

# **A66 Northern Trans-Pennine project**

**TR010062**

## **7.8 Applicant's Response to Written Representations made by other Interested Parties 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

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<b>Deadline:</b>	Infrastructure Planning (Examination Procedure) Rules 2010 Deadline 2
<b>Planning Inspectorate Scheme Reference</b>	TR010062
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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 any other Interested Parties at Deadline 1. The Applicant has provided responses to Written Representations submitted to the ExA by Affected Persons and Interested Parties subject to a Statement of Common Ground (SoCG) in other documents submitted at Deadline 2. These are the Applicant's Response to Written Representations made by Affected Persons at Deadline 1 (Document Reference 7.6) and Applicant's Response to Written Representations made by Interested Parties subject to an SoCG at Deadline 1 (Document Reference 7.7).
- 1.1.3 In total, 66 Written Representations were submitted by other Interested Parties 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 Due to the detail and size of Dr Boswell's Written Response (REP1-013), National Highways have attached their response as an Appendix to this document (Appendix 1).

## 2. Response to Written Representations made by Other Parties

Table 1. Response to Written Representations made by Other Parties

Examination Library Reference	Interested Party	Response Topic(s)	Written Representation (Verbatim)	National Highways Response
REP1-087	Louise Taylor-Kenyon	DCO - Policy Legislation and Guidance Development of the Project and Alternatives	<p>With regard to Scheme 6 of the A66 dualling project; Appleby to Brough. While I fully appreciate the need, as stated by National Highways, to pay attention to two key sets of policy tests to be addressed for developments that need an incursion into the AONB; notably those applicable to developments within the boundary of such an area, and those applicable to developments outside such areas but that have an impact on them (Document Reference 2.2, APP-008 and Document Reference 3.9, APP-242) I am not yet convinced that the key policy tests as set out in the National Networks National Policy Statement (NNNPS) for the AONB do not apply to a potential route that would take the rest of Section 6 to the north of the existing A66.</p> <p>NH has put forward a very convincing case for the need for incursion into the AONB in the central length of scheme 6, to the north of Warcop and again in the eastern section – in total this incursion comes to 3'775m out of a total length in this section of 8'130m. Sections 6.5.66- 6.5.205of Document 2.2 (APP-008) go into great detail about the justification for acceptance of this incursion, including this statement in section 6.5.148; –the existing A66 forms the southern border of the AONB in this location, but this road corridor does not represent any of the special qualities of the AONB. This is also true of the section of the road between the two areas of incursion, which is why I have requested an additional site visit; trees have been planted along the road in this area, but they form a narrow belt, and in some areas are relatively newly planted. Table 6.12, the impact on AONB Special Qualities, is instructive in that the special qualities are shown as not being impacted by the proposed incursion – it is highly unlikely that, were the remaining 4'335m of this section to run through the AONB that there would be any change to this. In section 5.5 – Appleby to Brough' of the Project Development Overview Report (PDOR)(Document Reference 4.1, APP- 244) there is a detailed explanation of the changes made to the initial proposals, including a sifting exercise to compare the route options for the Appleby to Brough scheme. Although options were assessed on a wide range of criteria I cannot find any suggestion that once the original – northern route' that was put forward was rejected there was any attempt to re-consider whether the whole of section 6 could be re-aligned north of the existingA66, while at the same time considerations of noise and disruption that were considered to be factors in the suggested incursions ( APP -244, 5.5.56) have not been taken into consideration elsewhere, as well as many other factors that have been put forward to support incursion into the AONB.</p> <p>I did not find that the Issue Specific Hearing where this matter was discussed gave any satisfactory reasons why the whole of Section 6 should not now go to the north of the existing A66; this, together with the details above leads me to continue to object to the current preferred route, and to ask that a re-assessment of this section takes place with a view to re-locating it to the north of the existing road.</p>	<p>As Ms. Kenyon acknowledges in REP1-087, paragraphs 6.5.57 to 6.5.191 of the Case for the Project (Document Reference 2.2, APP-008) outline the policy requirements for development proposed within nationally designated areas, with specific reference to the North Pennine Area of Outstanding Natural Beauty and alternative routes assessed for the Appleby to Brough scheme. National Highway's' response to policies 5.151 to 5.155 of the NNNPS is as set out in the Legislation and Policy Compliance Statement (pages 3.9-178 to 3.9-186 of Document Reference 3.9, APP-242).</p> <p>National Highways considers that the matters raised in this Written Representation are addressed in pages 5 to 10 of the Applicant's Response to Relevant Representations Part 2 of 4 (Document Reference 6.5, PDL-011). It is not considered that a route further to the north would be capable of being promoted in a way that could meet the National Policy Statement tests and therefore would be unlikely to be granted development consent. Further information in this regard is given under Agenda Item 2.2 of Deadline 1 Submission – 7.2 Issue Specific Hearing 1 (ISH1) Post Hearing Submissions (REP1-006).</p> <p>National Highways' Deadline 1 Submission – 7.2 Issue Specific Hearing 1 (ISH1) Post Hearing Submissions (REP1-006) provides further information, including post-hearing notes, regarding the justification for the extent of the incursion of the promoted route in to the AONB and MoD land; refer to pages 17 and 18. In respect of the MoD land while the promoted route does involve some incursions into these areas, the impact of the incursion in relation to the central section has been discussed with the Defence Infrastructure Organisation (DIO) on behalf of the MoD, who recognise that the proposal as presented in the application minimises the impact on MOD's operations and is capable of agreement. Land beyond this further to the north has wider operational and land implications for MoD and DIO as well as substantial AONB incursion.</p>

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REP1-127	Ramblers Penrith Group	WCH	<p>This representation is made on behalf of The Ramblers for the Cumbrian section of the scheme. This representation expands and amends our relevant representation (document RR-021) and takes account of National Highways response to our relevant representation (document PDL-011 pages 96-100)</p> <p>1- Access to Countess Pillar.</p> <p>1.1 Please see the scheme 03 Rights of Way and Access Plans sheet 1 &amp; draft Development Consent Order (DCO) page 85 (documents APP-343 &amp; APP-285) which show what National Highways propose for access to Countess Pillar.</p> <p>1.2 At present access is available on foot from the B6262 road to the west, close to its junction with the A66.</p> <p>1.3 The junction of the B6262 and A66 is easily reached from Penrith on foot or cycling, using very quiet roads via the Frenchfield underpass and Brougham bridge.</p> <p>1.4 We wish to see this access retained. All that is needed is a short length of path from the cycleway on the south side of the new Brougham Accommodation bridge.</p> <p>1.5 If this access is not provided the only way for walkers to reach the Countess Pillar would be along the verge of the A66 from the B6262 junction, which would not be safe or pleasant.</p>	<p>National Highways considers that these matters are addressed in the Applicant's Response to Relevant Representations Part 2 of 4 (Document Reference 6.5, PDL-011) and are of the opinion that there is sufficient flexibility within the DCO to facilitate this change, which can most likely be undertaken within the boundaries of the DCO application.</p> <p>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 a walking and cycling access and link from the B6262 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 the proposed design changes for inclusion in the DCO application being examined, and (ii) what form the proposed changes will take.</p>
REP1-127	Ramblers Penrith Group	Walking, Cycling and Horse Riding	<p>This representation is made on behalf of The Ramblers for the Cumbrian section of the scheme. This representation expands and amends our relevant representation (document RR-021) and takes account of National Highways response to our relevant representation (document PDL-011 pages 96-100)</p> <p>2- Requested amendments to plans and draft DCO for Scheme 06 (Appleby to Brough)</p> <p>2.1 We have noted National Highways comments on our relevant representation, but do not agree with many of them.</p> <p>2.2 Many of the amendments are where the new rights of way, listed in the draft DCO and shown with a letter on the plans, are along a route also shown as "private means of access". Please see the Rights of Way and Access Plans for Scheme 06 (APP-345) and the draft DCO (APP-285) for comments below.</p> <p>2.3 The Walking, Cycling and Horse Riding Proposals (APP-010) and the General Arrangements Drawings (APP-014) also show the intended changes to rights of way. However, there are some differences between these documents and the Rights of Way and Access Plans.</p> <p>2.4 As the draft DCO makes clear (Paragraphs 9-11 and Schedule 2) it is the DCO with the Rights of Way and Access Plans that will make the legal changes to the rights of way.</p> <p>2.5 We accept that where the new right of way is along another highway which is a carriageway, it would not be shown on the plans. This applies where the new right of way is beside the new trunk road or along a new or improved side road.</p> <p>2.6 However a new private means of access is not another highway, so where a right of way is coincident with a new private means of access it should be shown with the symbol for "new public right of way and new private means of access" on the plans. If the route concerned is another highway, it would be a public carriageway, so should be shown as a side road or the new trunk road, and not as a private means of access. The public would have the right to drive along it.</p>	<p>National Highways considers that many of these matters are addressed in the Applicant's Response to Relevant Representations Part 2 of 4 (Document Reference 6.5, PDL-011) on pages 96 to 100.</p> <p>However, where further clarification is required, we have provided a response below.</p> <p>Paragraphs 2.1 to 2.9, 2.10 (part), 2.11, 2.13 and 2.15 – the Applicant remains of the firm view that its approach to the presentation of walking, cycling and horse riding provision (WCHR) within the bounds of an existing or proposed highway is wholly consistent with the law and established practice. A WCHR provision within the bounds of a highway is by definition <b>not</b> a highway in its own right; it forms a <i>part</i> of the highway within which it is situated. The fact that there may be a coincident <i>private</i> right of way over that WCHR provision (i.e., over part of the highway) does not in any way change this position.</p> <p>In this regard, when considering the comparison drawn between the approach on Scheme 06 to the approach in Scheme 03 it is important to recognise that the WCHR provisions referred to by the Ramblers in relation to Scheme 03 relate to a cycle <i>track</i> which is treated across the Rights of Way and Access Plans for all Schemes as a highway in its own right with its own highway "proposed side road / new public right of way boundary" (denoted on the Rights of Way and Access Plans by a line broken with squares). As such, where the cycle <i>track</i> is also subject to a coincident <i>private</i> right of way, it is denoted with the "new public right of way and new private means of access" cross hatched stipple to show it is a public right of way, with a private right of way over it.</p> <p>In contrast, in relation to the cycleways identified in the Ramblers Written Representation on Scheme 06, these are all within the highway boundary of the A66 or other side roads and so are <i>not</i> highways in their own right. They form part of the wider highway in which they are situated as is shown clearly by it being within the bounds (shown either by a line broken with squares in the case of a side</p>

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			<p>2.7 Draft DCO page 96. New cycleway A* should, at least in part, be shown with right of way symbol. Part of the route is coincident with private means of access 9, so is not part of another highway. It is not clear if the rest of this route is within the new A66, but we note that a similar cycleway in scheme 03 (Penrith to Temple Sowerby) is shown as a new right of way throughout on the plans (document APP-343).</p> <p>2.8 Draft DCO page 96. New route of bridleway 372024, B*, should be shown with right of way symbol on plans, as it is coincident with new private means of access 3. A private means of access is not a highway unless it is also shown as a right of way.</p> <p>2.9 Draft DCO page 97. Part of new route of footpath 372027, C*, where it is coincident with new private means of access 13, should be shown on plans with right of way symbol.</p> <p>2.10 Draft DCO page 97. Description of new paths D* &amp; F are puzzling. The "point immediately south-west of its junction with the existing A66" seems to be the point where D* and F meet. This point would be better described as about 50m east of the B6259. Also a small part of D*, where coincident with private means of access 15, should be shown as a right of way.</p> <p>2.11 Draft DCO page 98. Parts of the new routes of footpaths 372013 &amp; 372014, G* &amp; H*, under the Cringle Beck viaduct, are shown as new private means of access 17 &amp; 18, so should also be shown as a right of way on the plans. For the rest of G*, the new path is at the bottom of the embankment, so is it really part of the new A66?</p> <p>2.12 Draft DCO pages 98-9. For footpath 372021 the descriptions of the new routes J* &amp; K* are puzzling. J* is described as "from a point immediately south of its junction with the existing A66" but appears to be from a point on the new A66 at the Walk Mill underpass. K* is described similarly but appears to run from a point 131 metres south of the existing A66 and run in north-west direction (not north-east). While these new paths are within the boundary of the new roads, they appear not to be alongside the new roads but are separated from them by an embankment. We suggest this means they are not part of the highway so should be shown as a right of way.</p> <p>2.13 Draft DCO pages 99-100. The new route for footpath 372020, O*, is shown as a private means of access 32, so should also be shown as a right of way.</p> <p>2.14 Draft DCO pages 101-2. Footpath 329001 should not be closed as the section proposed for closure is coincident with a new private means of access. It needs to remain to give public access to the existing A66 from the footpath.</p> <p>2.15 The new paths V* &amp; W* should be shown as rights of way on the plans, as the West Lane overbridge is shown as a private means of access (42). Should these be bridleways, to maintain connection from bridleway 309003 to the road into Brough?</p>	<p>road or a line broken with circles in the case of the A66 trunk road) of that wider highway. They do not cease to be highway merely because they are also subject to a private right of way.</p> <p>The Applicant has amended the definition of "cycleway" contained in article 2(1) of the draft DCO submitted at Deadline 2 to make it clearer that, for the purposes of this Project, a "cycleway" will only ever comprise part of a highway, as against a highway in its own right.</p> <p>2.10 This suggestion regarding the description include in Schedule 3 will be considered and updated accordingly (if considered appropriate). The small section of D* denoted as PMA is within the Highway boundary and therefore it is not appropriate to show this as a separate Right of Way for the reasons set out above.</p> <p>2.12 This suggestion regarding the description will be considered and updated accordingly (if deemed appropriate). The Applicant notes that the Ramblers' written representation acknowledges that these ways are shown to be within the bounds of the highway, and it is therefore unnecessary for them to be shown as separate highways in their own right.</p> <p>2.14 &amp; 2.15 The stopping up of the length of footpath 329/001 (see sheet 6 of the Rights of Way and Access Plans for Scheme 06 (Document Reference 5.19, APP-345)) is required to facilitate the scheme. As is stated on the pages of the DCO referred to in the Rambler's written representation, it is proposed to be replaced by a new footway (references V* and W*) that will be within the highway boundary of the A66. The replacement ways are footways as they serve as replacement for the type of way that would be stopped up (i.e., a footpath).</p>
REP1-046	Transport Action Network	Climate	<p><b>1.Introduction</b></p> <p>Transport Action Network (TAN) submitted a Relevant Representation (RR-035) on the DCO application for the A66 Northern Trans Pennine scheme and registered as an Interested Party (IP). This is our Written Representation (WR).</p> <p><b>2. Climate change</b></p> <p>2.1 TAN is pleased that the Examining Authority (ExA) made climate change one of the Principle Issues for this examination.</p> <p>2.2 Climate change is the most pressing environmental issue of our time, presenting an existential threat to human life and biodiversity.</p> <p>2.3 We are concerned, however, that the climate impact of this scheme will be difficult for the ExA to assess due to a number of issues.</p>	<p>Points 2.1 to 2.4 are noted.</p> <p>Point 2.5 The Applicant has carried out a detailed and robust assessment of the likely significant effects of the A66 Project on climate (Chapter 7 of the ES (Document Reference 3.2, APP-050)), which is in accordance with law, the NPSNN and the relevant DMRB standard, LA 114.</p> <p>Point 2.7 is noted.</p> <p>Regarding Point 2.8 National Highways notes the comments in relation to national Government policy. The matters raised therefore sit outside the remit of the DCO application and are for the national Government to consider as part of their policy approach. National Highways can also confirm that both Emissions Factor Toolkit (EFT v11) and TAG v1.20 were used in the assessment presented in Chapter 7 of the ES (Document Reference 3.2, APP-050), and that the uptake of electric</p>



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			<p>2.4 Firstly, despite climate change being the single most important environmental issue influencing all other environmental impacts, there is no statutory environmental body (SEB) tasked with scrutinising the climate change claims made by the Applicant. Natural England, the Environment Agency and Historic England all scrutinise the claims made by the Applicant for other environmental issues (such as biodiversity, flooding and the impact on the historic environment) to varying degrees depending on resources. However, the SEB's remit does not include carbon emissions. The remits of the newly formed Office for Environmental Protection (OEP) and the Climate Change Committee (CCC) unfortunately do not include challenging and scrutinising climate change assertions made by scheme promoters at examinations. This is a serious omission in English planning consenting procedures.</p> <p>2.5 Secondly, we are concerned that the Applicant is not being clear about the climate change impact of this scheme, and due to the lack of challenge and scrutiny from an expert statutory body (which is exclusively focused on climate change), it will be easier for the Applicant to confuse and obscure the true impact of the carbon emissions resulting from the scheme.</p> <p>2.6 It will be left to small organisations like TAN, scientists like Dr Andrew Boswell and ordinary people to challenge the climate change assertions made by the Applicant. Given the weight the ExA attaches to climate change during this examination (making it a Principle Issue) and the lack of statutory scrutiny, we ask that the ExA allows full exploration by IPs about the carbon impact of the scheme, and to respectfully acknowledge the contribution by IPs to undertake this important task in the absence of SEBs.</p> <p>2.7. To assist the streamlining of the examination and to help it run more efficiently, TAN would like our representations on climate change at hearings to be made by Dr Andrew Boswell of CEPP, who is also registered as an IP and is an expert on climate science, policy and law. We ask the ExA to allow Dr Boswell to fully make the arguments on our behalf, including the complete absence of cumulative impact assessment, and the absence of any comparisons of emissions with local, regional and sectoral budgets.</p> <p>2.8 The latest Emissions Factor Toolkit (EFT v11) and TAG v1.20 all already account for the uptake of electric vehicles. The DfT's Transport Decarbonisation Plan (TDP) is vague and contains no detailed, quantifiable policies. National Highways "Net Zero Highways" is irrelevant as it largely focused on NH's corporate emissions, which are miniscule compared to the emissions caused by the construction and operation of this scheme.</p>	<p>vehicles was considered throughout the assessment process in line with the named guidance.</p>
REP1-046	Transport Action Network	DCO - Policy Legislation and Guidance Climate	<p><b>3. National Policy Statement for National Networks (NPSNN)</b></p> <p>3.1 TAN had to initiate judicial review proceedings three times in 2020 and 2021 before the Secretary of State for Transport finally acknowledged in July 2021 that the National Policy Statement for National Networks (NPSNN) is woefully out of date on climate change and traffic forecasts, and finally agreed to review it. The new NPSNN was supposed to be passed by Parliament and in place by 'Spring 2023', yet a draft has not yet been published and consultations have not been initiated.</p> <p>3.2 In the meantime examinations are being conducted and consenting decisions are being taken in a policy vacuum using an outdated and impotent NPS, giving rise to potentially unlawful decisions. We ask the ExA to acknowledge that the NPSNN is currently under review as it's out of date on climate change law and policy, and therefore to attach the appropriate level of weight to the outdated climate parts of the NPSNN.</p>	<p>National Highways view on the status of the NPSNN and the ongoing review of that policy document which is based upon DLUHC's guidance on the review of NPSs, is stated at paragraph 3.3.21 of the Legislation and Policy Compliance Statement (Document Reference 3.9, APP-242):</p> <p><i>"The NNNPS is currently under review, with an intended completion date of Spring 2023. An addendum assessment of compliance with the revised NNNPS will be provided, should this be required prior to determination of this DCO application. While the review is undertaken, the NNNPS remains in force and is the basis on which relevant DCO applications will be determined"</i>.</p> <p>That document also contains analysis on the application of section 104 (decisions in cases where national policy statement has effect) of the Planning Act 2008, which is the key legislative provision relevant to the Secretary of State's decision on the Application.</p>

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				National Highways also notes that within the A417 Missing Link decision letter (see paragraph 47) the Secretary of State stated that “ <i>as things stand, the Secretary of State has no reason to consider that the Proposed Development will hinder delivery of either the Transport Decarbonisation Plan or Net Zero Strategy (whether in its current form or any future updated form).</i> ”
REP1-046	Transport Action Network	Traffic and Transport	<p><b>4. Traffic forecasts</b></p> <p>4.1 The modelling for the proposed scheme was done using a previous version of TAG. We request that the ExA asks the Applicant to re-run the appraisal using the latest version (v1.20, November 2022), and to deposit this new appraisal in the examination library as a new Combined Modelling and Appraisal (ComMA) report.</p> <p>4.2 Last week (12 December 2022), the Department for Transport (DfT) finally published the long-awaited road traffic projections. These had not been updated since 2018. These forecasts will change the National Transport Model (NTM) and the appraisal for the proposed scheme. Please could the ExA request the Applicant redo the modelling and appraisal using the latest road traffic projections, and to deposit this new appraisal in the examination library.</p>	<p>At the time of the application submission in June 2022, the relevant TAG (Transport Analysis Guidance) guidance and Databook (November 2021) was used. It is noted that post application, TAG has been updated, and that a new version of the Road Traffic Projections has been issued.</p> <p>In advance of the next Department for Transport (DfT) approval stages of the business case, National Highways is undertaking further development work to prepare the Full Business case. This includes for example, looking to update our valuation of the BCR (across costs and benefits) to reflect the latest project costs and applying latest data around safety, freight, the impact of the project on levelling-up, environmental impacts etc.</p> <p>National Highways can state definitively that, in order to produce a Full Business Case, the Project modelling will be updated to include changes from the November 2022 Databook and new Road Traffic Projections.</p> <p>In considering TAG (Transport Analysis Guidance) updates, the advice contained within Chapter 1 of 'Transport Analysis Guidance The Proportionate Update Process DfT January 2014' should be noted. Key paragraphs of this guidance state:</p> <p><i>1.3.1 While sound planning of business case development, assisted by the Orderly Release Process, can minimise the cost, resource, and time needed to ensure a business case remains in step with latest evidence, it is nonetheless reasonable for project sponsors to decide what updates to business cases it is proportionate to make when TAG, or other guidance / evidence changes.</i></p> <p><i>1.3.2 The Department expects that such decisions should be made on a scheme by scheme basis and be based on balancing the need to ensure decisions are based on up-to-date evidence with the need to support decision makers in delivering their programme. This should involve reasonably balancing (a) the greater time, cost, and/or resource needed to deliver programmes, with (b) the quality of the analysis submitted to assist the decision required, including its robustness against potential challenge from all sources.</i></p> <p>Therefore, following submission of the DCO application in June 2022, (based on Guidance released in November 2021 -TAG Databook v1.17) a Full Business Case is planned to be submitted to the Department for Transport in advance of the next DfT approval stage, which is separate to the DCO examination.</p> <p>A key update that was issued in May 2022 was the release of NTEM v8 (National Trip End Model) data. The DfT NTEM provides growth figures for trips. The forecasts consider population, employment, housing, car ownership and trip rates. For further details of how NTEM v7.2 was used please refer to paragraphs 5.3.1 to 5.3.5 of the Combined Modelling &amp; Appraisal Report (Document Reference 3.7, APP-236). Initial modelling for the Full Business Case has shown that the impact of NTEM v8, has minimal impact on 2029 traffic flow forecasts, but reduces 2044</p>

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				<p>traffic flows forecasts by around 4%. This is due to lower population forecasts from 2030 onwards within NTEMv8.</p> <p>It is likely that the lower traffic forecasts would result in lower vehicle emissions and lower noise levels as a result of the project from 2030 onwards. Therefore, it is considered that the appraisal undertaken within ES Chapter 5 Air Quality (Document Reference 3.2, APP-048), ES Chapter 7 Climate (Document Reference 3.2, APP-050) and ES Chapter 12 Noise and Vibration (Document Reference 3.2, APP-055) will be based on worst case traffic forecasts. Therefore, it is not intended that the results from the new calculations be deposited within the examination library.</p> <p>As the Project develops, and as more information becomes available around the Project costs, and also the Project benefits, so the Benefit Cost Ratio (BCR) will be refined. As part of the work to prepare the Full Business Case National Highways is looking to update our valuation of the BCR (across all costs and benefits) to reflect the latest Project costs and applying latest data from TAG.</p>
REP1-046	Transport Action Network	Case for the Project	<p><b>5. Poor value for money</b></p> <p>5.1 The business case for this scheme is worse than marginal. It is not known how or why this scheme is being progressed by National Highways and the DfT as it is classed as 'Poor' value for money in the DfT's value for money framework and should not have been progressed for that reason alone. TAN can only assume that it is being progressed for political reasons, not for transport, economic or safety reasons.</p> <p>5.2 The scheme would cost more to build than it would ever deliver in economic benefits as it has a negative benefit-cost-ratio (BCR). The initial BCR for the scheme is only 0.48 meaning that for every £1 spent on building the scheme, it would only deliver a 48p return. Using a best-case scenario and taking into account all the claimed, wider economic benefits (which are disputed), the BCR is still inflated to only 0.92, meaning it would only return 92p for every £1 spent.</p> <p>5.3 There is a very strong presumption in planning policy (NPPF and NPSNN) against building in protected areas such as an Area of Outstanding Natural Beauty (AONB) unless there are overwhelming benefits, and there are "exceptional circumstances". Given the poor BCR and the low benefits this scheme brings, this test has not been met.</p> <p>5.4 In the midst of a cost-of-living crisis, it is obscene to spend £1.49 billion (APP-289) on a project that will increase carbon emissions and air and noise pollution, and destroy and pollute protected habitats.</p>	National Highways considers that these points are addressed in the Applicant's Response to Relevant Representations Part 2 of 4 (Document Reference 6.5, PDL-011) (Pages 63-81, RR-035).
REP1-046	Transport Action Network	Consultation and Engagement Process	<p><b>6. Failure to consult adequately and properly</b></p> <p>6.1 TAN is extremely concerned about the rushed and very poor consultation for this scheme, and the underhand way that National Highways mishandled consultation prior to the DCO submission. We are very disappointed that the Planning Inspectorate accepted the application given the serious concerns we raised with PINS prior to the acceptance decision.</p> <p>6.2 TAN monitors and participates in many NSIP road consultations and supports communities around England, meaning that we have considerable experience of normal and best practice. We have never witnessed such appalling consultation as that conducted at the pre-application stage for this scheme. We wish to ensure the ExA are aware of the very serious failings at the consultation stage for the A66 which has</p>	National Highways considers that these points are addressed in the Applicant's Response to Relevant Representations Part 2 of 4 (Document Reference 6.5, PDL-011) (Pages 75-78, RR-035).

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			<p>resulted in a very poor scheme being presented at examination. We can present further evidence on this if required.</p> <p>6.3 National Highways (NH) rushed the statutory consultation, meaning significant changes were made post-statutory consultation, and important aspects of the scheme design being missed out of the statutory consultation. This resulted in the Applicant holding multiple supplementary consultations after the statutory consultation, often overlapping and/or back-to-back. These supplementary consultations contained significant changes to the scheme design (including raised viaducts at the AONB boundary and locations of 21 compounds within a very sensitive landscape), but were conducted in secrecy. NH did not publicise the consultations on the scheme page, on their dedicated social media, nor on the NH national consultation page. This is in stark contrast to the treatment of every other NH NSIP. The consultation documents were only available to those who were given the links in a hand-delivered leaflet, and the links were not advertised online or publicly, meaning that unless you were in possession of a leaflet you couldn't respond, nor could national bodies like TAN gain access to the documents nor comment. Important regional bodies such as Friends of the Lake District were not consulted properly, and were not invited to stakeholder meetings.</p>	
REP1-046	Transport Action Network	Climate Case for the Project Consultation and Engagement Process	<p><b>7. Misrepresentations by the Applicant</b></p> <p>7.1 We have noticed that TAN's comments made in our RR (RR-035) have not been included in the Applicant's response to RR's (PDL-010-013). We commented on climate change, the poor value for money, inadequate consultation and many other issues. However NH have failed to include our RR comments in their response. We are concerned that NH are therefore not representing the responses from objectors accurately.</p>	National Highways has responded in detail to each point of the relevant representation received from the Transport Action Network in the Applicant's Response to Relevant Representations Part 2 of 4 (Document Reference 6.5, PDL-011) (Pages 63-81, RR-035).
REP1-028	Lake District National Park Authority	Development of the Project and Alternatives	<p>A66 Transpennine Route Inquiry Additional comments to RR-187 " Authority Lake District National Park Partnership Plan</p> <p>Whilst not within the Lake District National Park boundary, the impacts of this development will be felt within the national park and aspects of this proposal are contrary to the strategies and action in the statutory Management Plan.</p>	National Highways considers that the response provided for Agenda Item 2.4 in Deadline 1 Submission - 7.2 Issue Specific Hearing 1 (ISH1) Post Hearing Submissions (REP1-006) addresses these matters.
REP1-028	Lake District National Part Authority	Environment and EMP Traffic and Transport	<p>The Lake District National Park's management plan, "The Partnership Plan" sets out our strategies, plans and outcomes for transport. The overarching aim is to reach net zero GHG emissions by 2037 and this runs through the whole Plan. The full plan can be found here <a href="https://www.lakedistrict.gov.uk/caringfor/lake-district-national-park-partnershipStrategy">https://www.lakedistrict.gov.uk/caringfor/lake-district-national-park-partnershipStrategy</a> 22 sets out our desire for "An effective and integrated transport infrastructure supporting low carbon travel options" and states "Support development and delivery of infrastructure and services that decarbonises travel and enables low carbon and active travel (including cycling and walking infrastructure, electric vehicles, electric bikes and other modes of transport), and more people to reach the Lake District by rail and integrated onward travel. 'The Key transformative actions are all focused on promoting sustainable transport and reducing car dependency, including active travel, rail and bus improvements, integrated ticketing and traffic management. We have clearly set out that we will reduce carbon emissions and transport within, and to, the Lake District as currently transport</p>	National Highways considers that these matters are addressed in Deadline 1 Submission - 7.2 Issue Specific Hearing 1 (ISH1) Post Hearing Submissions (REP1-006), under agenda item 2.4

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			contributes to almost one half of our carbon budget. Carbon emitted from visitors travelling to the Lake District will clearly be increased through the A66 development, undermining our progress towards net zero. Excessive traffic at peak times in the Lake District is already damaging the environment and the visitor experience.	
REP1-028	Lake District National Park Authority	Traffic and Transport	<p>The modelling around the A66 shows that it will generate additional traffic. A significant proportion of that traffic will be destined for the Lake District, further increasing pressure on already overstretched infrastructure. We believe the figure quoted in the response to our representation of 350 cars per day to be underestimated and we ask that this be factually verified, as such a nominal increase would appear to contradict the figures that claim the project will lead to economic growth in the tourism sector. Our desire is to encourage more overnight stays to benefit the economy and reduce carbon. We fear faster journey times from northeast England to the Lake District may only further the attractiveness of daytrips which, whilst we understand may be desirable for aspects of economic performance, are not as beneficial as overnight stay spends. We trust the above highlights some of the issues that the Lake District National Park Authority would like you to consider in terms of the aims of the management plan and best practice within a World Heritage Site.</p>	<p>National Highways considers that these matters are addressed in the following documents:</p> <ul style="list-style-type: none"> <li>• PDL-011 Procedural Deadline Submission - 6.5 Applicant's Response to Relevant Representations Part 2 of 4 (RR-055 page 103-104).</li> <li>• REP1-006 Deadline 1 Submission - 7.2 Issue Specific Hearing 1 (ISH1) Post Hearing Submissions (chapter 2.4 page 22-24)</li> </ul> <p>In addition, we have provided a response to the outstanding matters here.</p> <p>In terms of factually verifying the 350 additional cars per day, this number comes from the A66TM (A66 Traffic Model).</p> <p>The Combined Modelling and Appraisal Report (Document Reference 3.8, APP-238) presents details of how this traffic model was built to support the DCO application and is based on DfT guidance known as TAG (Web-based Transport Analysis Guidance) which is the Department's transport appraisal guidance and toolkit. It consists of software tools and guidance on transport modelling and appraisal methods that are applicable for highways and public transport interventions.</p> <p>Within the Executive Summary of APP-238 a description is provided that states how the model used accounts for how the demand to travel will change following the provision of the scheme. Paragraph 4 on page 3.8-2 states:</p> <p><i>'The A66TM is a variable demand model. This means that the model predicts how the travel patterns in the area would change once the Project is built and provides additional road capacity along the Trans-Pennine route. These responses include changes to the frequency of making trips, the time of day at which those trips are made, the transport mode used and the destination of trips. The model then estimates the route they use, which provides information on how many vehicles are using each part of the road network and how long it takes to complete a journey.'</i></p> <p>The following chapters provide further details of the model and how forecasts are developed.</p> <ul style="list-style-type: none"> <li>• Chapter 3 contains details of the local data used to develop the model in line with TAG Unit M1.2 Data Sources and Surveys.</li> <li>• Chapter 4 provides further details of the model, including amongst other elements, its purpose (Chapter 4.3), how transport demand is modelled (Chapter 4.7), how the model network is developed (Chapter 4.8), and how the Chapter 4.10 describes how the model is validated (Chapter 4.10) in line with TAG Unit M3.1 Highway Assignment Modelling.</li> <li>• Chapter 4.11 describes the variable demand modelling system developed for the A66TM in line with TAG Unit 2.1 – Variable Demand Modelling.</li> <li>• Chapter 5 describes how the forecasts are generated using the model in line with TAG Unit M4 – Forecasting and Uncertainty.</li> </ul>

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				Paragraph 3.5.2 within the Case for the Project (Document Reference 2.2, APP-008) highlights that improving access to key tourist destinations <i>such as</i> the North Pennines and Lake District is one of the benefits of the Project. The 350 trips per day refers to additional vehicle movements travelling into the Lake District only and does not include all additional trips that are undertaken by tourists to other destinations within the north of England and the rest of the UK. It should also be recognised that the project will also improve access for visitors that use the A66 to access less populated areas and areas that are currently not as frequently visited by tourists, as evidenced by the travel time savings on the A66 shown in table 5-47 to 5-49 in the Combined Modelling and Appraisal Report (Document Reference 3.8, APP-238), which will provide benefits to the local economy and tourist related businesses in these areas.
REP1-121	Rosalind Evans	Project Alternatives	As a resident of Barnard Castle, following the hearings in November/December 2022, and following the response to my original submission that I received from National Highways, I would like to make the following points. It seems to me that National Highways have not fully explained the reasons why they have chosen the Black Route at Rokeby and have totally discounted the Blue Route. Any questions raised in my submission and in any further questions put to them by various parties in the hearing, have been answered by references to documents and no public explanation. Whilst I am aware that the purpose of this process is to allow the Planning Inspectorate to decide on the application, I strongly believe that there is something wrong with a public process that is not understandable to the public. Much of the written response to my submission is basically circular arguments and obfuscation, and I find it totally unacceptable that a National body such as National Highways should be able to behave in this way. These decisions will affect our lives for years to come, and justifications set out by National Highways seem to be untenable "as they have so far been unable to explain them.	National Highways considers that these matters are addressed the Applicant's Response to Relevant Representations Addendum and Errata (Document Reference 6.6, PDL-013.1).
REP1-067 REP1-068 REP1-069 REP1-070	Friends of Lake District		<p><b>Friends of the Lake District</b></p> <p>Friends of the Lake District (FLD) is the only membership organisation dedicated to protecting and enhancing Lake District and Cumbrian landscapes and the natural and cultural environment of the county. Friends of the Lake District represents CPRE –The Countryside Charity in Cumbria and the Campaign for National Parks in the Lake District National Park.</p> <p><b>Summary for Examining Authority</b></p> <p>Please find below a summary of the issues that Friends of the Lake District raises in this Written Representation as requested by the Guidance as it is more than 1500 words long. Friends of the Lake District is concerned that upgrading the A66 to a dual carriageway for its entire length from Penrith to Scotch Corner will make it more difficult to secure a sustainable future for Cumbria's landscapes, people and wildlife. Implementation of this scheme would lead to significant damaging impacts on the natural environment of Cumbria and the North Pennines. This damage would include increasing greenhouse gas emissions, harm to protected landscapes, loss of and damage to habitats, severing of wildlife corridors, loss of flora and fauna, loss of trees, increases in noise, light and air pollution, local community severance and issues with flooding and run-off.</p> <p><b>1. Climate</b></p>	<p>Points 1 – 10 are noted. Points 4 and 5 outlines concerns in relation to flood risk as a result of climate change. National Highways has submitted with its application for development consent a Flood Risk Assessment and Outline Drainage Strategy (Document Reference 3.4, APP-221) which assesses flood risk (and considers the impacts of climate change) to and from the proposed Project and outlines its proposals for the drainage of surface water from the Project (see Annex A of that document). The detail of the drainage system and the Climate Change Resilience Mitigation for the Project will be further developed after the grant of development consent, if development consent is granted, in accordance with the provisions of the Environmental Management Plan (Document Reference 2.7, APP-19) and the Design Principles (Document Reference 5.11, APP-302), in particular measure D-RDWE-02 which requires the production of an operational drainage design that is compatible with the Outline Drainage Strategy.</p> <p>National Highways has carried out a detailed and robust assessment of the likely significant effects of the A66 Project on climate (Chapter 7 of the ES (Document Reference 3.2, APP-050)), which is in accordance with law, the NPSNN and the applicable DMRB guidance, LA 114.</p> <p>As set out by DMRB LA 114 and in line with the NPSNN, the assessment concludes that the Project's GHG emissions, in isolation, will not have a significant</p>

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			<p>Building the A66 upgrade will reduce the likelihood of the UK reaching Net Zero carbon by 2050 because of increased greenhouse gas emissions. Friends of the Lake District supports Dr Andrew Boswell's Written Representation on taking cumulative carbon emissions from transport schemes into account when determining a DCO. The A66 upgrade would increase Cumbria's CO2emissions from transport, adjusted for the NetZero Strategy, by over 4.7% at a time when the local authorities in the County have declared a climate emergency and have an aspiration to reach Net Zero by 2037.</p> <p>1. According to the UK Government, transport is the largest single contributor to carbon emissions in the UK, producing 24% of total emissions in 2020 and there is a large and growing gap between emissions and targets. Road building 'business as usual' cannot continue in a time of climate crisis. The country cannot keep building roads as if we are unaware of the consequences of increased emissions. Building roads induces new traffic, thus increasing demand and therefore emissions. The Climate Change Committee makes this clear to the Department for Transport in its 'Progress in reducing emissions 2021 report' where it states:</p> <p>a. 'Decisions on investment in roads should be contingent on analysis justifying how they contribute to the UK's pathway to Net Zero. This analysis should demonstrate that the proposals would not lead to increases in overall emissions. Wherever possible, investment in roads should be accompanied by proportionate investment in EV charging infrastructure and in active travel and public transport.' And</p> <p>b. "Ensure all departmental policy decisions, and procurement decisions, are consistent with the Net Zero goal"</p> <p>2. Friends of the Lake District has seen the detailed analysis that Dr Andrew Boswell has carried out on the Climate Change documents in the DCO's Examination Library and his written statement regarding assessment of cumulative emissions. We fully support his conclusions and would ask that the Examining Authority takes this support into account.</p> <p>3. Friends of the Lake District is a Cumbrian environmental organisation, so in this representation we concentrate on local climate issues, and use the examples to demonstrate how the A66 will exacerbate climate impacts as well as stymieing efforts across the County by local authorities, businesses, third sector organisations and the Cumbrian population to achieve Net Zero by 2037</p> <p>4. Cumbria has suffered disproportionately from climate change impacts over the past two decades. Flooding has taken place in all the major towns in the county, notably severe flooding happening three times in Carlisle and Cockermouth since 2009 as well as severe flooding in Kendal in 2015 which impacted on more than 4000 households. Roads were washed away, and bridges were destroyed in Workington, Pooley Bridge and many other locations leading to significant travel disruption and community severance. The County has also suffered from significant storm damage to our electricity infrastructure, most recently people in Cumbria were left without power for well over a week after Storm Arwen in 2021, but power outages also happened in 2013 and 2018. Much of the county's coastline is also vulnerable to sea level rise, affecting railways, roads and other infrastructure</p> <p>5. On the basis that climate change is an existential threat to the communities in the County, Eden District Council and the shadow Unitary Authority Westmorland and Furness Council have both declared Climate Emergency. Eden's was declared in July 2019 and Westmorland and Furness's will come into being on 1st April 2023 when the council is formally vested. Both Authorities are part of Zero Carbon Cumbria, a partnership of 80 organisations which has been set up to work across sectors in order to reach Net Zero carbon in the county by 2037.</p>	<p>effect on climate or a material impact on the ability of the Government to meet its carbon reduction plan targets and Carbon Budgets.</p> <p>In the absence of a local or regional baseline produced by Government, there is no reasonable basis upon which National Highways can assess the carbon emissions impact of the A66 Project at a local or regional level and it is not required by law or policy to do so.</p> <p>A response to Dr Boswell's submission will be supplied to the Examining Authority. (Appendix 17.8 Applicant's Response to Written Representations made by other Interested Parties at Deadline 1).</p>

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			<p>6. We cannot see how Westmorland and Furness and by extension the whole of Cumbria can reach Net Zero by 2037 if the A66 project goes forward. According to the 'Carbon Baseline for Cumbria' report for Zero Carbon Cumbria by Professor Mike Berners-Lee of Small World Consulting<sup>2</sup>, there is already a significant deficit in the transport sector between where we are and where we need to be; increasing emissions through an upgraded A66 will make this deficit larger because of the magnitude of the CO<sub>2</sub> emitted by construction and tailpipes.</p> <p>7. Cumbria's total yearly emissions are approximately 7 million tonnes of CO<sub>2</sub>. Transport makes up 0.851m tonnes per year (BEIS 2019). This does not include motorway traffic, but it does include trunk road traffic including the A66. According to the figures in APP-050 the emissions for the upgraded A66 add an additional 2.2m Tonnes over 60 years. In addition, the construction will add another half a million tonnes of CO<sub>2</sub>, 71% of this being attributable to the Cumbria stretches of the A66 (APP-050 Table 7-21).</p> <p>8. Approximately 41000 tonnes of CO<sub>2</sub> will be emitted from the upgraded sections of the A66 in 2029, with the tailpipe figure declining over 60 years. If Cumbria aligns with the Net Zero Strategy trajectory for transport, by 2029 the transport emissions should be 67% of the 2019 figure of 0.851 m tonnes per year which is 0.57 m tonnes per year. If two thirds of the emissions figures of 41,231 tonnes are attributable to the Cumbrian stretch of the scheme*, then 4.76% additional emissions are added from the scheme in 2029.</p> <p>9.*We have been unable to find a split of expected use of the road across the local authorities in the documentation, so have used a 67% figure as that is the approximate proportion of the upgraded A66 in Cumbria. A clarification of this from National Highways would be helpful to show expected usage of each stretch of new dual carriageway.</p> <p>10. This means that in the first few years of operation (whilst Cumbria is trying to achieve Net Zero), approximately 27000 additional tonnes of CO<sub>2</sub> will be emitted annually from the upgraded sections of the A66, adding 4.76% to the total of Cumbria's annual transport emissions. This is not an insignificant figure, and the question will be how can this be offset if the County is expected to host the upgraded road?</p>	
REP1-067 REP1-068 REP1-069 REP1-070	Friends of Lake District	Traffic and Transport	<p><b>2. Induced Traffic</b></p> <p>Research demonstrates that upgraded roads stimulate increased vehicular movements, increase demand and cause more CO<sub>2</sub> emissions. This is called 'induced traffic' which is defined as 'the increment in new vehicle traffic that would not have occurred without the improvement of the network capacity'. Data provided by the applicant shows that traffic will increase once the A66 is upgraded, Figures in the application show that National Highways are expecting a 30% increase in vehicle numbers. This increase in traffic will increase carbon emissions and other air pollutants, increase the impact of loss of tranquillity and in general will reduce the time savings that the upgrades are supposed to produce.</p> <p>11. Research demonstrates that upgraded roads stimulate increased vehicular movements, increase demand and cause more CO<sub>2</sub> emissions. This is called 'induced traffic' which is defined as 'the increment in new vehicle traffic that would not have occurred without the improvement of the network capacity'. See Sloman L, Hopkinson L and Taylor I (2017) The Impact of Road Projects in England<sup>3</sup> Report for CPRE which has been appended to this representation and the Department for Transport 2018 report Latest Evidence on Induced Travel Demand: An Evidence Review<sup>4</sup> which can be found on the Government's website at the link below.</p>	<p>The Combined Modelling and Appraisal Report (Document Reference 3.8, APP-238) presents details of the traffic model built to support the DCO application.</p> <p>Within the Executive Summary a description is provided that states how the model used accounts for how the demand to travel will change following the provision of the scheme. Paragraph 4 on page 3.8-2 states:</p> <p><i>'The A66TM (The A66 Transport Model) is a variable demand model. This means that the model predicts how the travel patterns in the area would change once the Project is built and provides additional road capacity along the Trans-Pennine route. These responses include changes to the frequency of making trips, the time of day at which those trips are made, the transport mode used and the destination of trips. The model then estimates the route they use, which provides information on how many vehicles are using each part of the road network and how long it takes to complete a journey.'</i></p> <p>More details of the Variable Demand Model and how it accords with TAG (Transport Analysis Guidance) Unit M21 which is the guidance document on variable demand modelling are provided in Chapter 4.11. Chapters 5.6 and 5.7 provide details of the impact of Variable Demand Modelling on the model results.</p>



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			<p>12.Data provided by the applicant shows that traffic will increase once the A66 is upgraded, Figures in the application show that National Highways are expecting a30%increase in vehicle numbers (APP-008).</p> <p>13.Greater numbers of vehicles at higher speeds increases noise and disturbance, contributing to a loss of tranquillity and impacts on local people. More traffic also increases emissions from vehicles, including particulates as well as air pollution which damage the local environment as well as increasing greenhouse gas emissions.</p> <p>14.The Examining Authority should consider the question of whether continuing to increase vehicle numbers fits with the Government, Transport for the North and Local Authorities 'stated aims to decrease car travel and increase the use of sustainable transport in order to tackle climate change. Road upgrades induce traffic by encouraging people to make more and longer journeys because travel is made easier.</p>	<p>In relation to sustainable transport, to address point 14 of the representation the Case for the Project (Document Reference 2.2, APP-008) states (at para 7.3.11 v) that:</p> <p>"The project will maintain, and, where required, make improvements through new provision of WCH routes (principally east-west) and enhancement of existing WCH routes affected by the project (for example, through resurfacing). This will help encourage the use of more sustainable modes of transport for local journeys and encourage local people to explore their local area safely on foot or cycle or horse back."</p> <p>The conclusions of balancing the overall impacts of the Project against the benefits is set out in section 7.4 of the Case for the Project. It concludes that:</p> <p>"..it is considered that the wider benefits of the Project, in terms of the Government, Transport for the North and Levelling Up agendas as outlined throughout this case, significantly outweigh the impacts of the Project as a whole." (paragraph 7.4.3).</p>
REP1-067 REP1-068 REP1-069 REP1-070	Friends of Lake District	Case for the Project Funding and Delivery Climate	<p><b>3 and 4. Case for the Project and Benefit/Cost Ratio</b></p> <p><b>There has never been a serious attempt by National Highways to address the road safety record of the A66 without resorting to dualling the carriageways in this process. Friends of the Lake District is still of the opinion that the road could be made significantly safer without having to spend so much money, cause so much landscape damage and emit so much carbon. Safety improvements including redesigned junctions, speed limits, speed enforcement cameras and underpasses or bridges for farm and Kirkby Thore gypsum mine traffic should have been properly investigated. The low BCR reduces the weight of the case for the project. The scheme's net benefits do not outweigh its financial costs. A BCR of 0.92 is very poor value for money for the public purse and certainly does not outweigh the environmental damage that the scheme will do. Questions need to be asked about whether it should even proceed on the basis that the country is currently in a financial crisis situation.</b></p> <p>15. National Highways make a number of statements and justifications about why the A66 needs to be upgraded. Many of these seem weak, especially when they are being used to justify a project that is defined by National Highways guidance as 'poor value 'with a Benefit Cost Ratio (BCR)of 0.92(with sensitivity variation between 0.78 to 0.99) as set out in document APP-237Table 7-9.</p> <p>16.There has never been a serious attempt by National Highways to address the road safety record of the A66 without resorting to dualling the carriageways. Friends of the Lake District is still of the opinion that the road could be made significantly safer without having to spend so much money, cause so much landscape damage and emit so much carbon. Safety improvements including redesigned junctions, speed limits, speed enforcement cameras and underpasses or bridges for farm and Kirkby Thore gypsum mine traffic should have been properly investigated.</p> <p>17.A safety upgrade case for the whole route was never put forward as an option in any of the discussions or consultations with National Highways despite the fact it would have the lowest impact on the landscape and wildlife along the route as well as being a significantly lower carbon option whilst reducing accidents and increasing A66 users' safety. A safety upgraded A66 with fewer small junctions and fewer vehicles needing to cross the carriageway because of the implementation of underpasses/bridges for local traffic would smooth the flow of traffic on the main road leading to time saving benefits</p>	<p>National Highways considers that the points in relation to value for money and the BCR are addressed in the Responses to Relevant Representations Part 2 of 4 (Document Reference 6.5, PDL-011) on pages 89-92, RR-060. It is noted that the BCR is just one component of the overall project business case and should be read alongside all the other impacts and benefits of the Project – this wider view of the Project is key to decision making, taking into account the various benefits which the Project presents, many of which are qualitative and cannot be monetarised. To this end, the way in which the proposals meet the project objectives is detailed within Table 7-1 of the Case for the Project (Document Reference 2.2, APP-008).</p> <p>With respect to National Highways consideration of alternatives that would address the road safety issues, without requiring the full dualling of the A66 please refer to the Project Development Overview Report (Document Reference 4.1, APP-244), which describes the development of the Project from its inception. In addition, the Case for the Project (Document Reference 2.2, APP-008) sets out the need for the Project and describes the wide ranging strategic benefits that the full dualling of the A66 would deliver in terms of local and regional economic benefits, journey time savings, safety (reduction in accidents) and reliability.</p> <p>Section 3.3 of the Project Development Overview Report provides further information on other smaller scale intervention options considered at the feasibility stage of the project (as part of the Northern Trans-Pennine Routes Strategic Study, reports from which are included as Appendices 4 and 5 of the PDOR (Document Reference 4.1, APP-248 and APP-249 respectively). During this feasibility stage a number of options were considered as alternatives to the full dualling of the A66. This included an assessment of individual highway interventions aimed at improving one localised part of the route, either a junction or a specific route sub-section. The outcome from the evaluation of these options is that they did not provide the wide ranging strategic benefits that the full dualling of the A66 would deliver in terms of journey time savings, safety (reduction in accidents) and reliability. Refer also to Agenda Items 2.0, 2.3 and 2.4 of Deadline 1 Submission – 7.2 Issue Specific Hearing 1 (ISH1) Post Hearing Submissions (REP1-006).</p> <p>Furthermore, the Northern Powerhouse Independent Economic Review (2016) identified the critical importance of improving connectivity across the North, and the Northern Trans-Pennine Study identified the A66 as the priority for investment.</p>

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			<p>18. One question for the Examining Authority to ask National Highways is why is there a push to uprate the road to 70mph if this upgrade as stated numerous times by National Highways is primarily for freight which is limited to 60mph? Speed differentials between freight and cars are a cause of accidents, so it would make sense to limit vehicles to the lower speed limit for safety purposes. A lower speed limit would also reduce carbon emissions and reduce traffic noise.</p> <p>19. The statement from the applicant around making the A66 more resilient in the face of bad weather does not make sense (APP-008 table 6-2). The Stainmore section of the A66 is closed by adverse weather conditions more than any other dual carriageway trunk road in England. Dualling the sections on either side will have no impact on weather related closure or resilience.</p> <p>20. The emphasis the applicant puts on the benefit of the road to the visitor economy in the Lake District should be questioned. The Lake District National Park Authority's Management Plan seeks to significantly reduce the numbers of people coming to the Lake District by car and to increase the numbers staying overnight in order to reduce congestion. The Management Plan sets out that excessive traffic at peak times in the Lake District is already damaging the environment and the visitor experience.</p> <p>21. The modelling around the A66 shows that it will induce additional traffic. A significant proportion of that traffic will end up in the Lake District, further increasing pressure on already overstretched infrastructure. The figure quoted by NH in the response to the Lake District National Park Authority's Relevant Representation of 350 cars per annum is underestimated and appears to contradict the figures presented in the application that claim the project will lead to economic growth in the tourism sector.</p> <p>22. The assumption that the road should be rated 70mph should be questioned. All the way through the process the emphasis by NH has been that the A66 is primarily being upgraded as a freight route. However, freight legally must travel at 60mph or below. Uprating a road to 70mph is unnecessary if it is of primary importance for freight. Speed differentials between freight and passenger vehicles is very often a cause of accidents, so why does the road need to accommodate cars travelling faster?</p> <p>23. A BCR of 0.92 shows that this proposal is poor value for money and it should be questioned whether the scheme should proceed on the basis that the country is currently in a financial crisis situation.</p> <p>24. The applicant's response to the BCR of 0.92 being challenged in the Relevant Representations (documents PDL-010 to PDL-013) is to state that only some of the benefits have been quantified, and that others such as road safety are qualitative and not in the calculation. We would emphasise that there are plenty of environmental and social costs which are not adequately quantified in schemes like this which renders this argument a lot less convincing, e.g., the applicant has not yet quantified tree loss for the DCO so how has this been accounted for in the BCR evaluation.</p> <p>25. The Case for the Project (APP-008) lists road safety benefits and their quantified monetary values in table 4-6 despite stating elsewhere that this is one of the unquantified costs. This monetary value has been added to the benefits side of the BCR calculation along with other quantified benefits such as reduction in road traffic accidents, faster journey times, wider economic benefits and increased car-based tourism (which as described above is certainly not wanted by the Lake District National Park). Despite these quantifications, the Benefit-Cost ratio value is still below 1.</p> <p>26. This application is poor value for money, is environmentally damaging on both local and national fronts (e.g., air and particulate pollution, CO2 emissions, loss of tranquillity, landscape and biodiversity damage). The A66 safety issues could be dealt with through safety upgrades of junctions and speed limits at a much smaller cost to the</p>	<p>Upgrading the route is a UK national priority which forms a key part of the 'levelling-up' and Northern Powerhouse agendas enabling better connectivity between North and South and increasing economic performance in the North.</p> <p>National Highways considers that the issue raised in point 17 was answered within the Applicant's Response to Relevant Representations Part 3 of 4 (Document Reference 6.5, PDL-012) page 249-254.</p> <p>National Highways considers that the issue raised in points 18 and 22 was answered within the Applicant's Response to Relevant Representations Part 1 of 4 (Document Reference 6.5, PDL-010) page 106-108 in response to RR-235.</p> <p>In response to point 19, it should be noted that Table 6-2 in the Case for the Project (Document Reference 2.2, APP-008) is referring to how the Penrith to Temple Sowerby scheme performs against the project objectives. The project objective is 'Improve the resilience of the route to the impact of events such as incidents, roadworks, and severe weather events'. The scheme response to this (for Penrith to Temple Sowerby) is listed as 'The new dual carriageway means incidents on one lane would not result in the closure of the road, therefore improving resilience.' This is supported by the evidence provided in Table 4-3 and the text in Paragraphs 4.2.22 and 4.2.23.</p> <p>In relation to points 20 and 21 as explained above, in relation to the representation from the Lake District National Park Authority improving access to key tourist destinations such as the North Pennines and Lake District is one of the benefits of the Project (see paragraph 3.5.2 of the Case for the Project (Document Reference 2.2, APP-008)). The traffic modelling has estimated that the project will generate additional trips of around 350 trips per day travelling into the Lake District. This figure though does not include all additional trips that are undertaken by tourists to other destinations within the north of England and the rest of the UK. The project will also improve access for visitors to less populated areas and areas that are currently not as frequently visited by tourists, which will provide benefits to the local economy and tourist related businesses in these areas, particularly Penrith and the northern uplands.</p> <p>National Highways considers that the issue raised in point 23 has been addressed within the Applicant's Response to Relevant Representations Part 2 of 4 (Document Reference 6.5, PDL-011) page 89-92 in response to RR-060.</p> <p>In response to point 24, it is recognised that some of the impacts can only be assessed qualitatively. The Environmental Statement (Document Reference 3.1, APP-043 to Document Reference 3.4, APP-233) sets out a description of the Project and the reasonable alternatives considered in the development of the design, the environmental setting, the likely significant effects of the Project on local communities and the environment, and the measures proposed to mitigate these effects. As stated in Deadline 1 Submission - 7.3 Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (REP1-009), page 43, National Highways intends to submit a Tree Loss and Compensation Planting Report into the examination by 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.</p> <p>With regard to point 25, road safety benefits have been quantified, as is stated in the Applicant's Response to Relevant Representations Part 2 of 4 (Document Reference 6.5, PDL-011) page 89-92 in response to RR-060.</p> <p>National Highways considers that the issue raised on safety upgrades of junctions and speed limits in point 26 has been addressed within the Applicant's Response</p>

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			<p>public purse as well as not damaging the landscape, increasing traffic and increasing emissions. A safer road would also improve traffic flows without needing to be turned into a dual carriageway.</p> <p>27.The construction stage emissions of 518,562 tCO<sub>2</sub>e (see APP-050 3.2 Environmental Statement Chapter 7 Climate Table 7-21) seem to have been omitted from the cost side of the BCR calculations (APP-237 3.8 Combined Modelling and Appraisal Report, see items under Construction in Table 6-21).</p> <p>28.The value of cumulative carbon emissions from the scheme has also not been used in the BCR calculations, because no cumulative assessment has been done (see Dr Boswell's Written Representation and his evidence at ISH2). No scheme increasing carbon emissions on this scale, and at such a poor BCR, can be justified within the planning balance.</p> <p>29. We are aware that at ISH2 National Highways were asked to submit a post-hearing note setting out how the carbon costs were factored into the APP-237 tables. In light of this, we have some questions that we would like to see the Examining Authority ask the applicants around how greenhouse gas emission costs are calculated and considered in the BCR evaluation. According to the Government's 'Valuation of greenhouse gas emissions' publication these costs will rise over time as the UK gets closer to the 2050 Net Zero goal. The ongoing increase in CO<sub>2</sub> cost per tonne over time needs to be included in the BCR evaluation and at the moment this does not appear to have been done.</p>	<p>to Relevant Representations Part 3 of 4 (Document Reference 6.5, PDL-012) page 249-254 in response to RR-218.</p> <p>In response to point 27, the 518,562 tCO<sub>2</sub>e (see Environmental Statement Chapter 7 Climate Table 7-21, Document Reference 3.2, APP-050) have been included as a disbenefit within the BCR calculations on the benefit side, and therefore does not need to be considered on the cost side. Note a value of -£202.047m for Greenhouse Gases in Table 6-21 in the Combined Modelling and Appraisal Report (Document Reference 3.8, APP-277). The derivation of the value of this disbenefit is discussed in paragraphs 6.2.23 to 6.2.30.</p> <p>With respect to paragraph 28 National Highways acknowledge that carbon emissions and the BCR are both contributing factors taken into account in the planning balance but there are other impacts and effects (both positive and adverse) that inform the planning balance. The BCR is just one component of the overall project business case and should be read alongside all the other impacts and benefits of the Project – this wider view of the Project is key to decision making, taking into account the various benefits which the Project presents, many of which are qualitative and cannot be monetarised. The Case for the Project (Document Reference 2.2, APP-008) concludes that “.it is considered that the wider benefits of the Project, in terms of the Government, Transport for the North and Levelling Up agendas as outlined throughout this case, significantly outweigh the impacts of the Project as a whole.” (paragraph 7.4.3).</p> <p>In response to point 29, please see Appendix 9 of the Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (REP1-006). The appendix contains the note providing an explanation of costs of Climate effects in the Combined Modelling and Appraisal Report (Document Reference 3.8, APP-237). Table 1 of this document identifies the data source used for the Social Cost of Carbon to be BEIS (Business, Energy and Industrial Strategy) (2021, as reported in TAG Databook v1.17 - Valuation of Greenhouse Gas in Appraisal).</p> <p>Within the Environmental Statement Chapter 7 Climate Table 7-21, Document Reference 3.2, APP-050) the 518,562 tCO<sub>2</sub>e have been included as a disbenefit within the BCR calculations on the benefit side, and therefore does not need to be considered on the cost side. Note a value of -£202.047m for Greenhouse Gases in Table 6-21 in the Combined Modelling and Appraisal Report (Document Reference 3.8, APP-277). The derivation of the value of this disbenefit is discussed in paragraphs 6.2.23 to 6.2.30</p> <p>Annex 1 of the BEIS 2021 publication shows how the Central Series of Carbon Values in £2020 prices per tonne of CO<sub>2</sub> increase from £241 in 2020 to £378 in 2050.</p>
REP1-067 REP1-068 REP1-069 REP1-070	Friends of Lake District	Landscape and Visual	<p><b>5 and 6. Landscape and Tranquillity</b></p> <p><b>The negative effect of the development on the landscape and environment of the North Pennines AONB and its setting has been underestimated both on visual impact grounds and on its impact on tranquillity. There have been very few photomontages provided by the applicant, certainly nowhere near enough for a major linear development of this scale.</b></p> <p>30.The size of the A66 dual carriageways and associated infrastructure, particularly the stretch around Kirkby Thore and the viaducts at Warcop will have a significant effect on the landscape of the North Pennines AONB. The new dual carriageway runs along the valley side in a number of places rather than along the valley floor as it does at</p>	<p>Response to 30. National Highways considers that these points are addressed in Table 2.14 of the Applicant's Response to Relevant Representations Part 1 of 4 (Document Reference 6.5, PDL-010).</p> <p>Response to 31-35. Natural England in their response to written representation (RR-180) made at Deadline 1, dated 16/12/22 (Document Reference REP-035) are accepting of the categorisation of the sensitivity of the NP AONB as high based on National Highways response to Relevant Representations Part 4 of 4 (Document Reference 6.5, PDL-013).</p> <p><i>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</i></p>

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			<p>present. The road will be foregrounded against the backdrop of the North Pennines in several places which will significantly increase the impact on the setting of the AONB.</p> <p>31.The stretch of road that Highways England propose to dual from Appleby to Brough runs along the southern boundary of the North Pennines Area of Outstanding Natural Beauty. Paragraph 5.152 of the National Networks National Policy Statement states:</p> <p>a. 'There is a strong presumption against any significant road widening or the building of new roads and strategic rail freight interchanges in a National Park, the Broads and Areas of Outstanding Natural Beauty, unless it can be shown there are compelling reasons for the new or enhanced capacity and with any benefits outweighing the costs very significantly. Planning of the Strategic Road Network should encourage routes that avoid National Parks, the Broads and Areas of Outstanding Natural Beauty.'</p> <p>32.It is of concern that National Highways have only afforded a 'High' value to the landscape of the North Pennines AONB compared to the Very High value afforded to the National Parks in its landscape evaluation. These two designations have the same value in law and in planning policy and should therefore be evaluated as such. A higher landscape value will affect the landscape impact assessment meaning that the impacts on the AONB should have been assessed as greater than its evaluation in the consultation document.</p> <p>33.The setting of AONBs is identified in Paragraph 176 the NPPF as being a material consideration in planning decisions with a clause stating that development within the setting of protected landscapes should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.</p> <p>34.The 'duty of regard' for all relevant authorities to take into account the purposes of conserving and enhancing the natural beauty of National Parks and AONBs also applies to activities outside the boundaries of designated landscape (National Parks – 1995 Environment Act, extended to AONBs in the Countryside and Rights of Way Act, 2000).</p> <p>35.The NPPF is clear that it is not the setting itself that is being protected but the impact of any changes on the designated areas. The key issue is whether the proposed change beyond the boundaries compromises the statutory purposes of designation (i.e., the conservation and enhancement of natural beauty).</p> <p>36.We are concerned that the stretch of road to the east and north of Kirkby Thore will negatively impact on views into the North Pennines AONB. This is due to the change in position of the road and its raising above the valley floor, either on the hillside at Sleastonhow or when it crosses the Troutbeck SAC on a bridge. This will significantly increase the prominence of the road as a landscape element when previously it has not been a landscape detractor because of its less prominent position on the valley floor.</p> <p>37.In a similar way the viaducts over Cringle Beck and Moor Beck at Warcop are also in the foreground of the AONB, and as they are right on the edge of the AONB's boundary there is very likely to be a significant impact on the landscape of the protected landscape from this development.</p> <p>38.We are very concerned about the impact of the dual carriageway on the North Pennines AONB near Warcop. Whilst the line taken is similar to that of the existing A66 compared to Kirkby Thore, the land take is significantly greater, and the number of junctions along what is a short stretch of road is excessive. It seems particularly odd to proposed new junction to the east of Warcop which extends the development into the AONB itself.</p>	<p><i>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.</i></p> <p>National Highways are content that consideration of the special qualities of the AONB have been considered at all stages of the design and assessment. This is noted in National Highways Response to Relevant Representations Part 4 of 4 (Document Reference 6.5, PDL-013).</p> <p>Response to 36-38. National Highways considers that these points are addressed in Table 2.14 of the Applicant's Response to Relevant Representations Part 1 of 4 (Document Reference 6.5, PDL-010).</p> <p>Response to 39. In respect of lighting, effects on the night sky and light pollution are discussed throughout the Environmental Statement Chapter 10 Landscape and Visual (Document Reference 3.2, APP-053). Environmental Statement Figure 10.6 CPRE Dark Skies (Document Reference 3.3, APP-107) maps existing dark skies throughout the extent of the Project. There would be no significant effects from lighting during the operational phases of the scheme.</p> <p>Response to 40 and 41. National Highways have had due regard to the concerns of the AONB and maintain that the concerns and need for the scheme have been adequately responded to.</p> <p>Response to 42. This is addressed as part of the response to 44 in the following row.</p> <p>Response to 43. Correct, this is a typo. It does not affect the assessment.</p> <p>Response to 54 and 55. National Highways considers that these points are addressed in Table 2.14 pages 80 to 82 of the Applicant's Response to Relevant Representations Part 1 of 4 (Document Reference 6.5, PDL-010).</p> <p>Response to 56. In respect of the operational noise study area, this has been defined following national standards as discussed in section 12.6 of the ES Chapter 12 Noise and Vibration (Document Reference 3.2, APP-055). The study area encompasses all noise sensitive receptors and is considered adequate to assess potential impacts around the Project.</p>

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			<p>39.The increased speed of vehicles on the dual carriageway will lead to more noise, light and air pollution whilst the extra traffic that the road will induce will multiply the impact of all three on the AONB. This is an unacceptable in a nationally protected landscape, and as stated in section 8 above is contrary to Paragraph 5.152 of the National Networks National Policy Statement as well as paragraphs 5.150 and 5.151 of the National Policy Statement and paragraph 176 of the NPPF</p> <p>40.We would like to draw the Examination Authority's attention to the North Pennines AONB Statement of Common Ground where the AONB Partnership states: 'The A66 Northern Trans-Pennine Project having an impact on the designated landscape of the NP AONB is inevitable. It will therefore be necessary for the developer to evidence the compelling reasons for the enhanced capacity against alternative measures, such as improved safety of junctions, reducing speed limits etc. We expect the developer to have fully explored and scoped out those alternative measures that would be less damaging, before pressing ahead with dualling –it should not be a fait accompli.'</p> <p>41.The National Highways response to this statement does not appear to adequately address the concerns of the AONB Partnership, it merely repeats the same statements made by NH in many other places in the document. The statement finishes by saying 'We consider that we have addressed the NP AONB Partnership's concerns and that the necessity of the scheme as proposed is capable of being agreed' when in fact none of the concerns raised in the AONB's statement above have been addressed.</p> <p>42.Currently we do not consider that there is enough information in the application to enable the Examining Authority to make a determination of the magnitude of the impact on the North Pennines AONB and its setting. In particular we are concerned about the lack of photomontages and visualisations in the DCO application. We raise this issue further in the next section of our response.</p> <p>43.There appears to be an error in APP-053 Chapter 10 (Landscape and Visual) of the ES (see text copied below) where para 10.9.30 on page 114 discusses the construction phase at Bowes rather than at Temple Sowerby.</p> <p>'Temple Sowerby to Appleby Construction 10.9.30 The construction activity would be located across and in close proximity to the existing A66, so as to consolidate the construction phase to within the existing perception of the road and Bowes.[our emphasis] 10.9.31 Removal of vegetation and stone walls has been minimised where practicable by the alignment of the Order Limits. 10.9.32 The construction activity adopts the relevant measures set out within the EMP to ensure best practice construction measures.'</p> <p>54.The introduction of a wider, faster road designed to have double the current capacity of the A66 will have a significant impact on tranquillity. An increase in traffic is a given as described in the applicant's documentation and above in the induced traffic section. More traffic equals more disturbance within the landscape. Not just from traffic noise but vehicle movements during the day and lights at night and the imposition of major infrastructure into places where it has not previously been of this size or scale.</p> <p>55.The foregrounding of the stretch to the east and north of Kirkby Thore is of particular concern. The road is longer and wider than the existing A66 as well as being halfway up the slope and then on a viaduct across Troutbeck so will produce more noise and more visual disturbance both during the day and at night.</p>	

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			56.The boundary of the noise assessment (APP-114) is too tightly drawn; it needs to be extended to include the valley bottom opposite Kirkby Thore. Receptors there need to be identified due to the change in height of the road as it comes past rtonhow Farm and onto the Troutbeck Viaduct.	
REP1-067 REP1-068 REP1-069 REP1-070	Friends of Lake District	Landscape and Visual	<p><b>7. Lack of Photomontages</b></p> <p><b>The reluctance of the applicant to provide photomontages which was demonstrated at ISH2 is surprising given that they are now a feature of all consultations for major development applications. The assumption that because the landscape architect didn't need them for his landscape assessment, that they were not needed by the Examining Authority or IPs is of significant concern to Friends of the Lake District. These montages are needed in order for a well-informed decision to be made.</b></p> <p>44.Only 14photomontages have been provided for the whole project which we do not consider to be enough to enable an understanding of the likely landscape impacts of the proposals on the character of an area and on views from specific points. Some of these montages do not even show the new road, for example Viewpoint 4.5in APP-115shows a new bridge going over the A66 rather than the A66 itself. Many of those that do show the A66show it partially obscured from view, certainly not providing a real impression of what the development will look like. This is the case at 3.1 (Brougham Castle) and 4.10(PROW). There have been no views provided of the new viaducts at Troutbeck, Cringle Beck and Moor Beck and how they will look when seen from across the valley floor. This is important because these three structures lie within the setting of the North Pennines AONB.</p> <p>45.The only viewpoint that does show the A66 running along the side of a hill and in the foreground of the North Pennines AONB is that at 4.13 Crackenthorpe. It is apparent looking at this montage that the A66 will be a major landscape detractor in the setting of the AONB. It is therefore of concern that the applicant has chosen to pick montage viewpoints where views of the A66 are obscured and therefore they do not show the impact of the road on the landscape and setting of the AONB</p> <p>46.Montages which are listed as having been produced in the ZTV (APP-105) do not appear in the Montage document (APP-110) for example 4.7A.</p> <p>47.At ISH2Session 36, the applicant's landscape consultant Mr Simmons stated that the evaluation of landscape impact relied on his professional expertise and that he did not need photomontages to make this assessment. However, the landscape impact of the DCO must be assessed by others, for example the PINS Examining Authority, Statutory Environmental Bodies and interested parties who do need access to photomontages to adequately assess the impact.</p> <p>48.Principles for visualisation of development are set out in The Guidelines for Landscape and Visual Impact Assessment 3rd edition7(GLVIA3). Consistent with the Environmental Impact Assessment Regulations (EIA Regs), GLVIA3 advocates proportionate and reasonable approaches to the scope of assessments. The 'Visual Representation of Development Proposals -Technical Guidance Note 06/19'8document published by the Landscape Institute sets out how and why visualisations should be produced as part of the consultation on major development. The document states:</p> <p>'It is critical that these visualisations are accurate, objective and unbiased. They should allow competent authorities to understand the likely effects of the proposals on the character of an area and on views from specific points.'</p> <p>49.'Section 2: Guiding Principles of GLVIA3'lays out what is required for visualisations and why it is necessary to provide them. It notes that visualisations are particularly</p>	<p>National Highways considers that these points are addressed in RR-194 in the Applicant's Response to Relevant Representations Part 1 of 4 (Document Reference 6.5, PDL-010).</p> <p>Response to 44. National Highways considers that these points are addressed in RR-194 in the Applicant's Response to Relevant Representations Part 1 of 4 (Document Reference 6.5, PDL-010) and in Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (Document Reference 7.3, REP1-009) agenda item 3.1.</p> <p>Response to 45. Viewpoint 4.13 reflects the careful balance that the design team have achieved where the proposed road does not impact the distinctive landscape feature of the historic tree belt. Screen planting would obscure this important landscape feature.</p> <p>Response to 46. Noted. A visualisation from this viewpoint will be produced to accompany the additional visualisations requested in Deadline 1 Submission - 7.1 Responses to the Examining Authority's Issue Specific Hearing 2 Additional Questions (REP1-005).</p> <p>Response to 47. National Highways are content that the assessment has been undertaken following GLVIA3 and DMRB LA 107 and considers that these points are addressed in Table 2.14 of the Applicant's Response to Relevant Representations Part 1 of 4 (Document Reference 6.5, PDL-010).</p> <p>Response to 48. National Highways are content that accurate, objective, and unbiased photomontages, to illustrate specific effects and mitigation measures, have been produced in accordance with the Landscape Institute (2019), Visual Representation of Development Proposals. Technical Guidance Note 06/19. The visualisation methodology is described in Appendix 10.8 Zone of Theoretical Visibility (ZTV) and Visualisation Methodology (Document Reference 3.4, APP-204).</p> <p>Response to 49. National Highways are content that the assessment has been undertaken following GLVIA3 and DMRB LA 107 and considers that these points are addressed in Table 2.14 of the Applicant's Response to Relevant Representations (Document Reference 6.5, PDL-010).</p> <p>Response to 51. National Highways are content that the assessment has been undertaken following GLVIA3 and DMRB LA 107. The photomontages, to illustrate specific effects and mitigation measures, have been produced in accordance with the Landscape Institute (2019), Visual Representation of Development Proposals. Technical Guidance Note 06/19. The visualisation methodology is described in Appendix 10.8 Zone of Theoretical Visibility (ZTV) and Visualisation Methodology (Document Reference 3.4, APP-204).</p> <p><b>Responses to the suggested photomontages</b></p> <p><b>Kirkby Thore area suggestions</b></p> <ul style="list-style-type: none"> <li>• Footpath along the Eden Grid Ref 363673 524706 –looking NE</li> </ul> <p><b>Response</b></p> <p>This viewpoint sits between existing viewpoints 4.19 and 4.22 which represent views from this area (Environmental Statement Figure 10.8 Photosheets -</p>

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			<p>important in sensitive landscapes. The A66 route passes through and close to such landscapes including the North Pennines AONB and its setting as well as the setting of the Yorkshire Dales National Park. However, there is only one viewpoint on the Warcop stretch where the A66 development boundary extends into the AONB and only one looking into the AONB on the Kirkby Thore stretch.</p> <p>50.The fly through which accompanied the S42 consultation documentation is considered by GLVIA3to be purely an 'illustrative visualisation intended for marketing or to support planning applications by conveying the essence of what a proposal would look like in context.... Generally speaking, they will not be used to explain design proposals within the planning process.' The flythrough was not detailed enough to provide the information needed to make informed responses to the consultation. Indeed, as it omitted woodland,hedgerows and other landscape features, it presented the A66 corridor as a land of rolling green featureless grassland, totally unrepresentative of the actual landscape. However, this flythrough is still the only source of visualisation information for all but 14 viewpoints along the entire length of the DCO scheme.]</p> <p>51.Visualisations need to be provided at human eye level not at 50m above the ground, at various times of the year from a sufficient number of viewpoints (more in and adjacent to sensitive landscapes) to enable consultees and decision makers to develop an informed view of the impact of the infrastructure development. 14 montages for a development of this scale which impacts on an Area of Outstanding Natural Beauty does not give anyone enough detail to make sound decisions on the landscape impact of the A66 upgrade.</p> <p>52.At the Open Floor Hearings on the afternoon of29thNovember, I raised the lack of photomontages as an issue. Mr Allen the Lead Examiner asked me to suggest where I thought photomontages should be provided. He asked me to use the ZTV to identify possible photomontage locations. I sent an email to the Examining Authority on 30thNovember setting out where photomontages would be most helpful. These can be found below.</p> <p><b>Kirkby Thore area suggestions</b></p> <ul style="list-style-type: none"> <li>• Footpath along the Eden Grid Ref 363673 524706 –looking NE</li> <li>• Near Bolton at bridge over River Eden 364201 523558 –looking NNE</li> <li>• Chapel Street between Bolton and Eden Bank Cottage 326969 523198 –looking NE</li> <li>• Whitegate Caravan Park near Long Marton 366545 524885 –looking west</li> </ul> <p>In addition, the following viewpoints marked on the ZTVs would be useful to consider for montages</p> <ul style="list-style-type: none"> <li>• 4.12</li> <li>• 4.19 –but looking east</li> <li>• 4.20</li> <li>• 4.22 –looking north</li> </ul> <p><b>Warcop area –looking out of the AONB</b></p> <p>Whilst we acknowledge that a lot of this area is MOD land, there is a section of Open Access land to the NE of the A66. On this basis we suggest that there needs to be viewpoints identified along the scar (cliff edge) that runs NW-SE from Middle Fell to Hellbeck Intake, grid references 377645 517922 to 380075 516300</p>	<p>Document Reference 3.3, APP-109). An additional viewpoint has been requested by the ExA at GR 364609,524579 looking NE (REP1-005 Deadline 1 Submission - 7.1 Responses to the Examining Authority's Issue Specific Hearing 2 Additional Questions), which would provide a clearer view of the proposals. Therefore, National Highways do not think anything more would be learnt by adding this viewpoint.</p> <ul style="list-style-type: none"> <li>• Near Bolton at bridge over River Eden 364201 523558 –looking NNE</li> </ul> <p><b>Response</b></p> <p>This proposed viewpoint when viewed on Google streetview, suggests there is a distant view of the proposals. Using Streetview where there is no safe place to stop and take photography is standard practice. Receptors are road users who will be concentrating on the turn across the bridge. There is no footpath on the bridge. A clearer and more definitive view, representative of closer views from this direction is afforded by viewpoint 4.10A, which has been developed into a photomontage (Environmental Statement Figure 10.9 Viewpoint Photomontages – Document Reference 3.3, APP-110). Therefore, National Highways do not think anything more would be learnt by adding this viewpoint.</p> <ul style="list-style-type: none"> <li>• Chapel Street between Bolton and Eden Bank Cottage 326969 523198 – looking NE</li> </ul> <p><b>Response</b></p> <p>While the Grid Reference given is wrong, National Highways have reviewed the location and are content that the assessment from viewpoint 4.20 (Environmental Statement Figure 10.8 Photosheets – Document Reference 3.3, APP-109) covers views from this direction and nothing more would be learnt by constructing a photomontage from this viewpoint.</p> <ul style="list-style-type: none"> <li>• Whitegate Caravan Park near Long Marton 366545 524885 –looking west</li> </ul> <p>National Highways have reviewed this proposed location and note it has been scoped out as there is no view from the caravan park due to intervening topography. The caravan park sits low down in the landscape. A similar view, from a more distant viewpoint can be found at 4.23 (Environmental Statement Figure 10.8 Photosheets – Document Reference 3.3, APP-109), which demonstrates the undulating topography. A view from 4.11, close to Long Marton shows the additional screening effect of the riparian corridor along the Trout Beck. Therefore, National Highways do not think anything more would be learnt by adding this viewpoint.</p> <p>In addition, the following viewpoints marked on the ZTVs would be useful to consider for montages</p> <ul style="list-style-type: none"> <li>• 4.12</li> </ul> <p><b>Response</b></p> <p>National Highways have reviewed this viewpoint and confirm it has been scoped out as there is no view of the proposals. Viewpoint selection was agreed at a series of Technical Working Group meetings with relevant stakeholders. A photomontage from Viewpoint 4.13 (Environmental Statement Figure 10.9 Viewpoint Photomontages – Document Reference 3.3, APP-110) has been constructed to confirm the assessment. Therefore, National Highways do not think anything more would be learnt by creating this photomontage.</p> <ul style="list-style-type: none"> <li>• 4.19 –but looking east</li> </ul>

Examination Library Reference	Interested Party	Response Topic(s)	Written Representation (Verbatim)	National Highways Response
			<p><b>Warcop area –looking into the AONB</b></p> <p>Suggest montages at Viewpoints</p> <ul style="list-style-type: none"> <li>• 6.2</li> <li>• 6.3 (looking east) and</li> <li>• 6.13</li> </ul> <p>53.Having looked at the maps to suggest potential locations for photomontages, it would be good to get clarification from the applicant why the ZTV mapping shows what can be seen from a vehicle on the upgraded road as opposed to where the upgraded road can be seen from the surrounding countryside. Surely the receptors that should be considered are those that will be impacted by the road, rather than those driving along the road.</p>	<p><b>Response</b></p> <p>National Highways have reviewed this viewpoint. At each receptor location 360 degree photography is taken and the worst view selected for illustration. Viewpoint 4.19 (Environmental Statement Figure 10.8 Photosheets – Document Reference 3.3, APP-109) has been selected to show a potential view through a gap in the trees, where topography allows. The view suggested would not show the proposed new alignment as it sits lower down and would be screened by the planting along the existing A66, particularly around the layby. Therefore, National Highways do not think anything more would be learnt by creating this photomontage.</p> <ul style="list-style-type: none"> <li>• 4.20</li> </ul> <p><b>Response</b></p> <p>National Highways have reviewed this viewpoint and while a photomontage would allow greater appreciation of the changes to the view it would not change the assessment which already describes the impact as significant.</p> <ul style="list-style-type: none"> <li>• 4.22 –looking north</li> </ul> <p><b>Response</b></p> <p>The assessment of 4.22 is missing from the Schedule of Visual Effects (Document Reference 3.4, APP-202). It does not affect the assessment of the proposals in this area; the assessment of 4.22 will be added to the Schedule of Visual Effects and submitted as an errata at Deadline 3.</p> <p>Viewpoint 4.22 (Environmental Statement Figure 10.8 Photosheets – Document Reference 3.3, APP-109) clearly shows the influence of the existing A66 on the long view towards the NP AONB. The proposed scheme will be more distant and screened by retained trees. From this viewpoint it would have less impact than the existing A66 and as such NH do not think anything more would be learnt by creating this photomontage.</p> <p><b>Warcop area –looking out of the AONB</b></p> <p>Whilst we acknowledge that a lot of this area is MOD land, there is a section of Open Access land to the NE of the A66. On this basis we suggest that there needs to be viewpoints identified along the scar (cliff edge) that runs NW-SE from Middle Fell to Hellbeck Intake, grid references 377645 517922 to 380075 516300</p> <p><b>Response</b></p> <p>National Highways have reviewed this request and have scoped out these viewpoints for the following reasons:</p> <ul style="list-style-type: none"> <li>• The view is already compromised by the existing A66, and there is no difference between the ZTV for the proposed and existing situations.</li> <li>• There are a limited number of receptors as this is not a public right of way.</li> <li>• The area beyond the cliff edge is screened by the cliff.</li> <li>• The cliff edge is 1.7km from the scheme and is surrounded by MOD defined danger areas.</li> </ul> <p><b>Warcop area –looking into the AONB</b></p> <p>Suggest montages at Viewpoints</p> <ul style="list-style-type: none"> <li>• 6.2</li> </ul>



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				<p><b>Response</b></p> <p>Viewpoint 6.2, (Environmental Statement Figure 10.8 Photosheets – Document Reference 3.3, APP-109), illustrates the distant view of the existing A66 across flat farmland towards the NP AONB. National Highways have reviewed this viewpoint and note that the production of a photomontage from this viewpoint would show imperceptible differences and would not change the assessment and as such National Highways do not think anything more would be learnt by creating this photomontage.</p> <ul style="list-style-type: none"> <li>6.3 (looking east)</li> </ul> <p><b>Response</b></p> <p>National Highways have reviewed viewpoint 6.3, (APP-109 3.3 Environmental Statement Figure 10.8 Photosheets – Document Reference 3.3, APP-109), and the request to produce a photomontage looking east. Due to the screening effect of Vicarage Bank, Wildboar Hill and the mature tree belt along the Eden Valley Railway there would be no appreciable change in the view from existing and as such National Highways do not think anything more would be learnt by creating this photomontage.</p> <ul style="list-style-type: none"> <li>6.13</li> </ul> <p><b>Response</b></p> <p>Viewpoint 6.13, (Environmental Statement Figure 10.8 Photosheets – Document Reference 3.3, APP-109), illustrates the distant view of the existing A66 across flat farmland towards the NP AONB. National Highways have reviewed this viewpoint and note that the production of a photomontage from this viewpoint would show imperceptible differences and would not change the assessment and as such National Highways do not think anything more would be learnt by creating this photomontage.</p> <p>Response to 53. The ZTV used shows where in the surrounding countryside a 4.7m high vehicle driving along the existing and proposed A66 routes can be seen. The simple principle of 'if I can see you, you can see me' means that the process gives the worst-case theoretical visibility which reflects what receptors in and around the scheme might see. This is a standard approach for linear infrastructure projects.</p>
<p>REP1-067 REP1-068 REP1-069 REP1-070</p>	<p>Friends of Lake District</p>	<p>Environment and EMP</p>	<p><b>8. Habitats and Species</b></p> <p><b>We have concerns about loss of habitats and species due to the development of the A66, in particular, severance of commuting routes for various species(e.g bats and birds)as well as loss of non-protected but important habitats for wading birds from the Appleby Fells SSSI/North Pennine Moors SPA.</b></p> <p>57.The scale and magnitude of this road development will cause a considerable loss of habitat which are important for protected species such as otter, bats, badger, polecat, red squirrel and brown hare.</p> <p>58.This is along with severance of wildlife corridors such as hedgerows and hedgerow trees, linear woodlands, scrub and field margins. For example, the Biodiversity report there are over 50 locations where potential bat flight routes would be directly affected by the proposed scheme.</p> <p>59.We are aware of a number of fields along the proposed route which are important for breeding and feeding waders including golden plover which are a qualifying species of the North Pennines SPA, as well as curlew, lapwing, snipe, redshank etc wading</p>	<p>A full assessment of the likely significant effects of the Project is provided within Environmental Statement (ES) Chapter 6 Biodiversity (Document Reference 3.2, APP-049) and the Habitat Regulation Assessment (Document Reference 3.5, APP-234 and APP-235). This includes an assessment of likely significant effects on all designated sites, protected/notable species and habitats located within the Zone of Influence surrounding the Project. This has been informed by a full suite of species-specific surveys undertaken in accordance with industry standards and/or through consultation with Statutory Environmental Bodies, including Natural England where a bespoke approach has been taken (full survey results and methodologies are detailed in Technical Appendices Document Reference 3.4 APP-155 to APP-175). This has ensured a sufficiently robust baseline was collected to inform the impact assessment, which has been undertaken in accordance with industry accepted CIEEM guidelines, and associated mitigation design. Specifically, the assessment undertaken has included notable/protected bat and bird species (including wading birds associated with Appleby Fells SSSI/North Pennine Moors SPA) and mammal species including otter, badger, polecat, red squirrel and brown hare.</p>

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			<p>birds cited in the Appleby Fells SSSI citation. These fields are not within protected sites, but are an important habitat for these wading birds many of which are IUCN Red List species of conservation concern</p> <p>60. We consider that the huge land-take of the A66 will have an unacceptably adverse impact on wildlife along the route.</p>	<p>Severance of wildlife corridors, bird commuting routes and bat flight routes has also been included within the assessment undertaken and specific mitigation measures have been incorporated within the mitigation design to minimise potential impacts identified. This is outlined within the LEMP (Document Reference 2.7, APP-021) and Environmental Mitigation Plans (Document Reference 2.8, APP-041) and includes, but not limited to:</p> <ul style="list-style-type: none"> <li>• a number of greening of overbridges and associated planting to minimise severance impacts on bats;</li> <li>• specific habitat creation targeted for lapwing, golden plover and waders;</li> <li>• the provision of a minimum 1m wide strip of trees or wooded scrub with connective planting to the north and south approaches of the bridge, where appropriate, to provide a continuous green corridor across the live carriageway;</li> <li>• a number of crossing points for otter in the form of ledges and culverts and associated fencing;</li> <li>• animex wildlife bridges (or equivalent) are to be installed to connect red squirrel habitat;</li> <li>• specialised crossing points, with associated planting and fencing, will be created to allow safe passage of badger and other mammal species;</li> <li>• dry underpasses and culverts created for otter and badger; and</li> <li>• hedgerow, woodland and scrub targeted planting aimed to enhance habitat linkages to areas of semi-natural habitat within the wider area.</li> </ul> <p>With the implementation of mitigation, the ES Biodiversity Chapter 6 concluded that there were no significant effects relating to severance impacts on biodiversity receptors as a result of the Project (Document Reference 3.2, APP-049).</p> <p>National Highways has sought to achieve a balance between minimising land take and securing sufficient land to deliver the scheme including required mitigation measures for any loss of hedgerows and impacts on wildlife along the route (see ES Biodiversity Chapter 6, Document Reference 3.2, APP-049). The permanent land required to construct and operate the scheme is considered to be reasonable and has been determined through multidisciplinary design and assessment, including engineering and environmental considerations.</p>
<p>REP1-067 REP1-068 REP1-069 REP1-070</p>	<p>Friends of Lake District</p>	<p>Biodiversity</p>	<p><b>9. Lack of an Arboricultural EIA</b></p> <p><b>We cannot understand how the application has got to this stage without an Arboricultural EIA. This is of great concern for both biodiversity and landscape reasons. The lack of quantification of tree loss in the development is troubling.</b></p> <p>61. Having listened to Session 5 of ISH2 we are very concerned about National Highways refusal to provide an Arboricultural EIA for trees that will be affected by this scheme. We cannot understand how the A66 DCO has got to this stage without an assessment by the applicant about how many trees will be lost to the development and how these will be compensated for.</p> <p>62. There appeared to be no appreciation by National Highways representatives in ISH2 that without actually identifying individual trees (by location, species and condition level) along the route there can be no means of quantifying what will be lost and therefore ensuring that suitable replacements can be guaranteed. On this basis, how can National Highways make a statement that they will replace every tree lost with two</p>	<p>National Highways considers that these points are addressed in the ISH2 Post Hearing submissions (REP1-009) under Agenda Item 3.5, pages 41-44.</p> <p>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.</p> <p>The replacement planting requirements are secured in the first iteration EMP (Document Reference 2.7, APP-019) in various commitments. This includes the relevant replacement ratios and includes appropriate ratios for hedgerows.</p> <p>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.</p>

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			<p>new ones if they are not identifying where trees will be lost from and where and how they will be replaced?</p> <p>63.This also seems to show a negligent attitude towards trees along the route. Not all trees are equal in value. For example, veteran trees and hedgerow trees will have significantly more value to the landscape and for biodiversity than non-native conifers or small saplings. Without a proper evaluation of individual trees along the route, there is a high possibility that significant trees in the landscape will be lost.</p> <p>64.The lack of identification and listing of individual trees will also make it more likely that trees that are retained will be damaged during land clearance and construction by not having root protection zones identified on mapping. We also share the concerns of the Examining Inspector as stated in ISH2that trees will be taken out during groundworks because they are inconvenient to retain.</p> <p>65.National Highways need to quantify and map the worst-case scenario tree loss. This needs to be done before a determination on the DCO is made just like for any other planning decision. It cannot be left until after the DCO is consented as then there will be no way of regulating tree loss and ensuring it is minimised.</p>	
<p>REP1-067 REP1-068 REP1-069 REP1-070</p>	<p>Friends of Lake District</p>	<p>Cultural Heritage</p>	<p><b>10. World Heritage Site Assessment</b></p> <p><b>There has been no World Heritage Site Impact Assessment carried out to ascertain whether there will be an impact from the upgraded A66 bringing more people by car into the English Lake District World Heritage Site.</b></p> <p>66.We are concerned that there has been no assessment of the impact of the Project on the English Lake District World Heritage Site. All major infrastructure that could have an impact on a World Heritage Site should be accompanied by a Heritage Impact Assessment</p> <p>.67.As the applicant is expecting more cars to travel to and through the Lake District this will have a material effect on the World Heritage Site and negatively impact the Outstanding Universal Values found in the World Heritage Site Inscription.</p> <p>68.The lack of a Heritage Impact Assessment for the English Lake District World Heritage Site will raise concerns for ICOMOS (the International Council on Monuments and Sites), UNESCO's(United Nations Education, Scientific and Cultural Organisation) Advisory Body.</p> <p>69.In ICOMOS' evaluation of the Inscription of the English Lake District World Heritage Site it '...considers that the main threats to the property [include] tourism...'The IUCN (International Union for Conservation of Nature) 'also raised concern over tourism pressure (the nomination dossier mentions over 15 million annual visitors) and potential adverse impacts from tourism'</p> <p>70.An upgraded A66 increasing visitor numbers for the Lake District National Park without any concomitant increase in support for sustainable transport options in an internationally protected landscape which already suffers from major traffic and congestion issues is of significant concern.</p> <p>71.Outcome 5 Sustainable Travel and Transport of The Lake District National Park Partnership Management Plan 2020-2025 (adopted Oct 21)states:</p> <p>'The challenge for the Lake District is to be a place where everyone, regardless of wealth or ability is able to access, via different modes of transport, the national park sustainably. Low carbon travel needs to be the obvious and most attractive choice for essential and leisure travel. The nation's mental and physical health benefits from active travel in an inspirational landscape need to be secured.</p>	<p>National Highways considers that these points are addressed in the Applicant's Response to Relevant Representations (Document Reference 6.5, PDL-011), responses to RR-055 at page 105.</p> <p>The World Heritage Site lies outside of the agreed study area within which impacts from the project are assessed, in accordance with industry guidance. As a result, neither direct physical or 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 (modelled within the A66 Traffic Model as being 350 additional car per day). National Highways considers that these matters are addressed in the following documents:</p> <ul style="list-style-type: none"> <li>• PDL-011 Procedural Deadline Submission - 6.5 Applicant's Response to Relevant Representations Part 2 of 4 (RR-055 page 103-104).</li> <li>• REP1-006 Deadline 1 Submission - 7.2 Issue Specific Hearing 1 (ISH1) Post Hearing Submissions (chapter 2.4 page 22-24).</li> </ul> <p>It is therefore not expected that heritage resources will experience indirect effects as a result of the project.</p>

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			<p>Our measures of success include:</p> <ul style="list-style-type: none"> <li>• <b>Reduction in visitors stating car as their main mode to travel around by 15% on 2018 baseline.</b></li> <li>• Reduction in carbon from visitor travel of at least 10% on 2018 baseline.</li> <li>• <b>Increase in number of people arriving in the Lake by bus and rail by 15% on 2019 baseline.'</b></li> </ul> <p>72.Also see Policy 21 of the Lake District National Park Authority Local Plan 'Sustainable Access and Travel</p> <p>'<b>We will support the development of sustainable transport infrastructure to broaden and encourage use of sustainable travel modes for visitors thereby reducing the need to travel by private vehicle.'</b></p>	
REP1-067 REP1-068 REP1-069 REP1-070	Friends of Lake District	Consultation and Engagement Process	<p><b>11. Lack of Engagement</b></p> <p><b>We are still very concerned about the fact that National Highways stopped talking to Friends of the Lake District after an environmental focus group meeting in September 2018, and that we were not invited to any of the focus groups. This concern has been increased with the claim that we were in fact invited. We have therefore submitted a FOI request to National Highways to see what methods they used to contact us between September 2018 and 2021.</b></p> <p>73.Friends of the Lake District has raised the issue of a lack of pre S42 consultation on several occasions with National Highways. We were invited to environmental Focus Groups at the Mercure Hotel in Darlington in September 2018, however, we had no further contact about the environmental focus groups with National Highways between 2018 and the consultation in 2021.</p> <p>74.On raising this with National Highways earlier in 2022 via email, phone call and letter, they could give no clear reason why Friends of the Lake District had not been invited to further environmental sector focus groups.</p> <p>75.It was raised again in our Relevant Representation, to which National Highways replied:</p> <p>The Consultation Report (Document Reference 4.4, APP-252) describes the approach to and the outcomes of engagement and consultation on the Project. It describes the large number of consultation events and engagement activities over several years that have been undertaken to fully understand the concerns of the local communities and the wider public and where possible resolve their issues. This included a series of focus groups, which were established, and meetings were held at the Holiday Inn Scotch Corner in March 2019. The focus groups included the business and freight group, local authority group, emergency services group, environmental interest groups, Statutory Environmental Bodies and walkers, cyclists, and horse riders' group. These focus groups gave the project team the opportunity to outline the proposed options and explore any local constraints and issues raised by members. The focus groups also had an opportunity to discuss the options consultation and stress test the proposed consultation materials prior to non- statutory options consultation. The Friends of the Lake District (FLD) were invited to be part of these focus groups (as confirmed in table 2.1 of the Consultation Report).</p> <p>76.We have no record of an invite to any of these focus groups in March 2019. Just because National Highways says our invites were 'confirmed in Table 2.1' does not mean that we were actually invited.</p>	National Highways considers that these points are addressed in the Applicant's Responses to Relevant Representations Part 2 of 4 (Document Reference 6.5, PDL-011) (Pages 92-93, RR-060).

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			77. Not attending the focus groups meant that we were unable to request specific viewpoints and photomontages, that we were unable to contribute to design development and to raise concerns about the proposed development. On the basis that we engaged wholeheartedly up to September 2018, why would we cease to engage in the next round of focus groups when they were so important? We have therefore made a Freedom of Information Request to National Highways in order to find out who they sent invites to at Friends of the Lake District in spring 2019.	
REP1-092 REP1-093	Michael Drew	Case for the Project Development of the Project and Alternatives	<p>I live in [redacted] with my family, including three small children I am writing to register my opposition to the proposed Black junction at Rokeby for the above listed stretch. I fully support the Blue Route (the eastern Rokeby junction), which Highways developed in conjunction with local community groups, and which best represents those communities' needs.</p> <p>National Highways traffic reports have demonstrated a significant traffic imbalance relating to the acceptance of the Black route, specifically owing to the location of the junction at Rokeby. The longer distance between this junction and the previous one at Cross Lanes will naturally encourage drivers to use Cross Lanes for accessing Barnard Castle and beyond, rather than use the C165 as previously.</p> <p>Highways recognised the issues this would cause the local area and developed an eastern option, the Blue route. This option was supported by local stakeholders and authorities –including the affected landowner –and scored well on the sifting process in comparison to the Black route. Unfortunately, despite an alternative eastern junction being developed, Historic England's original brief heritage statement stated that the Blue route would cause "substantial harm" to St Mary' Rokeby and surrounding park and gardens. Because of the decision, Highways did not believe the DCO would pass examination, and put forward the Black route.</p> <p>Highways new traffic figures are significantly different from their original report. I am concerned that the new figures are not transparent and do not clearly explain why they have been revised so far, and so conveniently, downwards. I am also concerned that they admit that the imbalance of traffic flow still exists and if their numbers are wrong (or change, as they already have) Barnard Castle and its environs will suffer the resulting harm as a direct result of the choice of junction.</p> <p>I believe that increased traffic along unsuitable roads will lead to increased air pollution, increased journey times, traffic congestion, safety risks, and most important, damage to the dozens of culturally significant locations on the listed buildings register along the affected route. I believe that these effects in fact cause the Black route to potentially do substantial harm to residents, the local environment, and our cultural heritage.</p> <p>As such, I wish to state clearly my opposition to the Black route and support for the alternative Blue route with the eastern junction at Rokeby.</p>	National Highways considers that the response provided for Agenda item 2.1 at Issue Specific Hearing 1, as recorded on pages 7 to 14 in REP1-006 Deadline 1 Submission – 7.2 Issue Specific Hearing (ISH1) Post Hearing Submission addresses these points.
REP1-092 REP1-093	Michael Drew	Development of the Project and Alternatives Traffic and Transport DCO - Policy Legislation and Guidance Air Quality Cultural Heritage	<p>I originally produced my objection for the public consultation phase. At that time, I was working on the original traffic report, which predicted over 1500 additional vehicles passing down Moorhouse Lane and The Sills all directly relating to the imbalance of traffic created by the Black Junction.</p> <p>Since that point, Highways have revealed new numbers which significantly downplay the effects of this traffic imbalance – whilst still accepting that the traffic imbalance exists. I stand by my original concerns and so recreate them below.</p> <p>The drop in numbers is dramatic and comes despite no significant change in the location of the Rokeby junction which would explain this. It appears that despite additional vehicles coming off at Cross Lanes every local road in and around Barnard</p>	The route selection process for Scheme 08 (Cross Lanes to Rokeby) was considered as part of agenda item 2.1 in Issue Specific Hearing 1. With particular reference to the "blue option", National Highways has summarised the position on pages 9-12 of the Issue Specific Hearing 1 (ISH1) Post-Hearing Submissions (including written submissions of oral case) document (REP1-006). This includes a post-hearing note which provides clarity on the application of policy regarding heritage for the blue and black options. This considers paragraphs 5.131 and 5.132 of the NNNPS. However, it does not extend to considering paragraph 5.133 because neither option would lead to substantial harm or to a total loss of significance of a designated heritage asset.

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			<p>Castle will see a decrease in overall traffic. Highways stated reason is that the newly dualled A66 will be a preferable drive to going through town.</p> <p>Why was this not a factor in the original numbers? Surely if this was such a massive factor, it would have been reflected in the original traffic report? Likewise, where is the traffic going once it comes off? Highways originally seemed to believe that the traffic using Moorhouse Lane, was traffic aiming for Barnard Castle no longer using the C165. To get to any part of Barnard Castle, these vehicles would have to go up Bridgegate and the Bank. Yet they do not. We are told to expect 500+ more cars per day down The Sills, but to lose 400 cars a day from the County Bridge.</p> <p>It seems unlikely this traffic is headed for the Bowes Road, as the A66 would surely be more desirable and there will be a newly designed junction at Bowes. It is not reflected in the reduced traffic continuing past the Bridge. It is not reflected in the traffic movement in town. Given that the increase on Moorhouse Lane has always near-parallelled the decrease on the C165, that traffic must be traffic heading for town or onwards. If it was heading up the A67 away from The Bank, then the equivalent traffic coming down Moorhouse Lane would have to use The Bank to get to the same place. Why are those 500 vehicles not represented in the traffic use in town?</p> <p>The numbers may well be correct, in which case, the town would benefit from the Black Route. However, they are significantly different. If the reality is, in fact, more like the original numbers, there will be greatly increased effects on the town, owing to this imbalance of traffic along unsuitable roads. My concerns with the numbers (and my reason for continuing my objection) are two-fold.</p> <p>Firstly, the numbers have changed. There is no reason to think they will not change again in the future. If they increase, or if Highways are wrong, then the town will suffer. We in town are reliant on numbers which have proven subject to massive change. The only route which ensures future proofing is the Blue route. The other has a problem in-built at the design stage. If the numbers change the wrong way, it will be impossible to rectify or mitigate them.</p> <p>Secondly, the only constant between these two sets of dramatically different numbers is the repeated belief (completely accepted by residents) that the extra distance for Eastbound traffic will lead to a disproportionate number of drivers coming off early from the A66 and using Moorhouse Lane. Given that this is the only thing the same in both traffic reports, it must be treated seriously. Given that - and given the effects that flow from the imbalanced traffic numbers created - the Blue route is the only sensible option to address this.</p> <p>It appears Highways' objection is principally in response to Historic England's belief that the Blue route would cause "substantial harm" to St Mary's Church and the park and gardens of the Mort ham estate. Highways are thus required to use Historic England's chosen route owing to the NPS:</p> <p><i>5.133 Where the proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, the Secretary of State should refuse consent unless it can be demonstrated that the substantial harm or loss of significance is necessary in order to deliver substantial public benefits that outweigh that loss or harm, or alternatively that all of the following apply:</i></p> <ul style="list-style-type: none"> <li>• <i>the nature of the heritage asset prevents all reasonable uses of the site; and</i></li> <li>• <i>no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and</i></li> <li>• <i>conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and</i></li> </ul>	<p>The Black route was taken forward following Statutory Consultation for a number of reasons, including its avoidance of direct impacts on the Registered Parks and Garden, having regard to the requirements of current national planning policy. Policy required to be followed is set out in the Environmental Statement Chapter 8: Cultural Heritage (Document Reference 3.2, APP-051) Section 8.3. A Registered Parks and Gardens is a statutory heritage designation which current policy and legislation requires Nationally Significant Infrastructure Projects such as the A66 NTP to give due regard to in terms of avoidance of impacts. Each designation is designated for its own reasons, however land take and severance from a designation is considered a significant effect. The Secretary of State in determining the Project must have regard to the National Policy Statement for National Networks (NPSNN), which in section 5.131 states "When considering the impact of a proposed development on the significance of a designated heritage asset, the Secretary of State should give great weight to the asset's conservation." Accordingly, the Black route was taken forward for its compliance with the NPSNN.</p> <p>In addition we have provided a response to the outstanding traffic matters Firstly to address the points on the 'new traffic numbers':</p> <ul style="list-style-type: none"> <li>• The Local Traffic Report which was issued as part of Statutory Consultation did report that the increase on Moorhouse Lane (Near Barnard Castle) i.e. the Sills would increase flow by 1037 vehicles, within Table 10-2. However, following publication of the Local Traffic Report an issue was noted with the Black Route flows, in so much as modelled results included within the Local Traffic Report corresponded to the results of a superseded but previously unpublished layout, and not to the correct results of from the Black Route option.</li> <li>• This issue was noted by officers of Durham County Council (DCC) as the flow levels on 'The Sills' were higher than they expected. A correction as noted within Table 3-1 of the Statement of Common Ground ("SoCG") with Durham County Council ("DCC") (Document Reference 4.5, APP-278), and noted that the increase would be 480 vehicles, i.e. roughly half of that stated within the Local Traffic Report.</li> <li>• The error occurred as the coding for the model reported within the Local Traffic Report was from a (previously unpublished) option where the eastbound merge located at the gates/fence of Rokeby Park was not included, and therefore both eastbound and westbound traffic using the new A66 Rokeby Junction would need to travel the additional 1.5 miles, rather than just westbound traffic needing to do so within the black option. This explains the increases on the B6277 Moorhouse Lane and The Sills, as additional traffic has diverted to this route in this run, as opposed to using Barnard Castle Road.</li> </ul> <p>Secondly considering the question about 'where traffic is going':</p> <ul style="list-style-type: none"> <li>• Paragraph 8.1.28 of the Transport Assessment (Document Reference 3.7, APP-236) discusses the impact of the Project on 'The Sills' within Barnard Castle, stating that there is an increase in traffic on the B6277 Moorhouse Lane, and a decrease on Barnard Castle Road (C165), because the traffic that accesses Barnard Castle from the A66 east has easier access to the B6277 Moorhouse Lane and less easy access to Barnard Castle Road, compared to the existing situation due to the proposed junction arrangements at these locations</li> <li>• Paragraph 8.1.29 states that the the impact on Barnard Castle is one of a general reduction in traffic flow due to the lower flows on the A67, of around 400</li> </ul>

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			<ul style="list-style-type: none"> <li>• <i>the harm or loss is outweighed by the benefit of bringing the site back into use.</i></li> </ul> <p>However, I believe that the Black Route fails far more to adequately satisfy the National Planning Policy Framework in terms of its impact on the surrounding land and people. Highways England have provided little to no evidentiary support for their proposition that the Black Route is the better option for the local area around Barnard Castle, beyond Historic England's comparison of the specific sites of the proposed junction location.</p> <p>I have several principal objections to the proposed western Rokeby junction, which all stem from the same starting point: the route. According to Highways England's own modelling, the choice of the Black Route will drive more traffic down the B6277 (Moorhouse Lane), down Church Bank and The Sills, across the County Bridge, down Bridgegate and up The Bank. This route is wholly inappropriate for heavy traffic flow. The entire length to the County Bridge is marked by rapid, sharp bends, hidden exits, and a steep hill with both sharp bends and hidden exits. It is impossible to have a clear view of the bottom of Church Bank when entering it at the top.</p> <p>Once down The Sills, there is a three-way light (currently weighted against the B6277 owing to its relative lack of importance versus the A67 which it joins), which controls access to the single Lane County Bridge. The turn onto the Bridge is near right-angle, to the right, with a cluster of listed buildings on the near side. The Bridge itself is Grade I listed, owing to its age and significance, and is single lane and has a (poorly enforced) weight limit. Although The Sills is technically two-lane, it is often heavily parked along the pavement side (there is only pavement on one side). This reduces traffic flow, slowing vehicles and making passing difficult.</p> <p>Bridgegate is two-lane, but at the far end from the Bridge, there is a near right-angle turn left, which begins the climb up the precipitous Bank. This is always parked on both sides. Frequently traffic on one or other side is stopped to allow vehicles to pass in the opposite direction. This is especially risky for ascending traffic, as it forces hill starts or extreme low speeds, which risk stalls. Added to this, parked or parking vehicles often block both sides of the road whilst manoeuvring. At the top is a quasi-roundabout created by the Grade I listed Market Cross. Although functionally a roundabout, the rules are altered by the priority of traffic ascending The Bank on the A67. This can lead to stopped traffic coming off Market Place and Newgate if the weight of ascending traffic prevents movement.</p> <p>All of this combines to create a congestion trap. This can be seen most clearly when an issue on the A66 makes the town a de facto bypass. Traffic backs up in all directions, dropping movement to a crawl. This affects everyone who lives in town. We only have the one main road through town. School runs, deliveries, shopping trips, daily commutes, all of these have only the one route. The only escape from this road is the even less appropriate residential street system, which is often single lane and heavily parked. Further, these roads are confusing and often end in culs-de-sac, which will cause further issues for non-resident use. [NPPF 104]</p> <p>Several problems arise from the reliance on this route to take extra traffic from the A66.</p> <p><b>1. Accidents</b></p> <p>Irrespective of which set of numbers is correct, traffic will increase along The Sills. The lack of adequate pavement along the B6277 leads to my first serious concern. The pavement along this section of the route is single-person wide for most of its duration. At intervals, lampposts block the pavement, forcing you to enter the road. If you meet people coming toward you the most common result is someone entering the road. We have a baby, she uses a pushchair, not a grotesquely large one, but which nonetheless fills the pavement at many points. Either we must enter the road, or the people coming</p>	<p>vehicles AADT, including on Barnard Castle Bridge, and on Galgate within the town centre. This reduction on the A67 occurs due to the improved A66 attracting more longer distance east west traffic from the A67.</p> <p>It should be noted that the later trips no longer on the A67 are different trips (or vehicles) to the former trips (or vehicles) that are using the B6277 Moorhouse Lane / The Sills rather than Barnard Castle Road (C165) to access the Barnard Castle.</p> <p><u>Air quality</u></p> <p>Regarding air quality a full assessment of the environmental effects is provided within the Environmental Statement (Document Reference 3.2, APP-043 to APP-059) with mitigation proposals detailed within each topic assessment. Impacts upon Air Quality are discussed within Chapter 5 and this includes an assessment of all Schemes proposed within the DCO application (Document Reference 3.2, APP-048).</p> <p>As set out within the Issue Specific Hearing 1 (ISH1) Post Hearing Submissions (REP1-006) National Highways has committed to providing complementary environmental considerations to further confirm the findings of the Environmental Statement in specific regards to the Sills. The outline scope of this local level consideration is as follows:</p> <ul style="list-style-type: none"> <li>• More granular / environment assessment of the impact of increased traffic on the Sills (including the consideration of Air Quality).</li> <li>• Institute of Environmental Assessment and Management ("IEMA") subjective assessment of being a pedestrian/pedestrian experience and consideration of noise in the same context</li> </ul> <p>National Highways will submit the local level consideration and report to the examination for Deadline 3.</p> <p><u>Cultural heritage</u></p> <p>With the exception of the B6277, the Sills, where there are three listed buildings, the promoted route would result in a reduction of traffic along roads within Barnard Castle. As such, there would be no harm to the conservation area or the many designated heritage resources within it. The only road within the town which would see an increase in traffic is the B6277, the Sills (Paragraph 8.1.28 of the Transport Assessment (Document Reference 3.7, APP-236). While there would be an increase in traffic levels it would not have a significant effect on cultural heritage resources on the B6277, the Sills and the difference between the options is negligible in heritage terms.</p>

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			<p>towards us do. This problem further extends to dog-walkers, people with small children, those with large bags, people of larger size than the average, those in wheelchairs or using walking frames, or anyone else not walking on their own. There is increased risk of traffic accident from this route. The Bank requires careful driving to avoid slippage or stalling. The frequent, sharp turns require careful driving. The narrow turn onto the Bridge requires precision to avoid damaging listed buildings (and damage happens to the Bridge).The sharp, blind slope down Church Bank requires considerable brake control, which is not always anticipated by drivers. The tree-lined road it enters blocks visibility for several turns, making the sudden appearance of cars common. [NPPF 111]As well, there few safe pedestrian crossing points. Even with lights, The Sills is hard to cross at the County Bridge owing to a lack of visibility of oncoming traffic. There is no other crossing point. The Bank only has two traffic islands. One at the bottom, which lacks visibility onto Bridgegate, and one at the top, which lacks all visibility downhill owing to parked cars, and all visibility round the Market Cross. Taken together, the road is difficult to drive and cross; increasing the traffic will increase the frequency of accident. [NPPF 112c]</p> <p><b>2. Air pollution</b></p> <p>It is known that congestion leads to increased air pollution. The forms this takes are various, including NO<sub>2</sub>, particulate matter and carbon monoxide, and can lead to a wide raft of problems, such as lung cancer, heart disease, asthma, COPD, and even eczema and diabetes. Even small increases in particulate matter can have significant effects on mortality. A British Medical Journal article -newly published when I first wrote to the Public Consultation -featured original research on long term survival and changes in exposure to fine particulate matter (all quotes or references in this paragraph come from this article)<sup>2</sup>. The article made the bold statement that “At a population level, reducing ambient fine particulate matter air pollution improves mean survival.” Reducing exposure to PM<sub>2.5</sub> was strongly associated with reductions in cardiometabolic deaths, whereas increased exposure was associated with respiratory deaths. The study adds to the overwhelming evidence that long term exposure to PM<sub>2.5</sub> is associated with mortality –“even in countries such as Canada where PM<sub>2.5</sub> levels are considered low by global comparisons.” The WHO recently introduced new guidelines, halving the recommended annualPM<sub>2.5</sub> limit. However, as the article ends, “evidence of any threshold below which exposure toPM<sub>2.5</sub> is safe is lacking.” This was recently supported by the Health and Air Pollution in New Zealand (Hapinz) study. This discovered 2000 premature deaths from NO<sub>2</sub> and 1300 from particulate matter.<sup>3</sup>Samuel Cai, a lecturer in environmental epidemiology at the University of Leicester, told the BMJ, that although these numbers seem low,</p> <p>The report says that 3300 deaths would represent about 11% of total deaths in New Zealand in 2016. That is remarkable because it means that roughly one in 10 deaths can be linked directly to air pollution.<sup>4</sup>His belief was that policy was the best tool for mitigating and addressing any potential rise in air pollution. Here the air quality will be protected by the choice of the Blue Route. Policy can help shape the future of the town and the health of its residents. The worst contributor to particulate matter is brake and tyre wear. These are both heavily associated with congested driving, as the stop-start conditions stress the vehicle more. Add to this the extra work of the two hills at each end of the route and you have a drive guaranteed to add to the PM concentration of the air. About a quarter of the town’s population is over 60; about 20% is under 18. These two groups will be disproportionately affected by any increase of air pollution. Children suffer particularly as exhaust fumes tend to sink, increasing the concentration at their height. Compounding this is the developing state of their lungs, which makes them susceptible to the damaging effects of toxic chemicals. Reducing air pollution reduces the risk factors for long-term conditions, and their severity when they are present. An</p>	



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			<p>increase in pollution will lead to an increase in mortality, especially amongst the elderly. This will mean avoidable deaths. The associated increased risk of long-term conditions amongst the young will increase the cost of public health expenditure across the length their lives. The Blue Route helps mitigate the risk of congestion, thus reducing the increase in pollution and reducing deaths –whilst also increasing quality of life for all residents. As an NHS Senior Library Assistant, I find it hard to conceive of a situation in which the definition of public benefit does not include public health –and find it equally hard to conceive of a situation in which a minor building should be judged more valuable than the lives and health of thousands of people. Beyond utilitarian philosophical arguments, the Guidance to the NPPF states that changes to emissions levels because of a development are a relevant consideration in planning.<sup>5</sup>Highways cannot demonstrate any evidence to show the impact on local air pollution. Conveniently, their new figures excuse them from producing a local air quality study, as there is no longer predicted to be a 1000+ increase on the road (as there was before).They have not supplied figures which demonstrate negligible impacts on local health from the increased traffic flow. Again, irrespective of the numbers you choose to believe, they predict an increase in traffic. More vehicles must surely cause more pollution.</p> <p><b>3.Cultural Heritage</b></p> <p>I am a history scholar by education; an antiquarian bookseller by training; and currently work in a library. I understand and respect Historic England's position. They play a vital part in speaking for buildings, which would otherwise stay silent. As they very rightly point out, air pollution is known to have a damaging effect on heritage buildings. I do not question their concern about Mary's, Rokeby. I do though question their lack of wider vision and concern for the local context of their choice. I would also question their impartiality, given their focus on the heritage impact on only one location. Why have they not considered the heritage impacts of their selected route on the areas affected by the new junction? Our house is a Grade II listed building whose front door is only a metre from the A67 side.<sup>6</sup>Our local at the bottom of the Bank is a grade II listed building.<sup>7</sup>Friends and family live in Grade II listed houses on the Bank.<sup>8</sup><sup>9</sup><sup>10</sup>Our children shop in a Grade II listed toyshop.<sup>11</sup>We worship in a Grade I listed St Mary's at the top of the Bank, though ours is more used than Rokeby.<sup>12</sup>The top and bottom of the Bank are marked by Grade I listed structures –the County Bridge and the Market Cross, both too often damaged by heavy goods vehicles of the kind Historic England's choice could see increase over the Bridge.<sup>13</sup><sup>14</sup>Also on the Bank is Blagraves, a Grade I listed restaurant.<sup>15</sup>The Grade I listed Castle, which gives the town its name, overlooks the road which would bear the brunt of increased traffic entering town.<sup>16</sup>These are only a few of the Grade II or higher listed structures which line the Bank and onwards through town (it would be likely quicker to list the buildings along the road which are not listed in some form).<sup>17</sup>Where is Historic England to preserve and protect our homes and businesses and church? If the heritage impact of the Blue Route on the sites Historic England chose to survey is such that it must be rejected, what of the effect of the Black Route on the dozens of sites which will be affected by the potential traffic increase through Startforth and Barnard Castle? How can a proper determination of "substantial harm" be made if Historic England have not provided all the necessary evidence to make such a statement? [NPPF 200-201] Air pollution is also responsible for the poisoning of the land and wildlife. We live in a rural area and there are farms around town. It is known that pollution can move from its location through the action of weather. If air pollution is increased in town, this will carry over to the local landscape through wind and rain –including the Tees. This is especially clean through our stretch, with a resurgence in diverse local river life. It is not only humans and the built landscape which suffers. The countryside does as well. [NPPF 104 (d)] Finally, the combination of air pollution and congestion affects tourism and house</p>	

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			<p>prices. People do not enjoy visiting towns clogged with traffic or wreathed in exhaust fumes. This will affect local businesses and suppress the local economy. The pollution (noise and air), the congestion, and the drop in economic value will all affect house prices, further hurting people. These may seem minor in comparison to human life and the heritage cost, but they add to the depression of quality of life which will potentially flows from Historic England's chosen route.</p> <p><b>Final point</b></p> <p>There is one final minor point I would like to raise concerning the comparison of the two routes. According to NPPF section 169:</p> <p><i>169. Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:(a) take account of advice from the lead local flood authority;(b) have appropriate proposed minimum operational standards;(c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and(d) where possible, provide multifunctional benefits.</i></p> <p>Yet according to Highways England:</p> <p><i>5.8.83 From a drainage perspective, the alternative eastern junction is considered better, as whilst it would introduce an additional pond and outfall, it has the significant benefit of not introducing a trapped cutting as present in the baseline western junction design. The alternative junction manages to maintain falls such that water can escape the underpass in the event of any drainage blockages on the local road.</i></p> <p>And</p> <p><i>5.8.86 For road drainage, the eastern alternative junction is considered to be better than the western baseline junction during the construction phase due to the works being undertaken further away from Tutta Beck and the resultant reduction in risk of negatively impacting water quality. The operational impact on climate change is considered better for the eastern alternative junction due to the ability for the junction drainage to flow freely, therefore avoiding the risk of the underpass flooding which is present in the baseline junction.</i></p> <p>Historic England's chosen route may be supported by one section of the NPPF [heritage] but is at odds with this one (if not more).</p> <p>According to 163:</p> <p><i>If it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied.</i></p> <p>Another area with lower flooding risk is available, why has that not been selected as the preferred route? No demonstration has been made that the Black Route has "wider sustainability benefits to the community" nor that the development "will be safe for its lifetime taking account of the vulnerability of its users" –indeed, 5.8.86 makes clear that it is the Blue Route's drainage which achieves this aim and matches climate mitigation policy.</p> <p>The Black Route has one specific benefit that everyone can agree on –it will likely reduce additional traffic around St Mary's, Rokeby. I leave the question of the gardens, though Historic England seem at odds with the owners, managers and farmers of the estate. There is no other point which offers any form of benefit from the adoption of their choice. The Black Route is more dangerous, more polluting, increases journey times, is not climate compliant, affects more historic assets, and does not meet the needs of the local communities affected. The Blue Route was designed in conjunction</p>	

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			<p>with the local communities –in line with Highways England’s stated goal of “tailored” solutions. We ask that the significant public benefit associated with the Blue Route be taken seriously, and it be recognised that, whatever the possible harm to a heritage site might be, harm to the lives of thousands of people must take precedence.</p> <p>With grateful thanks for your attention, Michael Drew MA (Cantab) MA, on behalf of Mrs Laura Drew MA (Cantab) and Nathaniel (7), Corinne (5), and Cleo (2)</p>	
REP1-062	Edward Baxter	Case for the Project	<p>I wish to object to the above scheme (M6 to A1). It is unaffordable at present. It will increase long-distance commuting and create new bottlenecks on nearby roads.</p> <p>It is unnecessary. Traffic and safety on this part of the A66 can be managed by reducing speeds.</p> <p>The underpass at Kemplay Bank is unnecessary. The roundabout can cope if speed limits are reduced gradually on its approaches.</p>	<p>When considering value for money and affordability, the Project needs to be considered alongside all the benefits that it will bring. Chapter 4 the Case for the Project (Document Reference 2.2, APP-008) describes the current issues on the route:</p> <ul style="list-style-type: none"> <li>• Paragraphs 4.2.8 to 4.2.15 outline the current safety issues. In summary the A66 has a higher-than-average number of accidents across some lengths of the route, with a direct correlation between road accidents within the single carriageway lengths of the route and where dualled lengths meet or are reduced to single carriageway lengths.</li> <li>• Paragraphs 4.2.16 to 4.2.21 outline the issues caused by the single carriageway sections in terms of journey times and reliability.</li> <li>• Paragraphs 4.2.22 to 4.2.23 discuss the increased likelihood of road closures on the single carriageway sections.</li> <li>• Paragraph 4.2.24 to 4.2.27 discuss the issues of severance, notably within Kirkby Thore.</li> </ul> <p>In summary, the A66 Project is about a number of factors including improving safety on a road which is well below standard, transforming East-West connectivity particularly for longer distance freight to/from the English/Scottish ports, and also supporting businesses and communities along the route particularly the tourism sector through providing a faster, safer and more reliable route. In response to these issues the Project Objectives have been developed, which are outlined in paragraph 1.7.10 and Table 1-2 of the Case for the Project (Document Reference 2.2, APP-008). HM Treasury and the Department for Transport sets out guidance for valuing the costs and benefits through a project business case, through the ‘Green Book’ and TAG (Transport Analysis Guidance). The ‘Green Book’ is guidance issued by HM Treasury on how to appraise policies, programmes and projects, while TAG is issued by the Department for Transport and provides information on the role of transport modelling and appraisal. Some of the costs and benefits can have a monetary value calculated and presented into a Benefit Cost Ratio (‘BCR’), whilst other costs and benefits are valued qualitatively and described within the business case set out within the Case for the Project (Document Reference 2.2, APP-008). Table 5.4 of the document presents the monetised economic benefits the Project will bring. The principle monetisable benefits are transport economic efficiency benefits of £521.1m; safety and accident benefits of £29.6m; and journey time reliability benefits £272.204m. The analysis that underpins this is contained within the Combined Modelling and Appraisal Report (Document Reference 3.8, APP-237). The Case for the Project (Document Reference 2.2, APP-008) also sets out (in section 6) the benefits of each Scheme.</p> <p>With respect to National Highways consideration of alternatives that would address the road safety and traffic issues, without requiring the full dualling of the A66 please refer to the Project Development Overview Report (Document Reference 4.1, APP-244), which describes the development of the Project from its inception. In addition, the Case for the Project (Document Reference 2.2, APP-008) sets out the need for the Project and describes the wide ranging strategic</p>

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				<p>benefits that the full dualling of the A66 would deliver in terms of local and regional economic benefits, journey time savings, safety (reduction in accidents) and reliability.</p> <p>The Project Development Overview Report provides further information on other small intervention options considered at the feasibility stage of the project (as part of the Northern Trans- Pennine Strategic Study – 2014-16). During this feasibility stage (as part of the Trans Pennine Strategic Route Study) a number of options were considered as alternatives to the full dualling of the A66. This included an assessment of individual highway interventions aimed at improving one localised part of the route, either a junction or a specific route sub-section. The outcome from the evaluation of these options is that they did not provide the wide ranging strategic benefits that the full dualling of the A66 would deliver in terms of journey time savings, safety (reduction in accidents) and reliability.</p>
RR-193	HGV Action Group	Traffic and Transport	<p>The Barnard Castle HGV Action Group would like to challenge National Highways claim that traffic flow across County Bridge and Abbey Bridge and through Barnard Castle will be reduced following the A66 upgrade. The only evidence they have given for this is that the improved A66 will attract more longer distance east west traffic from the A67. This seems to misunderstand how our local road network is used. Traffic comes through Barnard Castle because it is has two of the few river crossings west of Darlington, and the A67 across County Bridge is the only A-class road. Our major north-south road the A1(M) veers to the east in County Durham, so is not used as much for connectivity for many north-south journeys. It seems that National Highways have used a very simplistic and general model to generate their figures at the recent hearing, they were not able to say that they had taken any local aspects into account, and only considered east-west traffic flow. We think it important that much more detail on traffic flow is produced specifically the assumptions made for the data input into the model; the change in traffic numbers anticipated in each travel direction along the roads; and also the numbers of HGVs / other vehicles separated out in the figures.</p>	<p>The Combined Modelling and Appraisal Report (Document Reference 3.8, APP-237) presents details of the traffic model built to support the DCO application. The extensive local data used to develop the model is contained in Chapter 3 of the document. The process to collect data and to use this within the model has been undertaken in line with the DfT Transport Analysis Guidance (TAG). TAG (Web-based Transport Analysis Guidance) is the Department's transport appraisal guidance and toolkit. It consists of software tools and guidance on transport modelling and appraisal methods that are applicable for highways and public transport interventions. These facilitate the appraisal and development of transport interventions, enabling analysts to build evidence to support business case development and to inform investment funding decisions.</p> <p>Chapter 3.4 describes the various sources of volumetric count data that was collected. Counts on the A66 and A67 near to Barnard Castle are contained within the Combined Modelling and Appraisal Report Appendix B – Transport Data Collection Package (Document Reference 3.8, APP-238) and include:</p> <p>ATC (Automatic Traffic Count) Sites shown in Appendix A1 A66 ATC Counts</p> <ul style="list-style-type: none"> <li>• ATC Site 25 – A67 (to the west of Barnard Castle)</li> <li>• ATC Site 29 – B6277 (Moorhouse Lane north of A66)</li> <li>• ATC Site 30 – B6277 (Moorhouse Lane south of A66)</li> </ul> <p>MCC (Manual Classified Count) sites show in Appendix B.2 - A66 Penrith to Scotch Corner MCCs</p> <ul style="list-style-type: none"> <li>• MM_MCC_01 SB/NB Barnard Castle (at Rokeby)</li> </ul> <p>ATC Sites shown at Appendix C.1 RTM2 ATCs</p> <ul style="list-style-type: none"> <li>• N7640/N7652 A688 to the east of Barnard Castle</li> <li>• N7641/N7653 A67 to the east of Barnard Castle</li> </ul> <p>Chapter 3.5 of the Combined Modelling and Appraisal Report (Document Reference 3.8, APP-237) describes how the journey time data collected, how it was processed and how it was applied in the model.</p> <p>Journey time routes around Barnard Castle include the following:</p> <ul style="list-style-type: none"> <li>• A66: Penrith to Scotch Corner</li> <li>• A688 Brough to A1 @ Coxhoe</li> <li>• A67 Barnard Castle to Darlington</li> </ul>

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				<p>Chapter 3.6 details the travel demand data collected. Travel demand data refers to the movements that people make in terms of their origins and destinations. Taken at an aggregate level, these movements form trip matrices which represent all movements within a network, often referred to as the trip distribution.</p> <p>Chapter 3.7 contains details on the mapping and network data used to represent the local network.</p> <p>Chapter 4 provides further details of the model, including its purpose (Chapter 4.3), the model software (Chapter 4.4), the model study area (Chapter 4.5) which includes the area around Barnard Castle within the Traffic Reliability Area. The TRA is the area of the traffic model considered to provide reliable estimates of traffic when the base traffic model is compared to observed traffic, this has been defined by considering the area across which the Project can be seen to have an impact. Chapter 4.7 describes how the demand matrices were developed from the observed travel demand data. Chapter 4.8 describes how the road network was developed, which includes a description (within paragraphs 4.8.9 to 4.8.14) of the local features that are modelled within the fully modelled area.</p> <p>Chapter 4.10 describes how the model has been validated. Model validation is the process of comparing model outputs with independent observed (i.e. local) data. Details of the results of the model validation are contained in the Combined Modelling and Appraisal Report Appendix C – Transport Model Package (Document Reference 3.8, APP-239).</p> <p>Tables 9-3 to 9-5 detail the model performance of how traffic flow meets the observed flows for all time periods. They show that the total vehicle flow on the Barnard Castle Screenline is within 3.1% of that observed.</p> <p>Tables 9-10 to 9-12 detail the model performance of the journey time routes. For all time periods:</p> <ul style="list-style-type: none"> <li>• The modelled journey time on the A66 is within 4.4% of that observed.</li> <li>• The modelled journey time on the A67 is within 9.6% of that observed.</li> <li>• The modelled journey time on the A67 is within 5.9% of that observed.</li> </ul> <p>The performance of the model in terms of flows meeting the link and screenline flow validation criteria approaches the guidelines recommended within TAG Unit 3-1. Similarly, in terms of journey time validation and routing checks the model has been demonstrated to perform in a satisfactory manner.</p> <p>The results of the traffic model presented in Figure 8-21 and Table 8-6 of the Transport Assessment (Document Reference 3.7, APP-236) that show a 5% reduction in traffic on the A67 on Barnard Castle Bridge reflect the fact that 5% of the traffic within the model will reroute to the A66 as the improved A66 will provide a faster alternative, as this is the volume of traffic that is using the A67 to make an east to west journey. The remainder of the traffic that is making other journeys will not be impacted.</p>
REP1-084	Kirkby Thore Parish Council	Project Design and Alternatives	<p>As noted in our previous representations to the various consultations on this project, Kirkby Thore Parish Council [KTPC] agrees that the A66 should be dual carriageway along its whole length. We accept that the route as it passes Kirkby Thore has been chosen as the Northern Route using the criteria stated by National Highways. However, the Northern Route was accepted by National Highways in their Sifting Matrix comparing the Blue Route and Orange Route to create significant adverse noise and vibration effects on 256 residential receptors. Additionally the effect on the environment and landscape was accepted as being worse for the Blue Northern Route.</p>	<p>National Highways considers these points addressed under Agenda Item 2.3 of Deadline 1 Submission – 7.2 Issue Specific Hearing 1 (ISH1) Post Hearing Submissions REP1-006).</p> <p>The development of the design for the Project, including alternative routes considered and the decision-making process is set out in the Project Development Overview Report (Document Reference 4.1, APP-244).</p>

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			Hence significant mitigation for both residents of Kirby Thore and the environment around Kirby Thore is required for the proposed route and this was accepted when the decision was made to prioritise not constructing on the vicus of the Roman Fort above the adverse effects on the residents.	
REP1-084	Kirby Thore Parish Council	EMP and Environment Noise Landscape and Visual Flood Risk and Drainage	<p><b>Completed road in operation</b></p> <p>Noise, visual and fumes effects</p> <p>1) The A66 passes 180 degrees around Kirby Thore in close proximity to the village, see Map 1, carrying traffic that is 27% Heavy Goods Vehicles [HGV]. This noise will be transmitted to the village from several directions. The significant receptors that are closest to the route are a) Sanderson's Croft, a housing association estate of 70 dwellings, and b) the primary school. Additional receptors are c) Dunfell View [35 dwellings] which is at a contour of 130m, while the passing road is cutting through the current ground level at the 120m contour, and thus not shielded by the road being in cut and d) the eastern side of Main St which looks eastward over the low ground of the Trout Beck flood plain to the proposed viaduct and is unshielded from noise or visual disturbance on that length of road.</p> <p>2) Environmental Mitigation Figure 2.8.3 Sheet 4 shows Sanderson's Croft immediately adjacent to the North Junction. The HGVs going to and from the Gypsum Works will curve round on the slip road up to grade and then over the overbridge. Hence the significant cut at this point of the road will not mitigate against much of the HGV noise and visual intrusion. The land between the junction and the Croft is shown as being returned to agricultural use but additional earth bunding or acoustic fencing masked by an area of woodland would significantly reduce the effects on the residents.</p> <p>3) Figure 2.8.3 sheet 4 shows the primary school at a position along the A66 where it is not in cut but some earth bunding has been shown. Again the land between the school and its playing field is shown as being returned to agricultural use. And again acoustic fencing masked by an area of woodland or increased earth bunding would significantly reduce the noise and fumes effects on the pupils.</p> <p>4) Figure 2.8.3 sheet 4 shows Dunfell View, which is 10m above the current ground level at the road position. The road has a certain amount of actual and false cut at this position but Dunfell View is still above this. Additional bunding might be oppressive to the road user in this case and thus woodland planting would give the most benefit to the residents against noise and headlight intrusion.</p> <p>5) Map 1 shows Kirby Thore Main St adjacent to the Trout Beck flood plain and Environmental Mitigation Figure 2.8.5 sheet 6 shows the eastern side of the flood plain and the length of road and viaduct unshielded from the residents on Main St. The existing A66 transmits a noticeable amount of noise to the eastern side of the village and the 70mph limit dual carriageway would produce 3 times the noise of the 40mph A66, as the noise energy is proportional to the square of the speed. Acoustic fencing or baffles on the side of the Trout Beck viaduct could reduce the adverse effects on the residents. The proposed viaduct will also loom large in the landscape and impact on the villagers view to Appleby along the low lying plain. This is a loss to the residents that cannot be amended but highlights the importance of mitigating the nuisances of noise and headlight intrusion.</p>	<p><b>Noise responses</b></p> <p>1) The 3D noise prediction modelling has taken account of the current topography (for the do minimum noise calculations) and the modified topography, including all earthworks (for the do something scenarios). The noise maps presented in Figures 12.3 and 12.4 (Document Reference 3.3, APP-114 and APP-115) illustrate changes in noise levels (increases and decreases) that would result from the scheme. Impacts at all the receptors noted by Kirby Thore Parish Council can be seen. The number of likely significant effects, both beneficial and adverse, are described in ES Chapter 12 paragraph 12.10.76 et seq, (Document Reference 3.2, APP-055). There are more dwellings that would experience a beneficial likely significant effect than the number experiencing an adverse likely significant effect. As noted in 12.10.79 Sandersons Croft is the area where many of the adverse effects are identified. Hence the provision of real and false cutting earthworks to provide mitigation as far as possible within other constraints, which help reduce traffic would provide substantial acoustic screening to nearby noise levels sensitive receptors.</p> <p>2) The dominant source of traffic noise from the Project is the flow on the A66 main line. A relatively small number of HGVs (and other vehicles) would use the slip roads at this location and hence this small volume of traffic would contribute very little to the overall traffic noise levels. There would therefore be no material benefit in providing further noise barriers, in any form, around the slip road.</p> <p>3) As noted in Table 12-17 of the ES Chapter 12 (Document Reference 3.2, APP-055), predicted noise levels at the school are consistent with the requirements of Building Bulletin 93 (2015), Acoustic design of schools: performance standards. BB93 provides standards for acceptable noise levels for teaching environments. Predicted noise levels at outdoor teaching spaces and in classrooms (assuming windows partially open) would meet BB93 criteria. To provide an effective reduction in noise, any vegetation would need to be a significant thickness of established (mature) trees. An additional noise barrier as suggested would not be of any noticeable noise reduction at the school.</p> <p>4) As above, vegetation is not effective at reducing noise until an appreciable depth of mature trees is established. With regard to the use of trees to act as acoustic screening to minimise noise, this approach is generally not effective in providing substantive, consistent noise mitigation. Research has shown that the use of shrubs or trees as a noise barrier is effective only if the foliage is at least 10m deep, dense and consistent for the full height of the vegetation. Given the seasonal nature of leaf cover for trees and the density of vegetation required, tree planting is not generally adopted as a reliable noise mitigation measure. Also, given the relatively large distance between the highway and receptors, the benefit of any type of acoustic screening would be negligible.</p> <p>5) An increase in traffic speed from 40mph to 70mph would lead to a noise increase of around 3dB, all other factors being equal (see Calculation of Road</p>

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				<p>Traffic Noise (Department for Transport, 1988)<sup>1</sup>. The change in noise level and the absolute noise level maps show that the noise from the viaduct and adjacent sections of road to be minimal at Main Street and these properties are shown to experience a decrease in traffic noise level as a consequence of the Project.</p> <p><b>LVIA responses</b></p> <p>Response to 1. The scheme has been designed so that the main route is in cutting as it passes the village. This mitigates the noise and visual impacts. Sandersons Croft is already affected by HGV traffic going to and from the British Gypsum works passing within 10m of the houses. The revised access will mitigate these negative effects. The road is in cutting which has been increased where required by an elevated edge creating a false cutting. This, together with smooth gradients tying into existing topography, has been designed to minimise impacts on the primary school and Dunfell View. The assessment of these effects is found in ES Chapter 10 Landscape and Visual (Document Reference 3.2, APP-053) and ES Chapter 12 Noise and Vibration (Document Reference 3.2, APP-055). Photomontage 4.5 in ES Figure 10.9 (Document Reference 3.3, App-110) demonstrates the mitigation of visual impacts through sensitive landform design.</p> <p>Response to 2. Sandersons Croft is already affected by HGV traffic going to and from the British Gypsum works passing within 10m of the houses. The revised access will mitigate these negative effects. The impact assessment from Viewpoint 4.7A next to Sandersons Croft is described in the ES Appendix 10.6 Schedule of Visual Effects (Document Reference 3.4, APP-202). The negative visual impacts are mitigated by woodland and scrub planting on the embankments shown on the Environment Mitigation Maps, Figure 2.8.3 sheet 4 of 11 (Document Reference 2.8, APP-041).</p> <p>Response to 3. Photomontage 4.5 in ES Figure 10.9 (Document Reference 3.3, App-110) illustrates the view from the road close to the primary school. It demonstrates the mitigation of visual impacts through sensitive landform design. The proposed road alignment is in cutting with the landform graded gently to maximise the amount of agricultural land.</p> <p>Response to 4. National Highways are content that the impacts on Dunfell View have been scoped out due to the existing planting surrounding the houses and the orientation of the properties. Blank gable ends face the proposed road alignment, which is in cutting.</p> <p>Response to 5. Viewpoint 4.8 illustrated in Figure 10.8 Viewpoint Photosheets (Document reference 3.3, APP-109) has been assessed in Appendix 10.6 Schedule of Visual Effects (Document Reference 3.4, APP-202). National Highways recognise the change in view which would be significant during construction and in year one but would reduce to a not significant impact in year 15.</p>
REP1-084	Kirkby Thore Parish Council	Landscape and Visual	6) The Environmental Mitigation proposed around Kirkby Thore generally uses low planting and hedgerows with the intention of maintaining views from the road towards the Pennines and the Eden. No woodland planting is suggested near to Kirkby Thore, apart from a small area to screen the Low Moor caravan site, although it is planned for other areas between Kirkby Thore and Penrith. Hedgerows are no substitute for woodland planting in shielding against visual effects or disguising substantial acoustic barriers. There are small woodlands scattered across the Eden Valley and thus specific	Small blocks of woodland and woodland edge planting have been incorporated in the undulating landscape as mitigation measures for the proposed scheme around Kirkby Thore to maintain the existing landscape character. The efficacy of these measures forms part of the assessment which is described in the ES Appendix 10.6 Schedule of Visual Effects (Document Reference 3.4, APP-202).

<sup>1</sup> Department for Transport (1988) Calculation of Road Traffic Noise

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			wooded areas would not affect the character of the landscape and we suggest that woodlands are considered for further areas around Kirkby Thore.	
REP1-084	Kirkby Thore Parish Council	Biodiversity	<p>Effects on wildlife 7) The environmental mitigation figures show two areas for lapwings, one of which is the area currently known as the Mire [noted on sheet 6] and is a wetland. Proposed retention of this area as a wetland is appreciated. However, we believe that both the areas shown may be too close to a busy road for lapwings to use. Has any consideration been given to additional areas further from the A66? Deer and hares also roam across this area to the north of the village and no specific consideration has been noted for them. Several buzzards use the area as hunting territory. The use of road verges for wildlife corridors is important when roads cut across territories thus fencing design is important to protect the vehicles from the larger wildlife while permitting movement. The Environmental Mitigation figures do not appear to show this level of detail but we note the importance of wildlife corridors and suitable fencing. 8) Figure 2.8.3 sheet 6 appears to show drainage ditches from the SuDS ponds directly into the Trout Beck, which is part of the Eden SAC. Can it be explained why this is acceptable.</p>	<p>Relating to effects on wildlife 7), the comment regarding the location of the proposed mitigation areas for lapwings being located in close proximity to the road is noted. However, potential disturbance impacts relating to lapwing were included in the assessment and it was concluded that no significant impacts are envisaged (Paragraph 6.10.502, ES Chapter 6 (Document Reference 3.2, APP-049). It should also be noted that the mitigation areas illustrated on the Environmental Mitigation Maps are indicative. Further iterations and detail relating to proposed mitigation areas for birds will be provided at detail design stage.</p> <p>Relating to deer and hare, a full impact assessment has been undertaken of all protected and notable mammal species located within the Zone of Influence surrounding the Project and is provided within ES Chapter 6 Biodiversity (Document Reference 3.2, APP-049) and supporting Technical Appendices. This has been used to inform appropriate mitigation measures, for example the inclusion or adaptation of structures within the Project design and associated planting to allow and range of mammals and other species to move safely across new sections of carriageway (Document Reference 2.7, APP-021).</p> <p>Treated run-off from the highways drainage systems will drain into a number of watercourses from the Project, including Trout Beck. National Highways have conducted assessments on the water quality that will be discharged to watercourses from the Project within Environmental Statement Appendix 14.3 Water Quality Assessment (Document Reference 3.4, APP-222). The treated run-off is shown to be able to discharge to a compliant standard in accordance with Environmental Quality Standards for the watercourses.</p> <p>The potential for water quality impacts on the River Eden SAC as a result of runoff, in consideration of proposed mitigation, is assessed in the Habitats Regulations Assessment (HRA) Stage 2 Statement to Inform Appropriate Assessment (Document Reference 3.6, APP-235).</p>
REP1-084	Kirkby Thore Parish Council	Design, Engineering and Construction	<p>Construction phase Compounds and temporary roads</p> <p>9) As shown in Map 1 there is very little usable area between the proposed route and the village of Kirkby Thore. We understand that a works compound has been suggested for Kirkby Thore and, if this is the case, we suggest that any work area is sited the other side of the route from the village to minimise the effects on the village. This could possibly be adjacent to the existing eastern Temple Sowerby junction for the A66 or to the north of the road adjacent to the Gypsum Works; both of which have significant areas within the red line boundary. 10) There will need to be significant temporary roads to permit traffic from the Gypsum Works to access the existing A66 when the new route cuts through the only access road. These temporary roads will need to be the far side of the new road from the village of Kirkby Thore but could continue to direct traffic through the village of Kirkby Thore if Main Street was used until the new junction bridge is constructed. We are concerned that temporary roadways for the Gypsum Works may also lead to construction traffic through the village and ask that the Temporary Traffic plan is shown to the village and Parish Council at an early stage in the construction to enable informed consultation. Kirkby Thore is accustomed to HGV traffic through the village 24/7 but an increase in the volume of this would still be noticeable and we would appreciate it if restrictions could be applied.</p>	<p>(See plans attached to WR <a href="https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010062/TR010062-001106-Kirkby%20Thore%20Parish%20Council%20-%20Written%20Representations%20(WRs)%201.pdf">https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010062/TR010062-001106-Kirkby%20Thore%20Parish%20Council%20-%20Written%20Representations%20(WRs)%201.pdf</a> )</p> <p>National Highways will continue to review diversions during the detailed design stages in order to minimise disruption to the village of Kirby Thore. The Construction Traffic Management plans (CTMP) will evolve during the detailed design process in discussion with the Local Highways Authorities and Stakeholders.</p>



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REP1-137	Warcop Parish Council	EMP and Environment	We write on behalf of the residents of the Parish of Warcop through which the current and proposed A66 upgrade passes, from Coupland Beck to the west to the Flitholme junction in the east. However, we have also worked closely with Musgrave Parish Council and, as we all extensively use the road, have supported their case for improvements to junctions in their parish. We believe that National Highways can make further mitigating adjustments to their published route which will benefit our residents, particularly those who live closest to the new dual carriageway. In addition, we need to be reassured that along the whole of the Appleby - Brough section, sufficient landscaping, cuttings, tree planting and road surface measures are put in place to reduce the noise and visual impact on our local community. We therefore would respectfully make the following suggested improvements to the design which will help to mitigate the impact of the new upgraded road, which we support wholeheartedly, not least because we have witnessed the many deaths, injuries and disruption in our community for many years. Warcop Parish Council does not want to see any delays in building the new road, as we know that local residents would not support this and want the improved, safer A66 to be built as soon as possible.	The comments made by Warcop Parish Council are noted and the detailed suggestions responded to below.  With respect to environmental mitigation to reduce noise and visual impact on the community at Warcop and surrounding area, detailed mitigation measures are set out in the Environmental Management Plan (Document Reference 2.7, APP-019) and its supporting appendices. The commitments within these documents are secured under the DCO.
REP1-137	Warcop Parish Council	Project and Alternatives Landscape and Visual Biodiversity	<b>1. CafÃ© 66 to [REDACTED]</b>  We welcome the decision to locate the new eastern section of carriageway to the north of the existing road between CafÃ© 66 and [REDACTED] . However, we were horrified to learn that the northern section would lead to the destruction of a line of existing trees, nearly a mile long. This will lead to the loss not only of the trees but also the wildlife that inhabits the trees. Therefore, we believe there is a case for maintaining the current trees and constructing the northern section behind the trees which will help reduce noise and visual pollution, particularly for the residents of Sandford.	The alignment of the new road has been selected through careful consideration of a number of factors including by the biodiversity team and the landscape assessment team to minimise the landscape impacts and prevent damage to sensitive habitats. While there is tree loss, this has been balanced by significant new woodland planting which reflects the existing landscape character and provides future wildlife habitat connectivity. This planting is shown on the Environment Mitigation Maps, Figure 2.8.4 sheet 2 of 5 (Document Reference 2.8, APP-041).  The assessment from viewpoints 6.3 and 6.4 in the ES Appendix 10.6 Schedule of Visual Effects (Document Reference 3.4, APP-202) describe the potential impacts on Sandford and areas beyond the Eden Valley Railway. The assessment records there could be a significant visual effect for receptors at viewpoint 6.4 during construction. Post construction, once the Project is operational, the visual effect reduces to not significant in years 1 and 15. There are no predicted significant visual effects for receptors at viewpoint 6.3.
REP1-137	Warcop Parish Council	Design, Engineering and Construction	<b>3. Sandford Roundabout location</b>  In the original plans for the Sandford junction, the roundabout from the new dualled road was located about one kilometre west of the one shown in the current plans. In order to reduce the impact on the cottages and business (Taylor and Braithwaite,) we suggest that the junction be moved further west, even if this is a hundred metres or so to the west. This would definitely improve the visual and noise impact on the cottages. We welcome the reduction in attenuation ponds and the creation of an east-west junction, which was not included originally.	The all movement junction at Sandford has been located so as to make best use of the existing B6259 and retain access to the community of Sandford to the south. This connectivity was a primary driver for the junction being moved from the previous proposal to the west.  Whilst the southern half of the junction is constrained by the tie-in to the B6259, flexibility has been built in to the draft DCO, via limits of deviation in article 7, so that it may be possible to flip the loop on the northern side of the A66, that provides eastbound movements to the west. This could potentially move part of the junction away from the properties referenced (depending on the final design chosen within the limits of deviation) but also enable impacts on the fen land to the north to be avoided. The limits of deviation are shown by the dashed green line on Work No. 06-2B on Sheet 2 of 6, of document 5.16 Works Plans Scheme 06 Appleby to Brough (Document Reference 5.16, APP-321).
REP1-137	Warcop Parish Council	Project and Alternatives	<b>4. Route East of Warcop and Brough Hill Fair Site</b>  We fully support the Gypsy and Traveller community in their desire to maintain their existing Brough Hill fair site, based on a long historical and cultural heritage and regular use. The Parish Council objects to the new proposed site as it is directly adjacent to the Heron family's houses and business buildings. Access to this proposed	National Highways considers that the response provided for Agenda item 5.0 at Issue Specific Hearing 2, as recorded on page 50 to 57 in REP1-009 Deadline 1 Submission – 7.3 Issue Specific Hearing (ISH2) Post Hearing Submission addresses these points.

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			<p>site will also bring more caravans and vehicles nearer to the village, and this might increase parking on verges. We agree too that a dual carriageway directly next to the proposed field will not be suitable for horses and could lead to them being "spooked" by the traffic noise and sounds.</p> <p>If there had been a listed church or medieval castle on the Brough Hill Far site, we are certain that an alternative adjustment to the route would have already been made. But because the human rights, culture and history of the gypsy and traveller community are invisible, NH seem unable to recognise their importance. We suggest that NH find one of two solutions: a) it provides a better alternative site in consultation with the gypsy traveller community and its representatives and local residents. b) it realigns the road slightly further to the north of the Fair site using MOD scrubland before bringing the road back to its planned route towards Flitholme junction.</p>	
REP1-137	Warcop Parish Council	Walking, Cycling and Horse-riding	<p>4. Impact on Warcop Village roads - the need for a safe footpath On completion of the new dual carriageway, and also during the construction phase, we expect traffic through Warcop to increase, especially on the B6259 from the centre of the village out towards Sandford.. Our roads are country lanes with no footpaths. Parents, children, horse riders and wheelchair users have to walk to school, church or the Parish Hall along a narrow road without street lights or pavement. It would assist the residents of Warcop if a new public footpath were to be created from the back of the Parish Hall car park, around the field and over a new bridge over Crooks Beck. This would significantly reduce the number of pedestrians on the road and make the village far safer. We know that Warcop Primary School fully supports this concept.</p>	<p>National Highways have recently submitted a designated funds application in order to complete a feasibility study to investigate providing a path within Warcop. This application will be progressed independently to the application for development consent for the Project. This would provide safe access to Warcop Primary School, Red Squirrels Nursery, Warcop Parish Hall and St. Columba's Church as well as providing a link for local residents across the village. This is subject to land owner agreement to allow access and us to utilise the land required and identified in the feasibility study. We look forward to working with Warcop Parish Council and other local stakeholders to investigate providing and delivering this opportunity if the bid is successful. The outcome of the bid should be available within Q1 of 2023.</p>
REP1-137	Warcop Parish Council	Development of the Project and Alternatives	<p>6. The "Billy Welch Straight Line" route from Brough to Warcop (central) In discussions with local residents at public meetings and other communications, Billy Welch made a suggestion that takes the new dual carriageway from Brough just to the north of the current road in as straight a line as possible, until it reaches Warcop. When plotted on a map, it soon became known as the "Billy Welch Straight Line Route." The benefit of this route is that near Brough it is not MOD land, it uses the worst-grade scrubland of the MOD's land, it is close to but straighter than the existing A66, it removes the need for any junctions at Flitholme and Langrigg, it avoids the current Brough Hill Fair site and can then re-join the NH's route across the army playing field and westwards towards Dyke Nook. It is a common sense route which would not impinge on the MOD's operations, nor would it spoil the questionable "beauty" of the alleged AONB. Rather, it would open up the currently hidden vistas of the Pennine fells and become one of the most spectacular roads in the country.</p>	<p>National Highways considers that these matters are addressed in pages 5 to 10 of the Applicant's Response to Relevant Representations Part 2 of 4 (Document Reference 6.5, PDL-011).</p> <p>Furthermore, National Highways' response at Issue Specific Hearing 1, as recorded on page 18 in REP1-006 Deadline 1 Submission – 7.2 Issue Specific Hearing (ISH1) Post Hearing Submission confirmed the justification for the extent of the incursion into the AONB and MoD land.</p> <p>While the promoted route does involve some incursions into these areas, the impact of the incursion in relation to the central section has been discussed with the Defence Infrastructure Organisation (DIO) on behalf of the MoD, who recognise that the proposal as presented in the application minimises the impact on the MoD's operations and is capable of agreement. Land beyond this further to the north has wider operational and land implications for MoD and DIO as well as substantial AONB incursion.</p>
REP1-137	Warcop Parish Council	Flooding and Drainage	<p><b>7. Flood Risk in Warcop</b></p> <p>!2 properties in Warcop were flooded in 2015 during Storm Desmond and we fear that with the additional run-off from the new road, even with the attenuation ponds, during extreme rainfall, Crooks Beck, Lowgill beck and Moor Beck will contain even more water that all channels into the main road of Warcop, increasing the chances of more serious flooding. Here is an opportunity for National Highways to work with the Parish Council, the MOD, Eden Rivers Trust, the Environment Agency and The Woodland Trust to create natural flood management measures during the construction phase that will store water safely on the fells and reduce the flow during extreme storms.</p>	<p>National Highways considers that these matters are addressed in RR-115 on page 59 of the Applicant's Response to Relevant Representations Part 3 of 4 (Document Reference 6.5, PDL-012).</p> <p>In addition, National Highways can confirm that the scheme won't increase flood risk but will work with local partners to consider any enhancement measures outside the scope of the scheme including Natural Flood Management opportunities.</p>

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REP1-010	Barnard Castle Town Council	DCO Policy and Legislation	Chapter 2: National and local planning policy having relevance to the Local Impact Report See <a href="#">TR010062-001176-Barnard Castle Town Council - Local Impact Reports.pdf (planninginspectorate.gov.uk)</a>	<p>National Highways acknowledge the points raised regarding National and Local Planning Policy. We address below each policy document that is referred to in the representation:</p> <p>1. National Networks NPS (paragraph 2.2.1 – 2.2.4) – National Highways agree that the policies referred to are relevant although policies that specifically address designated heritage assets are not referenced in this section. In this respect the Project will also need to accord with policies set out at paragraphs 5.131-5.133 of the NNNPS. We set out how through our assessment against these policies, why the preferred black route accords with policy and the blue route does not within our response to Barnard Town Council's Relevant Representation. This is set out in the Applicant's Response to Relevant Representations Addendum and Errata (Document Reference 6.6, PDL-013.1) (pages 36-42) and in the SH1 Post Hearing Submissions Agenda Item 2.1 Pages 12-14 (REP1-006).</p> <p>2. National Planning Policy Framework ((NPPF) 2021) – National Highways agree that the NPPF would be an important consideration (as set out at paragraph 2.3.2 of the Town Councils representation) but this is at the discretion of the Secretary of State (SoS) who may consider the NPPF as a relevant and important matter when determining a DCO application to the extent that it is relevant to the particular project (as required by s.104(2)(d) Planning Act 2008 and NNNPS, paragraph 1.18). Therefore, the Legislation and Policy Compliance Statement (LPCS) (Document Reference 3.9, APP-242) includes an assessment of the Project against each policy of the NPPPS, as this is the primary policy for the determination of DCO applications for NSIPs and includes also a review against some of the main principles and policies of the NPPF (at section 3.4 of the LPCS), which may be relevant to the Secretary of State decision.</p> <p>3. National Highways agree that Local Plan policy can also be a material consideration but will not be the primary policy for the Secretary of State in reaching a decision on DCO applications. We have therefore considered the Project against adopted Local Plan policy documents (including the County Durham Plan, that is referenced in the Town Council's representation) in Appendix C of the LPCS (Document Reference 3.9, APP-242). We have not reviewed the Project against the Teesdale District Local Plan, as this is a historic plan (Adopted in 2002 for Teesdale District Council which was abolished in 2009). The most up to date Local policy document relevant to that part of the Project within Durham County Council's administrative area is the County Durham Plan, referred to above.</p>
REP1-010	Barnard Castle Town Council	Cultural Heritage	Chapter 3 Character of town See <a href="#">TR010062-001176-Barnard Castle Town Council - Local Impact Reports.pdf (planninginspectorate.gov.uk)</a>	National Highways notes the details provided.
REP1-010	Barnard Castle Town Council	Traffic and Transport	Chapter 4: The road to Barnard Castle from Cross Lanes. See <a href="#">TR010062-001176-Barnard Castle Town Council - Local Impact Reports.pdf (planninginspectorate.gov.uk)</a>	<p>Responding to Paragraph 4.1, and to provide further understanding of the traffic movements that are occurring within the modelling, the following points are made.</p> <ul style="list-style-type: none"> <li>Paragraph 8.1.28 of the Transport Assessment (Document Reference 3.7, APP-236) discusses the impact of the Project on 'The Sills' within Barnard Castle, (of 524 vehicles, or less than 1 vehicle per minute) stating that there is an increase in traffic on the B6277 Moorhouse Lane, and a decrease on Barnard Castle Road (C165), because the traffic that accesses Barnard Castle from the A66 east has easier access to the B6277 Moorhouse Lane and less easy access to Barnard Castle Road, compared to the existing situation due to the proposed junction arrangements at these locations</li> </ul>

Examination Library Reference	Interested Party	Response Topic(s)	Written Representation (Verbatim)	National Highways Response
				<ul style="list-style-type: none"> <li>Paragraph 8.1.29 states that the the impact on Barnard Castle is one of a general reduction in traffic flow due to the lower flows on the A67, of around 400 vehicles AADT, including on Barnard Castle Bridge, and on Galgate within the town centre. This reduction on the A67 occurs due to the improved A66 attracting more longer distance east west traffic from the A67.</li> </ul> <p>It should be noted that the later trips no longer on the A67 are different trips (or vehicles) to the former trips (or vehicles) that are using the B6277 Moorhouse Lane / The Sills rather than Barnard Castle Road (C165) to access the Barnard Castle. In summary the only location within Barnard Castle / Startforth where traffic increases occur is on the B6277 Sills.</p> <p>As noted in Appendix 2 of Issue Specific Hearing 1 (ISH1) Post-Hearing Submissions (including written submissions of oral case) document (REP1-006), the applicant will undertake complementary environmental consideration of the forecast traffic increases on the Sills. The Applicant will submit the local level consideration and report to the examination for Deadline 3.</p>
REP1-010	Barnard Castle Town Council	Traffic and Transport Design Engineering and Construction	<p><b>Chapter 5: Traffic Congestion and Road Safety</b></p> <p>See <a href="https://www.planninginspectorate.gov.uk/tr010062-001176-Barnard-Castle-Town-Council-Local-Impact-Reports.pdf">TR010062-001176-Barnard Castle Town Council - Local Impact Reports.pdf</a> (<a href="https://www.planninginspectorate.gov.uk">planninginspectorate.gov.uk</a>)</p>	<p>To address Bullet 1 and 2 on page 27, namely the allegation that National Highways have not properly assessed the B6277/A67 route down which they expect the Black route will push traffic, to determine if it is capable of handling the excess and is thus a valid and safe alternative to the Blue route, and that National Highways have not properly assessed the risk to and from traffic using the B6277/A67 and given it proper weighting in their sifting process when deciding if a western junction at Rokeby was a valid option.</p> <p>The route selection process for Scheme 08 (Cross Lanes to Rokeby) was considered as part of agenda item 2.1 in Issue Specific Hearing 1. With particular reference to the "blue option", National Highways has summarised the position on pages 9-12 of the Issue Specific Hearing 1 (ISH1) Post-Hearing Submissions (including written submissions of oral case) document (REP1-006). This includes a post-hearing note which provides clarity on the application of policy regarding heritage for the blue and black options. This considers paragraphs 5.131 and 5.132 of the NNNPS. However, it does not extend to considering paragraph 5.133 because neither option would lead to substantial harm or to a total loss of significance of a designated heritage asset.</p> <p>To address Bullet 3 and 4 on page 27, namely the allegation that National Highways have both failed to properly assess risks to walkers, cyclists and horses along the affected route and ignored such risks where they have been identified, and given this, National Highways have not properly considered all the implications from and conflicts with the NPPF and NPS (as well as local planning policy) created by this route.</p> <p>As noted in Appendix 2 of Issue Specific Hearing 1 (ISH1) Post-Hearing Submissions (including written submissions of oral case) document (REP1-006), in addition to the submitted application documents, ES Chapters 5, 12 and 13 (Document Reference 3.2, APP-048, APP-055 and APP-056) National Highways will undertake complementary environmental consideration of the forecast traffic increases on the Sills. National Highways will submit the local level consideration and report to the examination for Deadline 3.</p> <p>To address bullet 5 the point that the newest traffic figures on which National Highways now rely are at odds with the previous figures, with no adequate explanation as to how these figures were calculated:</p>

Examination Library Reference	Interested Party	Response Topic(s)	Written Representation (Verbatim)	National Highways Response
				<ul style="list-style-type: none"> <li>• The Local Traffic Report which was issued as part of Statutory Consultation did report that the increase on Moorhouse Lane (Near Barnard Castle) i.e. the Sills would increase flow by 1037 vehicles, within Table 10-2. However, following publication of the Local Traffic Report an issue was noted with the Black Route flows, in so much as modelled results included within the Local Traffic Report corresponded to the results of a superseded but previously unpublished layout, and not to the correct results of from the Black Route option.</li> <li>• This issue was noted by officers of Durham County Council (DCC) as the flow levels on 'The Sills' were higher than they expected. A correction as noted within Table 3-1 of the Statement of Common Ground ("SoCG") with Durham County Council ("DCC") (Document Reference 4.5, APP-278), and noted that the increase would be 480 vehicles, i.e. roughly half of that stated within the Local Traffic Report.</li> <li>• The error occurred as the coding for the model reported within the Local Traffic Report was from a (previously unpublished) option where the eastbound merge located at the gates/fence of Rokeby Park was not included, and therefore both eastbound and westbound traffic using the new A66 Rokeby Junction would need to travel the additional 1.5 miles, rather than just westbound traffic needing to do so within the black option. This explains the increases on the B6277 Moorhouse Lane and The Sills, as additional traffic has diverted to this route in this run, as opposed to using Barnard Castle Road.</li> </ul> <p>To address concerns regarding HGVs within Barnard Castle (paragraphs 5.1.10.1 to 5.1.11) this will be considered when developing the Construction Traffic Management Plan (CTMP).</p> <p>Annex B13 of the Environmental Management Plan (EMP) (Document Reference 2.7, APP-033) provides an extended essay plan for the 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 set out the proposed Temporary Traffic Management (TTM) measures for implementation during the construction of the Project. Major local businesses and other stakeholders that are likely to be impacted by the proposed traffic management will also be consulted regarding this CTMP. This will ensure that a comprehensive, detailed Traffic Management Plan is available and understood by all parties prior to commencing the works on site.</p> <p>The CTMP will be developed to ensure that the following key objectives are considered and addressed:</p> <ul style="list-style-type: none"> <li>• Safety of the travelling public, non-motorised users and roadworkers to ensure that no person is injured either working within or travelling through the site on the strategic road network.</li> <li>• Clarity of temporary traffic management schemes to ensure that the CTMP is built around the customers and stakeholders.</li> <li>• Minimising delays to travellers on both trunk and local roads.</li> <li>• Meeting the needs of the relevant Local Highway Authorities.</li> <li>• Addressing the needs of key local stakeholders.</li> </ul> <p>Maintaining adequate access for the emergency services and all affected properties during the construction works.</p>

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REP1-010	Barnard Castle Town Council	Population and Human Health	<p>Chapter 6: Public Health Impact and associated costs</p> <p><a href="#">TR010062-001176-Barnard Castle Town Council - Local Impact Reports.pdf (planninginspectorate.gov.uk)</a></p>	<p>Chapter 6 (Paragraph 6.1.1 - 6.2.11) raises concerns about air quality impacts in the Barnard Castle Town Council area. 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) (Document Reference 3.2, APP-048).</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>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"> <li>• More granular / environment assessment of the impact of increased traffic on the Sills (including the consideration of Air Quality).</li> <li>• Institute of Environmental Assessment and Management ("IEMA") subjective assessment of being a pedestrian/pedestrian experience and consideration of noise in the same context</li> </ul> <p>National Highways will submit the local level consideration and report to the examination for Deadline 3.</p> <p><b>Human Health Response</b></p> <p>The development of the design for the Project, including alternative routes considered and the decision-making process is set out in the Project Development Overview Report (PDOR) (Document Reference 4.1, APP-244). Impacts on human health informed this process and were considered alongside a range of other factors, including policy conformance and engineering design. Please refer to Section 4 of the PDOR for further information.</p> <p>The effects of changes in traffic-related air quality on population health are considered in ES Chapter 13 Population and Human Health (Document Reference 3.2, APP-056). The scale of change in exposure to air emissions in the Cross Lanes to Rokeby area (including Barnard Castle) is not considered to have the potential to affect population health.</p> <p>Other effects on public health raised in the LIR are considered in ES Chapter 13. Health effects from traffic congestion and road safety issues, raised in LIR Chapter 5, are considered in the ES. As noted in Appendix 2 of Issue Specific Hearing 1 (ISH1) Post-Hearing Submissions (including written submissions of oral case) document (REP1-006), National Highways will undertake complementary environmental consideration of the forecast traffic increases on the Sills. This will include an assessment of the effects of increased traffic on health and wellbeing. National Highways will submit the local level consideration and report to the examination for Deadline 3.</p>

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				Health issues associated with the economic effects of the Project (raised in LIR Chapter 9) are considered in the Routewide assessment in ES Chapter 13. There is no evidence that any increase in traffic along the B6277/A67 route will have a depressive effect on the local economy and therefore no adverse effects on the health and wellbeing of the population are expected.
REP1-010	Barnard Castle Town Council	Cultural heritage	Chapter 7 – Built Landscape – heritage costs See <a href="https://www.planninginspectorate.gov.uk/tr010062-001176-Barnard%20Castle%20Town%20Council%20-%20Local%20Impact%20Reports.pdf">TR010062-001176-Barnard Castle Town Council - Local Impact Reports.pdf (planninginspectorate.gov.uk)</a>	<p><u>Cultural heritage</u></p> <p>Para 7.2.2 – Barnard Castle Town Council state that they do not wish, in their response to question the assessment of the effects on the scheme on St Mary's Church, but rather focus on the impacts to designated heritage resources in Barnard Castle from increased traffic. This response, therefore, focuses on the comments relating to impacts to Barnard Castle.</p> <p>Assessment of the potential impacts on heritage resources within Barnard Castle was beyond the scope of the heritage assessment as, with the exception of the Sills, there would be a reduction of traffic along roads within the town. As such, there would be no harm to the conservation area or the properties along Moorhouse Lane, Bridgegate and the Bank which are referenced in paragraph 7.2.7, and the county bridge and market cross (paragraph 7.2.9).</p> <p>The only road within the town which would see an increase in traffic is the B6277, the Sills (Paragraph 8.1.28 of the Transport Assessment (Document Reference 3.7, APP-236). There are three Grade II listed buildings which face directly onto this road – Bridge End House with adjacent coach house and yard walls (NHLE: 1121649), the Forecourt Walls, railings and gate to Number 5 (NHLE: 1121650) and the White Swan Public House Swan Cottage (NHLE: 1121648).</p> <p>As detailed in the Traffic Technical Note submitted as part of the Issue Specific Hearings (7.2 ISH1 Post Hearing Submissions Appendix 1, Document Reference: NH/EX/7.2) the difference in traffic on the B6277 The Sills between the Black option and Do Minimum is an increase in 480, while the Blue is an increase in 397, meaning that the increase resulting from the Black option, rather than the Blue option, is a change of 83 vehicles per day – this is less than 10 additional vehicles per hour.</p> <p>The Town Council have stated that an increase of traffic in proximity to a heritage asset will result in harm, based on the assessment made of St Mary's Church, Rokeby. While this is often the case, the contribution of the setting of a heritage resource to its value is not the same for every resource. St Mary's Church is a building designed as a 'gateway' into a designed landscape and the scale and nature of traffic along the A66 has been assessed specifically in relation to it. The three listed buildings on the Sills have a setting which includes the junction with the County Bridge. Their architectural and historic interest is derived from their age and the architectural evidence for changing use over time and they have group value as part of the wider collection of historic buildings within the town. While there would be an increase in traffic, the increase would not result in a significant effect necessitating individual assessment and, further, the difference between the Black and Blue options is negligible in terms of an impact on heritage resources in Barnard Castle.</p> <p>The Town Council also raised the potential issue of corrosion to buildings resulting from changes to air quality. [See AQ response] The overall reduction in traffic to Barnard Castle doesn't support this concern.</p> <p>The Town Council conclude that the Black Route does not reduce traffic damage to heritage assets (namely St Mary's Church and Rokeby Park) but rather diverts the effects to heritage resources in Barnard Castle (paragraph 7.3.13). The overall</p>

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				reduction in traffic to Barnard Castle, with the exception of the Sills where there are three Grade II listed buildings, does not support this (Traffic Technical Note, ISH1 Post Hearing Submissions Appendix 1, Document Reference: NH/EX/7.2).
REP1-010	Barnard Castle Town Council	Socio economics	Chapter 8: Natural Landscape See <a href="https://www.planninginspectorate.gov.uk/tr010062-001176-Barnard-Castle-Town-Council-Local-Impact-Reports.pdf">TR010062-001176-Barnard Castle Town Council - Local Impact Reports.pdf</a> ( <a href="https://www.planninginspectorate.gov.uk">planninginspectorate.gov.uk</a> )	<p>The development of the design for the Project, including alternative routes considered and the decision-making process is set out in Project Development Overview Report (PDOR) (Document Reference 4.1, APP-244). Traffic flows and potential environmental impacts of the development informed this process and were considered alongside a range of other factors, including policy conformance and engineering design. Please refer to Section 4 of the PDOR for further information.</p> <p>The comments relating to Biodiversity under 8.3.1 and 8.3.2 are noted, particularly in relation to the additional information provided regarding the Tees River and Deepdale Nature Reserve. A full assessment of the likely significant effects of the Project is provided within Environmental Statement (ES) Chapter 6 Biodiversity (Document Reference 3.2, APP-049). This includes an assessment on all statutory and non-statutory designated sites and protected/notable species and habitats within the relevant Zones of Influence surrounding the Project. To inform this assessment, a full suite of species-specific surveys has been undertaken and should be referred to (full results are detailed in Technical Appendices Document Reference 3.4, APP-155 to APP-175). The environmental mitigation design has been developed to ensure mitigation is provided for impacts on protected species/designated sites and replacement habitats are provided for those lost, achieving a minimum of no net loss. Opportunities to maximise biodiversity enhancements have been sought where possible. This approach is compliant with the National Policy Statement for National Networks (NPSNN), as set out in Table 6-2 within ES Chapter 6 Biodiversity (Document Reference 3.2, APP-049), and the NERC Act 2006 through the full regard of all habitats and species of Principle Importance (Document Reference 3.2, APP-049). This approach is also compliant with relevant regional and local level policies as set out in Table 6-3 within ES Chapter 6 Biodiversity (Document Reference 3.2, APP-049).</p> <p>National Highways considers that both the Project and the Cross Lanes to Rokeby Scheme accord with the policies set out in Section 8.3 of the Town Council's representation. We acknowledge (as set out at paragraph 8.3.5) that the NNNPS recognises that for road networks to be sustainable they "should be designed to minimise social and environmental impacts [NPS 3.2]. As part of this, applicants should "avoid and mitigate" environmental impacts "in line with the principles set out in the NPPF and the Government's planning guidance" [NPS 3.3].</p> <p>The Project complies within these Policy objectives as set out in the Legislation and Policy Compliance Statement (LPCS) (Document Reference 3.9, APP-242). In relation to paragraph 3.2 of the NNNPS the LPCS concludes (at page 61) that "The Project's Environmental impacts have been assessed through an ES (Application Documents 3.2-3.4). The Project has been designed to meet the above objectives within minimal social and environmental impacts and aims to improve quality of life. Assessments have been undertaken to understand the level of impact of the existing (baseline) road, the construction phase and the operational phase of the route on relevant receptors."</p> <p>With respect to the policy requirement (set out at paragraph 3.3 of the NNNPS) to provide evidence of consideration of reasonable opportunities to deliver environmental and social benefits as part of schemes, chapter 3 of the Case for the Project (CfP) (Document Reference 2.2, APP-008), provided a summary of the transport, economic, environmental and social benefits that the Project will</p>



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				<p>deliver. In addition, the CFTP at Table 6-18 describes the economic, transport, community and environmental benefits associated with the Cross Lane to Rokeby scheme. There is no evidence that the economic, transport, community and environmental benefits associated with the Cross Lane to Rokeby scheme, as set out in Table 6-19 would be any greater for the blue route, compared to the black route.</p>
REP1-010	Barnard Castle Town Council	Agriculture and soils	<p>Chapter 9: Economic See <a href="https://www.planninginspectorate.gov.uk/tr010062-001176-Barnard-Castle-Town-Council-Local-Impact-Reports.pdf">TR010062-001176-Barnard Castle Town Council - Local Impact Reports.pdf (planninginspectorate.gov.uk)</a></p>	<p>National Highways does not agree with the Town Council's conclusions set out in bullet points at the front of chapter 9 of their representation that:</p> <ol style="list-style-type: none"> <li>1. an increase in traffic along the B6277/A67 route will have a depressive effect on the local economy via congestion and pollution.</li> <li>2. that increased congestion and pollution will have a depressive effect on local house prices.</li> <li>4. that given congestion is likely to increase owing to the selection of the Black route, selecting the Blue junction at Rokeby will be more in line with planning policy and offer significant benefit to the town and its environs.</li> </ol> <p>We agree with the statement set out in the 3<sup>rd</sup> bullet point "that national and local planning aims to support local economies, especially NPPF 6 (strong, competitive economy) and 7 (the vitality of town centres)" but we do not consider that the Project conflicts with these policy objectives in any way and in fact the Project as well as the Cross Lane to Rokeby Scheme will help in achieving many of the economic and town centre objectives of the NPPF and similar policy objectives that are set out in the NNNPS. We address each of the four bullet points in turn, with reference to section 6.7 of the Case for the Project (Document Reference 2.2, APP-008), which sets out the Case for the Cross Lanes to Rokeby Scheme:</p> <ol style="list-style-type: none"> <li>1. There is no evidence that any increase in traffic along the B6277/A67 route will have a depressive effect on the local economy via congestion and pollution. Table 6-19 of the Case for the Project, which reviews the Cross Lanes to Rokeby Scheme against the Project objectives identifies that in addition to improving the strategic route network, the Scheme also makes improvements to the local road network, with new junctions and 'offline' improvements, removing local traffic from the A66, making local movements more efficient.</li> <li>2. There is no evidence that there will be increased congestion and increased pollution, which will have a depressive effect on local house prices. Table 6-19 of the Case for the Project, which reviews the Cross Lanes to Rokeby Scheme against the Project objectives identifies that reduced congestion and fewer vehicles idling will reduce emissions, helping to improve localised air quality. Further details on the environmental benefits of the scheme are outlined within the ES (Document Reference 3.2, APP-044 to 3.4, APP-233).</li> <li>3. As set out above there is no evidence that the Scheme and Project would conflict with the policy objectives 6 and 7 of the NPPF and in fact the Project as well as the Cross Lane to Rokeby Scheme will help in achieving many of the economic and town centre objectives, given the findings set out in Table 6-19 of the Case for the Project.</li> <li>4. There is no evidence that the economic, transport, community and environmental benefits associated with the Cross Lane to Rokeby scheme, as set out in Table 6-19 would be any greater for the blue route, compared to the black route.</li> </ol>

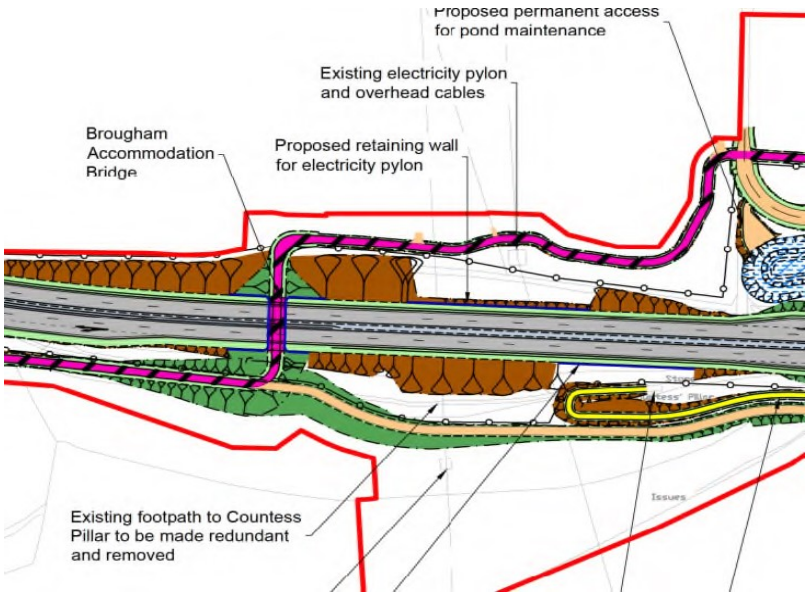
Examination Library Reference	Interested Party	Response Topic(s)	Written Representation (Verbatim)	National Highways Response
REP1-010	Barnard Castle Town Council	Cultural Heritage Development of project and alternatives Traffic and Transport	Chapter 10: Closing arguments See <a href="#">RR-215 Barnard Castle Town Council.pdf</a> Historic Suitability of Black Junction	<p><u>Cultural heritage</u></p> <p>The Council response states that Historic England's position should have been given less weight by National Highways. The views of the statutory consultee have been given due consideration by National Highways.</p> <p>The Council states that the Blue option at Rokeby Park would not cause the harm attributed to it by National Highways and Historic England and, instead, the Black option would have greater impact due to the increased traffic in Barnard Castle. With the exception of the Sills, where there are three listed buildings, there would be a reduction of traffic along roads within the town. As such, there would be no harm to the conservation area or the many designated heritage resources within it. The only road within the town which would see an increase in traffic is the B6277, the Sills (Paragraph 8.1.28 of the Transport Assessment (Document Reference 3.7, APP-236). While there would be an increase in traffic levels on the B2677, the Sills, it would not have a significant effect on cultural heritage assets and the difference between the options is negligible in heritage terms. In contrast, the blue option at Rokeby Park would bring dual-carriageway traffic immediately in front of St Mary's Church and would result in cutting directly through the Grade II* Registered Park and Garden of Rokeby Park.</p> <p><u>Suitability of the Black junction</u></p> <p>National Highways considers these points addressed by Agenda Items 2.0 and 2.1 of Deadline 1 Submission – 7.2 Issue Specific Hearing 1 (ISH1) Post Hearing Submissions (REP1-006).</p> <p>The development of the design for the Project, including alternative routes considered and the decision-making process is set out in the Project Development Overview Report (PDOR) (Document Reference 4.1, APP-244). Impacts on traffic, heritage and wider public benefits of the scheme informed this process and were considered alongside a range of other factors, including policy conformity and engineering design. Please refer to Section 4 of the PDOR for further information.</p> <p>Responding to Paragraph 10.3.1 to 10.3.4, and to provide further understanding of the traffic movements that are occurring within the modelling, the following points are made:</p> <ul style="list-style-type: none"> <li>Paragraph 8.1.28 of the Transport Assessment (Document Reference 3.7, APP-236) discusses the impact of the Project on 'The Sills' within Barnard Castle, (of 524 vehicles, or less than 1 vehicle per minute) stating that there is an increase in traffic on the B6277 Moorhouse Lane, and a decrease on Barnard Castle Road (C165), because the traffic that accesses Barnard Castle from the A66 east has easier access to the B6277 Moorhouse Lane and less easy access to Barnard Castle Road, compared to the existing situation due to the proposed junction arrangements at these locations.</li> <li>Paragraph 8.1.29 states that the the impact on Barnard Castle is one of a general reduction in traffic flow due to the lower flows on the A67, of around 400 vehicles AADT, including on Barnard Castle Bridge, and on Galgate within the town centre. This reduction on the A67 occurs due to the improved A66 attracting more longer distance east west traffic from the A67.</li> </ul> <p>It should be noted that the later trips no longer on the A67 are different trips (or vehicles) to the former trips (or vehicles) that are using the B6277 Moorhouse Lane / The Sills rather than Barnard Castle Road (C165) to access the Barnard Castle. In summary the only location within Barnard Castle / Startforth where traffic increases occur is on the B6277 Sills.</p>

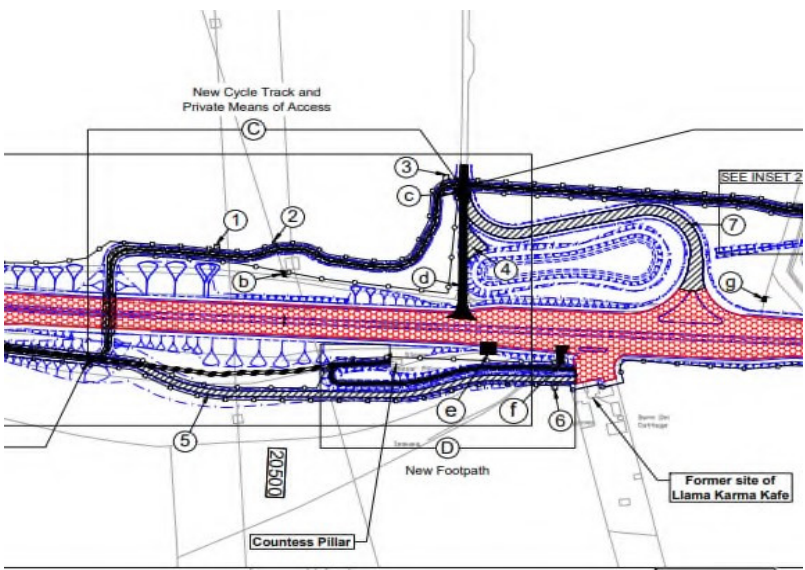
Examination Library Reference	Interested Party	Response Topic(s)	Written Representation (Verbatim)	National Highways Response
				As noted in Appendix 2 of Issue Specific Hearing 1 (ISH1) Post-Hearing Submissions (including written submissions of oral case) document (REP1-006), the Applicant will undertake complementary environmental consideration of the forecast traffic increases on the Sills. The Applicant will submit the local level consideration and report to the examination for Deadline 3.
REP1-014	Cumbria and Lakes Joint Local Access Forum	WCH	<p>This representation is from the Cumbria and Lakes Joint Local Access Forum (C&amp;LJLAF). The C&amp;LJLAF is a statutory body with its members appointed by the Lake District National Park Authority and Cumbria County Council under the Countryside and Rights of Way (CROW) Act 2000. The statutory function of local access forums is to advise as to the improvement of public access to land in the area for the purposes of open-air recreation and the enjoyment of the area. As successors of Highways England and The Highways Agency, National Highways is one of the bodies to which s94 of the CROW Act 2006 makes it a statutory function of local access forums to advise.</p> <p><b>Summary</b></p> <p>This representation addresses issues relating to the provisions to be made for pedestrians, horse riders and pedal-cyclists (that is none-motorised users) arising from the sections of project that are in Cumbria, (that is sections 0102, 03, 04, 05 and 06); and how those public access provisions are represented in the Draft Consent Order, on the associated Rights of Way and Access Plans (library documents APP-342 to APP-345), and in the Walking, Cycling and Horse Riding proposals (WCH) (library document APP-010). And in particular it addresses some aspects of apparently inconsistent depicting of public access provision, especially as it relates to multiple use and use of private access roads; and the lack of east-west provision for off-carriageway horse-riding.</p> <p>1. At library document PDL-031 this local access forum sought initially absent provision of east-west connectivity for non-motorised traffic, and suggested that sections of hitherto private access provision should be also made available for public use. That those suggestions have been adopted in some measure in the current Draft Consent Order (DCO) is welcomed.</p>	Comment noted and issues raised in the representation are addressed below.
REP1-014	Cumbria and Lakes Joint Local Access Forum	Consultation and Engagement Process	<p>2. The local access forum is aware that making previously proposed private / landowner access roads provision into access that is shared with members of the public is not supported by all landowners for security and safety reasons, and it is hoped that those concerns can continue to be worked through to the satisfaction of all interests.</p>	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 issue, this will include consultation on a change to our DCO submission to include for segregation between PROW's and PMA's. 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.
REP1-014	Cumbria and Lakes Joint Local Access Forum	Walking, Cycling and Horse-riding	<p>3. However, some aspects of that east-west provision remain unclear. The WCH document refers throughout to 'proposed shared cycleway/ footway'; but the DCO Part 1 refers with reference to Scheme 0102 to provision of 'new shared cycleway'; but at Scheme 03 the terms 'new cycle track' or 'new cycleway' are employed (with no reference to 'shared') is used in some locations, and 'new shared cycleway' continues to be referenced in others. Since the WCH uses a term that doesn't feature in the Order, and at least three different terms are used in the Order do we assume that they mean different things – different forms of way for pedal cycles: some that will be shared by pedestrians and some that will not? Or has there been some 'untidy' or inconsistent referencing of terms relating to pedal-cycle provision?</p>	<p>National Highways considers that many of these matters are addressed in the Applicant's Response to Relevant Representations Part 2 of 4 (Document Reference 6.5, PDL-011) to the Ramblers, Penrith Group, RR-021.</p> <p>4. The term 'shared' that has been included for several of the descriptions could be deemed superfluous but was provided to help clarify to the reader (who may not be as well versed in the terminology) to understand that the facilities would be shared.</p> <p>5. Both the definition of 'cycle track' and 'cycleway' contained in article 2(1) of the draft DCO extend to a right of way on foot. The key distinction between the terms as they are used in relation to this Project is that a 'cycle track' is considered to be</p>

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			<p>4. It is realised that by reference to s329 Highways Act 1980 definitions of 'cycle track' and 'cycleway' are included in the Interpretation section of Part 1 of the DCO, but there is no definition of 'shared cycleway / footway' or of 'shared cycleway'. By definition a 'cycleway' is a way shared with pedal-cycles and pedestrians, so we wonder why the term 'shared' has been added in the text of the DCO? We wonder which other classes of user a 'shared cycleway' may be shared with? Those terms need to be clarified.</p> <p>5. Also, the definition of 'cycle track' is referenced to the definition contained in s329 Highways Act 1980. But that definition is not definitive concerning rights on foot.</p> <p>6. Reassurance is sought that the whole of the new east-west provision for non-motorised users will be for pedestrians and pedal-cyclists, and for users with limited mobility and aided by trampers ...</p> <p>7. ... and why not also for horse-riders?</p> <p>8. It is regretted that, despite its apparently all-embracing title, and the Walking, Cycling and Horse Riding document's frequent references to horse riders, it includes little or no new provision for east-west connectivity for horse-riders ... and this lack is carried through to the DCO. It verges on the disingenuous that Map 1 at Appendix A of the WCH document, though titled Walking, Cycling and Horse Riding Overview, features no provision for horse riders. Indeed it specifically notes that the map relates to '... these new walking and cycling routes'. This general failure of the WCH to acknowledge the needs of horse-riders is reflected in the DCO. We understand that the British Horse Society continues to try to have this general oversight addressed and we ask the applicants to respond positively to that.</p> <p>9. An issue which was raised in some representations to the Preliminary Hearing, relates to the nature of mapping supplied by the applicant at consultation stage. The notation employed to depict various aspects of proposals relating to public access rights, such as extinguishments, creations, and diversions were very confusing. The notation employed made it difficult to interpret with certainty what was proposed and consequently difficult to comment totally constructively at that time. Later expression of proposals relating to public rights of way as detailed in the Walking, Cycling and Horse-Riding document and the Rights of Way and Access Plans are improved ... but deciphering the complex notation that statute requires be used in Side-Road Orders isn't easy. And in a number of locations we believe they are in error. We won't take you through them all, but here are a few that we've identified:</p> <p>9.1 At 0102 a section of footpath 358006 falls within the curtilage of the project and ends at the carriageway, but appears not to be subject to any extinguishment. Is this an oversight?</p> <p>9.2 On sheet 2 of scheme 03, at the realigned junction with byway open to all traffic 311013 to Ninekirks (ref G on sheet 2), no provision is made for access from the westbound carriageway, but private crossing of the carriageway is provided by underpass which could usefully be employed to provide access to the byway from the westbound carriageway.</p> <p>9.3 On sheet 3 of scheme 3 there appears to be an error in the description of A* which refers to a 'shared cycleway' with references to High Barn which possibly are wrongly orientated. And what happens at B* where there is a section or 'shared cycleway' with no notation.</p> <p>9.4 At sheet 1 of scheme 06 reference to a length of new cycle way 'in a generally north westerly direction' should read as 'in a generally south easterly direction'.</p>	<p>a highway in its own right with its own highway boundary, whereas a 'cycleway' forms part of a wider highway. The Applicant has amended article 2(1) of the draft DCO in the version of the DCO submitted at this Deadline 2 to make that distinction more clearly.</p> <p>6-The east-west provision for non-motorised users is generally for shared use with pedestrians and pedal cyclists.</p> <p>7 &amp; 8. The Applicant has sought to integrate the Project into the existing public rights of way network by ensuring that existing bridleways that would be severed by the dualling works are proposed to be reconnected via grade-separated crossings. It is not intended to create additional horse-riding infrastructure across the A66.</p> <p>9. The comments made in relation to the requirements for the presentation of Side Roads Orders, which have long been adopted for use in Development Consents Orders is noted. The technical expertise required to appreciate what is shown by them and the need for a more user friendly explanation is one of the reasons why National Highways produced the Walking, Cycling and Horse-Riding Proposals (Document Reference 2.4, APP-010).</p> <p>9.1 This section of footpath currently terminates at the existing A66. It is therefore not proposed to extinguish this and so it is not shown as being stopped up.</p> <p>9.2 The existing Byway Open to All Traffic 311/013 terminates at the existing A66 and does not extend to the south of that carriageway. The underpass provided adjacent to this BOAT is a private accommodation structure to allow the landowner safe access to farm fields on the north side of the carriageway.</p> <p>9.3 These references will be reviewed and if required updated accordingly. As reference B* is within the current Highway boundary it is not appropriate to denote this as a separate Public Right of Way.</p> <p>9.4/9.5 These references will be reviewed and if required, corrected in a future iteration of the draft DCO accordingly.</p> <p>10. The comment is noted, but the intention of the Walking, Cycling and Horse-Riding Proposals (Document Reference 2.4, APP-010) is to show how the Project would integrate with the existing public rights of way network by showing the "end state" envisaged. To provide this clarity, it necessarily has to lose some of the precision demanded by the requirements of the notation of the Rights of Way and Access Plans. The details pertaining to diverted or extinguished paths is contained within the Rights of Way and Access Plans (for the respective scheme) (Document Reference 5.19, APP-343-349) and Draft Development Consent Order (Document Reference 5.1, APP-285).</p> <p>11/12/13. It is important to clarify that a footpath and cycle track are legal entities that are outside of the highway boundary, whereas a footway and cycleway are within the highway boundary. It is therefore not appropriate to show/denote separate rights of way for footways and cycleways (as they are included within the highway boundary). As a consequence, these have not been hatched as public rights of way and this is why there is a difference between how they have been presented across the various schemes.</p> <p>14. See response to the Penrith Rambler Group above (REP1-127).</p>

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			<p>9.5 A similar comment applies to cycleway ref. A* on sheets 1 to 5 of Scheme 06 between Café 66 and Flitholme. The draughts-person appears to sometimes confuse east and west, north and south.</p> <p>10. In the WCH document the lack of clarity relating to notation for public paths is repeated where the notation fails to clearly differentiate between existing paths that are to be diverted or extinguished and existing paths that are to remain unchanged.</p> <p>11. We wonder if the draughtsperson for the plans at section 06 (APP-345) has been working to a set of different notation / plan key rules. The manner in which public rights of way that are intended to be coincident with private access routes are shown at APP-345 is different from the way they are depicted on other section plans (APP-342 to APP344), especially within the trunk road boundary line. On APP-345 the depiction of public paths on otherwise private roads is inconsistent with the way that such dual-routes are depicted on the mapping for the other sections of the proposals.</p> <p>12. Those errors and oversights on the access and rights of way mapping need attention.</p> <p>13. This local access forum commends to the ExA the further detailed points made in the representations from the Penrith Group of The Ramblers. There is every chance that neither the Ramblers nor the local access forum has identified all those errors. On the other points raised by The Ramblers, the responses made by the applicant at PDL-011 /RR-021 are not understood. Is there some misrepresentation or misunderstanding of what are public footpaths and what are footways?</p> <p>14. This local Access Form also supports the comments made by the Penrith Group Ramblers concerning access to the Countess Pillar ...</p> <p>15. ... and by The British Horse Society concerning lack of provision in the project proposals for horse-rider access.</p>	
REP1-014	Cumbria and Lakes Joint Local Access Forum	DCO Policy and Legislation	16. In conclusion ..... a thorough checking system needs to be put in place to ensure that the Side-roads Orders that will result from the Development Consent Order are free of errors which once in a confirmed Side Roads Order are next to impossible to correct and can lead to future disputes.	As set out in National Highways Response to Relevant Representations Part 4 of 4 (Document Reference 6.5, PDL-013), the DCO will contain all statutory powers required to facilitate the Project, including those that would ordinarily be contained in a Side Roads Order. As such, no separate Side Roads Order will be brought forward (and indeed cannot be brought forward under the Planning Act 2008).
REP1-025	Gateshead Council		I refer to correspondence relating to above project received 8 December 2022 and confirm we have no comments to make.	No response required.
REP1-031	BCLP LLP (on behalf of National Grid Electricity Transmission Plc)	Landowner	<p>1 INTRODUCTION</p> <p>1.1 National Grid Electricity Transmission Plc ("NGET") made a relevant representation in this matter on 24 August 2022 in order to protect its existing apparatus.</p> <p>1.2 NGET does not object in principle to the development proposed by National Highways Limited (the "Promoter") and as defined as the "Authorised Development" in the draft Development Consent Order (the "Draft Order").</p> <p>1.3 NGET does, however, object to:</p> <p>(a) the Authorised Development being carried out in close proximity to its apparatus in the area unless and until suitable protective provisions and related agreements have been secured to its satisfaction, to which see further at Paragraph 5; and</p> <p>(b) any compulsory acquisition powers for land or rights or other related powers to acquire land temporarily, override or otherwise interfere with easements or rights or stop up public or private rights of access being invoked which would affect its land interests, rights, apparatus, or right to access and maintain its apparatus. This is unless</p>	<p>As requested by National Grid, Schedule 9 to the draft DCO submitted at Deadline 2 has been updated to include separate protective provisions for the benefit of National Grid Gas plc (NGG) and National Grid Electricity Transmission plc (NGET).</p> <p>Discussions are ongoing in respect of a separate side agreement with NGET.</p> <p>The Applicant is confident that agreement will be reached prior to the end of the Examination.</p>

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			<p>and until suitable protective provisions and any other necessary and related amendments have been agreed and included in the Draft Order.</p> <p>1.4 NGET owns and operates the electricity transmission network in England and Wales, with day-to-day responsibility for balancing supply and demand. NGET operates but does not own the Scottish networks. NGET is required to comply with the terms of its Electricity Transmission Licence in the delivery of its statutory responsibility. Under Section 9 of the Electricity Act 1989, NGET has a statutory duty to maintain 'an efficient, co-ordinated and economical' system of electricity transmission.</p>	
REP1-031	BCLP LLP (on behalf of National Grid Electricity Transmission Plc)	Walking, Cycling and Horse-riding Design, Engineering and Construction	<p><b>2 NGET ASSETS</b></p> <p><b>2.1 Overview</b></p> <p>2.1.1 NGET has had an opportunity to review the documentation and plans submitted with the Promoter's application for the Authorised Development. NGET's specific concerns and/or operational requirements relating to the Authorised Development, which have already been raised with the Promoter, are summarised in the following paragraphs of this Written Representation.</p> <p>2.1.2 NGET's existing 400kV high voltage overhead electricity transmission line 4ZX (the "OHL"), which runs from Harker to Hutton 1 and 2, is situated within close proximity to the Authorised Development.</p> <p>2.1.3 The OHL and associated towers form an essential part of the electricity transmission network in England and Wales.</p> <p><b>2.2 Proximity to Tower ZX117R</b></p> <p>2.2.1 NGET is particularly concerned about the close proximity of tower number ZX117R to the new shared cycle track and private means of access (Work No. 03-7A) which is proposed to be constructed as part of the Authorised Development. The close proximity of Tower ZX117R to the widened eastbound carriageway of the A66 (including proposed retaining wall) is also of concern.</p> <p>2.2.2 Tower ZX117R is shown in the following extract from Sheet 1 of the General Arrangement Drawings (Scheme 03 Penrith to Temple Sowerby) submitted by the Promoter as part of its application for development consent:</p>	Discussions are ongoing with NGET regarding the design of the cycle track in proximity to Tower ZX117R. The Applicant is confident that it will be able to provide sufficient assurances to NGET in due course so as to enable NGET to withdraw its objection prior to the close of the Examination.

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			 <p>2.2.3 NGET understands that the distance currently shown between the base of Tower ZX117R and the shared cycle track forming part of Work No. 03-7A is four (4) metres. This is significantly less than the ten (10) metre minimum clearance which is stipulated in NGET's published guidance.</p> <p>2.2.4 Discussions on this matter have already taken place between NGET and the Promoter. At a meeting on 13 December 2022, the Promoter shared revised design drawings which indicated there would now be a ten (10) metre clearance from the base of Tower ZX117R to works proposed to be constructed as part of the Authorised Development. This would include a ten (10) metre clearance in respect of the shared cycle track to the north of Tower ZX117R and a ten (10) metre clearance to the south in respect of the eastbound carriageway of the A66.</p> <p>2.2.5 Whilst the Promoter has, as part of those discussions, committed to relocate the cycle track so that it is a minimum of ten (10) metres away from the base of Tower ZX117R, NGET has not yet received satisfactory confirmation from the Promoter as to when and how any change to the route of the cycle track in this location will be shown in updated versions of the Works Plans and General Arrangement Drawings.</p> <p>2.2.6 Without further reassurance on this point (including relevant submissions being made to the Examining Authority by the Promoter), NGET must continue to note its strong concerns as to the design of the Authorised Development in its present location.</p>	
REP1-031	BCLP LLP (on behalf of National Grid Electricity Transmission Plc)	Walking, Cycling and Horse-riding Design, Engineering and Construction	<p><b>2.3 Design &amp; Operation of the Cycle Track</b></p> <p>2.3.1 In addition to the above, NGET would request clarification from the Promoter as to the proposed design and specification of the cycle track and any associated furniture or other landscaping which are to be constructed or installed adjacent to Tower ZR117R.</p> <p>2.3.2 Given the proximity of the cycle track to Tower ZR117R, and the need for NGET to enjoy an unimpeded right of access to Tower ZR117R in order to carry out routine and emergency maintenance and other operations (including cable restringing), it is important that: (a) the cycle track is constructed to a specification which allows for vehicles, plant and other machinery operated by or on behalf of NGET to be moved across and along it in all directions;</p>	<p>Schedule 9 to the draft DCO submitted at Deadline 2 has been updated to include protective provisions for the benefit of NGET. These protective provisions include a requirement on National Highways to ensure that access to NGET's apparatus is maintained.</p> <p>Discussions are ongoing with NGET regarding the design of the cycle track in proximity to Tower ZR117R.</p>

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			<p>(b) no items of street furniture or hard or soft landscaping are installed as part of the Authorised Development which might prevent or impede access to the base of Tower ZR117R and its immediate surroundings; and</p> <p>(c) the cycle track can be closed or diverted temporarily in the interests of public or operational safety when routine or emergency works are required to be carried out by NGET to Tower ZR117R and the associated spans of overhead transmission line. NGET would expect the Promoter to ensure that an appropriate diversion is made available through the Order in the event that the cycle track does have to be temporarily closed or diverted.</p> <p>2.3.3 NGET remains committed to working with the Promoter to ensure that the design of the Authorised Development in this location can ensure compliance with each of the abovementioned requirements.</p>	
REP1-031	BCLP LLP (on behalf of National Grid Electricity Transmission Plc)	Landowner	<p><b>2.4 Access to Tower ZR117R</b></p> <p>2.4.1 NGET also remains concerned as to the access arrangements in respect of Tower ZX117R which will be facilitated by the Promoter, both during and after construction of the Authorised Development. 2.4.2 As matters currently stand, NGET utilises the existing private access road which leads due north from the A66 in order to gain access to Tower ZR117R and the associated spans of overhead transmission line. This longstanding right of access is pursuant to a voluntary agreement entered into with the adjacent landowner.</p> <p>2.4.3 With reference to the following extract from Sheet 1 of the Rights of Way and Access Plans (Scheme 03 Penrith to Temple Sowerby) submitted by the Promoter as part of its application for development consent, NGET is aware that the existing private access road (shown shaded black) is to be permanently stopped up, with a replacement means of access (shown cross-hatched black) to be provided as part of the Authorised Development.</p>  <p>2.4.4 Whilst NGET does not object to the replacement of the private access road, NGET remains concerned to ensure:</p> <p>(a) that the new private access road is constructed to a standard and specification which is at least equivalent to the standard and specification of the existing private</p>	<p>Schedule 9 to the draft DCO submitted at Deadline 2 has been updated to include protective provisions for the benefit of NGET. These protective provisions include a requirement on National Highways to ensure that access to NGET's apparatus is maintained.</p> <p>Discussions are ongoing with NGET regarding the design of the access to Tower ZR117R. National Highways confirms that sufficient access rights will be granted to NGET.</p>



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			<p>access road which is to be stopped up. More particularly, the new private access road must be capable of accommodating the vehicles, plant and other machinery which NGET may from time to time require to be transported along it for the purposes of maintaining the existing overhead line in the vicinity of Tower ZR117R;</p> <p>(b) that the existing private access road is not stopped up until either the new private access road has been completed and made available for use or an alternative means of access has been provided to NGET to enable uninterrupted access to Tower ZR117R and its immediate surroundings;</p> <p>(c) that the Promoter secures on behalf of NGET all necessary rights of access along the private access road and, where necessary, any other temporary alternative access; and</p> <p>(d) that the Promoter ensures that any junction or slip road which is to be constructed as part of the Authorised Development in order to allow vehicles to exit the eastbound carriageway of the A66 and access the private access road includes sufficient space for vehicles belonging to NGET and its contractors to seek 'refuge' whilst waiting to gain access to the private road. This is to avoid the obvious safety concerns which would arise if such vehicles were required to wait on the eastbound carriageway before gaining access to the private access road.</p>	
REP1-031	BCLP LLP (on behalf of National Grid Electricity Transmission Plc)	DCO - Policy Legislation and Guidance	<p>2.5 Next Steps</p> <p>2.5.1 In respect of all of NGET's apparatus and infrastructure located within the Order Limits, or in close proximity to the Authorised Development and associated works (together the "Apparatus"), NGET will require protective provisions to be put in place to ensure that:</p> <p>(a) all NGET interests and rights including rights of access are unaffected by the power of compulsory acquisition, grant and extinguishment of rights and temporary use powers; and</p> <p>(b) appropriate protection for the retained apparatus is maintained during and after construction of the Authorised Development. This includes compliance with all relevant standards on safety clearances EN 43-8 (Development near overhead lines) and HSE Guidance Note GS6 (Avoiding Danger from Overhead Power Lines). In this instance, the safe working by the Promoter and its contractors under and around the OHL is of particular concern to NGET.</p>	<p>Schedule 9 to the draft DCO submitted at Deadline 2 has been updated to include protective provisions for the benefit of NGET. These protective provisions include restrictions on the use of compulsory acquisition and temporary use powers and protection for retained apparatus referred to by NGET. Discussions are ongoing with NGET in respect of a separate side agreement.</p> <p>National Highways is confident that agreement will be reached prior to the end of the Examination.</p>
REP1-031	BCLP LLP (on behalf of National Grid Electricity Transmission Plc)	Design, Engineering and Construction	<p><b>3 NGET - REGULATORY PROTECTION FRAMEWORK</b></p> <p>3.1 NGET have issued guidance in respect of standards and protocols for working near to electricity transmission equipment in the form of:</p> <p>(a) Third Party Working near National Grid Electricity Transmission equipment - Technical Guidance Note 287:</p> <p>This document gives guidance and information to third parties working close to NGET assets. It cross-refers to statutory electrical safety clearances which are used as the basis for EN (TA) 43-8, which must be observed to ensure safe distance is kept between exposed conductors and those working in the vicinity of electrical assets, and</p> <p>(b) Energy Network Associations Development near Overhead Lines ENA (TS) 43-8:</p> <p>This document sets out the derivation and applicability of safe clearance distances in various circumstances including crossings of, and works in close proximity to, OHLs.</p>	<p>Schedule 9 to the draft DCO submitted at Deadline 2 has been updated to include protective provisions for the benefit of NGET. These protective provisions include a requirement for National Highways to comply with industry standards and the guidance notes referred to by NGET.</p>

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			<p>3.1.2 Additionally HSE's Guidance Note GS6 (Avoiding Danger from Overhead Power Lines) provides summary advice designed to minimise risk to life and/or personal injury and provides guidance to those planning and engaging in construction activity in close proximity to OHLs.</p> <p>3.1.3 NGET requires specific protective provisions to be put in place to provide for an appropriate level of control and assurance that industry standards will be complied with in connection with works to and in the vicinity of its electricity transmission Apparatus.</p>	
REP1-031	BCLP LLP (on behalf of National Grid Electricity Transmission Plc)	Landowner	<p><b>4 PROPERTY ISSUES</b></p> <p>a. NGET asserts that maintaining appropriate property rights to support its assets and protecting these from compulsory acquisition and related powers in the Draft Order is a fundamental safety issue.</p> <p>b. Insufficient property rights would have the following safety implications:</p> <p>(a) inability for qualified personnel to access apparatus for its maintenance, repair and inspection;</p> <p>(b) risk of strike to buried assets if development occurs within the easement zone which seeks to protect the such buried assets; and</p> <p>(c) risk of inappropriate development within the vicinity of the assets, thereby increasing the risk of damage to the asset and to the integrity of the gas transmission network.</p>	Schedule 9 to the draft DCO submitted at Deadline 2 has been updated to include protective provisions for the benefit of NGET. These protective provisions include a requirement for National Highways to ensure that sufficient property rights are obtained for any alternative apparatus and include restrictions on the use of compulsory acquisition powers as referred to by NGET.
REP1-031	BCLP LLP (on behalf of National Grid Electricity Transmission Plc)	DCO - Policy Legislation and Guidance	<p><b>5 PROTECTIVE PROVISIONS</b></p> <p>5.1 NGET seeks to protect its statutory undertaking, and insists that in respect of connections and work in close proximity to its Apparatus as part of the Authorised Development the following procedures are complied with by the Promoter:</p> <p>(a) NGET is in control of the plans, methodology and specification for works within 15 metres of any retained Apparatus; and</p> <p>(b) works within the vicinity of NGET's apparatus are not authorised or commenced unless protective provisions are in place preventing compulsory acquisition of NGET's land or rights or the overriding or interference of the same. Any acquisition of rights must be subject to NGET's existing interests and rights and not contradict with or cut across such rights.</p> <p>5.2 Whilst discussions with the Promoter remain ongoing, the Draft Order does not yet contain agreed protective provisions expressed to be for the protection of NGET to NGET's satisfaction, making it currently deficient from NGET's perspective.</p> <p>5.3 Should it not be possible to reach agreement with the Promoter, NGET reserves the right to attend a Compulsory Acquisition Hearing or Issue Specific Hearing to address the required format of the Protective Provisions and any necessary amendments to the Draft Order.</p> <p>5.4 If this is necessary, NGET reserves the right to provide the Examining Authority with further written information in advance in support of any detailed issues remaining in dispute between the parties at that stage.</p>	<p>Schedule 9 to the draft DCO submitted at Deadline 2 has been updated to include protective provisions for the benefit of NGET. These protective provisions include a requirement for National Highways to comply with the procedures referred to by NGET in respect of works in proximity to NGET's apparatus.</p> <p>Discussions are ongoing with NGET in respect of a separate side agreement.</p>

Examination Library Reference	Interested Party	Response Topic(s)	Written Representation (Verbatim)	National Highways Response
REP1-032	BCLP LLP (on behalf of National Grid Gas Plc)	Landowner	<p><b>1 INTRODUCTION</b></p> <p>1.1 National Grid Gas Plc (“NGG”) made a relevant representation in this matter on 2 September 2022 in order to protect its existing apparatus.</p> <p>1.2 NGG does not object in principle to the development proposed by National Highways Limited (the “Promoter”) and as defined as the “Authorised Development” in the draft Development Consent Order (the “Draft Order”).</p> <p>1.3 NGG does, however, object to:</p> <p>(a) the Authorised Development being carried out in close proximity to its apparatus in the area unless and until suitable protective provisions and related agreements have been secured to its satisfaction, to which see further at Paragraph 5; and</p> <p>(b) any compulsory acquisition powers for land or rights or other related powers to acquire land temporarily, override or otherwise interfere with easements or rights or stop up public or private rights of access being invoked which would affect its land interests, rights, apparatus, or right to access and maintain its apparatus. This is unless and until suitable protective provisions and any other necessary and related amendments have been agreed and included in the Draft Order.</p> <p>1.4 NGG owns, manages and operates the national gas transmission infrastructure in Great Britain. NGG has a statutory duty (under Section 9 of the Gas Act 1986) to develop, maintain, and operate economic and efficient networks and to facilitate competition in the supply of gas in Great Britain.</p>	<p>As requested by National Grid, Schedule 9 to the draft DCO submitted at Deadline 2 has been updated to include separate protective provisions for the benefit of National Grid Gas plc (NGG) and National Grid Electricity Transmission plc (NGET).</p> <p>These protective provisions include restrictions on the use of compulsory acquisition and temporary use powers and protection for retained apparatus referred to by NGG.</p> <p>Discussions are ongoing in respect of a separate side agreement with NGG.</p> <p>National Highways is confident that agreement will be reached prior to the end of the Examination.</p>
REP1-032	BCLP LLP (on behalf of National Grid Gas Plc)	Landowner	<p><b>2 NGG ASSETS</b></p> <p><b>2.1 Overview</b></p> <p>2.1.1 NGG owns and operates two High Pressure Gas Transmission Pipelines (Feeder 11 and Feeder 15) and associated apparatus, including above ground installations, (“Feeder 11 and Feeder 15”) which are located within the current Order Limits.</p> <p>2.1.2 Feeder 11 and Feeder 15 form an essential part of the gas transmission network in England, Wales and Scotland.</p> <p>2.1.3 In respect of Feeder 11 and Feeder 15 (and any other NGG infrastructure located within the current Order Limits, or in close proximity to the Authorised Development and associated works), NGG will require protective provisions to be put in place to ensure:</p> <p>(a) that all NGG interests and rights, including rights of access to Feeder 11 and Feeder 15, are unaffected by the powers of compulsory acquisition, temporary possession, and the grant and/or extinguishment of rights as set out in the Draft Order; and</p> <p>(b) that appropriate protection for Feeder 11 and Feeder 15 and any other retained apparatus is maintained during and after construction of the Authorised Development in accordance with both the Protective Provisions and the relevant safety standards as set out in Paragraphs 3 and 5.</p>	<p>Schedule 9 to the draft DCO submitted at Deadline 2 has been updated to include protective provisions for the benefit of NGG. These protective provisions include restrictions on the use of compulsory acquisition and temporary use powers and protection for retained apparatus referred to by NGG. Discussions are ongoing with NGG in respect of a separate side agreement.</p>
REP1-032	BCLP LLP (on behalf of National Grid Gas Plc)	DCO - Policy Legislation and Guidance Environment and EMP	<p><b>2.2 Diversion Works</b></p> <p>2.2.1 Notwithstanding the above, NGG has identified that two high pressure gas pipeline diversions are required to facilitate the Authorised Development and to ensure the safe ongoing operation of NGG's gas transmission network (together the “Required Diversions”).</p>	<p>The draft DCO contains provisions to enable the gas pipeline diversion works to be undertaken by NGG if required, this includes works to construct, protect and maintain such apparatus. The protective provisions in Schedule 9 to the draft DCO submitted at Deadline 2 include a requirement on the Applicant to ensure that sufficient rights are granted for any alternative apparatus.</p> <p>Discussions are ongoing with NGG in respect of a separate side agreement.</p>

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			<p>2.2.2 A plan showing the location of the Required Diversions relative to the Authorised Development is included at Appendix 1 to this Written Representation.</p> <p>2.2.3 NGG welcomes the Promoter's engagement to date on matters pertaining to the Required Diversions. Further to those discussions, NGG wishes to place on record the following points:</p> <p>(a) Although the current working expectation is that the Required Diversions will be undertaken by NGG (pursuant to its statutory powers) as enabling works ahead of the Authorised Development, it is imperative that the Draft Order makes allowance for the Required Diversions to be undertaken by NGG pursuant to that Order (once made). In particular, NGG would welcome clarification from the Promoter that:</p> <p>(i) development consent for the construction, maintenance and operation of the Required Diversions by or on behalf of NGG is being sought in the Draft Order;</p> <p>(ii) the Required Diversions have been fully considered and assessed as part of the Promoter's environmental impact assessment; and</p> <p>(iii) in the event the Required Diversions are undertaken as enabling works outwith the Order (once made), NGG and its contractors will not be subject to or bound by any Requirements which are included in the Order (or indeed any other provisions in the Order).</p> <p>(b) NGG will not commence the works to facilitate the Required Diversions pursuant to the Order (once made) until:</p> <p>(i) agreement has been reached with the Promoter as to the transfer of the benefit of the Order on terms which are commercially and operationally acceptable to NGG; and</p> <p>(ii) all necessary land rights and other interests to enable construction, operation and subsequent maintenance of the Required Diversions have been obtained by the Promoter in a form satisfactory to NGG and subsequently transferred to NGG.</p> <p>(c) NGG expects that the Promoter will secure all other consents, including authorisations, permits and licences, which are necessary to enable the Required Diversions to be constructed pursuant to the Order (once made).</p> <p>2.2.4 NGG expects to continue to engage with the Promoter in order to ensure that agreement can be reached on these matters prior to the end of the Examination. To the extent that it appears unlikely to be the case, NGG reserves its right to make further written representations to the Examining Authority in respect of the Required Diversions.</p>	
REP1-032	BCLP LLP (on behalf of National Grid Gas Plc)	DCO - Policy Legislation and Guidance	<p><b>NGG REGULATORY PROTECTION FRAMEWORK</b></p> <p>3.1 Relevant guidance in respect of standards and protocols for working in the vicinity of high pressure gas pipelines applies in the form of National Grid Guidance for Safe Working in the vicinity of High Pressure Pipelines T/SP/SSW/22 which is aimed at parties carrying out work in the vicinity of high pressure gas pipelines and associated installations and is provided to ensure that those planning and undertaking work take appropriate measures to prevent damage.</p> <p>3.2 The requirements in T/SP/SSW/22 are also in line with the IGE (Institution of Gas Engineers) recommendations in IGE/SE/18 Edition 2 – Safe Working Practices to Ensure the Integrity of Gas Pipelines and Associated Installations and HSE's guidance document HS (G) 47 Avoiding Danger from Underground Services.</p> <p>3.3 NGG requires specific protective provisions to be put in place to provide for an appropriate level of control and protection for all retained assets (including Feeder 11</p>	<p>Schedule 9 to the draft DCO submitted at Deadline 2 has been updated to include protective provisions for the benefit of NGG. These protective provisions include a requirement for National Highways to comply with the procedures referred to by NGG in respect of works in proximity to NGG's apparatus.</p> <p>Discussions are ongoing with NGG in respect of a separate side agreement.</p>

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			and Feeder 15) and assurance that industry standards will be complied with in connection with works to and in the vicinity of the same.	
REP1-032	BCLP LLP (on behalf of National Grid Gas Plc)	Landowner	<p><b>4 PROPERTY ISSUES</b></p> <p>4.1 NGG asserts that maintaining appropriate property rights to support its assets and protecting these from compulsory acquisition and related powers in the Draft Order is a fundamental safety issue.</p> <p>4.2 Insufficient property rights would have the following safety implications:</p> <p>(a) inability for qualified personnel to access apparatus for its maintenance, repair and inspection;</p> <p>(b) risk of strike to buried assets if development occurs within the easement zone which seeks to protect the such buried assets; and</p> <p>(c) risk of inappropriate development within the vicinity of the assets, thereby increasing the risk of damage to the asset and to the integrity of the gas transmission network.</p>	Schedule 9 to the draft DCO submitted at Deadline 2 has been updated to include protective provisions for the benefit of NGG. These protective provisions include a requirement for National Highways to ensure that sufficient property rights are obtained for any alternative apparatus and include restrictions on the use of compulsory acquisition powers as referred to by NGG.
REP1-032	BCLP LLP (on behalf of National Grid Gas Plc)	DCO - Policy Legislation and Guidance	<p><b>5 PROTECTIVE PROVISIONS</b></p> <p>5.1 NGG seeks to protect its statutory undertaking, and insists that in respect of connections and work in close proximity to its apparatus (including Feeder 11 and Feeder 15) as part of the Authorised Development the following procedures are complied with by the Promoter:</p> <p>(a) NGG is in control of the plans, methodology and specification for works within 15 metres of any retained Apparatus;</p> <p>(b) works within the vicinity of NGG's apparatus are not authorised or commenced unless protective provisions are in place preventing compulsory acquisition of NGG's land or rights or the overriding or interference of the same. Any acquisition of rights must be subject to NGG's existing interests and rights and not contradict with or cut across such rights; and</p> <p>(c) appropriate surety and insurance provisions are in place to back up an uncapped indemnity to protect NGG from any damage, losses or claims arising from the Authorised Development.</p> <p>5.2 Whilst discussions with the Promoter remain ongoing, the Draft Order does not yet contain agreed protective provisions expressed to be for the protection of NGG to NGG's satisfaction, making it currently deficient from NGG's perspective.</p> <p>5.3 Should it not be possible to reach agreement with the Promoter, NGG reserves the right to attend a Compulsory Acquisition Hearing or Issue Specific Hearing to address the required format of the Protective Provisions and any necessary amendments to the Draft Order.</p> <p>5.4 If this is necessary NGG reserves the right to provide the Examining Authority with further written information in advance in support of any detailed issues remaining in dispute between the parties at that stage.</p>	<p>Schedule 9 to the draft DCO submitted at Deadline 2 has been updated to include protective provisions for the benefit of NGG. These protective provisions include a requirement for National Highways to comply with the procedures referred to by NGG in respect of works in proximity to NGG's apparatus.</p> <p>Discussions are ongoing with NGG in respect of a separate side agreement.</p>
REP1-036	Eversheds Sutherland on behalf of Network Rail Infrastructure Limited	DCO - Policy Legislation and Guidance	<p><b>1. Network Rail's status and statutory responsibilities</b></p> <p>1.1 We are instructed by Network Rail Infrastructure Limited ("Network Rail") in relation to the development consent application made by National Highways ("the Applicant") for improvement works on the A66 between the M6 at Penrith and the A1(M) at Scotch Corner ("the DCO Scheme"). This written representation is made on behalf of Network Rail ahead of the 18th December 2022 deadline.</p>	<p>Schedule 9 to the draft DCO submitted at Deadline 2 has been updated to include protective provisions for the benefit of Network Rail. These protective provisions include a restriction on the use of compulsory acquisition powers and temporary use powers in respect of Network Rail's apparatus and interests.</p> <p>Discussions are ongoing with Network Rail in respect of a separate framework agreement.</p>

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			<p>1.2 Network Rail is the statutory undertaker responsible for maintaining and operating the country's railway infrastructure and associated estate. Network Rail owns and operates Great Britain's railway network and has statutory and regulatory obligations in respect of it.</p> <p>1.3 Network Rail aims to protect and enhance the railway infrastructure and therefore any proposed development on, over or under the railway network or which is adjacent to and interfaces with the railway network or potentially affects Network Rail's land interests will be carefully considered. Network Rail therefore objected to the DCO Scheme on 25th August 2022.</p> <p><b>2. Objection</b></p> <p>2.1 Network Rail maintains its objection to the DCO Scheme at the present time as Network Rail's statutory duty compels it to object to the exercise of compulsory acquisition powers over Network Rail's operational railway land but it is noted that Network Rail does not object to the DCO Scheme in principle. Network Rail has the following principal issues with the application at present:</p> <p>2.1.1 the proposed operation of powers contained in the draft DCO authorising the Applicant to construct, operate and maintain works on, across, under, above or adjacent to Network Rail's operational railway which may impede Network Rail's ability to ensure the safe, efficient and economical operation of the railway network;</p> <p>2.1.2 the proposed operation of powers contained in the draft DCO authorising the Applicant to compulsorily acquire land, to compulsorily acquire rights in or over land, extinguish rights in land or take temporary possession of land which forms part of Network Rail's operational railway land and which Network Rail relies upon for the carrying out of its statutory undertaking; and</p> <p>2.1.3 the absence in the current draft DCO of protective provisions for the protection of Network Rail and Network Rail's operational railway and associated railway infrastructure</p>	<p>National Highways is confident that agreement will be reached prior to the end of the Examination.</p>
REP1-036	Eversheds Sutherland on behalf of Network Rail Infrastructure Limited	DCO - Policy Legislation and Guidance Consultation and Engagement Process	<p><b>3. Principal requests</b></p> <p>3.1 Network Rail has the following principal requests in order to consider removal of its objection:</p> <p>3.1.1 a requirement for the Applicant to enter into a Framework Agreement to address the application of the Protective Provisions, maintenance and operation of the DCO scheme, provision for the use of asset protection agreements to ensure safe operation of the railway and to manage the interface between the proposed development and Network Rail's operational land;</p> <p>3.1.2 a requirement for the draft Order to include Network Rail's standard form of its Protective Provisions for the protection of Network Rail's operational railway and associated infrastructure in relation to the operation of powers contained in the draft Order authorising the Applicant to compulsorily acquire land, to compulsorily acquire rights in or over land, extinguish rights in land or take temporary possession of land which forms part of Network Rail's operational railway land; and</p> <p>3.1.3 a requirement for the Applicant to engage with Network Rail for the purposes of entering into such agreements as are required by Network Rail to manage and regulate the construction, operation and maintenance of works affecting the operational railway and the use of operational railway land for such purposes.</p>	<p>Schedule 9 to the draft DCO submitted at Deadline 2 has been updated to include protective provisions for the benefit of Network Rail.</p> <p>Discussions are ongoing with Network Rail in respect of a separate framework agreement.</p>

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REP1-036	Eversheds Sutherland on behalf of Network Rail Infrastructure Limited	DCO - Policy Legislation and Guidance	<p><b>7. Assurance received from the Applicant</b></p> <p>Significant progress has been made as a result of meetings between the Applicant and Network Rail, resulting in an Assurance being provided by the Applicant on Friday 25th November 2022 in the terms specified in italics below. We have provided commentary on the significance of each aspect of this Assurance below.</p> <ol style="list-style-type: none"> <li>National Highways will include Network Rail's Protective Provisions in the next draft of the Order to be submitted into the Examination;  Protective provisions were provided to and accepted by the Applicant's solicitors and the Assurance refers to these specific provisions (appended to these written representations). This will manage the interface between the proposed development and Network Rail's operational land as well as protecting Network Rail in its compliance with its statutory duties and protect the operational railway and associated railway infrastructure.</li> <li>National Highways agrees not use any compulsory acquisition powers conferred by the Order over any of Network Rail's land or interests otherwise than in accordance with the Protective Provisions; and  This will protect Network Rail in relation to the operation of powers contained in the draft Order authorising National Highways to compulsorily acquire land, to compulsorily acquire rights in or over land, extinguish rights in land or take temporary possession of land which forms part of Network Rail's operational railway land and will thereby protect the safe and efficient running of the railway.</li> <li>National Highways will enter into a Framework Agreement on reasonable terms to collate and govern the required protective provisions and asset protection agreement.  The Applicant has agreed to engage with Network Rail for the purposes of entering into these agreements to manage and regulate the construction, operation and maintenance of works affecting the operational railway and the use of operational railway land.  For the purposes of the Assurance:  <i>"the Order" means the proposed development consent order for the A66 Northern Transpennine Project as applied for by National Highways; "Protective Provisions" means the enclosed form of Network Rail's Protective Provisions accepted by Pinsent Masons on 21 November 2022; The accepted form of Network Rail's Protective Provisions is appended to these written representations.</i></li> </ol> <p>4.1 Network Rail is appreciative of the provision of this Assurance and as a result of this, did not consider it necessary to attend and be heard at Issue Specific Hearing 2 and Compulsory Acquisition Hearing 1 on 1 December and 2 December 2022 respectively.</p> <p>4.2 Network Rail reserves the right to attend future hearings and, in particular, Compulsory Acquisition Hearing 2 (CAH2) currently scheduled for Wednesday 1st March 2023 and Issue Specific Hearing 3 (ISH3) currently scheduled for Thursday 2nd March and Friday 3 March 2023 (if required).</p>	<p>National Highways confirms that it has provided this Assurance to Network Rail. National Highways has complied with point 1 of the Assurance and the protective provisions include a restriction on the use of compulsory acquisition powers in respect of Network Rail's land and interests in accordance with point 2 of the Assurance. Discussions are ongoing between Network Rail and National Highways in respect of the framework agreement referred to in point 3 of the Assurance.</p>
REP1-036	Eversheds Sutherland on behalf of Network Rail	Design, Engineering and Construction	<p><b>5. Application to make changes</b></p> <p>5.1 Following attendance at the Preliminary Hearing on Tuesday 29th November 2022, Network Rail understands that the Applicant intends to imminently submit to the Examining Authority a notice of intention to submit a proposed changes application. It was also noted that submission of the Applicant's Proposed Changes Application</p>	<p>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. 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</p>

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	Infrastructure Limited	DCO - Policy Legislation and Guidance	<p>(including a 'Proposed Provision' should the CA Regs be engaged in relation to the proposed acquisition of additional land) is expected by 24th January 2023.</p> <p>5.2 A request for clarification on the proposed changes and whether the changes are expected to affect Network Rail's land and interests in land was made to the Applicant's solicitors on 29th November 2022 but no response has been received to date.</p> <p>5.3 Network Rail is interested to understand the changes proposed and wishes to comment further (if necessary) once the Applicant has submitted its Proposed Changes Application.</p> <p><b>6. Framework Agreement and Asset Protection Agreement</b></p> <p><b>7. The first draft of Network Rail's required the Framework Agreement was sent to the Applicant's solicitors on 9 th December 2022.</b></p> <p><b>8. Current position</b></p> <p>8.1 If the Applicant operates in accordance with the Assurance and a Framework Agreement (and any other necessary agreements) are negotiated and concluded promptly, Network Rail considers that its objection could be resolved swiftly.</p>	<p>in the DCO application being examined, and (ii) what form the proposed changes will take.</p> <p>National Highways will be liaising with Network Rail regarding the impact, if any, of these proposed changes on Network Rail's land and interests.</p> <p>Discussions regarding the framework agreement are ongoing.</p>
REP1-036	Eversheds Sutherland on behalf of Network Rail Infrastructure Limited	<p>Consultation and Engagement Process</p> <p>DCO - Policy Legislation and Guidance</p>	<p><b>9. Procedural Matters</b></p> <p>Network Rail requests the following going forward in respect of the Examination of this application:</p> <p>9.1.1 To be kept fully informed of the progress of the examination so that it can engage where relevant to its infrastructure and operational railway land;</p> <p>9.1.2 To be given adequate time to respond and prepare representations where necessary;</p> <p>9.1.3 To be given reasonable time to prepare and respond to questions received from the Examining Authority;</p> <p>9.1.4 To be provided with adequate time to agree a Statement of Common Ground and/or a Principal Areas of Disagreement Summary Statement if it is determined at any stage in the examination that this required from Network Rail;</p> <p>9.1.5 To be given reasonable time to prepare for and be heard at future hearings in the examination timetable if it is considered necessary for Network Rail to attend any future hearings (i.e. if the progress made between National Highways and Network Rail on concluding the Framework Agreement stalls for any reason); and</p> <p>9.1.6 Network Rail requests that the Applicant continues to promote the application in accordance with the Assurance given and engage and negotiate to conclude a Framework Agreement as soon as practicable</p>	National Highways notes these requests.
REP1-037	Eversheds Sutherland on behalf of Network Rail Infrastructure Limited - Protective Provisions	DCO - Policy Legislation and Guidance	<p>40. The following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 54, any other person on whom rights or obligations are conferred by that paragraph.</p> <p>41. In this Part of this Schedule—</p> <p>“asset protection agreement” means an agreement to regulate the construction and maintenance of the specified work in a form prescribed from time to time by Network Rail;</p>	National Highways confirms that these protective provisions have been included in Schedule 9 to the draft DCO submitted at Deadline 2.



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			<p>"construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;</p> <p>"the engineer" means an engineer appointed by Network Rail for the purposes of this Order;</p> <p>"network licence" means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State exercise of their powers under section 8 (licences) of the Railways Act 1993(a );</p> <p>"Network Rail" means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at 1 Eversholt Street, London NW1 2DN) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition "associated company" means any company which is (within the meaning of section 1159 of the Companies Act 2006( b )) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited's railway undertaking;</p> <p>"plans" includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;</p> <p>"railway operational procedures" means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease; "railway property" means any railway belonging to Network Rail and—</p> <ul style="list-style-type: none"> <li>(a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and</li> <li>(b) (b) any easement or other property interest held or used by Network Rail or a tenant or licensee of Network Rail for the purposes of such railway or works, apparatus or equipment;</li> </ul> <p>"regulatory consents" means any consent or approval required under—</p> <ul style="list-style-type: none"> <li>(a) the Railways Act 1993;</li> <li>(b) the network licence; and / or</li> <li>(c) any other relevant statutory regulatory provisions, by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any other accessor beneficiary that may be required in relation to the authorised development any accessor beneficiary that may be required in relation to the authorised development; and</li> </ul> <p>"specified work" means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property and for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 5 (maintenance of authorised development) in respect of such works.</p> <p>42. (1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.</p>	

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			<p>(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—</p> <p>(a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and</p> <p>(b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.</p> <p>43. (1) The undertaker must not exercise the powers conferred by—</p> <p>(a) article 13 (discharge of water);</p> <p>(b) article 14 (protective works to buildings);</p> <p>(c) article 15 (authority to survey and investigate the land);</p> <p>(d) article 17 (felling or lopping of trees and hedgerows);</p> <p>(e) article 19 (compulsory acquisition of land);</p> <p>(f) article 22 (compulsory acquisition of rights and restrictive covenants);</p> <p>(g) article 23 (private rights over land);</p> <p>(h) article 24 (power to override easements and other rights);</p> <p>(i) article 27 (acquisition of subsoil, etc. only);</p> <p>(j) article 28 (rights over or under streets);</p> <p>(k) article 29 (temporary use of land for constructing the authorised development);</p> <p>(l) article 30 (temporary use of land for maintaining the authorised development);</p> <p>(m) article 31 (statutory undertakers);</p> <p>(n) the powers conferred by section 11(3) (power of entry) of the 1965 Act;</p> <p>(o) the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016(c);</p> <p>(p) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016; and</p> <p>(q) any powers in respect of the temporary possession of land under the Neighbourhood Planning Act 2017(d) in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.</p> <p>(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.</p> <p>(3) The undertaker must not exercise the powers conferred by sections 271 (extinguishment of rights of statutory undertakers: preliminary notices) or 272 (extinguishment of rights of electronic communication code network operators: preliminary notices) of the 1990 Act, or article 31 (statutory undertakers), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.</p> <p>(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.</p>	

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			<p>(5) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.</p> <p>(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions but it will never be unreasonable to withhold consent for reasons of operational railway safety (such matters to be in network Rail's absolute discretion).</p> <p>(7) The undertaker must enter into an asset protection agreement prior to the commencement of any specified work.</p>	
REP1-037	Eversheds Sutherland on behalf of Network Rail Infrastructure Limited - Protective Provisions	Design, Engineering and Construction	<p>44. (1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled in accordance with article 51 (arbitration).</p> <p>(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.</p> <p>(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.</p> <p>(4) When signifying their approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction.</p> <p>45. (1) Any specified work and any protective works to be constructed by virtue of paragraph 44(4) must,</p>	National Highways confirms that these protective provisions have been included in Schedule 9 to the draft DCO submitted at Deadline 2.

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			<p>when commenced, be constructed—</p> <p>(a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 44;</p> <p>(b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;</p> <p>(c) in such manner as to cause as little damage as is possible to railway property; and</p> <p>(d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.</p> <p>(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.</p> <p>(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.</p> <p>46. The undertaker must—</p> <p>(a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and</p> <p>(b) supply the engineer with all such information as they may reasonably require with regard to a specified work or the method of constructing it.</p> <p>47. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.</p> <p>48. (1) If any permanent or temporary alterations or additions to railway property, are reasonably necessary in consequence of the construction of a specified work or a protective works, during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker reasonable written notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.</p> <p>(2) If during the construction of a specified work or a protective work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work or the protective work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic</p>	

Examination Library Reference	Interested Party	Response Topic(s)	Written Representation (Verbatim)	National Highways Response
			<p>on the railways of Network Rail then, if the undertaker decides that part of the specified work or the protective work is to be constructed, Network Rail must assume construction of that part of the specified work or the protective work and the undertaker must, notwithstanding any such approval of a specified work or a protective work under paragraph 44(4), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work or protective works.</p> <p>(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 49(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.</p> <p>(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.</p>	
REP1-037	Eversheds Sutherland on behalf of Network Rail Infrastructure Limited - Protective Provisions		<p>49. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail— (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 44(3) or in constructing any protective works under the provisions of paragraph 44(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;</p> <p>(b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work or a protective work;</p> <p>(c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work or a protective work;</p> <p>(d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or a protective work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and</p> <p>(e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works or a protective work, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work or a protective work.</p>	National Highways confirms that these protective provisions have been included in Schedule 9 to the draft DCO submitted at Deadline 2.
REP1-037	Eversheds Sutherland on behalf of Network Rail Infrastructure Limited - Protective Provisions	Design, Engineering and Construction	<p>50. (1) In this paragraph— “EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and</p> <p>“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.</p>	National Highways confirms that these protective provisions have been included in Schedule 9 to the draft DCO submitted at Deadline 2.

Examination Library Reference	Interested Party	Response Topic(s)	Written Representation (Verbatim)	National Highways Response
			<p>(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail's apparatus carried out after approval of plans under paragraph 44(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).</p> <p>(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.</p> <p>(4) In order to facilitate the undertaker's compliance with sub-paragraph (3)—</p> <p>(a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail's apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 44(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;</p> <p>(b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail's apparatus identified pursuant to sub-paragraph (a); and</p> <p>(c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail's apparatus identified pursuant to sub-paragraph (a).</p> <p>(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail's apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail's apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 44(1) has effect subject to this sub-paragraph.</p> <p>(6) Prior to the commencement of the operation of the authorised development the undertaker must test the use and operation of the authorised development in a manner that must first have been agreed with Network Rail and if, regardless of any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.</p> <p>(7) In the event of EMI having occurred—</p> <p>(a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;</p> <p>(b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI;</p> <p>(c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI; and</p>	

Examination Library Reference	Interested Party	Response Topic(s)	Written Representation (Verbatim)	National Highways Response
			<p>(d) the undertaker must not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.</p> <p>(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to subparagraphs (5) or (6)—</p> <p>(a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus; and (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 45.</p> <p>(9) To the extent that it would not otherwise do so, the indemnity in paragraph 54(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.</p> <p>(10) For the purpose of paragraph 49(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.</p> <p>(11) In relation to any dispute arising under this paragraph the reference in article 51 (arbitration) to a single arbitrator to be agreed between the parties is to be read as a reference to an arbitrator being a member of the Institution of Engineering and Technology.</p>	
REP1-037	Eversheds Sutherland on behalf of Network Rail Infrastructure Limited - Protective Provisions		<p>51. If at any time after the completion of a specified work or a protective work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work or the protective work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work or protective work in such state of maintenance as not adversely to affect railway property.</p> <p>52. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.</p> <p>53. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work or a protective work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.</p> <p>54. The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be occasioned to or reasonably incurred by Network Rail—</p> <p>(a) by reason of the construction, maintenance or operation of a specified work or protective work or the failure thereof;</p> <p>(b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work or a protective work;</p>	National Highways confirms that these protective provisions have been included in Schedule 9 to the draft DCO submitted at Deadline 2.

Examination Library Reference	Interested Party	Response Topic(s)	Written Representation (Verbatim)	National Highways Response
			<p>(c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development;</p> <p>(d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others; or</p> <p>e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out of the authorised development, and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or a protective work or any such failure, act or omission; and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.</p> <p>(2) Network Rail must give the undertaker reasonable written notice of any such claim or demand and no settlement or compromise of such claim or demand is to be made without the prior written consent of the undertaker.</p> <p>(3) The sums payable by the undertaker under sub-paragraph (1) will if relevant include a sum equivalent to the relevant costs.</p> <p>(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under subparagraph (3) which relates to the relevant costs of that train operator.</p> <p>(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs is, in the event of default, enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).</p> <p>(6) In this paragraph— "the relevant costs" means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work or protective work including but not limited to any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or a protective work or any such act or omission as mentioned in sub-paragraph (1); and "train operator" means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.</p> <p>55. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 54) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).</p> <p>56. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that</p>	



Examination Library Reference	Interested Party	Response Topic(s)	Written Representation (Verbatim)	National Highways Response
			<p>is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.</p> <p>57. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—</p> <p>(a) any railway property shown on the works and land plans and described in the book of reference;</p> <p>(b) any lands, works or other property held in connection with any such railway property; and</p> <p>(c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph. 58. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.</p> <p>59. The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 43 (transfer of benefit of Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate) —</p> <p>(a) the nature of the application to be made;</p> <p>(b) the extent of the geographical area to which the application relates; and</p> <p>(c) the name and address of the person acting for the Secretary of State to whom the application is to be made.</p> <p>60. The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 49 (certification of plans etc.) are certified by the Secretary of State, provide a set of those plans to Network Rail in a format specified by Network Rail.</p>	

# **A66 Northern Trans-Pennine project**

**TR010062**

## **7.8 Applicant's Response to Written Representations made by other Interested Parties at Deadline 1 Appendix 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

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**7.8 Applicant's Response to Written Representations made by  
other Interested Parties at Deadline 1  
Appendix 1**

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<b>Deadline:</b>	Infrastructure Planning (Examination Procedure) Rules 2010 Deadline 2
<b>Planning Inspectorate Scheme Reference</b>	TR010062
<b>Application Document Reference</b>	NH/EX/7.8
<b>Author:</b>	A66 Northern Trans-Pennine project, Project Team, National Highways

<b>Version</b>	<b>Date</b>	<b>Status of Version</b>
Rev 1	15 January 2023	Deadline 2

## RESPONSE to Dr Boswell (Climate Emergency Policy and Planning) WR [REP1-011] and [REP1-013]

This is the Applicant's response to the submissions [REP1-011 and REP1-013]. To provide a structured response for consideration by the Examining Authority (ExA) we adopt a thematic approach. It addresses the following key themes, concluding overall that the approach to the assessment of Greenhouse Gas (GHG) emissions by the Applicant as set out in Chapter 7 of the ES [APP-050] is in accordance with the relevant law (including the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017), policy (including the National Policy Statement for National Networks (NPSNN)) and precedent transport-sector schemes that have recently been granted development consent by the Secretary of State for Transport:

- The approach to the assessment of significance in accordance with the NPSNN and the Design Manual for Roads and Bridges (DMRB) LA 114 Climate Guidance (LA114);
- The approach to an assessment of cumulative impact in terms of law, guidance and precedent;
- Reference to 'errors' in the quantification of impacts and contextualisation of emissions; and
- Acknowledgement of the legal challenge to The Net Zero Strategy.

### Assessment of significance in accordance with the NPSNN

#### Legal and policy context

Section 104 of the Planning Act 2008 Act states that the Secretary of State in deciding an application for a national network Nationally Significant Infrastructure Project (NSIP) must have regard to a relevant national policy statement (NPS) (amongst other items listed in section 104 and subject to the "exceptions" in section 104 (4) to (8)). The relevant national policy statement in respect of the A66 Project is the NPSNN. The "Introduction" to the Carbon emissions section of the NPSNN states, at paragraph 5.16:

*The Government has a legally binding framework to cut greenhouse gas emissions by at least 80% by 2050. As stated above, the impact of road development on aggregate levels of emissions is likely to be very small. Emission reductions will be delivered through a system of five year carbon budgets that set a trajectory to 2050. Carbon budgets and plans will include policies to reduce transport emissions, taking into account the impact of the Government's overall programme of new infrastructure as part of that.*

In terms of the "Applicant's assessment", paragraph 5.17 of the NPSNN states:

*Carbon impacts will be considered as part of the appraisal of scheme options (in the business case), prior to the submission of an application for DCO. Where the development is subject to EIA, any Environmental Statement will need to describe an assessment of any likely significant climate factors in accordance with the requirements in the EIA Directive. It is very unlikely that the impact of a road project will, in isolation, affect the ability of Government to meet its carbon reduction plan targets. However, for road projects applicants should provide evidence of the carbon impact of the project and an assessment against the Government's carbon budgets.*

In terms of "Decision making" paragraph 5.18 of the NPSNN states:

*The Government has an overarching national carbon reduction strategy (as set out in the Carbon Plan 2011) which is a credible plan for meeting carbon budgets. It includes a range of non-planning policies which will, subject to the occurrence of the very unlikely event described above, ensure that*

*any carbon increases from road development do not compromise its overall carbon reduction commitments. The Government is legally required to meet this plan. Therefore, any increase in carbon emissions is not a reason to refuse development consent, unless the increase in carbon emissions resulting from the proposed scheme are so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets.*

For further information on the NPSNN, please see the Applicant's Legislation and Policy Compliance Statement [APP-242].

In June 2019 the Government announced a new carbon reduction 'net zero target' for 2050 which was given effect by the Climate Change Act 2008 (2050 Target Amendment) Order 2019. This is a legally binding target for the Government to cut net carbon emissions to zero by 2050 against the 1990 baseline. As mentioned in paragraph 5.16 of the NPSNN, the Climate Change Act 2008 requires five-yearly carbon budgets to be set 12 years in advance so as to meet the 2050 target. Six Carbon Budgets have been adopted. The time periods covering the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> budget are 2023-2027, 2028-2032 and 2033-2037 respectively. Achieving net zero will require future UK greenhouse gas emissions to be aligned with these and any future new or revised Carbon Budgets that may be set out by Government to achieve the 2050 target.

National Highways' approach to the climate assessment for the A66 project as set out in Chapter 7 of the ES [APP-050] is in accordance with the NPSNN. The assessment has been carried out in accordance with industry guidance, DMRB LA 114. Both NPSNN and LA 114 are summarised in Sections 1-3 of the Climate chapter, Chapter 7 of the ES [APP-050].

As with paragraph 5.17 of the NPSNN, DMRB LA 114 requires that an assessment of project GHG emissions against UK government carbon budgets be undertaken. Paragraph 3.20 of DMRB LA 114 states "3.20. *the assessment of projects on climate shall only report significant effects where increases in GHG emissions will have a material impact on the ability of Government to meet its carbon reduction targets.*". As quoted above, paragraph 5.18 of the NPSNN states: *Therefore, any increase in carbon emissions is not a reason to refuse development consent, unless the increase in carbon emissions resulting from the proposed scheme are so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets.*

The Applicant notes that the Secretary of State's decision letter **for the M25 Junction 10 Order**<sup>1</sup> (granting development consent by the Secretary of State for Transport on 12 May 2022) confirms that the test of significance relates to materiality of impact on Government meeting its carbon targets [emphasis added]:

*"113. The Secretary of State notes that the scheme will result in an increase in carbon emissions. The Secretary of State **does not consider that net zero means consent cannot be granted for development that will increase carbon emissions.** The Secretary of State considers that, as set out in NPSNN paragraph 5.18, it is necessary to continue to evaluate whether (amongst other things) the increase in carbon emissions resulting from the Development would have a material impact on the ability of Government to meet its carbon reduction targets. As set out above, the carbon budgets should meet the goals of the Paris Agreement meaning a proposal which is compatible with the 2050 target and interim carbon budgets is consistent with the approach to addressing the severe adverse effects of climate change. **The Secretary of State considers this aligns with the approach to significance set out in the most recent IEMA Guidance.** The Secretary of State considers that the*

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<sup>1</sup> [https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010030/TR010030-001502-220512\\_M25J10\\_DECISION\\_LETTER.pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010030/TR010030-001502-220512_M25J10_DECISION_LETTER.pdf)

*approach set out in the NPSNN continues to be relevant in light of international obligations and domestic obligations related to reducing carbon emissions that have been introduced since the NPSNN was designated. The Secretary of State notes that the carbon budgets are economy-wide and not just targets in relation to transport. The Secretary of State considers that the Development's contribution to overall carbon levels is very low and the Secretary of State considers that its contribution will not have a **material impact on the ability of Government to meet its legally binding carbon reduction targets**, including those targets which have now been considered after the Examination concluded."*

The Applicant further notes that a similar approach was adopted by the Secretary of State in the M54 to M6 Link Road development (consent granted 21 April 2022; see paragraph 35) and in the A417 Missing Link development (consent granted 16 November 2022; see paragraphs 49 and 50), which schemes assessed the potential impacts on Climate in accordance with DMRB LA 114.

Summary of likely significant effects assessment for the A66 Project

For the reader's convenience in reviewing this response, the summary of the likely significant effects assessment of GHG emissions for the A66 Project is provided here.

The A66 Project environmental impact assessment of carbon emissions, as is set out in detail in Chapter 7 of the ES [APP-050] concluded that, the proposed development's net carbon emissions would equate to 0.027% of the UK's carbon budget for the 4<sup>th</sup> Carbon Budget period, 0.03% of the UK's carbon budget for the 5<sup>th</sup> Carbon Budget period, and 0.019% of the 6<sup>th</sup> Carbon Budget.

Paragraph 7.11.24 of Chapter 7 of the ES [APP-050], states:

*"The analysis following DMRB LA 114 shows that emissions from the Project to be low when compared against the relevant carbon budgets. As set out by DMRB LA 114 and in line with the NPSNN, the assessment concludes that the Project's GHG emissions, in isolation, will not have a significant effect on climate or a material impact on the ability of the Government to meet its carbon reduction plan targets and Carbon Budgets."*

### Contextualisation against local, regional or sectoral targets

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the "2017 Regulations") require that an environmental impact assessment be carried out in respect of applications for EIA development.

Regulation 14(1) of the 2017 Regulations provides that an application for an order granting development consent for EIA development must be accompanied by an environmental statement. An environmental statement is required to assess the likely significant effects of a development on the environment. Thus, an environmental statement will need to include an assessment of the likely significant effects of a proposed development upon climate.

As noted above, the Applicants have carried out a detailed and robust assessment of the likely significant effects of the A66 Project on climate (Chapter 7 of the ES [APP-050]), which is in accordance with law, the NPSNN and DMRB LA 114.

The Applicant also notes that the 2017 Regulations do not purport to prescribe how impacts of greenhouse gas emissions are to be carried out; nor do they prescribe how to determine whether an impact is significant. The 2017 Regulations further do not require for any contextual information to be included within an environmental statement when determining whether a potential impact is significant.

In terms of Government national policy, the NPSNN section 4 is under the “General Considerations” section. It states:

*“4.3 In considering any proposed development, and in particular, when weighing its adverse impacts against its benefits, the Examining Authority and the Secretary of State should take into account:*

- its potential benefits, including the facilitation of economic development, including job creation, housing and environmental improvement, and any long-term or wider benefits;*
- its potential adverse impacts, including any longer-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.*

*4.4 In this context, environmental, safety, social and economic benefits and adverse impacts, should be considered at national, regional and local levels. These may be identified in this NPS, or elsewhere.”*

The NPSNN text at 4.4 is, accordingly, a matter of general principle and ought to be read in the context of policy and guidance that is specific to carbon assessment.

The Institute of Environmental Management & Assessment (“IEMA”) has published guidance relating to the assessment of climate change impacts. That guidance states:

*“The crux of significance is not whether a project emits GHG emissions, nor even the magnitude of GHG emissions alone, but whether it contributes to reducing GHG emissions relative to a comparable baseline consistent with a trajectory towards net zero by 2050”.*

Thus, IEMA states that the assessment of significance of GHG emissions should be made against a baseline which contains a trajectory towards net zero.

Further, the IEMA guidance states [emphasis added]:

*“The specific context for an individual project and the contribution it makes **must be established through the professional judgment of an appropriately qualified practitioner** drawing on the available guidance, policy and scientific evidence”.*

*“**It is down to the practitioner’s professional judgment** how best to contextualise a projects GHG impact”.*

*“A project that is compatible with the budgeted, science based 1.5° C trajectory (in terms of rate of emissions reduction) and which complies with up to date policy and ‘good practice’ reduction measures to achieve this has a minor adverse effect that is not significant. It may have residual emissions but is doing enough to align with and contribute to the relevant transition scenario, keeping the UK on track towards net zero by 2050 with at least 78% reduction by 2035 and thereby potentially avoiding significant adverse effects.”*

In relation to potential local or regional carbon budgets (for example those produced by the Tyndall centre), the IEMA guidance identifies these as having the advantage of being “a more pertinent scale” for individual projects, but the guidance also identifies the following disadvantages [emphasis added]:

*“**Emphasis of GHG emissions are not geographically circumscribed so a geographic budget (below a national budget...) is not very meaningful**”...it’s unclear whether emergency local authority or regional budgets will add up coherently to the UK budget.”*

Accordingly, the IEMA guidance leaves to professional judgment the extent of information that is required to provide context for any assessment as to the significance of any impact. Neither the 2017 Regulations nor the IEMA guidance mandate that any particular matter must be included within an ES in order to provide context.

Further, neither the 2017 Regulations nor the IEMA guidance require assessment at any particular geographical scale. The IEMA guidance identifies that significance is to be assessed in the context of a trajectory which would meet the UK's climate change commitments against current policy and guidance. The fact that a project may result in residual emissions is insufficient to render its emissions significant if it is in alignment with the UK's trajectory to net zero.

The Applicant further notes the following in respect of local, regional or sectoral carbon assessment:

- a) In setting carbon budgets Parliament has not imposed any legal duty upon local authorities to attain any particular targets whether carbon budgets or for net zero by 2050 i.e. there are no legal duties which require particular geographical areas within the UK to achieve particular reductions in carbon emissions by particular dates.
- b) Neither Parliament nor Government has identified any sectoral targets for carbon reductions related to transport, or any other sector. There is no requirement in the CCA 2008, or in government policy, for carbon emissions for all road transport to become net zero. This was explained in the ***R(Transport Action Network) v Secretary of State for Transport*** [2021] EWHC 2095 (Admin) ("the TAN case") in which Holgate J held that:

*"...there is no sectoral target for transport, or any other sector, and that emissions in one sector, or in part of one sector, may be balanced against better performance in others. A net increase in emissions from a particular policy or project is managed within the government's overall strategy for meeting carbon budgets and the net zero target as part of "an economy-wide transition."*

- c) A net increase in emissions from a particular policy or project is thus managed within the government's overall strategy for meeting carbon budgets and the net zero target as part of an economy-wide transition.

To conduct an impact assessment at a local or regional scale, some form of baseline would need to be identified and that baseline would need to comprise:

- a) A forecast of carbon emissions from all cumulative sources relevant to the geographic / sectoral scale being adopted;
- b) A forecast which addresses the time frame relevant to the proposed road scheme;
- c) A forecast which reflects existing government policy to attain the 6<sup>th</sup> Carbon Budget and net zero 2050; and
- d) A forecast which does not include carbon emissions from the proposed road scheme (to avoid double counting).

The Government has not made public any forecasts of carbon emissions from all relevant cumulative sources at a scale less than the national level, over a time frame relevant to the assessment of a particular proposed road scheme, which reflects existing government policy to attain the 6<sup>th</sup> Carbon Budget and net zero 2050 and which does not include carbon emissions from the proposed road scheme.



National Highways is unable itself to produce a baseline at a local or regional scale. Such a baseline would have to be consistent with the Government's understanding of the likely implications of its policies over time in a particular geographic area. In relation to carbon reductions, those policies are myriad and extend to matters beyond the planning system and into issues relating to the use of fiscal incentives / disincentives to manage carbon emissions across the country as a whole. Only Government has the ability to produce a baseline at a local or regional scale and it has not done so.

Relevant to this response is that an environmental statement is required to include such information as is reasonably required to assess the environmental effects of the development and which the applicant can reasonably be required to compile having regard to current knowledge (see *R. (Khan) v London Borough of Sutton* [2014] EWHC 3663 (Admin) and *Preston New Road Action Group v Secretary of State for Communities and Local Government* [2018] Env. L.R. 18).

In the absence of a local or regional baseline produced by Government, there is no reasonable basis upon which National Highways can assess the carbon emissions impact of the A66 Project at a local or regional level and it is not required by law or policy to do so.

Therefore, there is no reasonable basis upon which National Highways can assess the carbon emissions impact of the Scheme at a local or regional level and it is not required to do so by law or the NPSNN.

In respect of paragraphs 108-109 of the Written Representation, the Applicant notes that they are not in a position to comment on live court actions; but that in respect of Ground 2 of CO/3506/2022, this ground concerned whether in respect of a highways scheme a failure to assess significance of the scheme against the carbon budgets contained in a local transport plan results in a breach of Regulation 21(1)(b) of the EIA Regulations. In its 14 December decision, this Ground 2 was not granted permission to appeal by the High Court.

## Cumulative impact appraisal

### Legal and policy context

Schedule 4 of the 2017 Regulations (paragraph 5) states that an environmental statement is required to include [emphasis added]:

*“a description of the likely significant effects **of the development** on the environment resulting from, inter alia-(e) the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources”.*

Therefore, the focus of an environmental statement is upon whether the proposed development itself is likely to have a significant effect upon the environment of itself and/or in combination with other existing and/or approved projects. The Applicant's assessment of potential cumulative Climate impacts as presented in Chapter 7 of the ES [APP-050] fully accords with this requirement under the 2017 Regulations.

In terms of Government national policy, the NPSNN, Paragraph 4.15, references the requirement under Schedule 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 that an environmental statement should include a description of the cumulative effects of the project.

Furthermore, Paragraph 4.16 states that “When considering significant cumulative effects, any environmental statement should provide information on how the effects of the applicant's proposal

would combine and interact with the effects of other development (including projects for which consent has been granted, as well as those already in existence)".

The IEMA guidance states: *"the approach to cumulative effects assessment for GHG differs from that for many EIA topics where only projects within a geographically bounded study area of, for example, 10km would be included."*

The IEMA guidance further states that *"effects of GHG emissions from specific cumulative projects therefore in general should not be individually assessed, as there is no basis for selecting any particular (or more than one) cumulative project that has GHG emissions for assessment over any other"*.

In terms of DMRB, National Highways follows the standards set out in the Design Manual for Roads and Bridges (DMRB) for the design and evaluation of the impact of any of its road schemes. This ensures consistency in how any scheme is progressed and how the outcomes are evaluated.

In respect of the assessment of cumulative assessment DMRB Chapter LA 104, Environmental assessment and monitoring provides the following overarching advice on the assessment and evaluation of cumulative impacts on pages 17-18:

*"Paragraph 3.21 Environmental assessments shall assess cumulative effects which include those from:*

- 1) a single project (e.g. numerous different effects impacting a single receptor); and*
- 2) different projects (together with the project being assessed).*

*Paragraph 3.21.2 The assessment of cumulative effects should report on:*

- 1) roads projects which have been confirmed for delivery over a similar timeframe;*
- 2) other development projects with valid planning permissions or consent orders, and for which EIA is a requirement; and*
- 3) proposals in adopted development plans with a clear identified programme for delivery.*

*Paragraph 3.22 The assessment of cumulative effects shall:*

- 1) establish the zone of influence of the project together with other projects;*
- 2) establish a list of projects which have the potential to result in cumulative impacts; and*
- 3) obtain further information and detail on the list of identified projects to support further assessment."*

DMRB LA 114 describes the approach to be undertaken to assess and evaluate the climate impacts for schemes. This is set out in Chapter 7 of the Environmental Statement for the A66 Project [APP-050].

The assessment of GHG emissions undertaken to support schemes has assessed the construction and operational effects:

- Construction – the GHG emissions associated with the construction phase of a project, that is the materials and energy required to construct the road and supporting infrastructure;
- Operational – The GHG emissions associated with both the operation and maintenance of the asset, i.e. the lighting, maintenance activities and users of the asset (i.e. vehicle emissions).

The traffic modelling for the scheme has been undertaken in line with Transport Appraisal Guidance published by the Department for Transport (DfT). The traffic modelling assessment reports for this scheme have been submitted to the DCO examination<sup>2</sup>. The traffic model used for the scheme has been developed in line with DfT requirements and are **inherently cumulative**. This is because, in brief, traffic models used to support scheme assessment contain data about the following:

- 1) The proposed scheme and adjoining Strategic Road Network and local road network;
- 2) Other schemes promoted by National Highways in the near vicinity of the proposed scheme with high certainty they are to be progressed i.e. progressed beyond preferred route announcement stage;
- 3) Based on discussions with the relevant planning authority, of foreseeable developments promoted by third parties as likely to be developed in a similar timeline to the proposed National Highways' scheme. Knowing where the proposed third party development is to be sited, the extents and types of development, and the timescales of when it is to be complete are requirements to ensure that the development can be reasonably described in the traffic model.
- 4) National government regional growth rates which include a representation of likely growth rates excluding known planning developments already included in the traffic model. This is represented by DfT's NTEM/TEMPO<sup>3</sup> growth factors for car usage, and growth in freight is derived from DfT's National Transport Model<sup>4</sup>.

When National Highways evaluates the changes in GHG emissions of their proposed project they do so by comparing changes in the road traffic on the Strategic Road Network and local road network between the 'without project scenario' with the 'with project scenario'. This takes into account the assessment of the proposed project and all other developments likely to have an influence on the proposed road project and the area the proposed road project is likely to influence.

In essence, as both with and without project scenarios already include all likely developments and traffic growth factors, the assessment is inherently cumulative. This is a state of affairs recognised in general terms in paragraph 3.4.4 of the Planning Inspectorate's Advice Note 17 ("Cumulative effects assessment relevant to nationally significant infrastructure projects"), the first two sentences of which state that:

*"Certain assessments, such as transport and associated operational assessments of vehicular emissions (including air and noise) may inherently be cumulative assessments. This is because they may incorporate modelled traffic data growth for future traffic flows. Where these assessments are comprehensive and include a worst case within the defined assessment parameters, no additional cumulative assessment of these aspects is required (separate consideration may be required of the accumulation or inter-relationship of these effects on an individual set of receptors e.g. as part of a socio economic assessment)"*

The Applicant notes that in respect of cumulative assessment of GHG emissions, the Secretary of State has noted in the M25 Junction 10 decision letter [emphasis added]:

*"122. ...The Secretary of State also notes that the impact and effect of carbon emissions on climate change, unlike other EIA topics, is **not limited to a specific geographical boundary** and that the approach that needs to be taken to assess the cumulative impact of carbon emissions is different*

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<sup>2</sup> Traffic Modelling Report [APP-147]

<sup>3</sup> <https://www.gov.uk/government/publications/tempro-downloads>

<sup>4</sup> <https://www.gov.uk/government/publications/national-transport-model-ntmv2r-overview-of-model-structure-and-update>

than for other EIA topics. Noting this and that there is no defined distance for assessing the impact of carbon emissions, the Secretary of State considers that the Applicant's approach to assessing the impact of the Development on carbon **is acceptable** as it takes into account the Development as well as all other developments likely to have an influence both on the Development and on the area the Development is likely to influence. The Secretary of State considers the assessment that has been undertaken is proportionate and reasonable in relation to the information the Applicant has access to and it enables the impacts of carbon to be understood and accounted for in the decision making process. The Secretary of State considers that the Applicant's approach overall, to both the assessments of the Development's impact on carbon emissions and its cumulative impact, is adequate, as journeys will not begin and end within the Development's boundary."

Furthermore, the decision letter notes that:

*"124. As well as being a requirement of the NPSNN, the Secretary of State considers that **assessing a scheme against the national carbon budgets is an acceptable cumulative benchmark for the assessment for EIA purposes** with regard to both construction and operation. This is because carbon budgets account for the cumulative emissions from a number of sectors and it is therefore appropriate to consider how the carbon emissions of the Development compare against this."*

And in the A417 Missing Link decision letter:

*"61. The Secretary of State notes the Applicant had provided a comprehensive set of information showing how the Proposed Development would impact national carbon budgets and noted that national budgets are themselves cumulative measures [ER 5.2.27] and agrees that **assessing a scheme against the national carbon budgets is an acceptable cumulative benchmark for the assessment for EIA purposes with regard to both construction and operation**. This is because carbon budgets account for the cumulative emissions from a number of sectors and it is therefore appropriate to consider how the carbon emissions of the Proposed Development compare against this."*

And that: "62. ...there is no single or agreed approach to assessing the cumulative impacts of carbon emissions as there are a number of ways such an assessment can acceptably be undertaken."

## Reference to 'errors' in the quantification of impacts and contextualisation of emissions

### Overestimation of construction emissions

The response in Section 3.4 is noted. We believe this is a misinterpretation of the data presented in the ES Chapter 7 [APP-050]. We set out the response below in order to help further explain the approach, however note that the response here does not update the figures presented in the ES, or give cause to alter the assessment conclusions.

As stated in Paragraph 7.11.19 of the Climate Change ES chapter [APP-050], "*Construction phase GHG emissions have therefore been assessed against the UK's Fourth (2023-2027) and Fifth (2028-2032) Carbon Budgets. The assessment took the total construction emissions and compared this to the total Fourth carbon budget and total Fifth carbon budget as a worst-case assessment where schedule changes might lead to full construction falling within a single budget period.*"

For convenience in responding to written representations [REP1-011] and [REP1-013], Table 1 below replicates Table 7-24 from the Climate Change ES chapter 7 [APP-050]; please refer to Chapter 7 for the full detail. This explains that construction emissions were deliberately contextualised against the

4<sup>th</sup> and 5<sup>th</sup> Carbon Budgets in isolation (i.e. the full construction emissions against the 4<sup>th</sup> Carbon budget and again with the 5<sup>th</sup> Carbon Budget) which is intended to account for a reasonable worst-case scenario. This forms a precautionary, very robust approach to the assessment that essentially models all of the construction emissions against both the 4<sup>th</sup> Carbon Budget and the 5<sup>th</sup> Carbon Budget. Operational emissions are attributed to the 6<sup>th</sup> Carbon Budget.

The approach to operational emissions is also robust and precautionary, because operational emissions are smaller than construction emissions. Therefore using the higher, reasonable worst case scenario construction emissions figure for the entirety of the 5<sup>th</sup> Carbon Budget, rather than apportioning operational emissions (which are lesser) to some of this period, results in a likely overestimate, therefore robust and precautionary, assessment. Please see further information on operational emissions below.

Table 1: Table 7-24 (from ES Climate Change ES Chapter [APP-050]): Comparison of emissions against UK Carbon Budgets

Project Stage	Estimated total GHG emissions over carbon budget (tCO <sub>2</sub> e) ('Do-Something' Scenario)	Net CO <sub>2</sub> project GHG emissions (tCO <sub>2</sub> e) (Do something minus Do minimum)	Relevant Carbon Budget		
			4 <sup>th</sup> (2023-2027)	5 <sup>th</sup> (2028-2032)	6 <sup>th</sup> (2023-2037)
			1,950 MtCO <sub>2</sub> e	1,725 MtCO <sub>2</sub> e	965 MtCO <sub>2</sub> e
Construction	518,562	518,562	0.027%	0.030%	N/A
Operation	77,162,187	2,190,452	N/A	N/A	0.019%
Total	77,680,749	2,709,014	0.027%	0.030%	0.019%

Table 2 demonstrates that the approach taken in the ES is more precautionary and sufficiently robust as the proportion against each carbon budget in Table 2 is smaller than those reported in ES Chapter 7 [APP-050] as replicated above.

Table 2: Alternative comparison of Construction emissions against UK Carbon Budgets

Project Stage	Relevant Carbon Budget		
	4 <sup>th</sup> (2023-2027)	5 <sup>th</sup> (2028-2032)	6 <sup>th</sup> (2023-2037)
	1,950 MtCO <sub>2</sub> e	1,725 MtCO <sub>2</sub> e	965 MtCO <sub>2</sub> e
Years of construction (6 years in total)	4	2	0
Construction emission attributable to budget period	347,437 tCO <sub>2</sub> e	171,125 tCO <sub>2</sub> e	0 tCO <sub>2</sub> e
% of total carbon budget in budget period	0.018%	0.010%	0%

### Inclusion of operational emissions within the 5<sup>th</sup> Carbon Budget period

The response in Section 3.5 is noted. Written representations [REP1-011] and [REP1-013] queried whether operational emissions ought to be assessed against the 5<sup>th</sup> Carbon Budget; i.e. whether to apportion the total construction GHG emissions (518,562 tCO<sub>2</sub>e) on a pro-rata basis over the two budget periods. In order to help demonstrate the Applicant's position as presented in the ES Chapter 7 [APP-050], the Applicant has undertaken this apportioning exercise using different, accurate, GHG data as the data used in [REP1-011] and [REP1-013] was not accurate.

As discussed above, a precautionary approach was applied to the contextualisation of construction emissions against carbon budgets. This approach was purposefully taken in order to present a worst-case scenario i.e. an overestimation of emissions falling within one carbon budget. A similar approach was taken with operational emissions. With the operational opening year as 2029, there are likely to be operational emissions occurring within the 5<sup>th</sup> Carbon Budget. However, for consistency with construction, these operational emissions were contextualised entirely within the 6<sup>th</sup> Carbon Budget. The approach taken to contextualising construction emissions in the 5<sup>th</sup> Carbon Budget presents an overestimation and therefore is significantly greater than if the operational emissions were also contextualised in the same carbon budget.

This represents a worst-case scenario in that operational emissions are compared against the budget set furthest into the future and the closest published budget to the UK's net zero target, hence maximising the Project's allocation of the budget.

### Inclusion of maintenance emissions within the operational emissions reporting

The response in Section 3.6 is noted. As stated in Paragraph 7.11.19 of the Climate Change ES chapter [APP-050], *“Operational phase emissions have been assessed against the Sixth Carbon Budget (2033-37) (as the Carbon Budget set furthest into the operational phase) by taking an annual operational emissions figure (i.e. net emissions<sup>5</sup> for the future modelled year of 2044 plus one sixtieth of estimated maintenance emissions) and comparing it to an annual figure for the Sixth Carbon Budget (i.e. one fifth of the Sixth Carbon Budget). Land-use benefits during the operational phase have been excluded from the evaluation of significance to provide a pessimistic assessment.”*

Written representations [REP1-011] and [REP1-013] appear to have misinterpreted the paragraph provided above in the text and associated equations provided. To clarify, the percentages provided in Table 7-24 of the ES Chapter 7 [APP-050] (and Table 1 of this response) for operational emissions are calculated by comparing total design year (2044) emissions (for maintenance and operational user emissions) against one years' worth of carbon budget emissions (i.e. one fifth of the sixth Carbon Budget total). This is summarised:

- Total net design year emissions (2044 single year) = 35,772 tCO<sub>2</sub>e (as documented in Table 7-23, total operational emissions excluding land use)
- One fifth of the sixth Carbon Budget (2032-37) = 965,000,000 / 5 = 193,000,000 tCO<sub>2</sub>e
- Percentage against Carbon Budget (for one year) = (35,772/193,000,000)\*100 = 0.019%

## The Net Zero Strategy

The UK Government's Net Zero Strategy: Build Back Greener ('Net Zero Strategy'), published in October 2021 sets out policies and proposals to decarbonise all sectors of the UK economy to meet the 2050 target.

It is acknowledged that there has been a successful legal challenge to the Net Zero Strategy . Whilst the Strategy has not been quashed and remains government policy, a new report is required to be produced in accordance with the order made by the Court as a result of that successful challenge.

As stated within the A417 Missing Link decision letter (see paragraph 47) the Secretary of State considers that *“as things stand, the Secretary of State has no reason to consider that the Proposed Development will hinder delivery of either the Transport Decarbonisation Plan or Net Zero Strategy (whether in its current form or any future updated form).”*

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<sup>5</sup> For clarity “net emissions” should be interpreted as “net user emissions” in the quoted extract above.