risk.</p>	Appropriate amendments will be considered and any included in the Project Design Principles (Document Reference 3.2, APP-302) an updated version will be submitted at Deadline 3.
REP1-024	Environment Agency	Biodiversity	<p>(Referring to Project Design Principles)</p> <p>Issue The principle requires planting of appropriate native ecological planting at the attenuation pond.</p> <p>Impact Potential for species that are not native to the Eden catchment to detrimentally impact on the designated feature.</p> <p>Suggested solution Amend the principle as follows: <i>...appropriate ecological planting native to the Eden catchment at the attenuation pond</i></p>	The amendments proposed will be included in the Project Design Principles (Document Reference 3.2, APP-302) and an updated version submitted at Deadline 3.
REP1-024	Environment Agency	Environment and EMP Design, Engineering and construction	<p>(Referring to Project Design Principles)</p> <p>Issue The principle seeks to locate the proposed attenuation pond as close as reasonably practicable to the River Eamont.</p> <p>Impact Locating the pond too close to the river may have a detrimental impact on the geomorphology of the River Eamont, restrict access for maintenance and / or repair and have flood risk implications.</p> <p>Suggested solution Amend the principle as follows: <i>...The pond is to be located away from existing parkland trees and as far away from the River Eamont as possible having regard to the relevant environmental constraints.</i></p>	The amendments proposed will be considered by National Highways and appropriate amendments included in the Project Design Principles (Document Reference 3.2, APP-302) and an updated version submitted at Deadline 3.
REP1-024	Environment Agency	Design, Engineering and Construction Flooding and Drainage	<p>(Referring to Project Design Principles)</p> <p>Issue In relation to the design of the Trout Beck crossing, the principle includes the provision that “the span arrangements for the Trout Beck viaduct are to be designed such that the vertical clearance from the watercourse (in normal conditions) is a minimum of 2.5m” but it is not clear as to whether the 2.5m vertical clearance is at least 600mm above the 1 in 100&94% CC allowance flood level nor is it clear what “normal” river conditions are.</p> <p>Impact The soffit of the bridge over Trout Beck may not be sufficiently above the climate change design flood level.</p> <p>Suggested solution Clarify these comments and how this relates to hydrological flood assessment. If the soffit level is already determined by other factors, confirm what the detailed hydraulic modelling will seek to define.</p>	<p>The item 0405.04 of document 5.11 Project Design Principles (APP-302) will be clarified in an update of the document which will be submitted at Deadline 3.</p> <p>National Highways can confirm that the soffit of the Trout Beck structure level is set by the requirement for a footpath and an accommodation track to pass below the structure and is significantly above the 1% AEP + CC river water level and the required 600mm freeboard. The depth of the 1 in 100 year (including climate change allowance) is shown in the hydraulic modelling report in Annex E of document 3.4 Environmental Statement Appendix 14.2 Flood Risk Assessment and Outline Drainage Strategy (APP-221).</p>
REP1-024	Environment Agency	Design, Engineering and Construction	<p>(Referring to Project Design Principles)</p> <p>Issue The principle relates to the provision of compensatory storage at the Trout Beck crossing but it is not clear why compensation needs to be located as close to the Trout Beck crossing as possible nor how this would reduce the footprint of the compensatory storage.</p> <p>Impact The location of the compensatory storage proposals may not be appropriate.</p> <p>Suggested solution Consider revising written detail to provide more clarity around the location and type of compensation to be provided. The compensatory requirements will be quantitatively defined and need to hydraulically connect to the 1% AEP floodplain but not currently occupied by the 1% AEP flood plain (Flood Zone 3). The visual impact of small</p>	National Highways will consider appropriate amendments to Item 0405.11 of document 5.11 Project Design Principles (APP-302) taking into account the EA's suggested solution. An update of the document which will be submitted at Deadline 3.

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			amount of compensatory storage in greenfield future floodplain should be imperceptible and look natural once established	
REP1-024	Environment Agency	Design, Engineering and Construction Flooding and Drainage	<p>(Referring to Project Design Principles)</p> <p>Issue The principle relating to new watercourse crossings provided little commitment in relation to flood risk management, the provision of compensatory flood storage and access for maintenance and repair.</p> <p>Impact Design principles to secure appropriate flood risk management measures for this hydraulically problematic area are not included.</p> <p>Suggested solution Update 06.06 to provide more clarity in relation to the management of flood risk associated with the new watercourse crossings, specify that the provision of compensatory flood storage will be required where development results in a loss of floodplain capacity and confirm that access for maintenance and repair purposes will be retained.</p>	For consistency and clarity, mitigation in relation to flood risk and drainage design are, on the whole, contained in the EMP (Document Reference 2.7, APP-019) rather than the PDP. Table 3.2 Register of Environmental Actions and Commitments contains at commitment references D-RDWE-02, D-RDWE-05, D-RDWE-12, D-RDWE-13, and D-RDWE-14 contain measures regarding further hydraulic modelling to support detailed design, consultation with relevant lead flood authorities. Project Design Principle LI14 relates to access for maintenance and repair purposes - see comments on that above.
REP1-026	Historic England	N/A _ Introductory Text	<p>Introductory statement (summarised)</p> <p>As stated in our Section 56 Relevant Representations [RR-171] HE's interest in the Project is focused upon ensuring that the historic environment generally, especially highly designated heritage assets, are fully considered in the decision-making process and that the Examining Authority (ExA) have the necessary information to inform its decision in determining this application.</p>	Comment is noted
REP1-026	Historic England	DCO, Policy and Guidance	The ES chapter has been updated and informed by the various surveys carried out as listed above. We have provided comments in relation to the archaeological reports at Appendix 1. We also note that there were areas in several schemes where evaluation surveys could not be carried out and that assessment of impacts had to rely on professional judgement. Consequently, there could be a risk of delays in the delivery schedule and potential increased costs from unevaluated areas where the heritage resource could be more significant than anticipated.	Comment is noted. A further set of surveys pre-construction will be carried out.
REP1-026	Historic England	Cultural Heritage	<p>The World Heritage Site (WHS) of the Lake District has not been included in the assessment tables – neither showing it scoped in, nor out.</p> <p>If a WHS site has been screened out of a detailed EIA under an Environmental Statement, there would need to be clear and convincing justification, with appropriate evidence, to demonstrate the lack of impact that has been assessed. At present, the ES doesn't make this clear, and this should be addressed.</p> <p>In principle, if there is potential for a proposed development subject to Environmental Impact Assessment (EIA) to impact the outstanding universal value (OUV) of a WHS then it would need to be assessed under the EIA process. In terms of the methodology for this assessment we would advise that this is conducted in line with UNESCO's newly published Toolkit (produced by UNESCO jointly with ICOMOS, IUCN and ICCROM) as well as our own relevant guidance</p>	<p>National Highways considers that these points are addressed in the response to Relevant Representations, Document Reference 6.5, PDL-011.</p> <p>The World Heritage Site lies outside of the agreed 1km study area within which impacts from the project can be expected. As a result neither direct physical nor setting effects to heritage resources within the World Heritage Site are expected.</p> <p>Changes to traffic flows within the World Heritage Site resulting from the project have been modelled to show a nominal change over a 'do nothing' scenario. It is therefore not expected that heritage assets will experience indirect effects as a result of the project.</p>
REP1-026	Historic England	Consultation and Engagement process	We note that the submitted Community Engagement Plan [APP-031] currently makes no specific mention nor reference to the Historic Environment Research Framework. We believe this to be a missed opportunity to engage with the wider public about the heritage and significance of the A66.	National Highways acknowledges the opportunity flagged. A paragraph will be inserted into the Community Engagement Plan (Document Reference 2.7, APP-031) to ensure the plan captures opportunities for local communities to be engaged in activities specified under the Outline Heritage Mitigation Strategy (including the research framework). This amendment will be included in the updated EMP to be submitted to examination at Deadline 3.
REP1-026	Historic England	Consultation and Engagement process	We would like to see links made between the Historic Environment Research Framework [APP-186] and the Community Engagement Plan [APP-031]. We would be happy to discuss and work with the Applicant to ensure that the public benefits this could bring are fully realised.	National Highways acknowledges the opportunity flagged. A paragraph will be inserted into the Community Engagement Plan (Document Reference 2.7, APP-031) to ensure the plan captures opportunities for local communities to be engaged in activities specified under the Outline Heritage Mitigation Strategy (including the research framework). This

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				amendment will be included in the updated EMP to be submitted to examination at Deadline 3.
REP1-026	Historic England	Cultural Heritage Consultation and Engagement process	We also note that “Annexe B3: Detailed Heritage Mitigation Strategy” [APP023] requires the archaeological contractors to carry out public engagement (B3.3.83 -B3.3.86). Unfortunately, it too doesn’t cross reference back to the Community Engagement Plan [APP-031] nor to the research framework. We suggest that this should be rectified so that harms caused to the historic environment can be best mitigated by ensuring a joined-up approach to public engagement beyond basic activities such as press releases. We would welcome continued engagement with the Applicant to put an innovative Historic Environment engagement strategy in place, built on examples such as the A63, for the wider public benefits it can provide.	An updated EMP will be submitted to the examination at Deadline 3, including an updated version of Annex B3 which will amend the title to Outline Heritage Mitigation Strategy. The updated document will be amended to cross-refer to the Community Engagement Plan [Document Reference 2.7, APP-031]. The Research Framework is cross-referenced at B3.2.5 of Annexe B3: Heritage Mitigation Strategy” [Document Reference 2.7, APP023] where its main themes are summarised. National Highways welcomes continued engagement with Historic England to put a Historic Environment engagement strategy in place.
REP1-026	Historic England	Cultural Heritage	Assessment of impact on assets (M6 Junction 40 to Kemplay Bank) Historic England consider that that the level of harm to the highly designated assets from this scheme is low. HE is satisfied that the impacts of the proposed scheme are temporary and will not cause lasting harm to the Gr.II* Carleton Hall. Impacts to the setting of the asset will be intrusive for the duration of the construction programme, especially in views south from the hall across the park, but short-term (moving plant, lighting and noise). Once the route is constructed then the impacts will be removed, and the parkland should be restored back to its original parkland character	Comment is noted
REP1-026	Historic England	Project Design Principles	We cannot find any commitments in the Environmental Management Plan’s Register of Environmental Actions and Commitments (REAC) table [APP-019] nor in the relevant section (4.1) of the Project Design Principles document [APP-302] regarding the restoration of the Parkland. We suggest that there should be a commitment to restore the Parkland in the DCO documents	Project Design Principles (Document Reference 3.2, APP-302) scheme wide principles VL03, VR01 outlines protection of the setting of heritage assets and scheme specific principle 0102.05 and 0102.06 outline commitments to protect and restore the parkland and its setting.
REP1-026	Historic England	Cultural Heritage Design, Engineering and Construction	Assessment of impact on assets (Penrith to Temple Sowerby) Historic England consider that that the level of harm to the highly designated assets from this scheme is moderate. Pre-application discussions took place with the Applicant regarding how to provide an accommodation access here across the A66 for farm traffic. It was agreed that an overbridge, as compared to an underpass, would minimise harm by reducing the physical impact to the two scheduled monuments either side of the A66. The limited impacts to the scheduled monuments (02-0002) and (03-0004) by this scheme are secured through Principle 03.08 in Section 4.2 of the Project Design Principles [APP-302]. This specifies design principles which must be applied to the final bridge in order to reduce construction impact to the monument.	Comment is noted
REP1-026	Historic England	Cultural Heritage	We acknowledge that the construction of the overbridge will lead to permanent impact to the scheduled monument and potentially to undesignated but related archaeological resources. However, this is limited as noted above. The impacts will be mitigated through an appropriate scheme of archaeological recording.	Comment is noted
REP1-026	Historic England	Walking, Cycling and Horse Riding	At Issue Specific Hearing 1 (ISH1) we noted the ExA question regarding the lack of pedestrian / cycle access from Brougham. We support re-instatement of a walking and cycling route from Brougham to enable easy visitor access from Brougham Fort. Indeed, doing so would then ensure that the design would be in accordance with Principle 03.07 in section 4.2 of Project Design Principles [APP-302].	National Highways will shortly be holding a consultation on some proposed changes to the preliminary design of the Project, as presented in the DCO application. Having regard to on-going feedback received in respect of this location, this will include consultation on a change to our DCO submission to include for a walking and cycling access and link from the B6262 (near Brougham Fort) to the Countess Pillar. Following careful consideration of the responses to consultation, National Highways will decide: (i) whether to submit a request to the Examining Authority to accept all, some or none of

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				the proposed design changes for inclusion in the DCO application being examined, and (ii) what form the proposed changes will take.
REP1-026	Historic England	Environment and EMP	Finally, we note that sheet 1 of the environmental mitigation maps [APP-041] indicates that it is proposed to carry out " <i>Strategic vegetation clearance at the Countess Pillar to enhance and open up views of this historic landmark from the road</i> ". We fully support this enhancement to make the monument more visible. This will be secured through Principle 03.02 in section 4.2 of the Project Design Principles [APP-302] and commitment D-LV-02 in the REAC table of the EMP [APP-019].	Comment is noted.
REP1-026	Historic England	Cultural Heritage	Assessment of impact on assets (Temple Sowerby to Appleby) Historic England consider that that the level of harm to the highly designated assets from this scheme is moderate.	Comment is noted
REP1-026	Historic England	Cultural Heritage Walking, Cycling and Horse Riding	The development of the WCHR path along the north side of the de-trunked A66 on the western approach into the village has potential to cause some harm to remains of the fort and vicus which may survive beneath the existing road. This is a limited impact and can be acceptably mitigated through preservation by record.	Historic England's agreement that the provisions for preservation by record contained in the Heritage Mitigation Strategy (2.7 Environmental Management Plan Annex B3 Detailed Heritage Mitigation Strategy (APP-023)) are acceptable is noted.
REP1-026	Historic England	Cultural Heritage	Assessment of impact on assets (Appleby to Brough) Historic England consider that that the level of harm to the highly designated assets from this scheme is low.	Comment is noted
REP1-026	Historic England	Cultural Heritage	Assessment of impact on assets (Bowes Bypass) We agree with the results of the submitted impact assessment which indicates that there are no highly designated heritage assets which will receive a significant effect.	Comment is noted
REP1-026	Historic England	Cultural Heritage Development of the project and alternatives	Assessment of impacts on assets (Cross Lanes to Rokeby) Historic England consider that that the level of harm to the highly designated assets in the submitted (black) route proposal will have a moderate impact on the significance of the highly designated assets of the Gr. II* Registered Park and Garden (RPG) and Gr. II* Church of St Mary's. We consider that the discounted Blue option has a moderate impact on the RPG, but a greater harm than the impact of the submitted scheme, through the severing of Church Plantation.	Comment is noted
REP1-026	Historic England	Development of the Project and Alternatives	Prior to submission, the Applicant looked at several options for the route for this scheme and we provided advice on the impact of these routes to the historic environment. We advised that the submitted (Black) route was the one which caused the least amount of harm to the highly designated assets in this area On the other hand, the Blue option proposed would cause permanent harm to the Gr. II* Registered Park and Garden (RPG) at Rokeby because it severs the designed link through Church Plantation from the house and main park to the Church. We therefore gave advice on the relative levels of harm of the options, but consider that it is for the Applicant to decide which option should be taken forward, taking this, and all other relevant factors, into account. This is in line with the National Policy Statement on National Networks (2014). Moving the road off-line south of the church and creating a new access junction for HGV and local traffic to Barnard Castle as an underpass west of Gr.II* St Mary's Church (08-0012) ensures that the visual impact on the setting of the church is limited. It also maintains views from the Church down the purposely designed finger of woodland of the Rokeby Gr. II* Registered Park and Garden (RPG) (08-0011) is maintained (see Sheet 3 Works Plans Scheme 08 Cross Lanes to Rokeby Sheet 3 [APP-323]). Placing the proposed junction west of St Mary's avoids severing Church Plantation.	Comment is noted

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REP1-026	Historic England	Design, Engineering and Construction	A new roundabout is proposed where the de-trunked A66 will meet the C-road to Barnard Castle (see Sheet 3 Works Plans Scheme 08 Cross Lanes to Rokeby Sheet 3 [APP-323] [APP-016]). We will continue to engage with the Applicant on the design of this roundabout, but the inclusion of this element does not change our advice in relation to the relative levels of harm the route options have.	Comment is noted.
REP1-026	Historic England	Environment and EMP	Proposed ecological mitigation to the landscape around the RPG in this area will benefit the setting of the highly designated heritage assets in this area. This will be secured via Principles: 08.06; 08.08; 08.09; 08.11; 08.13; and 08.14 in section 4.6 of the Project Design Principles [APP-302] as well as by the following commitments of the REAC table: D-LV-01; D-LV-02 and D-LV-04.	Comment is noted.
REP1-026	Historic England	Cultural Heritage	Assessment of impact on assets (Stephen Bank to Carkin Moor) Historic England consider that that the level of harm to the highly designated assets in this scheme to be moderate.	Comment is noted
REP1-026	Historic England	Design, Engineering and Construction	It is proposed to raise the level of the road in order to take advantage of the wider cutting at height rather than the narrower width at current road levels which would require a greater expansion of the width of the cutting. The retaining wall on the south side of the route will necessitate the loss of a small portion of the scheduled monument. However, most works will be within ground of the existing cutting which has been previously disturbed and / or removed by the current road or lies below the level at which archaeological remains will be located. The construction of the new alignment of Warrener's Lane and the multiple ponds to the south and south-east of the fort will change its setting. However, through early discussions we have been able to reduce or re-site some of the ponds on this side to the benefit of the historic environment. The cutting for Warrener's Lane has also been partially reduced to limit impact on potential archaeological remains on the south side of the fort.	National Highways acknowledge Historic England's summary of the current DCO design in relation to level of the road, retaining walls and the drainage layout in this location. National Highways will shortly be holding a consultation on some proposed changes to the preliminary design of the Project, as presented in the DCO application. Having regard to on-going feedback from landowners received in respect of this location as well as further constructability reviews, this will include consultation on a change to our DCO submission to include for a bridleway overbridge at Carkin Moor, as an alternative to the underpass arrangement, with a lowering of the mainline alignment back to existing road levels through the scheduled monument. Following careful consideration of the responses to consultation, National Highways will decide: (i) whether to submit a request to the Examining Authority to accept all, some or none of the proposed design changes for inclusion in the DCO application being examined, and (ii) what form the proposed changes will take.
REP1-026	Historic England	Design, Engineering and Construction	As with other scheduled sites the Order Limit has been drawn very tightly to the north side of the road as it passes through the monument (see Works Plan Scheme 09 (Sheet 4) [APP-324]). In addition, principles 09.03 – 05 in section 4.7 of the Project Design Principles document [APP-038] sets out the parameters under which the road should be designed where it passes through the monument to limit impacts on the scheduled monument during final design post-consent. However, we do suggest that a new principle is added to section 4.7 of the PDP to require that the design of the cutting for Warrener's Lane south of the monument is limited to reduce impact on the setting of the monument.	We acknowledge the comments made by HE and will consider updating the the Project Design Principles (Document Reference 3.2, APP-302) PDP to include an appropriate commitment to address HE's concerns and an updated version submitted at Deadline 3. Please also refer to the response made on limits of deviation for the construction of the cutting on the North side of Warrener Lane.
REP1-026	Historic England	Cultural Heritage	Assessment of impacts on assets (A1(M) J53 Scotch Corner) We agree with the results of the submitted impact assessment which indicates that there are no highly designated heritage assets which will receive a significant effect	Comment is noted
REP1-026	Historic England	Design, Engineering and Construction	Development Consent Order (DCO) Article 7 – Limits of deviation We suggest that works plan no. 09-1E should be included in the table associated with Article 7(3) to restrict the line of deviation for the construction of the cutting and associated ditch on the north side of Warrener's Lane. This is to ensure that the cutting required is the minimum necessary in order to minimise impacts on the scheduled monument at Carkin Moor (09-0001). We are happy to discuss this further with the Applicant.	Historic England's comment is noted. There is an error in the table in Article 7(3) of the Draft Development Consent Order (Document Reference 5.1, APP-285). The item related to works no 09-2B is incorrect and this should read 09-1E. This errata will confirm a 0m northward movement of the Warrener Lane alignment in the vicinity of the scheduled monument – applicable to Works no 09-3E on the Works Plans (Document Reference 5.16, APP-324). This correction has been made in the draft DCO submitted at this Deadline 2.

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REP1-026	Historic England	DCO, Policy and Guidance	<p>Article 54 – Detailed Design</p> <p>Article 53(1) lists the documents against which the development must be designed and be compatible with. We suggest that Annex C3: Scheduled Monuments Method Statement [APP-038] should also be included here as it sets out design requirements adjacent to scheduled monuments.</p>	<p>It should be noted that under the provisions of the first iteration EMP [Document Reference 2.7, APP-019] (specifically ref. MW-CH-03) a Scheduled Monument Method Statement must be developed (in substantial accordance with Annex C3 [Document Reference 2.7, APP-038]) prior to the start of work that could impact a Scheduled Monument. This Method Statement must be approved by the Secretary of State as part of a second iteration EMP (see article 53 of the draft DCO and paragraph 1.4.11 of the first iteration EMP) and complied with. All of these provisions are legal obligations and secured through the DCO. As such, compliance with an approved Method Statement is already secured via the first iteration EMP and article 53 and does not need to be repeated in article 54.</p> <p>Indeed, it is likely that detailed design would be undertaken prior to a Method Statement being developed and approved (in that the detailed design would inform the content of such a Method Statement).</p> <p>As such, National Highways does not propose to amend article 54 and considers the current drafting adequately secures the necessary protection measures.</p>
REP1-026	Historic England	Consultation and Engagement process	<p>We also note that should the Secretary of State wish to approve a detailed design which departs from the Project Design Principles, consultation must be undertaken with the relevant planning authority (Article 54(2)), however, as the Project Design Principles contain details of how the final design should be developed to reduce harm to heritage assets, Historic England would also wish to be consulted should any departure from the principles affecting designated heritage assets be proposed.</p>	<p>National Highways acknowledges the point made by Historic England. The drafting in article 54 is purposefully broad, to reflect the Secretary of State's ultimate discretion in consulting who they wish in this context. Whilst not all matters would have a heritage angle in this context, National Highways submits that it would be very likely that the Secretary of State would consult its statutory heritage advisor, where necessary, to establish whether any materially new or materially worse adverse environmental effects would arise as a result of a departure.</p> <p>It should be noted that Historic England will be consulted on all heritage matters relating to the development of a second iteration EMP, prior to its submission to the Secretary of State.</p>
REP1-026	Historic England	DCO, Policy and Guidance Environment and EMP	<p>Environmental Management Plan (EMP)</p> <p>Historic England was keen to hear the Applicant explain its proposals in more detail at the Issue Specific Hearing on 1 December, and while we note that the Applicant is reviewing a number of aspects of the DCO drafting relating to the EMP as a result of the hearing, we have set out in this section an explanation of our concerns, this being the first formal opportunity for us to do so in detail. Historic England will, in addition, continue its discussions with the Applicant to try to resolve our points of disagreement.</p>	<p>Historic England's comment is noted and National Highways will continue ongoing engagement with them regarding these points.</p> <p>In addition, please note National Highways Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case [Document Reference 7.3, REP1-009] which also includes some 'post hearing notes' relevant to the EMP in addition to summarising the oral submissions.</p>
REP1-026	Historic England	DCO, Policy and Guidance	<p>Therefore, the location of mitigation measures in the EMP will only be appropriate if the EMP is clear, robust and enforceable. While we note that the Applicant is reviewing a number of matters in relation to the EMP and associated provisions in the DCO, we are concerned that the EMP (and associated DCO provisions) as drafted are not robust. As such, Historic England cannot support the relocation of mitigation measures into the DCO without further amendments to the draft EMP (and associated DCO provisions).</p> <p>We also note that the approach to the EMP proposed by the Applicant creates a number of practical difficulties, particularly in relation to keeping track of which version and iteration of the EMP is current and the need to navigate through a large number of appendices. While these difficulties could be resolved, they do demonstrate the complex nature of the Applicant's proposals, which could be avoided by the use of requirements on the face of the DCO in the standard way.</p>	<p>National Highway's position on the principle of securing an EMP by way of an article in the DCO rather than a requirement in a Schedule to a DCO is set out and justified under agenda item 2.1 in the Applicant's Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case [Document Reference 7.3, REP1-009]). It is National Highway's view that the proposed approach, would help to simplify matters, to ensure mitigation matters are contained under a single 'umbrella' document, as opposed to across a number of different requirements, which themselves would generate various approved documents. As explained as Issue Specific Hearing 2, the Applicant's proposed approach is legally enforceable in a robust way, in the same as 'standard' requirements.</p> <p>Whilst National Highways considers the first iteration EMP (and general approach) would result in a robust set of mitigation and management measurements being implemented, the Applicant will continue to engage with Historic England on this, and other points.</p>

Examination Library Reference	Interested Party	Response Topic(s)	Written Representation	National Highways Response
REP1-026	Historic England	DCO, Policy and Guidance	<p>Production of the second iteration EMP</p> <p>We note that the Applicant is, at the invitation of the ExA, reviewing the requirement for the second iteration EMP to be 'substantially based' on the first iteration, and for any change in environmental effects to be considered 'in comparison with' the environmental statement. Historic England supports more robust wording being used in the DCO in this context.</p>	<p>Please refer to the 'post hearing note' on page 11 of National Highway's Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case [Document Reference 7.3, REP1-009]. This states (in respect of the first point):</p> <p><i>"The Applicant has reflected on the use of this wording and acknowledges it is a departure from recently made DCOs. As a result, it proposes to amend 'substantially based' to 'substantially in accordance with', to reflect those DCOs. This change will be made in the next draft of the DCO submitted into the examination at deadline 2"</i></p> <p>And, in respect of the second (on page 13 of the same submission):</p> <p><i>"The Applicant has again re-considered the use of this wording in light of the ExA's comments but does not propose to amend it in the draft DCO. Having considered recent precedents to ensure the draft DCO is not inconsistent, it is apparent that the Applicant's formulation has recently been approved by the Secretary of State in the A57 Link Roads Development Consent Order 2022, illustrating that this drafting is acceptable in policy, as well as legal, terms (it has also been included in other DCOs made over the past year, such as the M54 to M6 Link Road Development Consent Order 2022 and the M25 Junction 28 Development Consent Order 2022)."</i></p> <p>National Highways does not propose to change the wording in the DCO on these points, but will continue to engage with Historic England on these and other points.</p>
REP1-026	Historic England	DCO, Policy and Guidance	<p>Amendments to the second iteration EMP</p> <p>It is not clear from the documents submitted with the application when amendments will need to be approved by the Secretary of State rather than being approved by the Applicant. The Applicant has said that it will only approve minor amendments to the second iteration [EV-025, at 5:26], however, it is not clear from the draft DCO (a) that this is in fact the case (b) how 'minor' is defined and (c) who would determine whether an amendment is or, is not, 'minor'.</p> <p>The Applicant is reviewing the wording of the DCO in relation to amending the second iteration of the EMP, and we would support a change to the DCO wording to (a) appropriately define a minor amendment, (b) limit the Applicant's ability to amend the EMP to amendments meeting such a definition, subject to consultation, and (c) include a requirement on the part of the Applicant to consult with the Secretary of State prior to making a minor amendment.</p>	<p>A summary of National Highways' position on this point is set out in the Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case [Document Reference 7.3, REP1-009] – see from page 15. In particular, please note the 'post hearing note' section from page 16, with particular reference to the following text:</p> <p><i>"...the parameters set out in article 53 mean that the Applicant could only determine an amendment to a second iteration Environmental Management Plan in very limited circumstances (i.e. the change must be substantially based on the provisions of the already approved second iteration Environmental Management Plan, leaving limited scope for departure). That being said, given the very wide scope of matters that could be subject to amendment in a second iteration Environmental Management Plan, the Applicant considers that it would be difficult to further define the circumstances as to when either it or the Secretary of State could determine a change. An indicative, non-exhaustive list of examples could be given, but would have limited use in this context. Ultimately it will be a matter of judgement and evidence, applied on a case-by-case basis.</i></p> <p><i>However, taking on board both these difficulties and comments made at the Hearing, the Applicant proposes to instead include a mechanism in either the draft DCO or first iteration EMP (the appropriate 'home' for this is still to be confirmed, pending further consideration) whereby the Secretary of State is notified when the Applicant wishes to determine a change to the second iteration EMP itself. There would then be a prescribed period within which the Secretary of State could 'call-in' that decision, should they consider that the change is more properly determined by them, having regard to the parameters summarised above.</i></p> <p><i>This mechanism will be included in the next draft of the relevant document submitted into the examination."</i></p>

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REP1-026	Historic England	DCO, Policy and Guidance	<p>While we note that Article 53(5) of the draft DCO uses the environmental effects identified in the ES as the 'ceiling' for the amendments which could be made to the second iteration EMP, we would welcome an explanation from the Applicant as to how this will be monitored over the Project as a whole to ensure in particular that a number of amendments do not have a cumulative impact which is materially new, or materially adverse, in comparison with the effects assessed in the ES.</p>	<p>It is worth noting at the outset that the concept of something not giving rise to materially new or materially worse adverse environmental effects in a DCO context is not new and the Secretary of State has approved similar wording on numerous made DCOs to date. As such, the issues arising in the concept of the Project are not novel in this context.</p> <p>Ultimately, either the Secretary of State (in some circumstances) or National Highways (in others) would need to be content that a proposed amendment to an approved second iteration EMP would not give rise to any materially new or materially worse adverse environmental effects when compared to those in the Environmental Statement. Clearly, to determine this, such an amendment would need to be looked at in the context of the regime implemented overall by that second iteration EMP, including any previous amendments, to establish the effects of the amendment. As such, the cumulative effects of any previous amendments to a second iteration EMP would be considered. It would not be possible to properly and rationally determine the environmental effects of an amendment in isolation.</p> <p>As set out above, National Highways has also introduced a 'call in' mechanism for the Secretary of State in respect of amendments to an approved second iteration EMP, where the Applicant proposes to determine such amendments itself. It is hoped this provides Historic England with a further level of comfort in this regard.</p>
REP1-026	Historic England	DCO, Policy and Guidance	<p>It would be helpful if the Applicant could confirm how it intends to control and make available amended versions of the EMP, including whether each amended version of the second iteration EMP be numbered, for example, 'iteration 2.1'. It would also be helpful to understand how the Applicant will make earlier versions of the EMP publicly available – we note that paragraph 1.4.51 requires the approved EMP to be published on a website, but it is not clear whether this website will also provide copies of superseded iterations or versions of the EMP.</p> <p>Subject to an acceptable definition of 'minor' amendments being included in the DCO, and subject to the safeguards discussed in paragraphs 8.14 - 8.15 and our concerns in relation to the consultation procedure and separation of function arrangements set out from paragraphs 8.22 and 8.30 being addressed, Historic England could, in principle, accept minor amendments to the second iteration of the EMP being determined by the Applicant.</p>	<p>As Historic England note, the first iteration EMP [Document Reference 2.7, APP-019] requires that an approved EMP be published on a website. National Highways considers that to have multiple versions on that website, could cause confusion. It should be noted that National Highways is under an obligation, under paragraphs 1.4.32 and 1.4.35 of the first iteration EMP, to supply to consultees (including Historic England) any second iteration EMP (including amended versions) approved. As such, all consultees will have been provided with any approved submission, including those superseded.</p> <p>However, National Highways is very happy to discuss this point further with Historic England as part of on-going engagement, to establish the easiest and clearest way of publishing documents. National Highways welcomes Historic England's comments about being able to, in principle, accept. See comments above, which National Highways hopes addresses the caveats expressed by Historic England.</p>
REP1-026	Historic England	DCO, Policy and Guidance	<p>Third iteration of the EMP and amendments</p> <p>The DCO as drafted does not allow for the third iteration (or amendments to the third iteration) to be approved by the Secretary of State. It is not clear why the Applicant considers that the third iteration should be approved or amended without recourse to the Secretary of State. The DCO as drafted does not expressly require the consultation and determination provisions to be followed in relation to amendments to the third iteration of the EMP, and it is also not clear why this is the case.</p> <p>In our view, a case has not been made for the production of a third iteration EMP to be subject to less scrutiny than the second iteration. The third iteration of the EMP should therefore be approved by the Secretary of State following consultation, and that amendments to the third iteration should be handled in the same way as amendments to the second iteration as discussed above. We have addressed the proposed arrangements for consultation below.</p>	<p>National Highways position on the approval process for the third iteration EMP is stated in Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case [Document Reference 2.7, REP1-009] – see the 'post hearing note' from page 23. In particular, page 26 lists four reasons why it is appropriate for the third iteration EMP to be subject to approval by the Applicant rather than the Secretary of State, given the 'Project Speed' context.</p>
REP1-026	Historic England	DCO, Policy and Guidance	<p>Consultation arrangements</p> <p>In our view, referring in the DCO to paragraph numbers in a document which is going to be superseded and possibly amended to secure the procedure for consultation risks creating</p>	<p>It should be noted that the first iteration EMP, should the DCO be made, will be 'certified' for the purposes of the DCO and would therefore be 'crystallised' at that point and cannot be amended. The intention for the first</p>

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			uncertainty for all parties. We would prefer that the consultation provisions to be set out in the DCO itself (either in the body of the document or in a schedule). This would have a further benefit of providing certainty that the process in place to amend the EMP cannot be used to vary the consultation procedure.	iteration EMP is that it will not be superseded, but instead act as the 'base' document from which the second and third iteration EMPs develop. This means the consultation provisions will not change. For this reason, National Highways does not consider there to be a need for the consultation provisions to be included in the DCO.
REP1-026	Historic England	DCO, Policy and Guidance	In our view, the scope of the single consultation procedure should include explicit reference to the production of amendments to the second iteration of the EMP and to the production of the third iteration of the EMP, both of which are subject to the consultation and determination provisions by Article 53(2), (5) and (7). If our recommendation that amendments to the third iteration of the EMP are expressly subject to consultation is accepted, this should also be referred to when setting out the scope of the consultation provisions.	National Highways considers there is no need for such amendments given that, as Historic England state, the DCO expressly provides for the consultation process to apply to amendments to a previously approved second iteration EMP. It is not immediately clear to the Applicant what Historic England's suggested amendment would add in terms of clarity, but this point will be discussed as part of ongoing engagement between the parties.
REP1-026	Historic England	DCO, Policy and Guidance	The EMP provides that consultees will be consulted in accordance with a specified 'commitment'. The 'commitment' is defined at paragraph 1.4.16 as that listed in table 1-2 for 'specified commitments' and 'which is set out in table 3-2'. In our view, this provision is not sufficiently clear and we recommend that the wording which establishes the single consultation procedure is amended so that it lists more clearly which bodies will need to be consulted on each possible iteration or amendment proposed. For example, it is clear from table 1-2 of the EMP that HE should be consulted in relation to a number of plans and strategies, such as the Heritage Mitigation Strategy. However, it is not clear that HE and/or the relevant Local Authority would be consulted on amendments to the elements of the REAC table dealing with cultural heritage which are not linked to a document included in table 1-2 (such as MW-CH-04, which requires measures to be implemented to protect ridge and furrow field systems during construction). Also, any changes to the wider EMP framework, such as to the handling arrangements, should be subject to consultation with all statutory consultees.	National Highways acknowledges Historic England's point made and is considering what, if any, amendments might be needed to the first iteration EMP to address this issue. Any amendments will be reflected in the revised version of the first iteration EMP submitted at Deadline 3.
REP1-026	Historic England	DCO, Policy and Guidance	The EMP provides that consultees will have 20 working days to respond to a consultation (paragraph 1.4.20) and will have 10 working days to respond to any revised consultation document produced in response to the original consultation (paragraph 1.4.26). We are concerned that this could be difficult to meet in circumstances where, for example, more than one second iteration EMP for different schemes is consulted on at the same time. We would therefore recommend including a mechanism for the parties to agree to extend the response times.	The Applicant committed at Issue Specific Hearing 2 to considering whether any amendments to the relevant consultation provisions are required in response to this point raised by the Environment Agency. Please see the Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case [Document Reference 2.7, REP1-009] – page 6. This includes a summary of the Applicant's proposal to introduce certain aspects into the first iteration EMP in the next draft submitted to the Examination. In particular, this relates to: <i>"1. formal commitment that the Applicant (and its principal contractors) will set up and run regular engagement meetings (or 'forums') with the prescribed consultees, with the aim of providing as much visibility on materials coming to those consultees for consultation as practicable; and 2. amendments to the consultation process, such that the Applicant would be able to agree a longer consultation period with a consultee where circumstances justify it. Such circumstances would need to be considered on a case-by-case basis."</i>
REP1-026	Historic England	DCO, Policy and Guidance	We recommend that the draft EMP is updated as part of the examination to set out full details of the arrangements the Applicant proposes to put in place in order to achieve a separation of functions, so the arrangements can be considered by the ExA and approved by the Secretary of State. We also consider that the arrangements for the separation of functions should be excluded from the amendments the Applicant is able to make to the EMP without the Secretary of State's approval, and that any amendments to the arrangements are subject to consultation.	The Applicant's position is that the current drafting in the first iteration EMP (in paragraph 1.4.38 onwards) is appropriate and is no different to the situation where a local planning authority or a local highway authority approves applications to itself. A degree of flexibility is required as, for example, organisational changes within the Applicant may mean arrangements made now are no longer workable. The Applicant intends to the arrangements to be fully transparent, as per the requirements in the first iteration EMP, albeit that the detail of the arrangements cannot be finalised at this point in time.

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				The Applicant will continue to engage with Historic England on this point, amongst others.
REP1-026	Historic England	DCO, Policy and Guidance	<p>Heritage Mitigation Strategy (HMS)</p> <p>The EMP provides 'before the start of any part of the authorised development', the HMS (and other documents) must be approved as part of a second iteration EMP (paragraph 1.4.11). However, archaeological investigations carried out in accordance with the HMS are excluded from the definition of 'start' in paragraph 1.4.9.</p> <p>We note that the Applicant is reviewing this as part of its post-hearing note, but we suggest that there needs to be a mechanism to ensure that the HMS is approved before any archaeological investigations it governs commence. This note will also need to address the same issue in relation to the definition of 'commence' in Article 53(10) of the DCO.</p>	The Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case [Document Reference 2.7, REP1-009] sets out the Applicant's position on this point – see the 'post hearing note' on pages 14 and 15.
REP1-026	Historic England	Cultural Heritage	<p>Annexe B3: Detailed Heritage Mitigation Strategy [APP-181]</p> <p>We note the Applicant gives this document several different names which shows a lack of internal consistency (e.g. see para. B3.1.2 (OHEMS is used) and Figure 2 on pg B3-5 (where DAMS is used)). This carries over to the REAC tables in D-CH-01 where it is referred to as the "Detailed Heritage Mitigation Strategy" but then abbreviated to "HMS".</p> <p>We suggest that the applicant decides on one name for the document at this stage and ensure that all references to it are changed through all the DCO documents to avoid confusion. In our opinion, it should be called an "outline" not "detailed" document.</p>	Annex B3 is to be renamed 'Outline Heritage Mitigation Strategy' and this naming will carry through the remainder of the document. This change will be made in the amended EMP to be submitted at Deadline 3.
REP1-026	Historic England	DCO, Policy and Guidance Environment and EMP	<p>Annexe C3: Scheduled Monuments Methods Statement [APP-038]</p> <p>We request clarification on how many versions of Annexe C3 could be produced for approval post-consent? It is unclear if there will be one overarching document or one per Principal Contractor</p>	<p>It should be noted that Annex C3 will be 'crystallised', should the DCO be made, as part of the first iteration EMP that will be 'certified' for the purposes of the DCO. Any detailed Schedule Monument Method Statements must be in substantial accordance with Annex C3. As such, Annex C3 will not change but will form the 'base' for detailed Method Statements coming forward in future. These will be approved by the Secretary of State as part of a second iteration EMP.</p> <p>It is anticipated that there may be several Method Statements, relating to each scheme or each Scheduled Monument. The number of documents has purposefully not been specified in order to provide flexibility for the contractors to bring them forward as appropriate to the timing of their works. This applies to the approach to second iteration EMPs generally.</p>
REP1-026	Historic England	Design, Engineering and Construction	<p>Project Design Principles (PDP) [APP-302]</p> <p>Following recent discussion with the Applicant about the roundabout at Rokeby, we have suggested that the PDP is updated with reference to lighting and signage design, and locations, at this highly sensitive location. See Appendix 4 for details.</p>	Project Design Principles (Document Reference 3.2, APP-302) Project wide principle HP02 and CI01 commits lighting to be kept to a minimum and sensitively implemented, only where required. Signage design will be considered further at detailed design.
REP1-026	Historic England	Cultural Heritage	The Environmental Statement does not address the issue of potential impacts to the Lake District World Heritage Site. At present the ES does not seem to have examined such indirect impacts, and this needs to be addressed through an appropriate heritage impact assessment (HIA) in line with UNESCO guidance	<p>National Highways considers that these points are addressed in the response to Relevant Representations (Document Reference 6.5, PDL-011), pages 103 to 105.</p> <p>The World Heritage Site lies outside of the agreed 1km study area within which impacts from the project can be expected. As a result neither direct physical nor setting effects to heritage resources within the World Heritage Site are expected.</p> <p>Changes to traffic flows within the World Heritage Site resulting from the project have been modelled to show a nominal change over a 'do nothing' scenario. It is therefore not expected that heritage assets will experience indirect effects as a result of the project.</p>
REP1-026	Historic England	Cultural Heritage	<p>Geo-Chemical Report</p> <p>The Geochemical testing report is interesting but does not seem to overlap with trenched areas nor does it seem to follow through in the OHEMS (no section about it). We advise</p>	The geochemical survey was commissioned in the Temple Sowerby to Appleby scheme area in order to supplement geophysical survey. In this scheme area trenching was limited to areas common to all of the potential route options at the time the surveys were scoped and as a result non-

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			that National Highways need to decide how to use the results of this work. As it is currently, this work stands somewhat isolated from the rest of the work as we cannot independently test it. It would be useful going forward if you could be clear how the data will or will not be used.	intrusive techniques were depended upon to a greater extent than in other scheme areas. The benefit of geochemical survey lay in its ability to provide a degree of certainty that areas shown in the geophysical survey as devoid of archaeological features were genuinely so.
REP1-026	Historic England	Cultural Heritage	Three trenching reports Ideally it would be helpful if an overall assessment was produced which does not treat these as three separate documents, but rather three strands of the same workload. That may now be too late to do, but a point worth noting.	Noted.
REP1-026	Historic England	Cultural Heritage	Geophysics As we noted early in the pre-app when the 1st report was issued to us, there should be an updated geophysical report which compares the prior knowledge with what we know from the trenching	The geophysical survey report (3.4 Environmental Statement Appendix 8.5 Geophysical Survey Report – Document Reference 3.4, APP-182) updates the initial report. The report was prepared in parallel with the trenching reports and benefited from a cross-discipline survey seminar held during the report preparation phase which allowed contractors to share emerging results.
REP1-026	Historic England	Cultural Heritage	Annexe B3 Detailed Heritage Mitigation Strategy [APP-181] There is an issue in this document over a consistency in nomenclature which can be confusing. This also means that there could be a lack of clarity when this document is referred to in other parts of the DCO, i.e. the draft DCO itself, or in the EMP. We recommend that this confusion over what this document will be referred to throughout the Examination is clarified and corrected throughout the DCO documentation.	Annex B3 is to be renamed 'Outline Heritage Mitigation Strategy' and this naming will carry through the remainder of the document. This change will be made in the amended EMP to be submitted at Deadline 3.
REP1-026	Historic England	Cultural Heritage Consultation and Engagement process	Areas where HE need to be consulted We note that the OHEMS stipulates areas where approval will be required for items such as the Site Specific WSIs, etc. Historic England is omitted from the following approvals but should be included where they affect scheduled remains or Gr II* / I structures: B3.1.12 – Historic England will also sign-off the SSWSIs and reports where works will affect SMs. This should be same as set out in B3.3.5 <ul style="list-style-type: none"> • B3.3.9 – add HE to approval where affects SMs • B3.3.13 – LPA Curator, and HE (within or adjacent to SMs) should also be informed if burials are found not just the Coroner • B3.3.58 – add HE to sign off where fall within our remit 	An updated EMP will be submitted to the examination at Deadline 3, including an updated version of Annex B3 which will amend the title to Outline Heritage Mitigation Strategy In the updated document. The Outline Heritage Mitigation Strategy will be amended in order to provide greater clarity on the process of future consultation with HE.
REP1-026	Historic England	Cultural Heritage	Amendments and comments B3.2.4 – can't find "Building Recording of Rokeby Rectory" with application documents. Was it submitted? Please advise [APP-number] for future reference	The Building Recording of Rokeby Rectory was not submitted with the application documents. It was supplied to HE during pre-application engagement.
REP1-026	Historic England	Cultural Heritage	Table 2 Summary of potential – (pg B3-16) Stephen Bank to Carkin Moor overview text notes the recently discovered unscheduled remains of vicus next to Roman Fort – NB these should be treated as if were scheduled (as per NPSNN para. 5.124) as this is not made clear. Please confirm. This could impact on proposed mitigation so this will need checking.	The recently discovered unscheduled remains located to the west of the Roman Fort at Carkin Moor have been assigned a High value in the assessment (see 3.4 Environmental Statement Appendix 8.10 Impact Assessment Table – Document Reference 3.4, APP187) ensuring that these remains are accorded the same value as scheduled assets and treated accordingly.
REP1-026	Historic England	Cultural Heritage	B3.3.41 Metal Detecting on SM – this will require a Section 42 Licence. This is separate to the SMC which is subsumed within the DCO. This should be clearly flagged in the OWSI section that there must be liaison with HE when agreeing SSWSIs. Perhaps it may require inserting into the REAC table to ensure liaison with HE to get S42 agreed at same time?	The wording at B3.3.41 will be amended in the revised Outline Heritage Mitigation Strategy to reflect the requirement to liaise with HE when determining SSWSIs which propose metal detecting in SM. In line with other licensing arrangements this need not be duplicated in the REAC table.
REP1-026	Historic England	Cultural Heritage	B3.3.85 – suggest examples of good practice for Archaeological contractor to consider – e.g. A63, Must Farm, A1 Catterick, etc... This Project has potential for excellent public engagement and this must be pushed (to be in line with the research framework as well).	National Highways acknowledge the opportunity flagged. A paragraph will be inserted into the Community Engagement Plan (Document Reference 2.7, APP-031) to ensure the plan captures opportunities for local communities to be engaged in activities specified under the Outline

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				<p>Heritage Mitigation Strategy (including the research framework). This amendment will be included in the updated EMP to be submitted to examination at Deadline 3</p> <p>National Highways will continue to engage with Historic England regarding the nature and scope of community and public engagement around the historic environment.</p>
REP1-026	Historic England	Cultural Heritage	<p>It is unclear how the protection of scheduled monuments or other areas of archaeological sensitivity will be undertaken. The OHEMS suggests in B3.3.21/22 SMs will be protected from inadvertent harm during works with a buffer zone and fencing set out in a Method Statement approved by HE.</p> <p>We presume this refers to Annexe C3 para C3.5.3. It is unclear at which point the Final SM Method Statement will be submitted for approval and to whom (see para C3.1.1).</p> <p>We observe that Table 5 (B3.5 Outline Mitigation) notes areas where no previous surveys were undertaken. We assume that the risk associated with this has been considered (Chp 8 Cultural Heritage: 8.5.6) when developing the mitigation in these areas.</p>	<p>See response above to Historic England WR 'Annexe C3: Scheduled Monuments Methods Statement [APP-038]</p> <p>National Highways anticipate that there may be several versions of Annex C3, relating to each scheme or each Scheduled Monument. The number of versions has purposefully not been specified in order to provide flexibility for the contractors to bring them forward as appropriate to the timing of their works.</p> <p>Also see above for amendments to Annex B3 to clarify engagement with HE during the approval process for SSWSIs requiring intervention on SMs.</p>
REP1-026	Historic England	Cultural Heritage	<p>Annexe C3 Scheduled Monuments Method Statement [APP-038]</p> <p>The same issue about inconsistency in terminology as noted above in 2(a) is found in this document. This needs to be rectified to avoid confusion developing in the future. We understand that the four Principal Contractors (PC) will amend this document as detailed designs are agreed. For clarity, does that mean that we could end up with 4 different Annexe C3 Statements requiring approval rather than one overarching method statement used across all 4 areas?</p> <p>There doesn't appear to be any cross-referencing of this document to the relevant REAC Table action (i.e. MW-CH-03). May not be required but might help to assist in reminding PCs of need to update Annexe C3.</p> <p>Schedule Monuments (p C3-4) – There seems to be a confusion here. The scheduled monument known as Brougham Fort (02-0002), which is located south of the A66, is conflated with another scheduled monument, north of the A66, known as "Settlement 1/3 mile (540m) ENE of Brougham Castle" (03-0004). Both are referred in this document as "Brougham Roman fort (Brocavum) and civil settlement and Brougham Castle" and given record number 02-0002.</p> <p>However, for clarity these are two separate scheduled monuments. These must be clearly separated out and each given the high-level review of potential construction required. We appreciate that the monument names in this area are very similar so it is easy to conflate them, which we have only just noted. This will need to be checked and addressed or corrected in:</p> <ul style="list-style-type: none"> • the impact assessment tables [APP-187] • Annexe C3: Scheduled Monuments Method Statement [APP-038], and • Project Design Principles [APP-302] 	<p>See response above regarding the number of versions of the Scheduled Monuments Method Statement. References to the REAC have been avoided in this document in order to remove repetition and avoid circular references. The REAC sets the commitment to produce the statement and what it must contain, and that it must be in accordance with what is in the document at Annex C3.</p> <p>Document Reference 2.7, APP-038, Document Reference 3.4, APP-187 and Document Reference 5.11, APP-302 will be checked and corrected as necessary as part of a subsequent errata submission.</p>
REP1-026	Historic England	Design, Engineering and Construction	<p>Project Design Principles (PDP [APP -302])</p> <p>Rokeby Park Roundabout</p> <p>Following recent discussion with the Applicant about the design of the roundabout where the C-road joins the de-trunked A66, we suggest that the PDP is updated to include reference to lighting and signage details at Rokeby. We recommend that they are kept to the minimum required and located with reference to the heritage sensitivity of this location (namely the Grill gates and piers)</p>	<p>Project Design Principles (Document Reference 3.2, APP-302) Project wide principle HP02 and CI01 commits lighting to be kept to a minimum and sensitively implemented, only where required. National Highways notes the proposed suggestions including a signage review and will continue to engage with Historic England regarding the design of the roundabout through the detailed design stage.</p>

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REP1-026	Historic England	Environment and EMP	EMP (REAC Tables – Amendments) Please refer to pages 41 – 46 of the Historic England Written Response - https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010062/TR010062-001074-Historic%20England%20-%20Written%20Representations%20(WRs).pdf	National Highways notes the proposed amendments and additions suggested to the REAC table. The proposed amendments will be considered and further discussed with Historic England, and will action amendments as appropriate in an amended EMP to be submitted at Deadline 3.
REP1-026	Historic England	Consultation and Engagement process	We note that National Highways have a Community Engagement Plan which will be a certified document as an annexe of the EMP. Whilst we recognise that this document is relatively high level without much detail at this stage, there is an opportunity here for linking it to engagement about the cultural heritage of the A66. We suggest that there should be direct links between Annexe B11, Annexe B3 Detailed Heritage Mitigation Strategy, and Appendix 8.9 Historic Environment Research Framework to ensure that engagement around the historic environment is embedded into National Highways' agenda. An excellent example of heritage engagement on a National Highways scheme is the A63. We would be happy to engage further on this element as needed to ensure that the wider public benefits of the A66 are realised.	National Highways acknowledges the opportunity flagged. A paragraph will be inserted into the Community Engagement Plan (Document Reference 2.7, APP-031) to ensure the plan captures opportunities for local communities to be engaged in activities specified under the draft Heritage Mitigation Strategy (including the research framework). This amendment will be included in the updated EMP to be submitted to examination at Deadline 3. National Highways will continue to engage with Historic England regarding the nature and scope of community and public engagement around the historic environment.
REP1-035	Natural England	Design, Engineering and Construction Environment and Ecology	Further information is needed to understand the impacts and design of the construction works and any temporary structures (in particular the temporary bridge over Troutbeck) in relation to the River Eden SAC and its designated features. It should be noted that our conclusion of no adverse effect on integrity may change if the guidance we have provided on the mitigation and design principals is not followed appropriately.	National Highways considers that these points are addressed in the response to Relevant Representations (PDL-013 Part 1 page 8).
REP1-035	Natural England	Biodiversity	Natural England is still awaiting submission of draft protected species licence applications for review. Without draft protected licence applications, we are unable to issue Letters of No Impediment (LoNI). Natural England expect the draft licence applications to come in once the detailed mitigation and construction work areas are agreed and finalised and will continue to support the selection of appropriate mitigation and compensation in regard to protected species. Biodiversity Net Gain outcomes can be achieved onsite, off-site or through a combination of both. On-site provision should be considered first. Delivery should create or enhance habitats of equal or higher value. When delivering net gain, opportunities should be sought to link delivery to relevant plans or strategies. Natural England will continue to engage with Biodiversity Net Gain plans and provide comments on detailed mitigation and delivery plans once they become finalised.	National Highways confirm it is correct that draft licence applications will be provided at detailed design stage. The requirement for updated/pre-construction protected species surveys, as required, to inform detailed design stage or where a Natural England mitigation licence may be required, has been secured within the Environmental Management Plan and includes badgers, bats, barn owl and otter as a minimum (Document Reference 2.7, APP-019, Reference D-BD-08). Biodiversity net gain is not currently a requirement for Nationally Significant Infrastructure Projects; however, National Highways are committed to maximising biodiversity delivery achieved by the Project. The environmental mitigation design has been developed to ensure that mitigation is provided for impacts on protected species, and that replacement habitats are provided for those lost. In order to demonstrate effective mitigation for habitat loss the Project has applied the principle of No Net Loss. To measure this outcome the application of 0% Biodiversity Net Gain (BNG) as set out within Natural England's BNG Metric 2.0 was applied (Metric 2.0 being the available metric at the time of mitigation determination). This approach was discussed and agreed with the Statutory Environmental Bodies, including Natural England, as part of the Evidence Base process, documented in ECi14 of the Evidence Base table in Appendix 1.1 of the Environmental Statement (ES) (Document Reference 3.4, APP-146). The EMP (Document Reference 2.7, APP 0-19) Chapter 1 and REAC commitment D-BD-05 sets out the consultation procedures relating to the detailed environmental mitigation design.
REP1-035	Natural England	Landscape and Visual	Updated response to National Highways on Nationally designated landscapes Natural England would normally push for the highest level of sensitivity to be applied to all land within an AONB given its nationally designated status and its statutory purpose to conserve and enhance the area's natural beauty. The 'enhance' part of that purpose means that existing development which reduces the quality the landscape should not contribute to an assessment and subsequent justification for further development which would further	We agree with Natural England's position on this and confirm that the quality of the design and mitigation will not be compromised by the 'high' rather than 'very high' sensitivity rating for the NP AONB.

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			<p>close down opportunities to apply enhancement measures to bring the area into closer alignment with the wider AONB. This approach can be challenging to reconcile with the methodology for LVIA, but it represents the view of Natural England as the designating authority for the AONB and our priority to uphold the area's statutory purpose.</p> <p>However, for this particular scheme and the circumstances pertaining to it we are willing to accept a 'high' rather than 'very high' sensitivity rating on this occasion. This reflects the established presence of the A66, and that the scheme is about changes to that existing road rather than a completely new scheme (albeit the alteration works involved are significant). Crucially our acceptance is based on an expectation that the design and screening mitigation to be applied to this part of the scheme will be as effective as possible in relation to the AONB and its statutory purpose, and that this will not be compromised by a high rather than very high sensitivity rating.</p>	
REP1-035	Natural England	Geology and Soils	<p>Soils</p> <p>National Highways have not confirmed their stance on the droughtiness calculations which we have requested be provided in our relevant representations. Natural England would expect to see the droughtiness calculations provided in the Errata alongside the additional Lab data and discussion National Highways have stated will be provided, we will also provide comments on droughtiness in further iterations of the EMP.</p>	<p>Climatic data is used in the assessment of the climate, droughtiness and wetness and in this cool and wet part of the country, as stated in Environmental Statement Appendix 9.5 Agricultural Land Classification(ALC) Factual Soil Survey Report (Document Reference 3.4, APP-196 at Section 4.2) climatic data limit the land to Grade 2 (i.e. there are no Grade 1 soils in the Order Limits). In this cool and wet part of the country, drought is not an overriding limitation. Where there is a possibility of a limiting effect on grade from droughtiness, a calculation has been carried out as detailed in the Appendices of the ALC Factual report notes, but the soil types identified show this has only been necessary on a very limited number of occasions and only on the westernmost schemes of the M6 Junction to Kemplay Bank and Penrith to Temple Sowerby. Elsewhere, the limit to grade is due to a number of factors, such as gradient but more generally soil wetness, which again is due to climate and soil type and obviously precludes droughtiness as a possible limitation which need not be considered.</p> <p>A revised version of the ALC Factual soil report, with droughtiness calculations included where relevant will be submitted to the Examination at Deadline 3.</p>
REP1-035	Natural England	Air Quality	<p>Updated advice on Air Quality</p> <p>1.1</p> <p>In regard to the method followed, Natural England are happy to support the general approach taken throughout the assessment as stated in the recent response to our relevant representations (RR-180). The consultant states that the NEA001 steps have been followed and whilst LA105 is referred to (in line with DMRB requirements), the "loss of one species metric" has not been used in any decision making. Whilst Natural England are supporting National Highways in developing an approach to replace LA105, we agree that the approach taken is a reasonable and appropriate interim in the absence of endorsed guidance published under DMRB for assessing air quality impacts under the Habitats Regulations Assessment.</p>	Noted.
REP1-035	Natural England	Air Quality	<p>Updated advice on Air Quality</p> <p>1.2</p> <p>Natural England understand that whilst the 0.3ug/m3 NOx threshold has been applied to the assessment, this value is exceeded and therefore both ammonia and nitrogen deposition have been calculated and applied in the final assessment. Whilst the use of an imperceptibility threshold, in particular the dismissal of ammonia and nitrogen deposition where the threshold is not exceeded, is still under discussion – irrespective of this, the necessary calculations Natural England would expect to see have been completed according to the response provided by the applicant. If this is indeed the case, then NE can support the outcome however would caution that NE is not setting a precedent of supporting</p>	A summary of the ammonia assessment will be set out in the updated Natural England Statement of Common Ground (SoCG) as agreed at the meeting between the Applicant and Natural England on the 8th December.

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			this imperceptibility threshold or justification as this is still under discussion. Please could National Highways confirm whether the impact of ammonia has also been assessed separately, aside from as a component of nitrogen deposition. NE require gaseous ammonia to be compared against the 1% critical level threshold, depending on whether the ecological community has an important bryophyte/ lichen component or not. We note this was also suggested by the IAQM reviewers of the National Highways ammonia model.	
REP1-035	Natural England	Air Quality	<p>1.3</p> <p>Regarding the in-combination assessment, NE recognise that the DMRB model does include other sources of emissions aside those from roads. However, the response also states that the DMRB methodology does not require point sources to be assessed. Please could this be explained further as NE require that when considering the potential for in combination effects, a competent authority should recognise that different proposal types ('sectors') and different pollutants (e.g., ammonia (NH₃), nitrogen oxides (NO_x and NO₂)) can combine together to have the same or similar effect on a given area of habitat. o It is generally well-established that the scope of an in-combination assessment is restricted to plans and projects which are 'live' at the same time as the assessment being undertaken. NE apply the following guidance to the scope of an in-combination assessment. ▪ The incomplete or non-implemented parts of plans or projects that have already commenced ▪ Plans or projects given consent but not yet started ▪ Plans or projects currently subject to an application for consent or proposed to be given effect ▪ Projects that are the subject of an outstanding appeal ▪ Ongoing plans or projects that are the subject of regular review and renewal ▪ Any draft plans being prepared by any public body ▪ Any proposed plans or projects that are reasonably foreseeable and/or published for consultation prior to application ▪ Installations that were authorised after the most recent update of background pollution data on APIS ▪ Is the site known to receive high levels of nutrient inputs from other non-atmospheric sources E.g., via water pathway?</p>	At the meeting between the Applicant and Natural England on Thursday 8 th December this issue was discussed, and it was agreed that no further actions were required, as set out in the circulated minutes for the meeting. It was demonstrated that suitable consideration of in-combination effects was included in the assessment.
REP1-035	Natural England	Environment and EMP	<p>Natural England note that the EMP and Project Design Principles will become certified documents.</p> <p>We also note that any future design developments, over the course of the DCO that may occur through the Examination process, will be required to take account of the mitigation outlined in these documents and will not result in effects worse than that which was assessed within the ES. We are still concerned that there may be design and mitigation changes after the examination process.</p> <p>However, we recognise that there will be a second iteration of the EMP on which we will be consulted, and that will need SoS approval. This needs to contain more detail and specific mitigation.</p> <p>Any changes in the EMP that relate to the River Eden SAC will need to be addressed in an updated HRA.</p>	National Highways acknowledge the comment made, and will continue to work closely with Natural England to ensure sufficient detail is provided in later iterations of the EMP.
REP1-035	Natural England	Environment and EMP	Natural England note that the specific details of construction methodologies and practices were not finalised at the time of the DCO application and will not be until the detailed design is complete, which is currently ongoing. We assume that the detailed design will be complete by the time the second iteration of the EMP is consulted on and agreed by SoS.	National Highways confirm that this is correct. The detailed design will need to have been completed to inform the content of a second iteration EMP.
REP1-035	Natural England	Biodiversity	NE understand that the impact on the aquatic macrophytes and invertebrates is considered within the SSSI/SAC sections of the ES, EMP and HRA. Our comments explain that given that the macrophyte invertebrates can be within internationally / nationally important sites, they should be given due weighting in this section of the ES.	Noted. For rivers where the macrophyte assemblage conforms to the Annex I habitat "3260 - Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation" (i.e. rivers within the River Eden SAC and River Eden and Tributaries SSSI), a value of Nationally important will be assigned (as an errata) for the purposes of the Biodiversity Chapter. Potential effects on habitats supporting notable macrophytes are assessed in the ES Biodiversity Chapter (Document Reference 3.2, APP-049) (from paragraph 6.10.6), and in the Habitats Regulation Assessment (Habitat Regulations Assessment Stage 2

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				<p>Statement to Information Appropriate Assessment (Document Reference 3.6, APP-235).</p> <p>With regards the aquatic invertebrate assemblage; they are not a qualifying feature of the River Eden SAC, or an interest feature of River Eden and Tributaries SSSI according to the citation. With the exception of white-clawed crayfish, which are considered to be of National/International importance/High sensitivity and were subject to assessment in the ES Biodiversity Chapter (Document Reference 3.2, APP-049) (see Section 6.10) and the HRA ((Document Reference 3.6, APP-235), the invertebrate interest feature of the SSSI are terrestrial species associated with river shingles, sandbanks and riparian areas (i.e. the shore bug <i>Sadula fucicola</i>, the leaf beetle <i>Hydrothassa hannoverianna</i>, the ground beetles <i>Bembidian schuepelli</i>, <i>Bembidian fluviatile</i> and <i>Asaphidian pallipes</i> and the flies <i>Loncoptera meijeri</i>, <i>Camspicnemus marginatus</i> and <i>Rhaphium fractrum</i>. Based on the above National Highways do not consider the aquatic invertebrate assemblage to be of International / National importance. It should also be noted that the design features secured with the Project Design Principles (Document Reference 3.2, APP-302) and mitigation secured within the EMP (Document Reference 2.7, APP-019) will safeguard all aquatic receptors, including aquatic invertebrate communities.</p>
REP1-035	Natural England	Traffic and Transport	Natural England note the assessment and the declining traffic flows, we have removed this comment in Table 1 above, this is now agreed.	Noted.
REP1-035	Natural England	Environment and EMP	Natural England note that the specific details of construction methodologies and practices were not finalised at the time of the DCO application and will not be until the detailed design is complete, which is currently ongoing. We assume that the detailed design will be complete by the time the second iteration of the EMP is consulted on and agreed by SoS	National Highways confirm that this is correct. The detailed design will need to have been completed to inform the content of a second iteration EMP.
REP1-035	Natural England	Biodiversity	<p>6.7.10. Thank you for providing Natural England with this further information.</p> <p>6.9.25. Natural England encourage National Highways to seek to achieve as many enhancement opportunities as possible.</p> <p>6.10.11, Natural England will continue to check further justifications in the ES and EMP as they become available.</p> <p>6.10.16, Natural England acknowledge the Appendices where the Temple Sowerby impacts were assessed.</p>	Noted.
REP1-035	Natural England	Environment and EMP	<p>6.10.27 & 6.10.28 Natural England cannot find a National Highways response to these two points.</p> <p>6.10.478 Natural England acknowledge the points made here, we did agree in the workshop on 22/04/2022 that the temporary bridge should be open span and that the haul road will need to be a flood plain level. We wait to see that this extra detail and information is included within the second iteration of the EMP and the detailed project design</p> <p>6.11.5 Natural England would welcome further discussion on this point. Where there is an obvious pathway to the River Eden SAC, and construction, there ought to be frequent measuring of turbidity (sediment) to ensure that the mitigation that is in place is working as it should, and that if high levels of sediment are found within the watercourse, then work is stopped to address any issues</p>	<p>6.10.27 & 6.10.28. Noted. National Highways recognise that that riparian trees are an important component of the river habitat. If trees are felled within the site, replacement will be planted on the riverbank as close as possible to where felled. A tree loss and compensation planting report will be completed for deadline 4. The report will quantify the total number of trees which could be lost to the Project and subsequently determine and set out the total number of trees which could be required to be replanted as part of the mitigation. The replacement planting requirements are secured in the first iteration EMP (DCO Document reference 2.7 / APP-019) in various commitments. This includes the relevant replacement ratios. Commitment ref. D-LV-01 requires an Arboricultural Impact Assessment (AIA) to be undertaken prior to the start of the main works for the Project. National Highways expects further engagement with Natural England on this topic.</p> <p>6.10.478. Noted. National Highways expects further engagement with Natural England on this topic.</p> <p>6.11.5. Noted. National Highways expects further engagement with Natural England on this topic.</p>

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REP1-035	Natural England	Environment	6.11.7 Natural England have not seen a National Highways response to this point. Natural England still recommends that the effluent from the attenuation ponds is monitored regularly to ensure that the ponds continue to function as they should	NH has an established routine maintenance regime for all its drainage assets to ensure that they perform as they should do.
REP1-035	Natural England	Environment and EMP Design, Engineering and Construction	Natural England acknowledge the comments made in regard to the HRA AA and the temporary crossing over Troutbeck. Please see comments above regarding the temporary crossing over Troutbeck and the mitigation and detailed design needed.	This is noted by National Highways. National Highways considers that these points are addressed in the response to Relevant Representations (Document Reference 6.5, PDL-013), pages 136 to 138).
REP1-035	Natural England	Environment and EMP Biodiversity	1.5.24-1.5.25 Natural England note the comments and agree that the riparian habitat subject to alteration/loss of trees is not the qualifying SAC woodland habitat type (i.e., 91E0 Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i>). However, riparian trees are an important component of the river habitat and provide shade and different habitat niches to many of the SAC species. If trees are felled within the site, replacement trees should be planted on the riverbank as close as possible.	This is noted by National Highways. National Highway recognise that riparian trees are an important component of the river habitat and provide shade and different habitat niches to many of the SAC species. If trees are felled within the site, replacement will be planted on the riverbank as close as possible to where felled. A tree loss and compensation planting report will be completed for deadline 4. The report will quantify the total number of trees which could be lost to the Project and subsequently determine and set out the total number of trees which could be required to be replanted as part of the mitigation. The replacement planting requirements are secured in the first iteration EMP (DCO Document reference 2.7 / APP-019) in various commitments. This includes the relevant replacement ratios. Commitment ref. D-LV-01 requires an Arboricultural Impact Assessment (AIA) to be undertaken prior to the start of the main works for the Project. National Highways expects further engagement with Natural England on this topic.
REP1-035	Natural England	Biodiversity	The SAC Supplementary Advice document states that "Watercourses with a high degree of naturalness are governed by dynamic processes which result in a mosaic of characteristic physical habitats or biotopes, including a range of substrate types, variations in flow, channel width and depth, in-channel and side-channel sedimentation features (including transiently exposed sediments), bank profiles (including shallow and steep slopes), erosion features (such as cliffs) and both in channel and bankside (woody and herbaceous) vegetation cover. All of these biotopes, and their characteristic patterns within the river corridor, are important to the full expression of the biological community" and "A mosaic of natural and semi-natural riparian vegetation types provides conditions for all characteristic in-channel and riparian biota to thrive, creating patches of tall and short riparian swards, a mixture of light and shade on the river channel, and tree root systems and a supply of large woody debris that add channel complexity. Patchy tree cover provides shade protection against rising water temperatures caused by climate change"	This is noted by National Highways. National Highways recognise that that riparian trees are an important component of the river habitat. If trees are felled within the site, replacement will be planted on the riverbank as close as possible to where felled. A tree loss and compensation planting report will be completed for deadline 4. The report will quantify the total number of trees which could be lost to the Project and subsequently determine and set out the total number of trees which could be required to be replanted as part of the mitigation. The replacement planting requirements are secured in the first iteration EMP (DCO Document reference 2.7 / APP-019) in various commitments. This includes the relevant replacement ratios. Commitment ref. D-LV-01 requires an Arboricultural Impact Assessment (AIA) to be undertaken prior to the start of the main works for the Project. National Highways expects further engagement with Natural England on this topic.
REP1-035	Natural England	Environment and EMP	Natural England acknowledge these points and also acknowledge that we will be consulted on the second iteration EMP and the detailed design, where our concerns should be addressed.	Comment noted
REP1-035	Natural England	Design, Engineering and Construction	Thank you for the clarification. The scheme should endeavour to design the flood compensation storage areas to function as naturally as possible without the need for flow control structures when possible,	Comment noted
REP1-043	Sport England	Population and Human Health	Wetheriggs Country Park, Penrith. Paragraph 13.7.12 (APP 056) references "approximately 0.74 ha of this greenspace is located within the Order Limits, which is approximately 14.7% of the Park". This part of the proposal involves loss of part of the playing field, where it is not clear what impact this would have on pitch drainage, pitch markings or pitch safety margins; nor is it clear what scale of tree planting is proposed along the A^^ boundary (marked on APP 041 & APP 011). A policy compliant mitigation for loss should be creation of new playing field here or elsewhere locally at the cost of the developer. The developer may wish to suggest other mitigation, informed by local intelligence from Sports National Governing Bodies and Eden District Council	National Highways considers that these points are addressed in the response to Relevant Representations, document PDL-011.

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REP1-043	Sport England	Design, Engineering and Construction Population and Human Health Land Negotiations	<p>Ullswater Community College, Penrith. Loss of part of playing field to facilitate a slip road to the new Kemplay Bank Roundabout. It's not certain if the red edged site includes permanent or temporary loss of playing field land. (APP 011 sheet 2 of 2) This site affects a rugby pitch and it's not clear if ball stop fencing is proposed to prevent balls landing on the A66. Paragraph 13.7.12 (3.2 Environmental Statement Chapter 13 Population and Human Health) refers to "Playing Field (Ullswater Playing Field): approximately 0.44ha of the field is located within the Order Limits, which is approximately 18.7% of the field". From the scale of the project it is not clear precisely what the impacts will be permanent or temporary. It's not clear if the land within the Order limits will be planted with trees or if access is needed for access during construction. If trees are planted on the playing field, further playing field land will be lost without mitigation for loss. All losses of playing field land must be mitigated for. Mitigation for loss should be creation of new playing field here or elsewhere locally at the cost of the developer</p>	National Highways considers that these points are addressed in the response to Relevant Representations, Part 2 of 4, Document Reference 6.5, PDL-011, pages 105-109.
REP1-043	Sport England	Design, Engineering and Construction Population and Human Health Land Negotiations	<p>Primary School APP 056 Page 13 221 of 249, refers to "Temporary land take of approximately 0.15ha, or 35%, of the school's outdoor playing field to facilitate a utility diversion. No alternative provisions will be provided during construction. The playing field will be reinstated to existing condition upon completion of the works." Sport England is concerned about the scale of works, uncertain time period over which the playing field would be out of use with no mitigation for loss and is also concerned about the quality of reinstatement of the playing field. Mitigation for loss should be provided for and the school needs to be provided with an alternative playing field for the time period that theirs is out of use; and furthermore the school playing field needs to be reinstated to a good quality playing field on return. A RIPTA registered Agronomists report should be provided to specify the works required to reinstate the playing field to good quality on completion of the project, and works should be overseen by a qualified agronomist and work completed to a standard to their satisfaction</p>	National Highways considers that these points are addressed in the response to Relevant Representations, Part 2 of 4, Document Reference 6.5, PDL-011, pages 105-109.
REP1-043	Sport England	Design, Engineering and Construction Population and Human Health	<p>MOD Playing Field at Warcop Paragraph 13.9.18 (APP 056) advises of "loss of the Ministry of Defence playing field and helipad. Relocation of them will be provided to the south of the scheme, located off Castlehill Road. This site is likely to include a parking area, pavilion and storage shed; however, the details are still to be confirmed with the Ministry of Defence. The replacement facilities will be fully operational before the closure of the existing provisions due to the potential use as an emergency services helipad." Sport England made detailed comments and explained a likely objection about the replacement playing field and ancillary facilities and welcomes further consultation when the details are available. Any replacement would need to comply with the NPPF paragraph 99</p>	National Highways considers that these points are addressed in the response to Relevant Representations, Document Reference 6.5, PDL-011, pages 105 to 109. It should be noted, as is explained in National Highways Compulsory Acquisition Hearing 1 (CAH1) Post Hearing Submissions [REP1-007] in response to agenda item 5.2 (see pages 35 and 36 of that document and the "Post hearing note" in particular) that since preparing its response to the Relevant Representations, National Highways has been made aware that the MoD playing field is not generally available for use by the public without prior arrangement and for the reasons set out in that post hearing note, National Highways no longer considers that land to be "open space" within the meaning of section 19 of the Acquisition of Land Act 1981, as applied to the draft DCO by section 131(2) of the Planning Act 2008.
REP1-043	Sport England	Design, Engineering and Construction	<p>From the information available Sport England objects to the Development Consent Order because of the unmitigated impacts on playing fields. However, Sport England welcomes the opportunity to work with the Developers Team on a Statement of Common Ground with the hope of overcoming this objection Sport England will reconsider this position if you wish to submit further information that addresses the following issues: • Submission of a ball strike risk assessment to understand if there needs to be any ball stop fencing at Ullswater Community College (and if so precisely what) to prevent rugby balls from landing in the highway; • Clear and precise information about the area of playing field lost to the development against that gained; • More information and clarity about the existing pavilion building that would be lost; • Information to demonstrate how the new playing field would be created before the existing playing field is lost; •</p>	National Highways will engage with Sports England in relation to its concerns with the proposals.

Examination Library Reference	Interested Party	Response Topic(s)	Written Representation	National Highways Response
			Agronomists report to demonstrate that the replacement site is a feasible and achievable option; • Information to demonstrate that the new playing field would be of equivalent or better quality, of equivalent or greater quantity, and be subject to equivalent or better accessibility and management arrangements; and • Understanding if the building could be replaced elsewhere on a different site to that where the playing field would be replaced	
REP1-103 REP1-104 REP1-105 REP1-106	Billy Welch, Gypsy and Travellers Representative	Legal	<p>The right to hold a Fair at Brough Hill derives from two sources: 1. The right granted by the Charter of 1330, (see verbatim text in separate submission) which was incorporated in the 1947 conveyance and on the Land Registry entry, and also 2. A Prescriptive Right based on evidence of the long customary holding of the Fair in a particular place on a particular date.</p> <p>The law governing these rights can be summarised by reference to Halsbury's 'Laws of England' Volume 29 (2) which includes a Chapter on "Markets, fairs and street trading." The following submission is a precis of relevant parts of Halsbury. Scanned copy of the relevant chapter has been submitted for ease of reference. As summarised by Halsbury, the law recognizes three ways in which the right to hold a Fair may be legally created and exercised. These three different origins have different principles governing their conduct. The three origins are:</p> <ul style="list-style-type: none"> • By Royal grant, or Charter. (Halsbury, Para 604, Page 315) • By Act of Parliament, or Statute • By long custom and usage, or Prescription. (Halsbury, Para 608, Page 316) • All three legal principles recognize the central fact that the right to hold a Fair is a right of ownership, an 'incorporeal hereditament' or intangible right associated with land, and, as such, it is a proprietary right, and its lease or transfer must be executed by a Deed. The conveyance of land to the MoD in 1947, later registered at Land Registry, transferred the rights granted by the 1330 Charter by Deed. <p>The law recognizes associated rights and liabilities as essential to the conduct of Fair, for the benefit of the common good. Some of those legal rights and constraints which are particularly relevant to Brough Hill Fair are set out in Halsbury as follows:</p> <ol style="list-style-type: none"> 1. A duty to provide a place for the holding of the Fair, of a size sufficient for the convenient accommodation of all who wish to buy and sell at the Fair. 2. The right of action against any person who unlawfully disputes or interferes with the holding of the Fair. For example, a policeman who tries to prevent a horse dealer from selling a horse at a horse fair is himself acting unlawfully. 3. The right to decide the particular location on the Fair at which different commodities are to be sold, and the right to remove the Fair to a new place. 4. Where a Fair is held in a district, such as a Borough or Township, it may be held in any one or more places throughout that district. 5. Where a Fair is held by a Local Authority by Prescriptive title, a court may properly infer that it was originally granted to be held anywhere within the area of the Local Authority, even though it has always been held in a particular place within it. 6. The owner of a fair normally has the right to remove it to another location, whenever he thinks fit. If the old marketplace or fair ground has ceased to afford reasonable accommodation, it may be his duty to change or remove it. 7. A removal is unlawful if members of the public are deprived of any right to sell or expose for sale their goods. <p>These legal principles depend on both statute law and on common law, or precedent. It is notable that the legal principles recognize that various difficulties are, and always have been, associated with the holding of Fairs. For example: lost Charters, changes of date, changes of location, changes of the ownership of the Fair. The framework of English law has addressed all these issues in various ways, all of which tend to recognize that, in spite of the occasional nuisance and abuse, the right to hold a properly managed Fair is of considerable importance to the economic and social wellbeing of those who attend, and</p>	National Highways has responded to these matters in detail in its Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case) [REP1-009] under agenda item 5.0, see in particular the "Post hearing notes" (pages 51 to 54 and Appendix 8). As is explained in those responses, National Highways seeks only to relocate the Brough Hill Fair rights and not alter their character or status. The development consent order, if made, will be legislation and so is capable of effecting a transfer of the Brough Hill Fair rights through operation of the law without the need for a deed to be executed.

Examination Library Reference	Interested Party	Response Topic(s)	Written Representation	National Highways Response
			<p>thereby to the regional economic community. We submit that the proposed mechanism to transfer rights associated with the Fair is inadequate to the case. Unless the rights are defined and transferred correctly by a Deed, the transfer will break the long continuous custom of the fair, and the Prescriptive right will be lost.</p> <p>Conclusion</p> <p>Although it would be difficult to predict the outcome of any particular legal case, it is clear that the existence of the right to hold a Fair is very ancient, and that right has been fiercely defended. The courts have in the past gone to considerable lengths to protect the owners of a fair and the general public from attempts to obstruct, interfere with, or subvert their lawful rights to buy and sell in the manner to which they are accustomed by long usage and practice.</p> <p>Although it is undeniable that the Brough Hill Fair stands in the way of the preferred route proposed by National Highways, there is a proper legal framework in place under which this problem may be addressed. The Fair community recognises the need for national infrastructure and has no objection in principle to relocating the site, but we submit the replacement site must be suitable, with the consent of the fairgoers, and the rights must be transferred to the new site by Deed.</p>	

Table 2: Durham County Council's Response to Examination Document PDL-013 (National Highways Procedural Deadline Submission – 6.5 Applicant's Response to Relevant)

DCC response 31.08.2022	Applicant response 16.11.2022	DCC response 24.11.2022	Applicant response 15.01.2023
Baseline			
Baseline NO2, PM10 and PM2.5 have been presented in Appendix 5.3 Air Quality Baseline Monitoring. No Scheme specific PM10 or PM2.5 monitoring has been undertaken and it is noted that there is no nearby existing PM10 or PM2.5 monitoring in the study area within DCC. These three pollutants have been assessed for both construction and operational phases.	Preamble, no response necessary.	No further comment.	The comments made by DCC are noted and closed with National Highways in accordance with the responses 31/8/22 DCC. 16/11/22 National Highways & 24/11/22 DCC
DCC air quality baseline has not been reported specifically to inform the baseline appreciation however considering the distance to the DCC air quality monitoring locations, this is not considered a material issue.	Duly noted.	No further comment.	The comments made by DCC are noted and closed with National Highways in accordance with the responses 31/8/22 DCC. 16/11/22 National Highways & 24/11/22 DCC
Four months of NO2 monitoring was undertaken for the Scheme between November 2021 to February 2022 at 16 NO2 locations in triplicate; four of these locations were in DCC (AQM 5, 6, 7 and 8). DCC were not consulted on the locations or given the opportunity to provide insightful, local feedback on the locations where monitoring would be useful. Based on the level of impact indicated by document 3.7 Transport Assessment in both construction and operational phases, it would have been useful to monitor at a sensitive receptor location along the A67 in Barnard Castle, near the river bridge, where a number of dwellings are located at locations nearby the road edge.	The NO2 monitoring locations were informed by the findings of the Preliminary Environmental Information Report (PEIR) and were undertaken at locations where the preliminary assessment identified the likelihood of significant effects. The comments provided, relating to monitoring locations in Barnard Castle, are noted.	We have outstanding concern of potential air quality impact at sensitive receptors in Barnard Castle due to lack of project monitoring data. Monitoring data in Barnard Castle would be helpful to understand the air quality impact risk and assist inform key method points the assessment has taken.	<p>Traffic data for the construction and operational assessment were screened against the thresholds outlined in DMRB LA 105. Changes in construction traffic were not exceeding these thresholds in the Barnard Castle area and therefore a detailed assessment of construction traffic was screened out of the assessment.</p> <p>As set out within the Issue Specific Hearing 1 (ISH1) Post Hearing Submissions (Document Reference 7.2, REP1-006) National Highways has committed to providing complementary environmental considerations to further ratify the findings of the Environmental Statement in specific regards to the Sills (Barnard Castle). The outline scope of this local level consideration is as follows:</p> <ul style="list-style-type: none"> • More granular / environment assessment of the impact of increased traffic on the Sills (including the consideration of Air Quality).

DCC response 31.08.2022	Applicant response 16.11.2022	DCC response 24.11.2022	Applicant response 15.01.2023
			<ul style="list-style-type: none"> Institute of Environmental Assessment and Management ("IEMA") subjective assessment of being a pedestrian/pedestrian experience and consideration of noise in the same context National Highways will submit the local level consideration and report to the examination for Deadline 3.
It is not noted in Appendix 5.3 Air Quality Baseline Monitoring whether post-scheme monitoring is also proposed. This should be confirmed.	Post-scheme monitoring is not proposed at the current time due to the absence of likely significant effects in the area.	No further comment.	The comments made by DCC are noted and closed with National Highways in accordance with the responses 31/8/22 DCC. 16/11/22 National Highways & 24/11/22 DCC.
Data from the NO2 monitoring survey was noted to be annualised to 2019, the model base year, for AQM1 to AQM14, however not for AQM15 and 16; neither of these locations are in DCC. AQM 5 is adjacent to the existing A66, AQM 6 is more than 250m from the A66 at Rokeby, AQM 7 is adjacent to the B6277, and AQM 8 is to the south of the B6277 Lartington Lane. The backcasted adjusted annual mean NO2 monitoring results for monitors in DCC ranges from 2.6 µg/m3 to 10.2 µg/m3 and therefore below the annual mean objective of 40 µg/m3. The highest concentrations were recorded at AQM 5, adjacent to the existing A66; the unadjusted concentration is noted to be 16.3 µg/m3, showing that the adjustment has reduced the concentrations at this location by almost 40%.	Reviewer statement, no re	Applicant is requested to please respond to this point. The initial comment was intended to highlight that the adjustments had decreased concentrations. These monitors have been relied on for verification, and so robustness of these adjustments is important to impact significance.	The modelled concentrations are well below the air quality objectives at human receptor locations across the ARN. The modelling carried out is robust and has demonstrated that there is no potential for adverse likely significant effects, following the DMRB LA105 standards. – as set out in Chapter 5 of the Environment Statement (ES) Having considered the comment, the points made regarding the model set up or adjustment of results would not alter the assessment of no likely significant effects on air quality as there would be negligible risk of exceeding the air quality objectives.
There is no discussion of appropriateness of the method to adjust monitoring results in light of the Covid- 19 pandemic and the changing traffic patterns associated with government lockdowns and post- lockdown trends. This should be provided.	The baseline monitoring survey and data annualisation were carried out in line with the guidance in LAQM TG16. Supplementary guidance published by Defra in April 2021 for use in reporting 2020 data, which were affected by the activity restrictions associated with Covid-19 lockdown measures, indicates that the diffusion tube sampling and data annualisation methodology in LAQM TG16 remain valid. No further guidance has been issued for 2021/22 data; consequently, the approach is considered appropriate.	A recognition of the current uncertainties following the Covid-19 pandemic would be considered best practice in this situation and a cautious approach to any future prediction would be sensible.	The impact of covid on traffic data collection and on traffic modelling was noted in the Combined Modelling and Appraisal Report (Document Reference 3.8, APP-237) in sections 3.1, 3.2 and 3.3. Chapter 5 of the document describes how the traffic forecasting has been undertaken in line with TAG Unit M4 Forecasting and Uncertainty. Covid 19 is not mentioned specifically in TAG Unit M4 as such the reporting around the transport forecasts is considered appropriate.
The air quality documents reviewed make reference to the influence of Helm Wind between December and April. There is no discussion around the baseline monitoring being undertaken during this period and whether the method of results adjustment or final results presented are representative of annual conditions or whether this should be seen as a limitation of the air quality assessment.	Baseline air quality monitoring was undertaken at locations along the A1(M), A66 and M6. Helm Wind has been reported to occur along the western side of the Pennines around Cross Fell, leading to reports of localised high winds in this area. No adjustment has been made to the monitoring data, gathered throughout the study area, to account for this infrequent and localised phenomenon nor is a methodology provided in LAQM TG16 for doing so. Meteorological data from both Warcop and Leeming are considered sufficient to account for this potential difference in both long-term and short-term meteorological conditions. The project specific monitoring was also undertaken during November – February and therefore the data accounts for the time-period when this phenomenon occurs.	The applicant has recognised the limitations of this method choice due to localised variations in meteorological conditions. No further comment.	The comments made by DCC are noted and closed with National Highways in accordance with the responses 31/8/22 DCC. 16/11/22 National Highways & 24/11/22 DCC.

DCC response 31.08.2022	Applicant response 16.11.2022	DCC response 24.11.2022	Applicant response 15.01.2023
	<p>Whilst there may be very localised variations in short- term meteorological conditions, the overall conclusions of the assessment against an annual average are not likely to materially change.</p>		
<p>NH3 Scheme specific monitoring was additionally undertaken during the same period at 13 of the 16 locations of NO2 monitoring. The same four locations are within DCC (AQM 5 to 8). The NH3 monitoring results for the monitors in DCC ranges from 1.6 µg/m3 to 3.3 µg/m3; again the concentration at AQM 5 was the highest. There is no provided discussion around representativeness of this data to the assessed base year of 2019.</p>	<p>Roadside NH3 measurements in the UK are limited although national predictions of mid-year (3-year average) averaged background NH3 concentrations, taken from the Concentration Based Estimates of Deposition (CBED) model, are available on a 1km x 1km basis. To address this uncertainty, project specific monitoring was undertaken. Whilst no adjustment was made for concentrations to NH3 (or indeed recognized guidance to do this, particularly around the effects of Covid-19 pandemic), the data collected are considered to be representative to provide an insight to NH3 levels across the study area, which otherwise would have been absent from the assessment.</p>	<p>The risk remains that ammonia concentrations relied on may be lower than actual.</p>	<p>A call was held between National Highways and Natural England on Thursday 8th December. A summary of the ammonia assessment will be set out in the Natural England Statement of Common Ground (SoCG).</p>
<p>There is no source of background nitrogen deposition rates used in the assessment provided in Appendix 5.3 Air Quality Baseline Monitoring. As per LA 105, this should be included in any reporting.</p>	<p>Background nitrogen deposition rates for the ecological sites identified in the assessment were taken from Air Quality Information System (APIS) at the time of ES drafting and assessment, as set out in Chapter 5 Air Quality (Document Reference 3.2, APP- 048) (Current Baseline - paragraph 5.7.3).</p>	<p>No further comment.</p>	<p>The comments made by DCC are noted and closed with National Highways in accordance with the responses 31/8/22 DCC. 16/11/22 National Highways & 24/11/22 DCC.</p>
<p>Defra annual mean background pollutants concentrations have been used in the assessment for 2019 and future year 2029; in grid square contribution from major road sector emissions have been removed from the background NOx estimates. This is reasonable. A comparison between Defra modelled and local authority background NO2 monitoring data has been made; this showed that Defra backgrounds were slightly lower than local authority monitored data however there is no discussion on this other than the difference is small (1 µg/m3) and concentrations are below the objective, nor any consideration discussed of factoring the Defra predictions using the monitoring.</p> <p>Given the low levels of predicted model result concentrations, this will not likely materially affect the conclusions.</p>	<p>Reviewer statement, no response required.</p>	<p>There are a number of methodological assumptions in the assessment that we consider not to represent a reasonable worst case. Therefore, it is not clear whether reasonable worst-case assumptions would materially affect the conclusions of the assessment.</p> <p>An assessment taking into account a reasonable worst case here would have used the monitoring data to inform the background pollutant concentrations.</p>	<p>The modelled concentrations are well below the air quality objectives at human receptor locations across the ARN. The modelling carried out is robust and has demonstrated that there is no potential for adverse likely significant effects, following the DMRB LA105 standards– as set out in Chapter 5 of the Environment Statement (ES) Monitoring data for the Project is limited. Outside of the Eden DC area, the data are even more limited. Only one monitoring site in the Richmond DC area was considered appropriate for verification purposes, which is a roadside site and therefore not representative of 'background' conditions. Having considered the comment, the points made regarding the model set up or adjustment of results, we feel we have made reasonable worst-case assumptions that would not alter the assessment of no likely significant effects on air quality, as there would be negligible risk of exceeding the air quality objectives</p>
<p>There was very little on verification provided in the PEIR. Baseline data from ten sites from local authorities and one National Highways monitor (total 11 sites) are presented in Table 1 of Appendix 5.3 Air Quality Baseline Monitoring; it is understood that seven of these 11 sites have been used to verify the roads model. It would be useful to provide discussion of whether the seven monitors have been used to verify both the construction and operational phase assessments, and the</p>	<p>Model verification factors used in the assessment are reported in Table 4 of Appendix 5.4 Air Quality Assessment Results (Document Reference 3.4, APP- 153) and have been applied to the predicted road NOX concentrations, used in both the construction and operational phase assessments, as stated in section 5.4.1.8. Tables 2 and 3, also in Appendix 5.4 (Document Reference 3.4, APP-</p>	<p>It is understood that the same adjustment factors have been used to adjust the construction phase and operational phase dispersion modelling results despite the model domains for each assessment differing. A discussion on the limitations of relying on the same method for both assessments should be provided given the stated different traffic data sets, and model domain extents.</p> <p>It is understood that the rural zone adjustment factor has been applied to the assessed receptors within DCC's</p>	<p>The modelled concentrations are well below the air quality objectives at human receptor locations across the ARN. The modelling carried out is robust and has demonstrated that there is no potential for adverse likely significant effects, following the DMRB LA105 standards– as set out in Chapter 5 of the Environment Statement (ES) .</p> <p>Whilst the RMSE value is noted as being above the desired values in Defra TG(16 and 22), monitoring data for the Project is limited. Outside of the Eden DC area, the data are even</p>

DCC response 31.08.2022	Applicant response 16.11.2022	DCC response 24.11.2022	Applicant response 15.01.2023
<p>appropriateness of the chosen method to verify each model domain.</p>	<p>153), provide details of which sites were used to derive the verification factors for the urban (Table 2) and rural (Table 3) road links based on site typology in the construction and operational phase assessments, as stated in section 5.4.1.8. Tables 2 and 3, also in Appendix 5.4, provide details of which sites were used to derive the verification factors for the urban (Table 2) and rural (Table 3) road links based on site typology.</p>	<p>jurisdiction. It is not considered a reasonable worst case to use an adjustment factor lower than 1 to adjust any dispersion model outputs and also rely on an RMSE of 12.6ug/m³. This is not considered a robust assessment and is recommended to be re- assessed.</p>	<p>more limited. Only one monitoring site in the Richmond DC area was considered appropriate for verification purposes. In-line with TG(16 and 22) the model parameters were reviewed multiple times as part of the model verification, to no avail. So as to include at least one site on the A66 in Richmond DC, the adjustments were made accordingly, Having considered the comment, the points made regarding the model set up or alternative adjustment of results would not alter the assessment of no likely significant effects on air quality as there would still be negligible risk of exceeding the air quality objectives in DCC.</p>
<p>No DCC monitoring or National Highways monitoring within DCC boundaries has been used to verify the model outputs against measured data. It is further understood that none of the Scheme- specific monitoring has been used for verification. Discussion would be useful in this instance to present how representative the verification is of receptors within DCC. At this point it has been assumed that the applicant's numbering system has been disrupted and is incorrect. Comments have therefore been addressed from this point on, on this basis.</p>	<p>12 and 13. There are no DCC monitoring locations adjacent to the ARN (as noted by the Interested Party in comment (2) above which they acknowledge is not a material issue). Available data from a National Highways air quality monitoring station have been used for model verification. Several administrative areas are covered by the assessment study area which is predominantly rural in nature with pockets of urban settlements; overall, air quality is good. In addition to National Highways air quality monitoring data, the model was verified using local authority monitoring data from representative roadside locations adjacent to the ARN. As noted above in response to item (13), site typology was considered and two separate verification factors, one for urban and another for rural road links (and receptors), were derived and applied. Where possible, sites with ≥75% data capture were used; where this condition could not be met, in one instance, this has been noted. The verification using the rural zone for use with DCC receptors is considered to be representative as the site typology, setting and traffic were not considered to be materially different and therefore did not warrant an alternative approach or verification factor. The best monitoring data available in the study were also used. Due to the generally low background concentrations in the study area rural locations, an alternative rural factor would however unlikely change the conclusions of the assessment.</p>	<p>A reasonable worst-case and robust assessment should be undertaken. It is not considered a reasonable worst case to use an adjustment factor lower than 1 to adjust any dispersion model outputs, given the ADMS software's tendency to underpredict. Relying on an RMSE of 12.6ug/m³ is not considered robust, based on the guidance referenced in the ES chapter, and it is recommended that the modelling and verification that informed the assessment of construction and operational phase impacts is revisited. It is also not considered a limitation of the assessment to not use more monitoring data locations. Should DCC not monitor in this area, project specific monitoring should have been undertaken to sufficiently obtain a reliable baseline of air quality. This is not considered to have been presented.</p>	<p>The modelled concentrations are well below the air quality objectives at human receptor locations across the ARN. The modelling carried out is robust and has demonstrated that there is no potential for adverse likely significant effects, following the DMRB LA105 standards as set out in Chapter 5 of the Environment Statement (ES). Whilst the RMSE value is noted as being above the desired values in Defra TG(16 and 22), monitoring data for the Project is limited. Outside of the Eden DC area, the data are even more limited. Only one monitoring site in the Richmond DC area was considered appropriate for verification purposes. In-line with TG(16 and 22) the model parameters were reviewed multiple times as part of the model verification, to no avail. So as to include at least one site on the A66 in Richmond DC, the adjustments were made accordingly. Additional site-specific monitoring was undertaken for a period of four months to gain additional understanding of the baseline conditions in the study. These data presented in Appendix 5.3 Air Quality Baseline Monitoring (bias adjusted and annualised in-line with guidance) were not used for verification purposes given the short time scales of deployment, however they confirm the position that ambient NO₂ conditions are well below relevant objective across the study areas. Having considered the comment, the points made regarding the model set up or alternative adjustment of results would not alter the assessment of no likely significant effects on air quality as there would still be negligible risk of exceeding the air quality objectives in DCC</p>

DCC response 31.08.2022	Applicant response 16.11.2022	DCC response 24.11.2022	Applicant response 15.01.2023
<p>The verification is understood to have been undertaken in two zones: rural and urban. It is further understood that the rural zone is to the east using met station RAF Leeming used two monitors to verify; and the urban zone is to the west using met station Warcop Range used five monitors to verify. It is not clear the boundary of the urban/rural receptors assessed; however it is assumed that those within DCC boundary fall within the rural zone. One of the two rural monitors is understood to be the automatic National Highways monitoring station at the A1M southbound at Leeming which only achieve a data capture of 56% in the baseline year of 2019; it should be outlined whether the data used from this station was annualized and whether the used data is considered representative.</p>		<p>The applicant has not answered the request to outline whether the data used from automatic National Highways monitoring station at the A1M southbound at Leeming was annualized. This has informed the adjustment factor used in the assessment and it is requested that the comment is responded to.</p>	<p>We confirm A1(M) Leeming data was annualized in accordance with LAQM.TG (16) (and since TG22) guidance and is therefore considered representative and as explained in the ES.</p>
<p>The rural verification zone of two monitors has a bias adjustment factor of 0.632 and an RMSE of 12.6 µg/m³; this is well outside the RMSE of 10% of the objective (4 µg/m³ for annual mean NO₂) recommended by LAQM TG16. Discussion is required to explain how the results at sensitive receptors presented in DCC and the rural zone as a whole are reliable in this instance. This is considered a potentially material consideration, particularly in light of the presented slight adverse (albeit concluded not significant) effects at receptors in DCC boundary.</p>	<p>The suitability and representativeness of the verification for use with DCC receptors is set out in the response for item 12 above. The verification factor was derived using available monitoring data collected at representative rural roadside locations with 200m of the ARN. While the RMSE derived does not meet the criteria given in LAQM TG16, the use of two verification points, as opposed to one, reduces uncertainty in the assessment and improves the representativeness of the model verification (as noted above in response to item 13), it is therefore not perceived to be a risk to the assessment findings. No likely significant effects were identified within DCC and any change in verification method is unlikely to material change this conclusion. This is particularly relevant when considering the approach followed in-line with DMRB LA105 (rather than EIA specific significance criteria), which determines significance only at locations with predicted concentrations above the relevant air quality standard, in this case 40µg/m³ for nitrogen dioxide, which is unlikely to occur for DCC receptors.</p>	<p>It is not considered reliable to only use two monitoring locations for verification in an assessment, especially when applied to such a large area and when the agreement with monitoring data post-adjustment is very poor. An RMSE of 12.6ug/m³ is considered very poor and could be representative of several things, including the poor data capture at the automatic monitor used for verification, if no annualization was undertaken. It is additionally not considered appropriate to use an adjustment factor of less than 1; a reasonable worst-case adjustment factor should be used, despite the likelihood of the assessed receptors to exceed the air quality objective, or not.</p>	<p>The modelled concentrations are well below the air quality objectives at human receptor locations across the ARN. The modelling carried out is robust and has demonstrated that there is no potential for adverse likely significant effects, following the DMRB LA105 standards– as set out in Chapter 5 of the Environment Statement (ES). Whilst the RMSE value is noted as being above the desired values in Defra TG(16 and 22), monitoring data for the Project is limited. Outside of the Eden DC area, the data are even more limited. Only one monitoring site in the Richmond DC area was considered appropriate for verification purposes. In-line with TG(16 and 22) the model parameters were reviewed multiple times as part of the model verification, to no avail. So as to include at least one site on the A66 in Richmond DC, the adjustments were made accordingly. Data capture for the continuous monitoring site at Leeming was poor and therefore the data were annualized for use. Additional site-specific monitoring was undertaken for a period of four months to gain additional understanding of the baseline conditions in the study. These data presented in Appendix 5.3 Air Quality Baseline Monitoring (bias adjusted and annualized in-line with guidance) were not used for verification purposes given the short time scales of deployment, however they confirm the position that ambient NO₂ conditions are well below relevant objective across the study areas. Having considered the comment, the points made regarding the model set up or adjustment of results would not alter the assessment of no likely significant effects on air quality as there would still be negligible risk of exceeding the air quality objectives in DCC</p>

DCC response 31.08.2022	Applicant response 16.11.2022	DCC response 24.11.2022	Applicant response 15.01.2023
<p>27 monitoring locations are noted to have been excluded from verification, and the reader of Appendix 5.4 Air Quality Assessment Results is directed to Table 1 for the reasons for exclusion. Table 1 only includes reasons for 19 monitors; none of the 19 sites are within DCC. The eight remaining monitors excluded from verification should be presented alongside the 19 in Table 1. It would be useful to discuss the use of the scheme specific monitoring for verification in light of the poor RMSE, where these are located at site types acceptable for verification as per LAQM TG16.</p>	<p>The comment on the exclusion of monitoring locations is noted. Scheme specific monitoring data are set out in Environmental Statement Appendix 5.3 Baseline Air Quality Baseline Monitoring (Document Reference 3.4, APP-152). A detailed review was undertaken on a project level alongside National Highways, in relation to the gathered data and its use for comparison against the formal verification. The data was not used formally in the assessment verification due to the short-time period, however the two verification factors were considered to perform reasonably well and had a high level of agreement to one another. Overall, National Highways concluded that it was unlikely for there to be any material changes to the conclusions of the assessment.</p>	<p>We disagree that the two verification factors perform well, in light of the RMSE of 12.6 µg/m³ and how that contradicts the Defra guidance referred to in the ES chapter. This point is not considered to have been addressed on reliability of the results. A reasonable worst-case assessment of impacts at sensitive receptors should be presented.</p>	<p>The modelled concentrations are well below the air quality objectives at human receptor locations across the ARN. The modelling carried out is robust and has demonstrated that there is no potential for adverse likely significant effects, following the DMRB LA105 standards as set out in Chapter 5 of the Environment Statement (ES).</p> <p>Whilst the RMSE value is noted as being above the desired values in Defra TG(16 and 22), monitoring data for the Project is limited. Outside of the Eden DC area, the data are even more limited. Only one monitoring site in the Richmond DC area was considered appropriate for verification purposes. In-line with TG(16 and 22) the model parameters were reviewed multiple times as part of the model verification, to no avail. So as to include at least one site on the A66 in Richmond DC, the adjustments were made accordingly.</p> <p>Data capture for the continuous monitoring site at Leeming was poor and therefore the data were annualized for use.</p> <p>Additional site-specific monitoring was undertaken for a period of four months to gain additional understanding of the baseline conditions in the study. These data presented in Appendix 5.3 Air Quality Baseline Monitoring (bias adjusted and annualized in-line with guidance) were not used formally for verification purposes given the short time scales of deployment, however the overall findings were the same.</p> <p>Having considered the comment, the points made regarding the model set up or adjustment of results would not alter the assessment of no likely significant effects on air quality as there would still be negligible risk of exceeding the air quality objectives in DCC</p>
Construction phase dust			
<p>The PEIR stated that construction phase dust monitoring and post consent air quality monitoring may be required, subject to findings of the final ES. A qualitative assessment of the impact of nuisance dust arising during construction is noted to have been undertaken, using standards set out in Section 2.56 of DMRB LA 105. Sensitive receptors within 200m of dust producing activities have been identified within Figure 5.3.</p>	<p>Reviewer statement, no response required.</p>	<p>No further comment.</p>	<p>Noted</p>
<p>Following a review of the sections of the project (Schemes 7, 8 and 9) in DCC, there are a large number of sensitive receptors nearby the construction activity at Bowes village and a number in the vicinity of the A66. Three ecological sites assessed fall in DCC's boundary: Rokeby Park, Mortham Wood (ERIC LWS) and Graham's Gill Jack-Wood Ancient Woodland and Steven Band Road Verge (NEYEDC LWS). There would appear to be a number of residential dust sensitive receptors in DCC not identified in Figure 5.3 which should be considered in Table 5-8 of the Assessment of likely significant effects from construction dust in Chapter 5 Air Quality.</p>	<p>The assessment of construction dust was undertaken for the specific areas on the A66 where works will be undertaken (i.e., Scheme 7, 8 and 9, etc.) for example, where there is a proposed upgrade from single to dual carriageway; change in alignment or new infrastructure bypass /road/ junction). These are illustrated in the Environmental Statement Figure 5.3 Key for the 'Order Limits' (Document Reference 3.3, APP-061) . It is acknowledged that identifying all sensitive receptors in the Figure 5.3 is difficult due to the multiple layers on the drawings, however all sensitive receptors within 200m of these Work boundaries, in-line with DMRB LA105, were identified using the up-to-date Address Point data available at the time of drafting and</p>	<p>This is understandable, and the response confirming that all sensitive receptors within 200m of the Work boundaries have been included in the assessment is appreciated. No further comment.</p>	<p>Noted</p>

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	included in the assessment (and Table 5-8 in Environmental Statement Chapter 5: Air Quality (Document Reference 3.2, APP-048)); of which these are highlighted in Figure 5.3.		
There is no discussion provided in the documents reviewed of existing levels of baseline dust. For example, Hulands Quarry within DCC is an existing source of emissions; this would be useful to be considered in the assessment.	Comment noted. Dust from mineral workings is unlikely to extend beyond 400m from its source. It is anticipated that the site operator will be using a combination of good site practice and industry best practice mitigation measures, secured through a planning condition. This will be agreed with the local regulator, to limit any dust arising. Consequently, no significant adverse effect would be expected.	Noted. It is recommended that the EMP include that communication will be sought with Hulands Quarry to reduce any potential cumulative effects. No further comment.	Noted.
At the scoping stage, as shown in the Scoping Opinion Appendices, it was requested that mitigation measures be included for non-road mobile machinery. Further assessment has been screened out of the ES chapter however in the Environmental Management Plan Annex B4 Air Quality and Dust Management there are measures listed in Section B4.6. The use of ultra-low sulphur diesel, electric plant and hydrogen plant is noted to be considered and used where practicable. This should be confirmed with DCC prior to construction commencement.	Duly noted, the use of ultra-low sulphur diesel, electric plant and hydrogen plant will be considered prior to construction commencement.	Noted. Use of ultra-low sulphur diesel electric plant and hydrogen plant should be confirmed with DCC prior to construction commencement. No further comment.	Noted
The Project is considered to have a large construction dust risk potential due to potential impact to receptors and consequently mitigation measures are noted to be required to reduce the frequency and intensity of potential dust impacts. Best practice dust mitigation measures are proposed in the EMP; the Chapter states that this will reduce the impact to a negligible level through the use of a dust management plan with measures to monitor effectiveness of mitigation, on-site and off-site inspections and keeping a record of complaints/exceptional dust events. Final dust mitigation measures should be agreed with DCC.	Duly noted, dust mitigation measures will be refined through the development of the Environmental Management Plan (EMP) (Document Reference 2.7, APP-019) which will be developed through the DCO Process in consultation with DCC, where required.	Noted. The applicant has confirmed that final dust mitigation measures will be agreed with DCC. No further comment.	Noted
There are a number of human health and ecological receptors relevant to the construction phase air quality impacts in DCC. It is recommended that the EMP refers to 'Figure 5.3 Air Quality Construction Phase Assessment' so that receptor locations identified are considered within the refinement of the EMP.	Duly noted, the EMP will refer to the relevant figure which identifies receptor locations that could be affected by construction phase impacts (this acknowledges that Environmental Statement "Figure 5.3 Air Quality Construction Phase Assessment" (Document Reference 3.3, APP-067) may be superseded through design development).	Noted. The applicant has confirmed the EMP will reference the receptor figure. No further comment.	Noted
No monitoring other than visual inspection is committed to. Following reviews of recent Planning Applications, DCC are aware that DDG monitoring at receptors adjacent to the A66 at Hulands Quarry has had historic exceedances of dust deposition limits. This location should be considered for monitoring.	Duly noted, final monitoring locations will be reviewed through the continued development of the EMP and the design.	Noted. DCC should be provided with final monitoring locations and communication with Hulands Quarry should be made. No further comment.	Noted
Should air quality monitoring be undertaken, the air quality samples are noted to be possibly sent to an accredited laboratory; this should be committed to.	Duly noted, if air quality monitoring is undertaken, samples will be sent to an accredited laboratory.	No further comment.	Noted

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Construction phase traffic assessment			
<p>It was noted at the PEIR stage that no construction phase road traffic was available for assessment. The PEIR stated that an assessment of such emissions will be undertaken as part of the EIA and reported in the Environmental Statement (ES). ADMS Roads modelling is understood to have been undertaken for limited sections of the scheme – between M60 Junction 40 to Brough and between east of Bowes, to Scotch Corner. This Affected Road Network is understood to be determined based on changes of 1000 AADT or more and/or changes of 200 AADT or more as a result of the construction phase; the chapter does not make reference to speed bands factoring into the determination of the construction phase traffic ARN therefore it is assumed that this is not a part of the criteria used; this is not following LA 105 guidance.</p>	<p>Construction traffic data provided for the Project were limited to vehicle movements only based on the anticipated construction programme and phasing. No speed banding data was available to consider and assess as part of the Air Quality study</p>	<p>Applicant has confirmed that limited construction traffic data limited the scope of the assessment. The construction phase traffic assessment is therefore understood to be not meeting all of LA 105 guidance. The applicant should confirm whether speed bands are predicted to change with the scheme's construction phase.</p>	<p>Construction traffic speeds were not provided and therefore the data was not screened on this basis. The assessment is robust without screening for changes in construction traffic speed.</p>
<p>It is not clear whether AADT has been used for the construction phase assessment, or whether traffic data provided was split by the four periods required by LA 105 at detailed air quality assessment stage of morning (AM), inter peak, evening peak (PM) and overnight period (OP). This should be clarified and if AADT has been used, reasons provided as to why this is considered acceptable and any limitations associated with this method choice.</p>	<p>Average Annual Daily Traffic (AADT) was used in the construction phase traffic assessment to maintain consistency with the operational phase assessment. Consistent with the guidance in DMRB LA105, a proportionate approach was taken to the speed pivoting process. AADT was used because, as noted in the guidance, the possibility of exceedances of air quality thresholds was considered to be low. This is reflected in the assessment's findings as set out in the Environmental Statement Chapter 5: Air Quality (Document Reference 3.2, APP-048).</p>	<p>The possibility of exceedances is understood to be assumed to be low, however a representative baseline through the use of air quality monitoring is not considered to have been undertaken, as noted in comments above. The monitoring data availability in the DCC area and the absence of monitoring in Barnard Castle should have informed the locations of the scheme-specific survey. The screening of the Barnard Castle area out of the assessment is considered a limitation.</p>	<p>Traffic data for the construction and operational assessment were screened against the thresholds outlined in DMRB LA 105. Changes in construction traffic were not exceeding these thresholds in the Barnard Castle area and therefore a detailed assessment of construction traffic was screened out of the assessment</p>
<p>Construction years are between 2024 and 2029. With reference to Figures 11-2 and 11-3 in Chapter 3.7 Transport Assessment of the ES, the peak construction traffic from workers and wagons per month is understood to be in April/May 2025 and the overall busiest year for construction will be 2025. 2024 is understood to have been assessed. The year of traffic modelled, or a method to explain how the consultant has assessed the worst-case impacts of the scheme, and the chosen year of emissions factors should be explained.</p>	<p>The overall busiest construction year was forecast to be 2025; however, to be consistent with the noise assessment, the air quality assessment is based on 2024.</p>	<p>The maximum year of construction is understood to be 2025 and this is understood to not have been assessed. It should be confirmed whether the traffic data of the peak construction period has been used to represent 2024 in the air quality assessment. If so, this is considered appropriate as future emission predictions will be more cautious. If not, this is a limitation of the assessment and recommended to be re-assessed to ensure the maximum impacts of the construction phase have been assessed.</p>	<p>Peak construction vehicle movements occur in 2025 and have been used as a basis for the assessment. Construction traffic flows have been modelled using 2024 emissions data. Therefore we have used the largest forecast traffic flows (2025) during the construction period together with the worst-case vehicle emission factors (2024) to represent a conservative assessment.</p>
<p>There is no detail on the methodology provided in the Environmental Statement Appendix 5.2 Air Quality Assessment Methodology for the dispersion modelling assessment of construction traffic, in the same level of detail as for the operational phase assessment. This should be provided to understand the construction phase traffic data and TRA, model input parameters, verification process and choice of met station data. If these parameters are the same as for the operation phase traffic emissions assessment of effects, then this should be stated, and justification of the method provided in relation to the construction phase affected road network.</p>	<p>The construction traffic assessment methodology followed the same approach used for the operational modelling, except for the level of detail in the traffic data, i.e., no speed band information (as acknowledged above in response to item 24).</p>	<p>Justification of the method provided in relation to the construction phase affected road network remains outstanding.</p>	<p>Response as 16.11.22 The construction traffic assessment methodology follows the same approach used for the operational modelling, except for the level of detail in relation to available traffic data.</p>

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<p>With reference to Figure 5.3 Air Quality Construction Phase Assessment, the construction phase ARN only falls within DCCs boundary on the A66 to the east of Barnard Castle leading to Scotch Corner. There appears to be no ARN east of Bowes at Scheme 7 Bowes Bypass and also no ARN to the west of Scheme 8 Cross Lanes to Rokeby. One of two construction compounds is noted by the Air Quality Chapter to be in Bowes, amongst other locations. It is understood that the construction traffic impact assessment in this area does not fall into the ARN and has been scoped out of requiring assessment on local air quality, possibly due to the criteria for AADT and HDV flow changes provided in Paragraph 5.6.4 of the Chapter not being exceeded. Explanation as to why these sections would not be materially affected by the scheme should be provided to suitably scope out these sections of construction within DCC, particularly in light of Bowes construction compound being in this location. A table similar to that provided for the operational phase traffic Table 5-10 would be useful. The other construction compound locations should be confirmed and agreed with DCC prior to construction commencing.</p>	<p>Data provided for the Project and the construction traffic movements were screened in-line with the criteria in LA105 (where available). The worst-case scenario of the peak-averaged daily construction traffic were used and the ARN identified based on the changes in vehicle flows, as set out in the assessment as set out in the Environmental Statement Chapter 5: Air Quality (Document Reference 3.2, APP-048). The location of construction compounds will be reviewed through the continued development of the design.</p>	<p>Confirmation required on whether the peak averaged daily construction traffic stated to be used was for 2025 or 2024. Question not considered to have been suitably answered on why roads adjacent to Bowes construction compound does not cause an increase of more than 1000 AADT, when roads further east of the compound do. Table of data requested is outstanding.</p>	<p>Peak construction vehicle movements occur in 2025 and have been used as a basis for the assessment. Construction traffic flows have been modelled using 2024 emissions data. Therefore we have used the largest forecast traffic flows (2025) during the construction period together with the worst-case vehicle emission factors (2024) to represent a conservative assessment. Construction traffic data was screened against the thresholds for HDV movements outlined in DMRB LA 105 and not total AADT movements (200 HDV AADT movements). The data highlighted in the Transport Assessment (Document Reference 3.7, APP-236) is based on a worst-case unlikely scenario for potential local short-term diversions, with no assumed mitigation in-place. As such, given the uncertainty around likelihood and duration, following discussion at a Project level, they were not considered appropriate to be included within the Air Quality Assessment and are based on a worst-case unlikely scenario for potential local short-term diversions, with no assumed mitigation in-place. As such, given the uncertain likelihood and duration, following discussion at a Project level, they were not considered appropriate to be included within the Air Quality Assessment. Bowes construction compound will be rechecked in terms of its HDV movements in readiness for Deadline 3.</p>
<p>Explanation should also be provided as to how Barnard Castle does not fall within the ARN for the construction phase. Following a review of Chapter 3.7 Transport Assessment it is apparent there is at least a 2,000 two-way AADT increase at A67 Barnard Castle Bridge in both Scenario C and D. It is additionally noted that Scenarios C and D combined are for a length of more than two years.</p>	<p>The data highlighted in the Transport Assessment (Document Reference 3.7, APP-236) is based on a worst-case unlikely scenario for potential local short-term diversions, with no assumed mitigation in-place. As such, given the uncertainty around likelihood and duration, following discussion at a Project level, they were not considered appropriate to be included within the Air Quality Assessment. are based on a worst-case unlikely scenario for potential local short-term diversions, with no assumed mitigation in-place. As such, given the uncertain around likelihood and duration, following discussion at a Project level, they were not considered appropriate to be included within the Air Quality Assessment.</p> <p>Paragraph 11.7.4 of the Transport Assessment (Document Reference 3.7, APP-236) states: “The impacts identified within this will help inform the potential issues that may arise during construction such that mitigation can be considered and implemented where possible. The project team will monitor the journey times on the A66 to ensure excessive delays are not occurring due to the works. If delays on the A66 are causing inappropriate local routes to</p>	<p>It should be made clear whether the mitigation is built in. It is standard practice for a reasonable worst case to be first considered, and then assessment of residual effects following mitigation. Worst case traffic data and impact appears to have been presented in the Transport Chapter but not in the Air Quality Chapter’s air quality assessment. Consistency between transport and air quality chapters should be made and where this is not possible, reasons provided for inconsistency. It does not appear that a reasonable worst-case assessment been undertaken. It is considered that the assessment is missing a significant risk that needs to be assessed unless a concrete mitigation can be determined. Clarification is requested on what short term is, in the context of the diversions.</p>	<p>Paragraph 11.1.3 of the Transport Assessment (APP-236) states: “construction advice has been provided by specialist construction advisor Sir Robert McAlpine (SRM). SRM have provided preliminary indicative information relating to Temporary Traffic Management (TTM) proposals, and potential compound locations such that the impact of; traffic management measures, and construction worker travel, on road capacity can be appraised during project construction”. This is the best information currently available. It also clarifies in paragraph 11.1.4 “ The Construction Traffic Management Plan forms Annex B13 of Environmental Management Plan (EMP) (Document Reference 2.7). Annex B13 is an extended essay plan for the Construction Traffic Management Plan (CTMP) for the Project. It will be completed on an iterative basis by the Principal Contractor (PC) as the Project progresses through detailed design and will be used to agree the final TTM measures for implementation during the construction of the Project.” The TTM proposals are therefore indicative, and therefore the CTMP will be updated once final TTM measures have been agreed. Figure 11-1 of the Transport Assessment (APP-236) shows that Scenario C will be in place for 365 days, and scenario D will also be in place of 365 days.</p>

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	be used then the project team will consider if any adjustments can be made to the TTM (Temporary Traffic Management) with the aim of reducing the delays.”		
<p>Following a review of Figure 11-1 in Chapter 3.7 Transport Assessment, it would appear that some of the construction phase scenarios will have similarities. It should be confirmed in the Air Quality Chapter how long the construction phase as a whole will be in areas of DCC and evidence provided as to how this has informed the screening and ARN determination.</p>	<p>Transport Assessment (Document Reference 3.7, APP-236) Figure 11-1 sets out the indicative construction programme per scheme, with works around Bowes and then Rokeby and Cross Lanes Junction being Scheme 7 and 8 respectively, showing two-year construction programmes. All worst-case construction traffic movements were reviewed against DMRB LA105 criteria and included in the ARN where the criteria were triggered.</p>	<p>Statement against item 29 above does not correlate to the statement that all worst-case construction traffic movement were reviewed. Worst-case construction traffic movements have not been assessed according to Point 29. Clarification is required.</p>	<p>Peak construction vehicle movements occur in 2025 and have been used as a basis for the assessment. Construction traffic flows have been modelled using 2024 emissions data. Therefore we have used the largest forecast traffic flows (2025) during the construction period together with the worst-case vehicle emission factors (2024) to represent a conservative assessment.</p>
<p>A particular concern is noted to be if construction- related vehicles affected or diverted local traffic within locations with sensitive receptors close to the routes for the compounds approaching the AQO. As noted in EMP Annex B13 Construction Traffic Management Plan (Application Document 2.7), the Construction Traffic Management Plan to be developed by the appointed contractor will ensure construction vehicles avoid these areas.</p>	<p>Duly noted, the CTMP will be developed by the appointed contractor to ensure construction vehicles avoid areas where there are sensitive receptors close to routes used by construction traffic and air pollutant levels are approaching their respective AQOs</p>	<p>Considering the points made in relation to a suitable air quality baseline having not been achieved, it is not likely that the appointed contractor will be able to develop the CTMP. Will the A67 route through Barnard Castle be avoided as a construction traffic route?</p>	<p>The Environmental Management Plan (Document reference 2.7, APP-019) (EMP) has been developed with the intent to control construction impacts and sets out controls required to be implemented in the construction phase. Annex B13 Construction Traffic Management Plan (Document 2.7, APP-033) sets out the essay plan for a Construction Traffic Management Plan (CTMP) that must be developed]. This essay plan includes the key stakeholders to be engaged within the development of the final Construction Traffic Management Plan (section B13.2.1) and includes Durham County Council. The EMP, confirms that a detailed CTMP is subject to consultation with the local planning and highway authorities (in accordance with the consultation provisions also provided within the EMP). The CTMP must then be approved by the Secretary of State as part of a 2nd iteration EMP prior to the start of works (see article 53 of the draft DCO (Document Reference 5.1, APP-285) and paragraph 1.4.11 of the EMP). These are legally enforceable requirements.</p>
<p>There are predicted annual mean NO2 changes across the scheme at human health receptors of more than 0.4 µg/m³ but no exceedances of the AQO in the first year of construction 2024 across the entire project assessed receptors. There are two human receptors (HSR 64 and HSR 65) assessed in DCC for the construction phase modelling of impacts. The impact is 0.1 µg/m³ at both assessed receptor locations in DCC, with total predicted concentrations below 10 µg/m³. No exceedances of PM10 and PM2.5 AQOs are predicted. No significant adverse effects are therefore determined.</p>	<p>Reviewer statement, no response required.</p>	<p>No further comment.</p>	<p>Noted</p>
<p>Of the three designated habitats presented within Figure 5.3 in DCC, only one (Rokeby Park and Mortham Wood (ERIC LWS)) is reported on, however it would appear that transect receptor points have not been modelled. This does not align with the requirements of LA 105 guidance. At the distance of 7.5m from the road edge, there is a 24% increase in nitrogen deposition compared to the critical load for this site. Chapter 5 Air Quality does not reference this site in the discussion, although there may be an error in Paragraph 5.10.17 which refers to Lightwater Alluvial Forest part of the River Eden and Tributaries SSSI, located outside of DCC. This should be checked and confirmed. Chapter 6 of the ES Biodiversity</p>	<p>There does appear to be a drafting error in the Environmental Statement Chapter 5: Air Quality (Document Reference 3.2, APP-048) Paragraph 5.10.17, where Rokeby Park LWS should have been referenced with a change of 24% against the critical load of 10, with a change in 2.4 kg N/ha/yr. No further transect receptor locations have been included as the predicted change in annual mean NOX at these locations is considered to be imperceptible (<0.3µg/m3), in-line with DMRB LA105.), in-line with DMRB LA105.</p>	<p>Error noted by applicant. The current version of DMRB LA 105 guidance does not require the consideration of annual mean NOx and annual mean NOx concentrations should not be used to screen whether or not impacts on designated ecological site are included in any air quality assessment, or not.</p>	<p>The drafting error in Chapter 5 of the Environmental Statement has been accepted and a report revision is being prepared which does not alter the overall conclusions presented in Chapter 5 of the Environmental Statement. It is important to recognise the limitations of models and to use the outputs appropriately. For example, DMRB LA 105 section 2.90 sets out that no likely significant air quality effects shall occur where the “difference in concentrations is imperceptible i.e., less than 1% of the air quality threshold (e.g., 0.4µg/m3 or less for annual mean NO2)” based on uncertainties in modelling. This approach is used by the Environment Agency and also the Institute of Air Quality Management in their respective air quality guidance.</p>

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is however noted by Chapter 5 Air Quality to conclude that there will be no likely significant effects at designated habitat sites.			In the same way, changes of less than 1% of the NOx critical level (30µg/m ³ - therefore the criterion is 0.3µg/m ³) were considered to be imperceptible and not considered further in the assessment. This approach is consistent with all NH projects.
With reference to Chapter 2.7 Environmental Management Plan Annex B4 Air Quality and Dust Management, construction phase traffic mitigation is proposed to include implementation of active traffic management measures. Of the active traffic management measures, it is noted in Paragraph B4.4.2 that there are a number currently being considered. It is therefore understood that no measures have yet been finalised. These should be agreed with DCC. Those listed as potential measures include limiting the use of speed reductions, i.e., through applying higher safe speeds, or limiting the amount of traffic management that is used in areas where the new route is being built adjacent to the existing A66. Reactive traffic management measures would be employed as a last resort, to stop traffic from using the least suitable diversion routes.	Duly noted, as the detailed design progresses, the EMP and Annex B4 will develop based on further detailed construction information through the DCO Process.	Active traffic management measures to be agreed with DCC.	Accepted
The construction phase of the Project is noted to not impact compliance with the air quality limit values.	Reviewer statement, no response required.	No further comment.	Noted
Cumulative effects due to construction traffic from the cumulative proposed developments, if they occur at the same time as the Project, as well as dust and PM10 generated by construction activities, is noted by Chapter 15 Cumulative Effects to potentially lead to significant adverse effects if adequate mitigation is not implemented. The EMP is noted to ensure that adequate mitigation is in place. Operational phase assessment The opening year was recognised to have not been assessed appropriately in the PEIR, but that the correct opening year of 2029 would be assessed in the ES; this has now been done.	Reviewer statement, no response required. Reviewer statement, no response required.	No further comment. No further comment.	Noted Noted
A compliance assessment using Pollution Climate Mapping (PCM) has been undertaken and none of these are within DCC.	Reviewer statement, no response required.	No further comment.	Noted
It is not clear whether AADT has been used for the operational phase assessment, or whether traffic data provided was split by the four periods required by LA 105 at detailing air quality assessment stage of morning (AM), inter peak, evening peak (PM) and overnight period (OP). This should be clarified and if AADT has been used, reasons provided as to why this is considered acceptable and any limitations associated with this method choice.	Consistent with the guidance in DMRB LA105, a proportionate approach was taken to the speed pivoting process. AADT was used in the operational phase assessment because, as noted in the guidance, the possibility of exceedances of air quality thresholds was considered to be low. This is reflected in the assessment's findings.	Methodological point that period flows have not been used based on unlikely exceedances of AQOs. Considering the above points made in relation to the absence of a reliable air quality baseline, this may require revisiting.	The modelled concentrations are below the air quality objectives at human receptor locations across the ARN. Modelling undertaken is considered robust and demonstrates no significant effects, when judged against DMRB LA105 standards. Model set up or adjustment of results would not alter conclusions for air quality as the risk of exceeding air quality objectives is negligible.
A met station sensitivity assessment was welcomed by DCC at the PEIR stage. Two met stations are noted to have been used in the assessment for the ES, representing east and west study areas Warcop Range and RAF Leeming, for 2019. Leeming has been used in modelling for DCC. There is no discussion other than distance from the scheme as to how representative these two datasets are for the entire scheme, or consideration of alternatives such as Durham Tees Valley Airport.	Meteorological data for the eastern side were taken from RAF Leeming based on distance to the scheme as pointed out, but also due to the proximity of the ARN which would be considered and assessed in the modelling, particularly the A1(M), where potential likely significant effects were identified at sensitive receptors in the PIER. A National Highways continuous automatic monitoring station is	Response noted, although the point made about automatic continuous monitor is queried in Point 13 above, as it is currently not clear whether this site with low data capture (less than 75%) has been annualised as per guidance.	We confirm A1(M) Leeming data was annualised in accordance with LAQM.TG(16) (and since TG22) guidance.

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Chapter 5 Air Quality notes that the use of observations from Warcop Range ensure that the Helm Wind is accounted for in the model, however explanation should be provided as to whether this is important to be considered in the eastern model domain.	also located at Leeming, which was included for model verification following the PIER findings. For these purposes, Leeming was considered to be the most appropriate and no other sites were considered necessary to include. Helm wind is discussed in the response to item (7) above.		
An increase of 7,727 AADT is noted by Chapter 5 Air quality to be predicted at A66 near Bowes in 2029 as a result of the project, where traffic flow is noted to increase on A66 but flow is improved. However Table 7-1 of the Transport Assessment states this value is 6,300 AADT increase. The difference should be explained.	The difference is due to the fact that the increase of 7,727 AADT noted by Chapter 5 Air Quality of the Environmental Statement (Document Reference 3.2, APP-048) refers to Bowes Bypass to the east of the proposed east facing slips. The 6,300 AADT forecast increase noted in the Transport Assessment refers to Bowes Bypass to the west of the proposed east facing slips.	Response welcomed. No further comment.	Noted
With reference to Figure 5.4 Operational Phase Air Quality Assessment, the ARN falls within DCCs boundary on the A1M to the east of Newton Aycliffe, along the A66 from Scotch Corner in the east to Bowes and the border of DCC in the west, the B6277 to Barnard Castle and Rutherford Lane.	Reviewer statement, no response required.	No further comment.	Noted
No AQMA is noted to be impacted by the scheme. The scoping report noted that the nearest ARN to the Durham City AQMA was 20km to the south and the TRA did not extend to this far north and was screened out at scoping stage. Paragraph 5.2.3.5 of the Environmental Statement Appendix 5.2 Air Quality Assessment Methodology notes that any potentially affected links not within the TRA have not been modelled as there is less confidence in them. The exclusion of wider areas of potential traffic changes is noted in Appendix 5.2 as appropriate for the Project due to the large difference between reported concentrations and the air quality objectives. This is considered reasonable.	Reviewer statement, no response required.	No further comment.	Noted
Paragraph 5.5.7 of the Air Quality Chapter states: "It is important to recognise the limitations of models and to use the outputs appropriately. For instance traffic flows of less than a 1,000 AADT are not used in assessment as they are below the confidence that can be attributed to a traffic model. In the same way that changes of less than 1% of the AQO for NO2 (40 µg/m³ - therefore the criterion is 0.4µg/m³) and NOX (30 µg/m³ - therefore the criterion is 0.3µg/m³) are considered to imperceptible and not considered further in assessment." This should be expanded on with further explanation	The AADT change criterion is taken from Note 2, section 2.1 in DMRB LA105. The NO2 change criterion is also quoted from section 2.90, item 2 in DMRB LA105. For NOX, the Environment Agency ² and the Institute of Air Quality Management ³ use an identical air pollutant change criterion approach in their respective guidance to determine perceptibility and the need for further assessment.	The current version of DMRB LA 105 guidance does not require the consideration of annual mean NOx and annual mean NOx concentrations should not be used to screen whether or not impacts on designated ecological site are included in any air quality assessment, or not.	It is important to recognise the limitations of models and to use the outputs appropriately. For example, DMRB LA 105 section 2.90 sets out that no likely significant air quality effects shall occur where the "difference in concentrations is imperceptible i.e., less than 1% of the air quality threshold (e.g., 0.4µg/m ³ or less for annual mean NO ₂)" based on uncertainties in modelling. This approach is used by the Environment Agency and also the Institute of Air Quality Management in their respective air quality guidance. In the same way, changes of less than 1% of the NOx critical level (30µg/m ³ - therefore the criterion is 0.3µg/m ³) were considered to be imperceptible and not considered further in the assessment. This approach is consistent with all NH projects.
DCC request information on the predicted changes in traffic flows on the A1 (M) northbound into DCC boundary to the east of Newton Aycliffe. It is noted that in the TA that the increase in traffic flows along the scheme route is 7,400 but that on the A1M NB and SB the total change is only 5,500 suggesting that over 1,900 AADT do not use the strategic road	National Highways propose to discuss the information below with Durham County Council during the meeting we are currently organising with the Head of Transport and Contract Services at DCC. Figure 8-27 within the Transport Assessment (Document Reference 3.7, APP- 236) shows the increase	Traffic data received is appreciated. Please confirm that Note 1 of Section 2.1 of DMRB LA 105 has been adhered to, and the network's road link carriageways have been suitably combined for the determination of the ARN and TRA? Following a review of the second table provided in this point, it doesn't	To clarify, our answer is based on crossing the A1 north of Junction 58. The table below shows the AADTs on all sections of the A1 between junctions 58 and 62. The fully modelled area finishes on the A1 Link to the North of Junction 60 where the AADT drops significantly to 405.

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<p>network but are dissipated onto the local road network. Information should be provided of the flow change as AADT on all of the links off the Scotch Corner junction to understand how traffic is expected. It would be useful to understand if the ARN ends due to changes in traffic flow/composition/speed, or whether this is due to the ending of the TRA and to see the location of the calibration/validation data used and reported in the Transport Assessment. This is of importance to DCC, in particular at the Durham City AQMA. There is additionally no mention of air quality in the Transport Assessment with reference to the determination of the TRA; this should be jointly agreed.</p>	<p>in traffic flows at Scotch Corner Junction. The 2044 design year AADT flow increases within the figure are clarified within the Table below.</p> <table border="1" data-bbox="854 352 1353 781"> <thead> <tr> <th>Road</th> <th>Direction</th> <th>AADT Change</th> </tr> </thead> <tbody> <tr> <td rowspan="2">A1 North</td> <td>NBD</td> <td>+1300</td> </tr> <tr> <td>SBD</td> <td>+1100</td> </tr> <tr> <td rowspan="2">Middleton Tyas Lane</td> <td>EBD</td> <td>+250</td> </tr> <tr> <td>WBD</td> <td>+150</td> </tr> <tr> <td rowspan="2">A1 South</td> <td>SBD</td> <td>+1800</td> </tr> <tr> <td>NBD</td> <td>+1600</td> </tr> <tr> <td rowspan="2">A6055 (South of A6055/A6108 Junction)</td> <td>SBD</td> <td>+10</td> </tr> <tr> <td>NBD</td> <td>+220</td> </tr> <tr> <td rowspan="2">A6108 (Barracks Bank)</td> <td>WBD</td> <td>-72</td> </tr> <tr> <td>EBD</td> <td>-39</td> </tr> <tr> <td rowspan="2">A66</td> <td>WBD</td> <td>+4500</td> </tr> <tr> <td>EBD</td> <td>+4800</td> </tr> <tr> <td rowspan="2">A6055 North of A1 Northbound On-slip Roundabout</td> <td>NBD</td> <td>-3</td> </tr> <tr> <td>SBD</td> <td>+79</td> </tr> </tbody> </table> <p>Further detail of traffic flows at the boundary of County Durham around Newton Aycliffe are provided in the Table below.</p> <table border="1" data-bbox="875 898 1353 1075"> <thead> <tr> <th>Road</th> <th>Direction</th> <th>AADT Change</th> </tr> </thead> <tbody> <tr> <td rowspan="2">A1 North</td> <td>Nbd</td> <td>700</td> </tr> <tr> <td>Sbd</td> <td>680</td> </tr> <tr> <td rowspan="2">A68</td> <td>Ebd</td> <td>-100</td> </tr> <tr> <td>Wbd</td> <td>-150</td> </tr> <tr> <td rowspan="2">B6725</td> <td>Nbd</td> <td>+3</td> </tr> <tr> <td>Sbd</td> <td>+6</td> </tr> </tbody> </table> <p>The Combined Modelling and Appraisal Report (Document Reference 3.8, APP-237) Appendix C Transport Model Package discusses the TRA. Paragraph 3.3.1 states: "The study area and the model's geographical extent will include the same area as the PCF Stage 1 and 2 A66TM model, however, the Transport Reliability Area (TRA) has been extended further north and south at either end of the A66 along the M6 and A1(M). This has been revised considering impacts from the scheme identified within PCF Stage 2 forecasting." The impacts noted above are based on the classifications noted in paragraph 2.1 of DMRB LA105 Air Quality, namely: 1) annual average daily traffic (AADT) >=1,000; or 2) heavy duty vehicle (HDV) AADT >=200; or 3) a change in speed band; or a change in carriageway alignment by >=5m. The change in flows due to the scheme within the Durham City AQMA do not exceed these thresholds</p>	Road	Direction	AADT Change	A1 North	NBD	+1300	SBD	+1100	Middleton Tyas Lane	EBD	+250	WBD	+150	A1 South	SBD	+1800	NBD	+1600	A6055 (South of A6055/A6108 Junction)	SBD	+10	NBD	+220	A6108 (Barracks Bank)	WBD	-72	EBD	-39	A66	WBD	+4500	EBD	+4800	A6055 North of A1 Northbound On-slip Roundabout	NBD	-3	SBD	+79	Road	Direction	AADT Change	A1 North	Nbd	700	Sbd	680	A68	Ebd	-100	Wbd	-150	B6725	Nbd	+3	Sbd	+6	<p>appear to have been screened as such due to >1000 AADT on the A1 North, when considering 700+680 = 1,380. This highlights that this needs to be considered further and that the Durham City AQMA could potentially be affected. Question of what other roads have not been assessed in the network not been assessed on this basis?</p>	<p>The largest change in flow in the vicinity of the City of Durham is 196 AADT on the A1 north of junction. The changes on AADT on the roads near the Durham City AQMA are all significantly less than this, therefore we do not believe there will be an impact on the AQMA.</p> <table border="1" data-bbox="2074 415 2579 844"> <thead> <tr> <th></th> <th>Nbd</th> <th>Sbd</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>A1 North of Junction 58</td> <td>699</td> <td>683</td> <td>1382</td> </tr> <tr> <td>A1 North of Junction 59</td> <td>537</td> <td>470</td> <td>1007</td> </tr> <tr> <td>A1 North of Junction 60</td> <td>214</td> <td>191</td> <td>405</td> </tr> <tr> <td>A1 North of Junction 61</td> <td>69</td> <td>127</td> <td>196</td> </tr> </tbody> </table>		Nbd	Sbd	Total	A1 North of Junction 58	699	683	1382	A1 North of Junction 59	537	470	1007	A1 North of Junction 60	214	191	405	A1 North of Junction 61	69	127	196
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<p>There are nine human health sensitive receptors assessed in DCC (HSR 57 to HSR 65) for the operational phase. There are no predicted exceedances at human health receptors of any pollutant reported in the chapter, and so no new exceedances as a result of the scheme would be expected within DCC. Results are confirmed to not be presented on a scheme-by-scheme basis and that the discussion for region 1 in Chapter 5 Air Quality is presents the impact of the overall scheme on the A66 region including the section of the scheme within DCC. The largest human health impact as a result of the scheme is reported to be +0.9 ug/m3, within the DCC boundary at Highly Sensitive Receptor 60 within the Cross Lanes to Rokeby section adjacent to the A66, south of Barnard Castle, to the east of the B6277 junction with the A66. At this location, concentrations are predicted to increase from 9 ug/m3 in DM 2029 to 9.9 ug/m3 in the DS scenario, where an increase of 3,603 AADT is predicted for the A66. It is not clear whether this receptor is the same receptor which was reported in the PEIR to have an increase of +4.0 ug/m3 in annual mean NO2 at a residential property adjacent to the A66 at Cross Lanes, however the predicted impacts would appear to have dropped significantly in DCC compared to the PEIR stage.</p>	<p>Reviewer statement, no response required.</p>	<p>Applicant requested to confirm if receptor is the same receptor reported in the PEIR to have a very different impact.</p>	<p>The Applicant confirms that Receptor 60 highlighted from the ES is the same receptor identified as Receptor 40 from the PEIR (X,Y coordinates 405041,513817). The difference in predicted concentrations is noted and is attributed to updated base traffic data being used in the ES compared to that from the PEIR, which in turn affected the gap factor projection uplift</p>
<p>There are improvements in air quality predicted at three of the nine receptors assessment with the largest improvement predicted to have an impact of -0.6 ug/m3 at HSR 62 and 63 where the proposed A66 alignment moves further away from the HSRs at Rokeby.</p>	<p>Reviewer statement, no response required.</p>	<p>No further comment.</p>	<p>Response not required</p>
<p>There are no human health sensitive receptors selected and modelled for each ARN link within DCC; this would have provided an understanding of impact of each ARN link. For example, the B6277 is a section of ARN within DCC and a residential property north of Thorsgill Beck has not been included in the dispersion modelling. Receptors are noted by the chapter to have been selected to represent the scale of impacts associated with the project.</p>	<p>Reviewer statement, no response required.</p>	<p>We would have expected to see more receptors than included in the assessment as per LA 105. For example, the B6277 is a section of ARN within DCC and a residential property north of Thorsgill Beck has not been included in the dispersion modelling. At least one receptor per ARN link is requested to be included to ensure the air quality impact is robustly assessed.</p>	<p>The receptors selected in the air quality assessment were identified based on the ARN and provide representative exposure of potential worst-case impacts. For a project of this scale, it was simply not possible (nor indeed necessary given the existing baseline conditions) to provide a receptor assessment on every individual link in the ARN. The modelled concentrations across the network are well below the air quality objectives at human receptor locations across the ARN and the modelling undertaken is considered robust and demonstrates no significant effects, when judged against DMRB LA105 standards. The addition of new receptors would not alter conclusions for air quality as the risk of exceeding air quality objectives is negligible.</p>
<p>The greatest air quality constraint from the scheme at the PEIR stage related to impacts on nature conservation sites, where there were potential concerns and risk of significant effects with nitrogen deposition and ammonia concentrations. This was noted to be considered in greater detail within the ES. Ammonia was requested to be included at scoping stage however ammonia results at each receptor are not presented. It is noted in Paragraph 5.2.3.20 of Appendix 5.2 Air Quality Assessment Methodology that the National Highways tool has been used to account for ammonia emissions impact on deposited nitrogen.</p>	<p>Reviewer statement, no response required.</p>	<p>Ammonia results at each receptor not presented and are requested to be.</p>	<p>A call was held between National Highways and Natural England on Thursday 8th December A summary of the ammonia assessment will be set out in the Natural England Statement of Common Ground (SoCG).</p>

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<p>There are nine designated ecological sites (Rokeby Park and Mortham Wood (ERIC LWS), Graham's Gill Jack-Wood Ancient Woodland, Steven Band Road Verge (NEYEDC LWS), Bowes Moor SSSI, North Pennine Moors SPA and SAC, Mill Wood Ancient Woodland, Thorsgill Wood Ancient Woodland) plus a number of Ancient Trees within 200m of the ARN within DCC, with reference to Figure 5.4. Results are not presented for all of these sites in Appendix 5.4, or transect locations shown in Figure 5.4.</p>	<p>Transect locations are shown in Environmental Statement Figure 5.1: Cumulative Zones of Influence (Document Reference 3.3, APP-144). Results are only presented where the predicted change in NOX exceeds 0.3µg/m3 (1% of the critical load). This is noted on all the sheets within Environmental Statement Figure 5.4: Air Quality Operational Phase Assessment (Document 3.3, APP-068). The reasoning is given in sections 5.5.7 to 5.5.9 of Environmental Statement Chapter 5: Air Quality (Document Reference 3.2, APP-048).</p>	<p>The current version of DMRB LA 105 guidance does not require the consideration of NOX and annual mean NOX concentrations should not be used to screen whether or not impacts on designated ecological site are included in any air quality assessment, or not.</p>	<p>It is important to recognise the limitations of models and to use the outputs appropriately. For example, DMRB LA 105 section 2.90 sets out that no likely significant air quality effects shall occur where the "difference in concentrations is imperceptible i.e., less than 1% of the air quality threshold (e.g., 0.4µg/m3 or less for annual mean NO2)" based on uncertainties in modelling. This approach is used by the Environment Agency and also the Institute of Air Quality Management in their respective air quality guidance.</p> <p>In the same way, changes of less than 1% of the NOx critical level (30µg/m³ - therefore the criterion is 0.3µg/m³) were considered to be imperceptible and not considered further in the assessment. This approach is consistent with all NH projects.</p>
<p>Rokeby Park and Mortham Wood LWS nitrogen deposition is predicted to increase by 13.7% against the critical load whilst North Pennine Moors SPA and SSSI and Bowes Moor SSSI have a maximum increase of 17.6% against the critical load. Stephen Bank Road Verge LWS experiences a beneficial change due to the scheme. No other results of designated sites in DCC are reported. Chapter 5 Air Quality notes that: "These changes cannot be considered to be insignificant as defined in DMRB LA 105. Further discussion of the impacts of the Project on nitrogen deposition at these locations is included in Chapter 6: Biodiversity (section 6.10 Assessment of Likely Significant Effects)". The Biodiversity chapter considers the impact to Rokeby Park and Mortham Wood LWS as slight adverse (not significant) effect. The impact to North Pennine Moors SPA and SSSI and Bowes Moor SSSI in the Biodiversity chapter notes that blanket bog is the only qualifying feature that may be impacted by changes in nitrogen deposition at this location and it is predicted that a slight adverse (not significant) effect would occur.</p>	<p>Reviewer statement, no response required.</p>	<p>Confirmation required that the blanket bog qualifying feature noted by the Biodiversity chapter has been assessed and reported.</p>	<p>National Highway can confirm that potential impacts to the blanket bog qualifying feature are assessed in the Habitats Regulations Assessment (HRA) Stage 2 Statement to Inform Appropriate Assessment (Application Document 3.6 APP-235) and summarized in the Environmental Statement (ES) Chapter 6 Biodiversity (Document Reference 3.2, APP-049)</p>
<p>Given the poor RMSE derived from the verification exercise, discussion should be provided on how robust and reliable the results presented are, particularly in light of the impacts to designated ecological sites.</p>	<p>Please refer to the response to item 14 (above).</p>	<p>See response in above points.</p>	<p>The modelled concentrations are well below the air quality objectives at human receptor locations across the ARN. The modelling carried out is robust and has demonstrated that there is no potential for adverse likely significant effects, following the DMRB LA105 standards– as set out in Chapter 5 of the Environmental Statement (ES).</p> <p>Whilst the RMSE value is noted as being above the desired values in Defra TG(16 and 22), monitoring data for the Project is limited. Outside of the Eden DC area, the data are even more limited. Only one monitoring site in the Richmond DC area was considered appropriate for verification purposes. In-line with TG(16 and 22) the model parameters were reviewed multiple times as part of the model verification, to no avail. So as to include at least one site on the A66 in Richmond DC, the adjustments were made accordingly,</p> <p>Having considered the comment, the points made regarding the model set up or alternative adjustment of results would not alter the assessment of potential air quality impacts on r sites as described in the in the Environmental Statement (ES) Chapter 6 Biodiversity (Document Reference 3.2, APP-049)</p>

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			and the Habitats Regulations Assessment (HRA) Stage 2 Statement to Inform Appropriate Assessment (Application Document 3.6 APP-235).
There is no section in Chapter 5 Air Quality describing outcomes against relevant policies such as the County Durham Plan, other than NPSNN in Paragraph 5.10.84.	The outcomes relevant to regional and local are mapped in Table 5-3 in Chapter 5 Air Quality of the Environmental Statement (Document Reference 3.2, APP-048)	No further comment.	Noted
The operational phase traffic data is noted to include traffic associated with other developments, therefore the air quality impact assessment is noted to be inherently cumulative.	Comment duly noted	No further comment.	Noted
<p>Paragraph 7.5.15 states that the “assessment of operational phase emissions from vehicles using the highways infrastructure draws on existing traffic modelling information from earlier stages of the Project, as explained in the Combined Modelling and Appraisal Report (Application Document 3.8)”. This document does not seem to be available on the PINS website.</p> <p>The same paragraph states that “This information is used to calculate emissions... associated with the Traffic Reliability Area”. The chapter then goes on to list the scenarios for which user GHG emissions have been quantified.</p> <p>Can the applicant please confirm that the “traffic modelling information from earlier stages of the project” that has been used to quantify road-user GHG emissions is the correct traffic dataset to be defended at examination, and that this data is consistent with the traffic data used to inform the air quality assessment and noise assessment chapters of the ES? It is noted that the Air Quality chapter of the Preliminary Environmental Information Report was informed by a traffic dataset based on 2031, not the year of opening 2029.</p>	<p>Traffic data within the climate chapter aligns with the data used in the Environmental Statement Chapter 5: Air Quality (Document Reference 3.2, APP-048) as outlined in the Combined Modelling and Appraisal Report (Document Reference 3.8, APP-237). Both assessments at PEIR were informed by traffic data for 2031, however this data was updated for the ES assessment for the 2029 opening year, and this updated data for 2029 forms the basis of the road user emissions quantification. Both assessments at PEIR were informed by traffic data for 2031, however this data was updated for the ES assessment for the 2029 opening year, and this updated data for 2029 forms the basis of the road user emissions quantification.</p>	<p>Confirmation of the traffic data set used to inform the calculation of road-user GHG emissions is welcomed. No further comment.</p>	<p>Noted</p>
<p>Can the applicant please provide details on how the Traffic Reliability Area (TRA) referred to was defined. We are interested to know whether or not the potential for climate change impacts was a consideration when the TRA was defined?</p> <p>Paragraph 7.6.5 states that the TRA “was determined based on the regional screening criteria set out in DMRB LA 105”. DMRB LA 105 does not include regional screening criteria. Can the applicant confirm how the TRA was defined?</p>	<p>The Combined Modelling and Appraisal Report Appendix C Transport Model Package (Document Reference 3.8, APP-239) discusses the TRA. Para 3.3.1 states:</p> <p><i>“The study area and the model’s geographical extent will include the same area as the PCF Stage 1 and 2 A66TM model, however, the Transport Reliability Area (TRA) has been extended further north and south at either end of the A66 along the M6 and A1(M). This has been revised considering impacts from the scheme identified within PCF Stage 2 forecasting”.</i></p> <p>The extent of the geographic zone included in the TRA is informed by the road link screening criteria noted in para 2.1 of DMRB LA 105 Air Quality, namely:</p> <ol style="list-style-type: none"> 1) annual average daily traffic (AADT) >=1,000; or 2) heavy duty vehicle (HDV) AADT >=200; or 3) a change in speed band; or 	<p>It remains unclear why the ES referred to regional screening criteria – presumably in error. The use of local air quality criteria to determine the physical extent of TRA to determine an appropriate study area for greenhouse gas calculations is not directly linked to relevant guidance. Typically greenhouse gas study areas for highways schemes are larger than TRAs to try and capture wider changes in routing that a scheme may cause, often the full extent of a traffic model is utilised for this task. Can National Highways review whether any changes in traffic and so greenhouse gas emissions are being missed and as such whether a realistic worst case is not being presented for the scheme.</p>	<p>The assessment followed the Guidance within LA 114: Climate which states: 3.9 For operational road user GHG emissions, the study area shall be consistent with the affected road network defined in a project's traffic model.</p>

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	<p>4) a change in carriageway alignment by >=5m.</p> <p>NOTE 1 The AADT and HDV criteria are applied to the sum of carriageways and not individual carriageways. NOTE 2 The 1,000 vehicles and 200 HDVs represent the lowest threshold above which the traffic model can represent change in traffic conditions to a reasonable level of confidence.</p> <p>While these criteria support the definition of the physical extents of the TRA, they were not applied when identifying links within that geographic extent for the GHG assessment – i.e. all road links within the spatial extent of the TRA were included in the GHG assessment (but the air quality criteria supported definition of the outer boundary of the TRA).</p> <p>The TRA definition is provided in LA 105 and is provided within Table 5 of Environmental Statement Appendix 7.1: Greenhouse Gas Assessment (Document Reference 3.4, APP-176). This states the TRA reflects the widest road network the traffic modelling is considered verified /reliable. A more detailed discussion of the development of the TRA is provided in the Combined Modelling and Appraisal Report referred to above.</p>		
<p>Paragraph 7.5.15 and Table 5 of Appendix 7.1 confirm that Version 11 of the Emission Factor Toolkit (EFT) published by Defra was used to quantify CO2 emissions from the road traffic dataset. Can the applicant provide explanation as to why the National Highways version of the Emission Factor Toolkit (Version 4.3) was not used to quantify CO2 emissions, given that the A66 project is a highways scheme and the use of Design Manual for Roads and Bridges methodologies elsewhere?</p>	<p>There was direct instruction from National Highways to use the speed band factors from the Emission Factors Toolkit v.11 from DEFRA. NH speed band tool version 4.2 was used which includes the EFT v11 emissions within it.</p>	<p>Confirmation is welcomed that the DMRB version of the EFT was utilised. No further comment</p>	<p>Noted</p>
<p>Paragraph 7.5.16 states that the “emissions drawn from the traffic modelling are provided in carbon dioxide (CO2) not carbon dioxide equivalents (CO2e)”. Version 11 of the EFT published by Defra provides direct CO2 tailpipe emissions and indirect CO2e emissions from electric vehicle charging. Can the applicant confirm whether or not the road-user GHG values reported in Chapter 7 and Appendix 7.1 of the ES include the indirect CO2e emissions, as well as tailpipe emissions.</p>	<p>The road user GHG calculation includes emissions associated with electric vehicles within the speed band calculations and as such are included in the total emissions reported in the ES (Document Reference 3.2, APP-044 to 059).</p>	<p>Confirmation is welcomed. No further comment</p>	<p>Noted</p>
<p>Table 7-10 of Chapter 7 presents the annual road-user CO2e emissions for the 2019 baseline, 2029 Do-Minimum (opening year without the proposed scheme) and 2044 Do-Minimum (future year without the proposed scheme) scenarios, as well as Do-Minimum CO2e emissions over a 60-year appraisal period. Table 7-23 of Chapter 7 presents the equivalent, but for the Do-Something (opening and future years with the proposed scheme). Table 7-23 also provides the changes between Do-Minimum and Do-Something scenarios. Table 4 of</p>	<p>Table 4 in Environmental Statement Appendix 7.1: Greenhouse Gas Assessment (Document Reference 3.4, APP-176) has the incorrect values for Operation emissions from Road Vehicles (B9). The correct values are presented in the main ES chapter in Table 7.10 and 7.23.</p>	<p>Noted. No further comment.</p>	<p>Noted</p>

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<p>Appendix 7.1 provides “operational emissions” associated with “vehicles using the highway infrastructure” for Do-Minimum and Do- Something scenarios.</p> <p>The operational values provided for the Do-Minimum and Do-Something scenarios, and the difference between Do-Minimum and Do-Something values reported in Table 4 of Appendix 7.1 do not match those reported in Table 7-10 and Table 7-23 within Chapter 7. Can the applicant provide clarity on why the values reported in Table 4 of Appendix 7.1 differ from the road-user values reported in Chapter 7 of the ES?</p>			
<p>Nowhere within Chapter 7 or Appendix 7.1 does there appear to be reference to vehicle kilometres travelled. Vehicle kilometres travelled is a useful metric to provide context for changing GHG emissions. It would be useful if the applicant could provide the vehicle kilometres travelled for the scenarios reported in Table 7-10 and Table 7-23 of Chapter 7 and Table 4 of Appendix 7.1.</p>	<p>Chapter 5.6 in the Combined Modelling and Appraisal Report (Document Reference 3.8, APP-237) discusses the overall change in modelled vehicle distance both with and without the Project. The network performance statistics are based on assigned traffic in the SATURN assignment model. Tables 5-26 to 5-31 of the Combined Modelling and Appraisal Report (Document Reference 3.8, APP-237) show the network statistic scenario values including modelled travel time, distance, speed and total trips. The Report found that the inclusion of the Project increases total distance travelled (by all modelled vehicles) marginally as drivers are prepared to travel further to take advantage of the increased speed and reliability as a result of the links provided by the Project.</p>	<p>It would have been useful for the response to provide the vehicle kilometres travelled that relate specifically to the road-user GHG calculations in terms of scenario, study area and fleet mix. Whilst (Document Reference 3.8, APP-237) does appear to provide a lot of useful information, it does not appear to provide vehicle kilometres travelled values directly relating to the road-user GHG numbers reported in Chapter 7 or Appendix 7.1. If it does, please provide reference to the appropriate section and table.</p> <p>The additional information provided as to why road-user GHG emissions increase as a result of the scheme in operation is welcomed.</p>	<p>National Highways have responded to this comment in section 15 of the Applicant's Comments on Local Impact Report (Document Reference 7.9).</p>