

# **A66 Northern Trans-Pennine Project**

## **TR010062**

### **5.8 Statement of Reasons**

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**A66 Northern Trans-Pennine Project**

Development Consent Order 202x

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**5.8 STATEMENT OF REASONS**

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## 1 Introduction

### 1.1 Summary

1.1.1 This Statement of Reasons (“this Statement”) relates to an application, made by National Highways (“the Applicant”) to the Secretary of State for Transport via the Planning Inspectorate (“the Inspectorate”) under the Planning Act 2008 (“the 2008 Act”) for a Development Consent Order (“DCO”). If made, the DCO would grant consent for the A66 Northern Trans-Pennine Project (“the Project”).

1.1.2 This Statement has been prepared in accordance with the requirements of Regulation 5(2)(h) of the Infrastructure Planning (Prescribed Forms and Procedure) Regulations 2009 (the APFP Regulations) and the Planning Act 2008: ‘Guidance related to procedures for compulsory acquisition of land’ (DCLG, September 2013) (“the CA Guidance”).

### 1.2 The Project

1.2.1 The Project is a nationally significant infrastructure project (NSIP) within sections 14(1)(h) and 22(1)(a) of the 2008 Act. Further information regarding how the Project qualifies as an NSIP can be found in the Explanatory Memorandum (Application Document 5.3).

1.2.2 As the Project is an NSIP, development consent must be obtained from the Secretary of State for Transport to authorise it, and an application for a DCO must be made to the Secretary of State under section 37 of the 2008 Act.

1.2.3 The Project comprises 8 schemes to improve the A66 between M6 J40 at Penrith and A1(M) J53 at Scotch Corner. The Project would involve improving the junctions on the M6 and A1 as well as improving six separate single carriageway lengths of road to dual carriageway standard and making improvements to the junctions within each of those lengths. The nature of the planned improvements includes online widening (adjacent to the existing road) of the carriageway as well as offline construction (new lengths of road following different routes but reconnecting into existing lengths of the A66 that are already dualled).

1.2.4 The 8 schemes are identified as follows:

- Scheme 0102 - M6 Junction 40 to Kemplay Bank
- Scheme 03 - Penrith to Temple Sowerby
- Scheme 0405 - Temple Sowerby to Appleby
- Scheme 06 - Appleby to Brough
- Scheme 07 - Bowes Bypass
- Scheme 08 - Cross Lanes to Rokeby
- Scheme 09 - Stephen Bank to Carkin Moor
- Scheme 11 - A1(M) Junction 53 Scotch Corner

1.2.5 Note: there is no Scheme 10.

1.2.6 Application Document 2.5 General Arrangement Drawings shows how the Project could be developed within the parameters of the development consent sought.

## 1.3 Compulsory Acquisition

1.3.1 In its DCO application for the Project, the Applicant seeks compulsory acquisition and temporary possession powers in respect of certain land interests. A detailed description of the extent and nature of the powers sought is set out by reference to the DCO application documents in **Chapter 3** of this Statement.

## 1.4 Land Interests

1.4.1 The extent of the land interests affected by the compulsory acquisition and temporary possession powers sought by the Applicant in relation to the land (“the Land”) is described in Chapter 4 of this Statement.

1.4.2 The Applicant has carried out diligent inquiry, as set out in the APFP Regulations and the Compulsory Acquisition (CA) Guidance, to identify all the persons with an interest in the Land (the land shown on the Land Plans (Application Document 5.13) and the persons with a potential claim for compensation as a result of the Project. These persons have been consulted pursuant to section 42 of the 2008 Act. The categories of persons identified and the methods used to identify them are described in Chapter 4 of this Statement by reference to the categories in the Book of Reference (Application Document 5.8).

1.4.3 The Applicant has entered into negotiations to acquire other parties’ interests voluntarily and is progressing those discussions. These negotiations are not yet completed. The current position on these negotiations is set out in the Schedule of Negotiations (Application Document 5.10).

1.4.4 It is necessary to acquire the land interests by compulsory acquisition to enable the Project to be delivered. The acquisition of all land interests is necessary to enable the Project to proceed. Further details are set out in Chapter 4 of this Statement.

1.4.5 The Applicant already owns a number of plots which are required for the Project and which may be subject to unknown rights that could jeopardise the delivery of the Project. In order to ensure that any such rights can be removed (and the persons benefitting from them are compensated for such removal) the Applicant’s own land has been included within the Land over which compulsory powers are sought.

## 1.5 The Case for Compulsory Acquisition

1.5.1 This Statement sets out the reasons for the inclusion of compulsory acquisition powers within the DCO application. It explains that it is necessary to include compulsory acquisition powers within the DCO so that the Applicant can acquire the land interests required for the construction and operation (including maintenance) of the Project that is not already in its possession. It also

explains why powers of compulsory acquisition are necessary to enable the Applicant to use land temporarily and to acquire, suspend, interfere with or extinguish rights over land. This is in order to construct and maintain the Project in a way that is both proportionate and in the public interest by reducing environmental impacts, minimising the cost to the Applicant (and hence the public purse) and mitigating the impact on affected land interests. This compelling case is evidenced further in the wider documentation that accompanies the application.

1.5.2 The powers of compulsory acquisition and temporary possession sought in the application are necessary, proportionate and justified. The powers sought are in accordance with all relevant statutory and policy guidance.

1.5.3 There is a compelling case in the public interest for the compulsory acquisition and temporary possession powers sought as set out in Chapter 5 of this Statement. The conclusion of this Statement is that the grant of the compulsory powers requested would be lawful under all applicable legal regimes.

## 1.6 Human Rights

1.6.1 In preparing the DCO, the Applicant has had regard to the European Convention on Human Rights (“the Convention”) and the Human Rights Act 1998. Chapter 6 of this Statement considers how the Project complies with this legislation notwithstanding any infringement of private rights of those whose interests in the land may be affected by the exercise of powers of compulsory acquisition and temporary possession.

## 1.7 Special Considerations

1.7.1 In Chapter 7 of this Statement, the Applicant has identified all special category land which is affected by the compulsory acquisition powers sought in the DCO. Chapter 7 also explains where replacement land is proposed to be provided.- The Applicant has engaged with the persons responsible for the relevant special category land and with a view to avoiding the need for special parliamentary procedures in accordance with the relevant sections of the 2008 Act. The Applicant has further considered what other consents are required in order to enable the Project to proceed and has set out in the Consents and Agreements Position Statement (Application Document 5.4) how these will be secured.

1.7.2 Chapter 7 of this Statement also identifies Crown land affected by the Project and explains how the Applicant is engaging with the relevant Crown authorities regarding the inclusion within the Order limits of the Crown land required for the Project.

## 1.8 Compliance with statutory requirements and policy guidance

1.8.1 This document has been prepared in accordance with the requirements of Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (“APFP Regulations”) and the

'Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land' (DCLG, September 2013) ("the CA Guidance").

1.8.2 This Statement is required because the DCO, if made, would confer upon the Applicant the compulsory acquisition powers described in this Statement, including the power to acquire land outright, the power to acquire rights over land, the power to extinguish rights over land and the power to occupy land temporarily for construction and maintenance purposes.

1.8.3 This Statement should be read alongside the other DCO application documents that relate to the compulsory acquisition powers sought by the Applicant, including:

- Draft DCO (Application Document 5.1)
- Explanatory Memorandum (Application Document 5.3)
- Funding Statement (Application Document 5.6)
- Book of Reference (Application Document 5.7)
- Compulsory Acquisition and Temporary Possession Schedule (Application Document 5.9)
- Schedule of Negotiations (Application Document 5.10)
- Land Plans (Application Document 5.13)
- Crown Land Plans (Application Document 5.14)
- Special Category Land Plans (Application Document 5.15)
- Works Plans (Application Document 5.16)
- Case for the Project (Application Document 2.2)
- Guide to the Application Documents (Application Document 1.4)
- Consents and Agreements Position Statement (Application Document 5.4)
- Legislation and Policy Compliance Statement (Application Document 3.9)



## 2 The Project

### 2.1 Description of the Project

2.1.1 The Project comprises 8 schemes to improve the A66 between M6 J40 at Penrith and A1(M) J53 at Scotch Corner. The Project would involve improving the junctions on the M6 and A1 as well as improving six separate single carriageway lengths of road to dual carriageway standard and making improvements to the junctions within each of those lengths. The nature of the planned improvements includes online widening (adjacent to the existing road) of the carriageway as well as offline construction (new lengths of road following different routes but reconnecting into existing lengths of the A66 that are already dualled).

2.1.2 The 8 schemes are identified as follows:

- Scheme 0102 - M6 Junction 40 to Kemplay Bank
- Scheme 03 - Penrith to Temple Sowerby
- Scheme 0405 - Temple Sowerby to Appleby
- Scheme 06 - Appleby to Brough
- Scheme 07 - Bowes Bypass
- Scheme 08 - Cross Lanes to Rokeby
- Scheme 09 - Stephen Bank to Carkin Moor
- Scheme 11 - A1(M) Junction 53 Scotch Corner

2.1.3 Note: there is no Scheme 10.

2.1.4 Further detail on each scheme is provided below and is shown in the General Arrangement Drawings (Application Document 2.5).

2.1.5 The development of the Project was informed by knowledge of environmental, engineering and traffic constraints, as well as the environmental appraisal of emerging design proposals combined with and incorporating feedback from consultation and engagement with landowners and stakeholders. The accompanying Environmental Statement (Application Document 3.2) and the assessments within it are based on the works proposed in the DCO (described principally in Schedule 1 and shown on the Works Plans (Application Document 5.16), and the Engineering Section Drawings: Plan and Profiles, and the Engineering Section Drawings: Cross-Sections (Application Documents 5.17 and 5.18 respectively).

2.1.6 The preliminary design of the 8 schemes that make up the Project is described below. -A detailed description of the Project is also included in the Case for the Project (Application Document 2.2) and in the Chapter 2 of the Environmental Statement (Application Document 3.2).

2.1.7 All schemes (with the exception of Scheme 11) include lengths of de-trunked A66 as a result of the Project.- The detail of any proposed changes to the de-trunked lengths will be agreed with the relevant Local Authority.

2.1.8 Detailed design will consider all aspects of the preliminary design in greater detail. Signage, pavements, signal design and accommodation works are specific aspects that will be defined during detailed design.

## Scheme 0102 - M6 Junction 40 to Kemplay Bank

- 2.1.9 The M6 Junction 40 to Kemplay Bank scheme would provide a three-lane circulatory carriageway with spiral markings, within the footprint of the current roundabout at M6 Junction 40. The A66 eastern arm of the roundabout would be widened to three lanes in each direction between M6 Junction 40 and Kemplay Bank Roundabout to increase capacity for local movements around Penrith. Widening would be required on the following five approach arms to M6 Junction 40 to provide additional lanes and a dedicated left turn facility, ~~each controlled under its own signal phase~~: M6 North, M6 South, A66 East, A66 West, and A592 Ullswater Road.
- 2.1.10 All existing local accesses would be accommodated and it is proposed to relocate the existing access to Skirsgill Depot by approximately 95m to the east of its existing access. This scheme would also include signal controlled crossings serving the existing shared cycle/footway connection on the western side.
- 2.1.11 All existing pedestrian and cycle connections would be retained on the Penrith South Bridge western side alongside Skirsgill Business Park. This would also be the case for the Skirsgill North-West pedestrian and cycle connections. The existing cycle/pedestrian route to Skirsgill Depot would be directed through a signal controlled crossing at the roundabout, to provide a safer replacement for the existing uncontrolled crossing of the A66 Eastern Arm. This would be an improvement to the walking and cycling safety of this route.
- 2.1.12 The existing police platform located on the Penrith North Bridge to the eastern side, between the M6 off slip and A592, is to be retained in its current location. The existing police platform on the Penrith South Bridge western side would be relocated further into the widened verge to allow for the new dedicated left-hand lane from the M6 off slip.
- 2.1.13 Further to the east, at Kemplay Bank Roundabout, the scheme would pass beneath the existing roundabout via two underpass structures that would carry the circulatory carriageway. This would comprise a new dual carriageway under Kemplay Bank Roundabout allowing free-flowing east-west traffic, reducing congestion and improving access to Penrith and the A6.
- 2.1.14 This scheme would include new on-slip and off-slip roads with the A6 and A686 allowing users to safely join and leave the A66 in both directions, serving the local road network with links to Penrith, Eamont Bridge and other local settlements. Minor realignment of the A6 and A686 arms would be required to accommodate the new slip roads serving the local road network.
- 2.1.15 It is proposed that the speed limit between M6 Junction 40 and Kemplay Bank would be reduced from the National Speed Limit to 50mph in both directions (approximately 2.3km). This allows for the retention and extension of an existing underpass from Carleton Avenue which provides access to the Police and Fire site to the south of the existing A66. As this is a critical access requirement, retaining it has avoided the need to construct a replacement underpass or overbridge to maintain access (therefore reducing construction impacts and reducing embodied carbon). This existing underpass would be extended to accommodate the widening of the A66. The reduced speed limit is

considered acceptable for this section of the route due to the proximity to key junctions with the A6, A686 and M6 and associated safety considerations.

- 2.1.16 Signalisation of the Kemplay Bank Roundabout would be retained to facilitate safe crossing at all five arms. Cycleways and footways currently located through the centre of the roundabout would be re-routed around the roundabout. The existing emergency exit from the fire station linked with the existing traffic signals would be maintained throughout construction and would remain in place once the works are complete.
- 2.1.17 ~~A police observation point would be included on~~ The verges on the Kemplay Bank overbridges are an appropriate width for use as a police observation point for intermittent mobile speed enforcement purposes.
- 2.1.18 A replacement layby would be provided on the eastbound carriageway between the M6 Junction 40 and Kemplay Bank Roundabout. The existing layby on the westbound carriageway between Kemplay Bank Roundabout and M6 Junction 40 would be removed and would not be replaced due to the proximity of adjacent junctions.
- 2.1.19 Replacement land would be provided to compensate the local community for land take from public open space alongside Wetheriggs Park, as a result of widening the existing A66 to the north. The scheme would include lighting provision, extending and in some locations replacing the current provision.
- 2.1.20 Three ponds would be required for this scheme for the purpose of drainage of the road network and to manage water quality before the water is discharged into the surrounding watercourses. The western-most of these ponds is proposed to be located to the south of the existing A66 to the east of the West Coast Mainline, the second is proposed to be located to the south of the A66 in the open fields between the M6 and the A6, and the eastern-most pond is situated to the south of the A66 to the east of the Fire, Police and Ambulance site. Access tracks would be constructed to allow vehicular access to facilitate the maintenance of these ponds. The locations of these ponds have been selected to ensure effective drainage, minimise impacts on future proposed development in the area, and minimise environmental impacts.
- 2.1.21 Utility works would be required for gas, electricity, water and communications services throughout the length of the scheme.
- 2.1.22 No demolition of property is required as part of this scheme. The scheme would involve minor demolition works, such as roadside features, drainage and kerbing associated with the upgrading of the existing A66.

### Scheme 03 - Penrith to Temple Sowerby

- 2.1.23 The Penrith to Temple Sowerby scheme would provide full dualling of the existing 5.2km length of single carriageway A66 between Penrith and Temple Sowerby. The scheme would predominantly involve online widening using the existing carriageway to form the westbound half of the dual carriageway. The second carriageway would be constructed to the north of the existing carriageway to form the new eastbound carriageway.

- 2.1.24 A new grade-separated junction would be constructed to replace the existing junction to Center Parcs to connect the local road network and Center Parcs with the new alignment of the A66. The northern side of this junction would have shallower graded embankment slopes in order to integrate the junction more appropriately into the surrounding landscape. The extent of this grading would allow the land to be returned to agriculture following construction. The junction would cater for all movements on and off the A66, making it easier and safer for users to join the A66 and preventing tail backs at peak times.
- 2.1.25 New left-in/left-out junctions would be provided to the B6262 and to St Ninian's Church on the Winderwath Estate, with associated merge and diverge lanes to enable safe access to homes and businesses. Improved parking provision would be provided for access to St Ninian's Church to enhance accessibility to this heritage asset.
- 2.1.26 An existing access serving Whinfell Holme Wastewater Treatment Works would be converted to left-in/left-out. This access is proposed to be relocated to the east of its current location, to minimise the need for widening over the existing Shell Oil high pressure gas pipeline which crosses the A66 in a north-south direction.
- 2.1.27 Works to widen the carriageway would reduce the current parking provision at the National Highways A66 Information Hub (formerly the Llama Karma Kafe). It is proposed that this area be converted to an amenity parking area with a new footpath providing access to the Countess Pillar historic monument to the east of this site, to provide an enhancement and accessibility for the public to an important heritage feature along the route. Landscape and biodiversity mitigation planting would take the Countess Pillar and its prominence along the A66 route into consideration to ensure it continues to be a known feature.
- 2.1.28 The scheme removes existing at-grade crossing points of the A66. An overpass and one underpass have been included to facilitate the safe crossing of the A66. The overbridge, which would serve as an agricultural access and as a Public Right of Way, is proposed to be situated approximately 260m to the east of the existing junction with the B6262, and the underpass is proposed to be situated approximately 180m to the east of the existing entrance to Whinfell Park.
- 2.1.29 An east/west walking and cycling link, connecting Penrith with Temple Sowerby, would be provided along the length of this scheme (predominantly to the north of the A66) which would also be utilised as an access track for pond maintenance as well as serving as a local access route for landowners. All other pedestrian, cyclist and horse-rider facilities that would be severed by the scheme are to be reconnected via grade-separated crossings.
- 2.1.30 New layby facilities would be provided on the proposed A66 mainline in both eastbound (chainage 22400 and 24860) and westbound (chainage 24440) directions to replace existing provision which would be lost due to the implementation of the scheme. Observation platforms will be included in the eastbound layby at chainage 22400 and in the westbound layby.
- 2.1.31 No lighting would be provided on the length of the scheme.

- 2.1.32 Seven ponds are proposed at low points in the scheme to attenuate drainage and run-off from the road in order to manage the water quality before it is discharged into the surrounding watercourses. Shared and dedicated access tracks would be provided to the north and to the south of the road to facilitate access to ponds for maintenance purposes and to accommodate landowner movements.
- 2.1.33 Utility works would be required for gas, electricity, water and communications services throughout the length of the scheme.
- 2.1.34 The existing farm buildings at High Barn are proposed to be demolished to accommodate the offline section of the A66 to the east of the new grade-separated junction. -The proposals also include the demolition of the Lightwater Cottages to the south of the A66 to facilitate and accommodate a replacement left-in/left-out access to the Winderwarth Estate. -The scheme would involve minor demolition works, such as roadside features, drainage and kerbing associated with the existing A66 and other local roads.

### Scheme 0405 - Temple Sowerby to Appleby

- 2.1.35 The Temple Sowerby to Appleby scheme would comprise a new offline bypass around the north of Kirkby Thore, and then pass to the north of Crackenthorpe parallel to the old Roman road before tying into the existing Appleby Bypass. This route would include a number of new junctions and improvements throughout its length to connect the scheme to the existing road network. The existing 8.5km A66 would be de-trunked.
- 2.1.36 The new A66 diverts from the existing A66 in a north-easterly direction from the end of Temple Sowerby Bypass, crossing over Priest Lane and under Station Road before turning south after passing north of the village. Continuing in a southerly direction, the route would pass under Fell Lane where a new grade separated junction would be provided. Main Street would be stopped up just to the south of the new route with a new link from Main Street to Fell Lane to the north of the route to reconnect the village.
- 2.1.37 The scheme then continues under the realigned Sleastonhow Lane where a new overbridge would be provided. The realignment of Sleastonhow Lane avoids and runs to the south of the veteran oak tree. The new A66 would then cross the SAC and SSSI designated Trout Beck and its associated floodplain on a new multi-span viaduct before heading in a south-easterly direction towards Crackenthorpe.
- 2.1.38 A false bund would be created on the south side of the new A66, around the north of Kirkby Thore. The false bund, formed by creating an embankment above existing ground levels, would increase the depth of cutting to visually screen the road and to reduce noise impacts to the village of Kirkby Thore. These embankments would be graded out on the village side to allow them to fit better into the surrounding landscape and to enable the land on which they are constructed to be returned to agricultural use following construction.
- 2.1.39 A new compact grade-separated junction is proposed to be provided at Long Marton. In order to facilitate this junction, the route of Long Marton Road would require some realignment. This realignment would move the road away from

the Roman Camp, 350m to the east of Redlands Bank Scheduled Monument. This route would provide full access to the new A66 and maintain the existing link between the communities of Bolton and Long Marton. East of Long Marton the route would run in a south-easterly direction and has been designed to follow the line of the Roman Road towards Appleby. The scheme would connect to the existing A66 Appleby Bypass at the eastern end of the scheme.

- 2.1.40 The existing eastbound diverge slip road linking to the B6542 close to the Appleby Fair field would be maintained to allow access into Appleby. The existing westbound merge slip road at this location would be changed to a two-way road to allow traffic from Appleby to access the de-trunked (old) A66 and head west to the new Long Marton junction and beyond.
- 2.1.41 In order to improve local connectivity at the western end of the scheme, the existing junction at the eastern end of the Temple Sowerby bypass would be improved. The improved junction would provide connections between the existing A66 and the local road network. A short section of road would connect from Temple Sowerby Bypass junction to the existing A66, allowing access for local traffic and other road users from Temple Sowerby to Crackenthorpe and to wider settlements.
- 2.1.42 A new grade-separated junction would be provided at Fell Lane to the north of Kirkby Thore. Fell Lane would pass over the proposed A66 alignment on a bridge structure. This junction would maintain the key local connection onto the A66 at Kirkby Thore and also provide access for communities to the north as well as the British Gypsum site. This would contribute to a reduction in the number of Heavy Goods Vehicles (HGV) movements through Kirkby Thore. New merge and diverge lanes would be incorporated as part of this junction to enable users to safely join and leave the A66 in both directions. A connector road, on the northern side of the new A66, would also be constructed which would provide a link from the new junction to Main Street. The property Whinthorn House, together with an agricultural barn, would need to be demolished to accommodate the route at this location.
- 2.1.43 Accommodation works would be undertaken to ensure that access to properties is suitably maintained. The existing underpass would be widened and undergo redesign to maintain access for Spittals Farm. A new accommodation overbridge would be used to carry an existing bridleway over the new A66 at its north-westernmost extent and to maintain access for Crossfell House Farm. To the eastern extent of the route, a new accommodation overbridge would maintain access over the new A66 for Rogerhead Farm.
- 2.1.44 New layby facilities would be provided on the proposed A66 mainline in both eastbound (chainage 30560, 34550 and 36500) and westbound (chainage 31350, 33825 and 36900) directions to replace existing provision which would be lost due to the implementation of the scheme.
- 2.1.45 No lighting would be provided on the length of the scheme.
- 2.1.46 15 ponds are proposed at low points in the scheme to attenuate drainage and run-off from the road in order to manage the water quality before it is discharged into the surrounding watercourses. Shared and dedicated access

tracks are proposed to be provided to the north and to the south of the road to facilitate access to ponds for maintenance purposes and to accommodate landowner movements.

- 2.1.47 Utility works would be required for gas, electricity, water and communications services throughout the length of the scheme.
- 2.1.48 An east to west walking and cycle route is proposed to be provided along the length of the de-trunked existing A66, utilising the verge and adjacent land where necessary, providing connectivity for users between Temple Sowerby and Appleby. All other pedestrian, cyclist and horse-rider facilities that would be severed by the scheme are to be reconnected via grade-separated crossings.
- 2.1.49 Two residential properties (Winthorn and Dunelm) and two barns located opposite (but not associated with) Spittals Farm and on the north-eastern side of Main Street would require demolition. The scheme would involve minor demolition works, such as roadside features, drainage and kerbing associated with the existing A66 and other local roads.

### Scheme 06 - Appleby to Brough

- 2.1.50 The Appleby to Brough scheme comprises dualling an 8.3km length of single carriageway between Coupland Beck and Brough. A number of junction improvements are proposed to enable access on and off the A66 to improve user safety and reduce congestion.
- 2.1.51 The western extent of the scheme comprises 2.6km of online widening with a new eastbound carriageway to the north of the existing carriageway. The westbound carriageway would follow the line of the existing A66. The dualled section includes junction improvements to enable access on and off the A66 to improve user safety and reduce congestion.
- 2.1.52 An improved left-in/left-out junction from the eastbound carriageway would be provided at Café 66. This would loop to the rear of the building and also serve as access to agricultural land at the western end of the scheme.
- 2.1.53 A replacement underpass would be provided for New Hall Farm and Far Bank End. A left in/left out junction would be provided on the westbound carriageway. Access tracks would link the underpass and each carriageway, providing access to the A66 in all directions for farms, properties and land at this location.
- 2.1.54 A new compact grade-separated junction would provide a link to the B6259 to Sandford/Warcop as well as providing links for Public Rights of Way. A new underpass is proposed to facilitate access to agricultural land on the south side of the new A66 and for footpath connectivity to be provided adjacent to Wheatsheaf Farm.
- 2.1.55 From Wheatsheaf Farm the central length of the scheme is proposed to be located approximately 50m to the south of the existing A66. It would follow an alignment utilising the line of the existing A66 as the eastbound carriageway and a new westbound carriageway would be constructed directly to the south of the line of the existing A66 alignment in order to reduce the extent of

construction within the designation of the North Pennines Area of Outstanding Natural Beauty.

- 2.1.56 New viaducts would be provided to cross over Moor Beck and Cringle Beck together with a new bridge on the Warcop westbound junction. These are being provided to minimise any effects on the becks as they have been found to be functionally linked to the River Eden Special Area of Conservation downstream and support multiple species protected by this designation. Land has also been identified in the area in order for flood compensation areas to be provided.
- 2.1.57 A new local road would be provided to the north of the new A66 dual carriageway, in this central section, in order to maintain local access and facilitate movement on and off the A66 to both Warcop and the Ministry of Defence (MoD) facility.
- 2.1.58 This scheme encroaches up to 150m into the AONB, and results in the demolition of the MoD tank storage and refuelling compound which would be replaced within an extension to the MoD's existing landscape maintenance compound located approximately 600m further east.
- 2.1.59 Land from two residential properties on the north side of the existing A66 would be required to facilitate the construction of the new local access road through this section.
- 2.1.60 The central section of the scheme would pass through the existing Brough Hill Fair site and this would need to be replaced on a like for like basis. A replacement site has been identified adjacent to the current site making use of the MoD bivvy (camping) site. A level of remediation of the bivvy site would be required to facilitate the Brough Hill Fair.
- 2.1.61 New junctions would be provided at Warcop on the westbound and eastbound carriageways facilitating access to the A66 in both directions and providing access to the village of Warcop and the realigned existing A66. These junctions would maintain access to the village of Warcop, the relocated MoD facility, side roads, properties and land to the north and south of the A66 via a new overbridge located to the east of Moor Beck bridge.
- 2.1.62 A local road would be provided to the south of the new A66 connecting Flitholme and Langrigg allowing residents a connection to the new westbound carriageway and local roads to the south via Musgrave Lane.
- 2.1.63 The proposed left-in/left-left out priority junctions would be approximately 0.6km apart and designed to utilise existing side road connections and minimise earthworks.
- 2.1.64 The eastern length of the scheme would continue to follow an alignment to the south of the existing A66 before tying into the Brough Bypass.
- 2.1.65 The de-trunked sections of the existing A66 would enable use for access to the local road network west of Warcop and a new local road would be provided to the north from Turks Head into Brough. This would encroach approximately 130m into the AONB. A left-only T-junction with appropriate diverge and merge tapers on the westbound carriageway would be provided to maintain access to agricultural land and properties on the south side of the new dual carriageway.



Eastbound local movements to Brough would be via the accommodation bridge to join with the local road into Brough.

- 2.1.66 A new access road and an overbridge for farm traffic, walkers, cyclists and horse-riders would be provided at the eastern end of the scheme near West View Farm, providing access to land on the north side of the A66 from the farm located to the south, as well as providing footpath and bridleway connectivity. This overbridge and access road connection does fall within the AONB and would therefore be designed to minimise the footprint and visual impact. There would be an encroachment of up to 134m into the AONB.
- 2.1.67 New layby facilities would be provided on the proposed mainline in both eastbound (chainage 41300 and 46550) and westbound (chainage 41280) directions to replace existing provision which would be lost due to the implementation of the scheme. -Observation platforms will be included in the eastbound layby at chainage 41300 and in the westbound layby.
- 2.1.68 No lighting would be provided on the length of the scheme.
- 2.1.69 ~~18~~20 ponds are proposed at low points in the scheme to attenuate drainage and run-off from the road in order to manage the water quality before it is discharged into the surrounding watercourses. Shared and dedicated access tracks are proposed to be provided to the north and to the south of the road to facilitate access to ponds for maintenance purposes and to accommodate landowner movements.
- 2.1.70 Utility works would be required for electricity, water and communications services throughout the length of the scheme.
- 2.1.71 An east to west walking and cycle route is being provided along the length of this scheme, providing connectivity for users between Appleby and Brough. All pedestrian, cyclist and horse-rider facilities that would be severed by the scheme are to be reconnected via grade-separated crossings.
- 2.1.72 The MoD tank storage and refuelling compound would be demolished and replaced within the MOD's existing landscape compound located 600m to the east. The scheme would involve minor demolition works, such as roadside features, drainage and kerbing associated with the existing A66 and other local roads.

### Scheme 07 – Bowes Bypass

- 2.1.73 The Bowes Bypass scheme would closely follow the existing A66 alignment to the north of the village of Bowes over a length of 3km. The current line of the existing A66 would form the westbound dual carriageway, with a new adjacent eastbound carriageway constructed to the north.
- 2.1.74 The existing A66 to the west of Bowes passes through the North Pennines AONB. At the westernmost end of this scheme, the AONB boundary abuts the existing edge of pavement of the westbound A66 (i.e. the existing highway verge falls within the AONB boundary). Work to connect the new dual carriageway with the existing dual carriageway falls approximately 10m within the AONB boundary at this location for a length of approximately 300m.

- 2.1.75 Clint Lane overbridge would be reconstructed to accommodate the upgraded (wider) A66 dual carriageway. This structure would be replaced like-for-like to ensure all access and existing facilities are maintained.
- 2.1.76 Lyndale Farm Underpass would be extended under the new carriageway to maintain access to Lyndale Farm.
- 2.1.77 At the junction with the A67, a bridge would carry the new eastbound carriageway over the A67. The eastbound diverge slip road would be relocated north to make way for the new eastbound A66 carriageway. Two new slip roads would accommodate traffic travelling to and from the east providing access to and from the A67 and Bowes village. The A67 would be widened at the junction to accommodate a new right turn lane for the eastbound on-slip. The existing westbound on-slip road would have minor improvements made to create a safer merge.
- 2.1.78 Ruins (former Bowes Railway Station) and a barn structure immediately north-east of the junction would be removed. Black Lodge Farm underpass would be extended to the north under the new eastbound carriageway.
- 2.1.79 Access from Bowes to the A66 (via the Roman road known as The Street, and locally known as Low Road) would be stopped up. The upgraded grade-separated Bowes junction would provide safer access to the A66 for local traffic.
- 2.1.80 The existing westbound layby to the west of the existing Low Road access would be relocated to the easternmost extent of the scheme (chainage 52735).
- 2.1.81 East of Bowes an accommodation overbridge would be constructed to allow Low Broats Farm and High Broats Farm to have continued access to the A66 via the improved junction with the A67. Additionally, a parallel accommodation access would be provided to ensure Mid Low Fields Farm, East Low Fields Farm and Bowes Cross Farm have continued access to the A66 again via the improved junction with the A67.
- 2.1.82 The house at Low Broats Farm and three associated farm buildings are proposed to be demolished to facilitate the new eastbound carriageway.
- 2.1.83 Access to and from Hulands Quarry would be made safer by closure of the existing central reserve gaps on the A66 and by upgrading the junction geometry. The existing central reserve gap at Bowes Cross Farm would be closed, along with access from the premises onto the A66, in order to improve safety.
- 2.1.84 The scheme would include lighting provision, extending and in some locations replacing the current provision.
- 2.1.85 Six ponds are proposed at low points in the scheme to attenuate drainage and run-off from the road in order to manage the water quality before it is discharged into the surrounding watercourses. Shared and dedicated access tracks are proposed to be provided to the north and to the south of the road to facilitate access to ponds for maintenance purposes and to accommodate landowner movements.
- 2.1.86 Utility works would be required for electricity, water and communications services throughout the length of the scheme.

- 2.1.87 The ruins of the former Bowes Station and Low Broats Farm buildings would be demolished. The scheme would involve minor demolition works, such as roadside features, drainage and kerbing associated with the existing A66 and other local roads.

### Scheme 08 - Cross Lanes to Rokeby

- 2.1.88 The Cross Lanes to Rokeby scheme would mostly follow the 4.4km existing A66 alignment, with a new adjacent westbound carriageway constructed to the south between the B6277 at Cross Lanes and the existing Tutta Beck Cottage access. Both carriageways would then be routed to the south of the Old Rectory and St Mary's Church, re-joining the existing dualled A66 at Rokeby.
- 2.1.89 A new compact grade-separated junction would be constructed at Cross Lanes, west of the Organic Farm Shop and Café. An overbridge would carry a new single carriageway link between the B6277 Moorhouse Lane (to the north) and Rutherford Lane (to the south). Traffic would be able to leave and join the A66 via new priority junctions, maintaining all movements. The existing accesses from the B6277 and Rutherford Lane onto the A66 would be stopped up. Moorhouse Lane (to the south) would be stopped up and realigned to connect the new grade-separated Cross Lanes Junction.
- 2.1.90 Access to the Cross Lanes Organic Farm Shop and Café from the Cross Lanes Junction would be provided via the realigned Moorhouse Lane. An accommodation access would spur from Moorhouse Lane and run parallel to the A66, would lead to Birk House Farm.
- 2.1.91 Access to Ivy and Smithy Cottages, Cross Lanes Farmhouse and Streetside Farm would be provided by a connection to the new junction link road on the north. North Bitts Farm would also connect to the new Cross Lanes Junction via an accommodation access.
- 2.1.92 The junction at Cross Lanes has been designed to minimise impact upon existing woodland, land parcels and watercourses. Tutta Beck would be realigned through the Cross Lanes Junction.
- 2.1.93 Access to Poundergill would be maintained via Rutherford Lane.
- 2.1.94 The new A66 dual carriageway would mostly follow the existing A66 alignment between Cross Lanes and Rokeby junctions. Layby provision along this section would be maintained by the construction of new laybys serving the eastbound and westbound carriageways either side of Streetside Farm. Streetside Farm's existing access onto the A66 would be stopped up and an accommodation access parallel to the A66 (to the north), would lead to the Cross Lanes Junction.
- 2.1.95 The existing Tutta Beck Cottages access onto the A66 would be stopped up. Here, the new A66 dual carriageway would divert to the south of the Old Rectory before realigning with the existing A66 at Rokeby. A new three arm compact grade-separated junction would be constructed west of the Old Rectory allowing westbound traffic to leave and join the A66, and eastbound traffic to leave the A66. The Rokeby Junction would be constructed in an underbridge arrangement with the westbound loop passing beneath the predominantly at grade A66. The junction has also been located to avoid

impacts upon a number of veteran trees where possible, located to the north of the junction.

- 2.1.96 Accommodation accesses would spur off from the new Rokeby Junction to maintain access to Tutta Beck Cottages and Ewe Bank Farm (to the south) and Rokeby Grange (to the north).
- 2.1.97 The new Rokeby Junction would maintain HGV access to Barnard Castle via the C165 Barnard Castle Road.
- 2.1.98 The existing A66 would be de-trunked west of the Grade II\* listed Church of St Mary along its length to the C165 Barnard Castle Road. A roundabout would manage traffic movements between the de-trunked A66, C165 and the new eastbound merge local to the Rokeby Park Registered Park and Gardens (RPG).- A new eastbound merge would ensure all movements are possible at Rokeby (when the provision at Rokeby Junction is considered).
- 2.1.99 The existing access from Tack Room Cottage onto the A66 (to the south) would be stopped up. Access would be replaced via an accommodation access to the new Rokeby Junction. The access track has been designed with a 15m offset from Jack Wood Ancient Woodland to minimise impact to the woodland which is located directly to the south. The Tack Room Cottage existing access to/from Greta Bridge would be maintained. A new cycleway would connect Greta Bridge to the Tack Room Cottage access route, and thus the Rokeby Junction, allowing cyclists to travel to/from Barnard Castle and Greta Bridge more safely.
- 2.1.100 New layby facilities would be provided on the proposed mainline in both eastbound (chainage 60695) and westbound (chainage 61100) directions to replace existing provision which is lost due to the implementation of the scheme. -Both laybys would include observation platforms.
- 2.1.101 No lighting would be provided on the length of the scheme.
- 2.1.102 Six ponds are proposed at low points in the scheme to attenuate drainage and run-off from the road in order to manage the water quality before it is discharged into the surrounding watercourses. Shared and dedicated access tracks are proposed to be provided to the north and to the south of the road to facilitate access to ponds for maintenance purposes and to accommodate landowner movements.
- 2.1.103 Utility works would be required for electricity, water and communications services throughout the length of the scheme.
- 2.1.104 No demolition of property is required as part of this scheme. The scheme would involve minor demolition works, such as roadside features, drainage and kerbing associated with the existing A66 and other local roads.

### Scheme 09 – Stephen Bank to Carkin Moor

- 2.1.105 The 5km Stephen Bank to Carkin Moor scheme would comprise a new offline dual carriageway section between Stephen Bank and Carkin Moor Farm. The new dual carriageway would pass to the north of the existing A66 and the properties at Fox Hall and Mainsgill Farm, re-joining the existing A66 alignment to the east of Mainsgill Farm. The existing A66 would be de-trunked and would

be used in part as a collector road for local access to surrounding villages and properties.

- 2.1.106 A new accommodation underpass would be provided to the north of Dick Scot Lane to allow access to land to the north of the scheme. This underpass would also allow the existing Hutton Magna 12 bridleway, which currently ends at the A66 to the west, to pass beneath the proposed A66 alignment.
- 2.1.107 New layby facilities would be provided on the proposed mainline in both eastbound (chainage 71315) and westbound (chainage 70880) directions to replace existing provision which would be lost due to the implementation of the scheme. -Both laybys would include observation platforms.
- 2.1.108 To maintain access to Collier Lane, a section of the existing A66 to the west of Ravensworth Lodge would be realigned over a distance of approximately 600m to facilitate connection to the new Collier Lane Overbridge. New drainage ponds would be provided to the west of Ravensworth Lodge and to the East of Fox Hall Cottages. The proposed alignment of the A66 in this location has been designed to be in cutting at this location .
- 2.1.109 Mains Gill Junction, which is a proposed new compact grade-separated junction to the west of Moor Lane, would provide connectivity between the de-trunked A66 and the proposed mainline of the new A66. This new junction is proposed to be placed in a cutting beneath the proposed alignment of the A66 and connects to the de-trunked A66 to the west of Mainsgill Farm.
- 2.1.110 The southern section of Moor Lane would be stopped up and the highway realigned to connect to the Mains Gill Junction link road. The existing bridleway 20.23/5/1, which currently ends at the A66, would be diverted to the west to allow it to be rerouted along the proposed realigned section of Moor Lane and beneath the A66 via Mains Gill Junction. It would then connect with a realigned bridleway 20.55/6/1 which passes to the south of the de-trunked A66 along the western boundary of Mainsgill Farm. The existing route of bridleway 20.55/6/1 which proceeds through the busy entrance of Mainsgill Farm would be extinguished as part of this diversion.
- 2.1.111 Two new drainage ponds are proposed to be provided in the vicinity of Mainsgill Farm, one to the western boundary and one to the north of the existing A66 alignment.
- 2.1.112 The proposed alignment passes through the current cutting formed by the existing A66 at the Carkin Moor Scheduled Monument. To minimise the impact on the monument, the vertical alignment of the road is proposed to be lifted within the existing cutting and a retaining structure is proposed to be provided to the southern boundary.
- 2.1.113 The existing connection between the A66 and to Warrener Lane would be removed, and a new link provided between Warrener Lane and the de-trunked A66, allowing vehicles travelling from Hartforth to access the proposed A66 alignment via Mains Gill Junction. -The alignment of this new link road is proposed so as to avoid the footprint of the scheduled remains of the Roman fort and prehistoric enclosed settlement at Carkin Moor.
- 2.1.114 A further 3 ponds would be provided at the eastern extent of the scheme in between the existing A66 and the new Warrener Lane link. One of these ponds

is a replacement for an existing attenuation pond which is proposed to be removed to accommodate the earthworks needed for the scheme, whilst the other two offer storage for water run-off from both the A66 and also the new Warrener Lane link. Shared and dedicated access tracks are proposed to be provided to the north and to the south of the road to facilitate access to ponds for maintenance purposes and to accommodate landowner movements.

- 2.1.115 A new bridleway underpass would be provided to allow bridleway 20.30/8/1, which currently crosses the A66 at grade in the vicinity of the junction with Warrener Lane, to be grade-separated.
- 2.1.116 This new bridleway, which is to be provided alongside the de-trunked A66, would also be linked with the existing Hutton Magna 12 bridleway at the western end of the scheme.
- 2.1.117 Utility works would be required for electricity, water and communications services throughout the length of the scheme.
- 2.1.118 No lighting would be provided on the length of the scheme.
- 2.1.119 No demolition of property is required as part of this scheme. The scheme would involve minor demolition works, such as roadside features, drainage and kerbing associated with the existing A66 and other local roads.

### Scheme 11 - A1(M) Junction 53 Scotch Corner

- 2.1.120 The A1(M) Junction 53 Scotch Corner scheme would widen the existing Middleton Tyas Lane approach at Scotch Corner roundabout from one lane to two lanes. A length of existing footway and existing signage and lighting columns would be relocated to the edge of the widened carriageway, and road markings would require amendment to tie in with the existing arrangement.
- 2.1.121 An additional lane would also be provided on the northern bridge of the circulatory carriageway, increasing the provision in this area to three lanes. No structural amendments are envisaged to be required to the existing structure to accommodate the additional lane. Some amendment to the existing traffic signal arrangement would be required to allow poles to be located in new verges.
- 2.1.122 Utility works would be required for gas, electricity, water and communications services throughout the length of the scheme.
- 2.1.123 No demolition of property is required as part of this scheme. The scheme would involve minor demolition works, such as roadside features, drainage and kerbing associated with the existing A66 and other local roads.

## Project Objectives

2.1.124 Table 2-1 below provides a summary of the Project's objectives aligned to those outlined within the RIS 2 Strategy: 2020-2025.

**Table 2-1: Project Objectives**

Theme	Project Objectives
Economic	Regional: Support the economic growth objectives of the Northern Powerhouse <sup>1</sup> and Government levelling up agenda.
	Ensure the improvement and long-term development of the SRN through providing better national connectivity including freight.
	Maintain and improve access for tourism served by the A66.
	Seek to improve access to services and jobs for local road users and the local community.
Transport	Improve road safety, during construction, operation and maintenance for all, including road users, Non-Motorised Users (NMU <sup>2</sup> ), road workers and local residents.
	Improve journey time reliability for road users.
	Improve and promote the A66 as a strategic connection for all traffic.
	Improve the resilience of the route to the impact of events such as incidents, roadworks and severe weather events.
	Seek to improve NMU provision along the route.
Community	Reduce the impact of the route on severance for local communities
Environment	Minimise adverse impacts on the environment and where possible optimise environmental improvement opportunities.

<sup>1</sup> The Northern Powerhouse is a vision for joining up the North's great towns, cities and counties, pooling their strengths, and tackling major barriers to productivity to unleash the full economic potential of the North.

<sup>2</sup> The term "WCH" meaning walking, cycling and horse-riding is adopted in place of NMU in relation to this suite of application documents.

2.1.125 Table 2-2 below sets out how the Project meets its objectives:

**Table 2-2: Project conformity with its objectives**

Theme	Project conformity with objectives
<b>Economic</b>	<b>Connectivity</b>
	<p>The existing A66 is a key national and regional strategic transport corridor. It carries high levels of freight traffic and is an important route for tourism and connectivity for nearby communities. If the existing A66 route is not improved, it will continue to constrain national and regional connectivity and may threaten the transformational growth envisaged by the Northern Powerhouse initiative and the achievement of the Government ‘Levelling Up’ agenda. The Project facilitates improved vehicles movements to the A66 route network. and the journey time savings this results in. This has particular economic implications for freight and other business connectivity.</p>
	<p>Improving strategic regional and national connectivity, particularly for hauliers. Heavy goods vehicles account for a quarter of all traffic on the road and any delays to journeys can have an extremely negative effect on business and commerce, including lost working time and missed shipment slots.</p>
	<b>Access</b>
	<p>Improving access to key tourist destinations such as the North Pennines and Lake District.</p>
	<p>The Project, in addition to improving the strategic route network, 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.</p>
<b>Transport</b>	<b>Safety</b>
	<p>A consistent standard of dual carriageway, with the same speed limit throughout (with the exception of a short length of 50mph dualling between M6 Junction 40 and east of Kemplay Bank), will lead to fewer accidents. The use of the ‘old’ A66 as part of the local road network will provide better, safer routes for cyclists and pedestrians.</p>
	<b>Connectivity</b>
	<p>Improving connectivity for people living and working nearby and creating better facilities for cyclists and pedestrians. Reducing congestion and improving the reliability of people’s journeys between the M6 at Penrith and the A1(M) Scotch Corner and nationwide. It also improves connectivity between the key employment areas of Cumbria, Tees Valley, Durham and Tyne and Wear</p>



Theme	Project conformity with objectives
	<b>Capacity</b>
	Reducing delays and queues during busy periods through improved capacity and improving the performance of key junctions such as the A66/A6 and the M6 junction 40.
	<b>Reliability</b>
	Increasing reliability through an improved A66, with consistent speed limits, leading to less accidents which, in turn, makes the road more reliable. Also, having a dual carriageway provides the option to close lanes where required due to accidents or break downs, planned maintenance and still keep traffic moving.
<b>Community</b>	<b>Access</b>
	Re-connecting communities and providing better links between settlements along the route as well as improving access to services such as healthcare, employment areas and education
<b>Environment</b>	<b>Amenity and Environmental Improvements</b>
	Minimising noise levels for people living and working near the route and reducing the congestion currently occurring in the single carriageway lengths. The Project is also being designed to minimise any potential negative impacts on the natural environment and landscapes of the North Pennines and Lake District

## 2.2 Case for the Project

2.2.1 The overall need and case for the Project is set out in detail in Application Document 2.2, Case for the Project.- This document explains the Project’s history, describing the main project stages with reference to National Highways’ Project Control Framework (‘PCF’) (Chapter 2); it also sets out (in Chapter 3) the social and environmental benefits which the Project, if delivered, would bring. -Chapters 4 and 5 of the Case for the Project set out the Project’s transport case and economic case respectively, identifying the benefits that the Project would bring for users of the transport network. Chapter 6 of the Case for the Project considers each of the eight Schemes comprising the Project and identifies the benefits which each Scheme would deliver.

2.2.2 The Case for the Project also sets out (in Chapter 7) the legislative context for decision-making under the 2008 Act and summarises the Project’s conformity with the National Networks National Policy Statement (‘NNNPS’) (which is assessed in detail in Application Document 3.9, Legislation and Policy Compliance Statement). In that context, Chapter 7 also summarises the adverse impacts (drawing from the findings of the environmental impact assessment reported in the Environmental Statement (Application Document 3.2)) and summarises the overall Project benefits, in relation to the Project objectives (as set out in Tables 2-1 and 2-2 above).- Chapter 7 then weighs

the adverse impacts of the Projects against its benefits (noting the balancing exercise for which provision is made in section 104(7) of the 2008 Act) and concludes (as explained in Chapter 8 of the Case for the Project) that there are no legal reasons, international obligations, prescribed conditions or policy matters which would preclude the acceptability of the Project.

- 2.2.3 The Project aligns with the strategic objectives of the NNNPS, which was published by the Department for Transport in December 2014, and which sets out the need and Government's policies, for delivering nationally significant infrastructure developments on the national road network.
- 2.2.4 The conformity of the Project with the NNNPS is considered in detail in the NN NPS Accordance Table which is provided as an appendix to the Legislation and Policy Compliance Statement (Application Document 3.9). This section of the case sets out how the Project is consistent with the aims of the NN NPS at a strategic level.
- 2.2.5 The Government's vision and strategic objectives for national networks are to ensure they meet the country's long-term needs; supporting a prosperous and competitive economy and improving overall quality of life, as part of a wider transport system through networks:
- With the capacity and connectivity and resilience to support national and local economic activity and facilitate growth and create jobs.
  - Which support and improve journey quality, reliability, and safety.
  - Which support the delivery of environmental goals and the move to a low carbon economy.
  - Which join up our communities and link effectively to each other.
- 2.2.6 The NNNPS (paragraph 2.2) recognises that there is a 'critical need' to improve the national road and rail networks to address road congestion to provide safe, expeditious and resilience networks that better support social and economic activity; and to provide a transport network that is capable of stimulating and supporting economic growth.
- 2.2.7 Paragraph 2.6 of the NNNPS confirms "a need for development on the national networks to support national and local economic growth and regeneration particularly in the most disadvantaged areas. Improved and new transport links can facilitate economic growth by bringing businesses closer to their workers, their markets and each other". The Project addresses this objective through improving the economic connectivity between Teesside and west Cumbria and supporting the regeneration of disadvantaged areas within these locations.
- 2.2.8 The Government has concluded that at a strategic level there is a 'compelling need' for development on the national networks (NNNPS paragraph 2.10). 'The Examining Authority and the SoS should therefore start their assessment of applications for infrastructure covered by this NPS on that basis'.
- 2.2.9 Identifying the need for development on the national road network, paragraph 2.13 confirms that the Strategic Road Network ('SRN') provides critical links between cities and joins up communities, playing a vital role in people's journeys and driving prosperity by supporting new and existing development, encouraging trade and attracting investment. It confirms that a well-functioning

SRN is 'critical in enabling safe and reliable journeys and the movement of goods in support of national and regional economies.'

- 2.2.10 The NNNPS (paragraph 2.22) confirms the importance of improving the road network as without doing so 'it will be difficult to support further economic development, employment and housing and this will impede economic growth and reduce people's quality of life. The Government has therefore concluded that at a strategic level there is a compelling need for development of the national road networks.'
- 2.2.11 The Government's wider policy of making improvements and enhancements to the existing national road network is set out in paragraph 2.23 of the NNNPS as including:
- i. junction improvements, new slip roads and upgraded technology to address congestion and improve performance and resilience at junctions which are a major source of congestion
  - ii. implementing 'smart motorways' to increase capacity and improve performance
  - iii. improvements to trunk roads dualling of single carriageway strategic trunk roads and additional lanes on existing dual carriageways to increase capacity and to improve performance and resilience.
- 2.2.12 The NNNPS sets out (paragraph 4.2) that, subject to the detailed policies and protections contained in the NPS and the legal constraints set out in the 2008 Act, there is a 'presumption in favour' of granting development consent for national network NSIPs that fall within the need for infrastructure established in the NNNPS.
- 2.2.13 The paragraphs of the NN NPS as set out above therefore provide the compelling need for development of the national road networks, at a strategic level. The strategic need for the Project is also informed by the work carried out at the feasibility stage which confirmed the A66 dualling as the most appropriate solution, that aligns with the strategic objectives for an improved trans-Pennine route (see the Project Development Overview Report, Application Document 4.1)
- 2.2.14 Paragraph 3.16 of the NNNPS outlines the Government's commitment to sustainable travel in developing a high-quality cycling and walking environment to bring about a step change in cycling and walking across the country. The Project has addressed this policy objective through proposing to provide a low-speed, low-traffic route parallel to the A66 for pedestrians and cyclists, where possible. This has responded to issues raised through ongoing engagement with stakeholders and at statutory consultation for the need for improved east-west WCH provision. For the majority of the schemes comprised in the Project, east-west provision is proposed, either parallel to the new dual carriageway, or in the verge along the de-trunked A66. Details of the proposals for east-west WCH provision is set out in the Walking, Cycling, and Horse-riding Proposals (Application Document 2.4)
- 2.2.15 The Government also expects Applicants to identify opportunities to invest in infrastructure in locations where the national road network severs communities and acts as a barrier to cycling and walking, by correcting historic problems,

retrofitting the latest solutions and ensuring that it is easy and safe for cyclists to use junctions (NNNPS paragraphs 3.16 and 3.17). As set out above, the A66 addresses this policy objective through providing a new east-west cycling and pedestrian route for the proposed new dualled sections of the A66, where possible. To address paragraph 3.17 of the NPS, National Highways has committed as part of the DCO, to re-establish any WCH routes severed by the proposed works and, where public rights of way ('PRoW') converge at the upgraded A66 carriageway, divert them to the nearest grade separated crossing.

## 2.3 Benefits of the Project

2.3.1 The Project will deliver a number of benefits for local communities with faster journey times, improved accessibility and better local connectivity through utilising the 'old' A66 and connecting to the local road network. It will also be good news for all road users who will have greater confidence in getting to their destinations safely and on time. The overarching benefits of the Project are presented below, with specific benefits for each scheme covered in Chapter 6 of the Case for the Project (Application Document 2.2).

2.3.2 The benefits of the Project include:

- **Safety:** A consistent standard of dual carriageway, with a speed of 50mph at Kemplay Bank and 70mph in all other lengths, will lead to less accidents. Use of the 'old' A66 as part of the local road network will provide better and safer routes for cyclists and pedestrians. Chapter 4 of the Case for the Project (Application Document 2.2) further describes the safety benefits of the Project.
- **Connectivity:** Improving connectivity for people living and working nearby and creating better facilities for cyclists and pedestrians. Reducing congestion and improving the reliability of people's journeys between the M6 at Penrith and the A1(M) Scotch Corner and nationwide. It also improves connectivity between the key employment areas of Cumbria, Tees Valley, Durham and Tyne and Wear. Chapter 4 of the Case for the Project (Application Document 2.2) further describes the connectivity benefits of the Project.
- **Environmental:** Minimising noise levels for people living and working near the route and reducing the congestion currently occurring in the single carriageway lengths. The Project is also being designed to minimise any potential negative impacts on the natural environment and landscapes of the North Pennines and Lake District. The ES Chapter 12: Noise and Vibration accompanying this application (Application Documents 3.2-3.4) provides the environmental benefits of this Project as summarised in Chapter 7 of the Case for the Project (Application Document 2.2).
- **Economic:** Improving strategic regional and national connectivity, particularly for hauliers. Heavy goods vehicles account for a quarter of all traffic on the road and any delays to journeys can have an extremely negative effect on business and commerce, including lost working time and missed shipment slots. Chapter 5 of the Case for the Project (Application Document 2.2) further describes the economic benefits of the Project.

- **Tourism:** Improving access to key tourist destinations such as the North Pennines and Lake District. There are nearly 16 million visitors to the Lake District National Park each year with nearly 5 million visitors to the Yorkshire Dales National Park. While all journeys are not exclusively served via the A66, a significant portion of these journeys are currently made along this route, and as the road improves, this is expected to increase with perception of the route attracting more users. The ES accompanying this application (Application Documents 3.2-3.4) provides the environmental benefits of this Project and tourism receptors along the route are discussed in more detail at Chapter 13: Population and Human Health of the ES (Application Document 3.2)
- **Community:** Re-connecting communities and providing better links between settlements along the route as well as improving access to services such as healthcare, employment areas and education. The ES Chapter 13: Population and Human Health accompanying this application (Application Documents 3.2-3.4) provides the community benefits of this Project and is also outlined on a scheme basis in Chapter 6 of the Case for the Project (Application Document 2.2).
- **Capacity:** Reducing delays and queues during busy periods and improving the performance of key junctions such as the A66/A6 and the M6 junction 40. Chapter 4 of the Case for the Project (Application Document 2.2) provides further information on the capacity benefits of the Project.
- **Increasing reliability:** An improved A66, with consistent speed limits, will lead to fewer accidents which, in turn, makes the road more reliable. Also, having a dual carriageway provides the option to close lanes where required due to accidents or breakdowns and keeps traffic moving. Chapter 4 of the Case for the Project (Application Document 2.2) further describes the reliability benefits of the Project.

## Transport - benefits and opportunities

- 2.3.3 A detailed overview of the transport benefits associated with the Project is provided in Chapter 4 of the Case for the Project (Application Document 2.2). An overview of these benefits is provided in the paragraphs below.

### *Reduced journey times*

- 2.3.4 The Project will replace the existing low-capacity single carriageway lengths of the A66 with a new high performing two lane dual carriageway road. The dualled road will significantly increase capacity and lead to improved journey times, less congestion and fewer delays.

### *Safety benefits*

- 2.3.5 Dual carriageways are known to have lower accident rates than single carriageway roads. Typically, dual carriageways allow vehicles to maintain their speed whilst passing slower moving vehicles without causing conflict with opposing traffic.
- 2.3.6 The new dual carriageway lengths of the A66 and junctions on the Project will be designed to modern safety standards and will provide for safer and quicker journeys for all road users. The improved route will also be more resilient and

less susceptible to disruption. Additional lanes will offer resilience in potentially allowing a single lane to remain open and/or allowing emergency services to get to the accident site more quickly, rather than being detained in queuing traffic. This will enable incidents on the road to be cleared more quickly.

### Reducing congestion

- 2.3.7 As journeys on the A66 become more reliable, vehicles which have previously been taking alternative routes will return to the A66 reducing distances travelled, avoiding rat-running within villages and easing congestion for local people and helping to reduce risk of accident.

### Economic - benefits and opportunities

- 2.3.8 The Project improvements represent a significant opportunity to boost east-west connectivity and drive economic growth. Full detail on the economic benefits of the Project is provided in Chapter 5 of this document, with a high-level summary provided below.
- 2.3.9 In upgrading the A66, the capacity of the A66 will be increased, relieving pressure on both the current and anticipated traffic flows. The improved journey times delivered by the Project will stimulate the local economy as people travel to employment centres and to community, hospitality and retail facilities.
- 2.3.10 Faster journeys lead to less wasted time idling and waiting for congestion to clear, freeing time for more productive activities that produce economic value, or leisure activities, both of which have a higher value to individuals than traffic delays. All individuals in the economy place a value on their own leisure or labour time, a value that is partly lost on congested highways. For individuals that are seeking employment, the improvements may alter their preference of their travel-to-work radius and provide access to a wider range of employment opportunities.
- 2.3.11 Likewise, businesses that are dependent on the A66 for east-west connectivity will benefit from direct cost reductions, an improved environment for maintaining contact with their customers and suppliers, and the ability to access larger markets and different geographical areas.
- 2.3.12 Local journeys will become more reliable, helping to stimulate local economic activity. As transport becomes easier and journey times quicker and more reliable, the settlements surrounding and using the A66 will become more attractive to inward investment from the private sector. At a regional scale, businesses will benefit from the improved accessibility of key employment areas across Cumbria, Tees Valley and Tyne and Wear.
- 2.3.13 The Government's Levelling Up agenda is also a strong driver for the Project. Levelling Up is about tackling economic differences (including pay, work opportunities, health and life chances) and driving prosperity through investment in priority places. The recently published Levelling Up White Paper sets out 12 medium-term missions, one of which is to boost productivity, pay, jobs and living standards. The A66 is an opportunity to focus investment in areas that are lagging behind national averages amongst a number of

economic and social indicators. The A66 improvements are expected to boost connectivity in around 35% of the Government's priority areas (defined by the Levelling Up Fund Index), with total economic efficiency benefits of over £500m as a result of additional capacity and reduced delay, alongside over £62m of wider economic benefits.

## Social Value

- 2.3.14 The Project seeks to deliver in excess of £150m social value, through increasing the social, economic and environmental wellbeing of the people impacted by the Project.
- 2.3.15 National Highway's overall goal of the Project's social value is as follows:  
*'We will positively impact the customers and communities of the A66 to leave a tangible lasting legacy that everyone understands, so much so they won't want us to leave'*
- 2.3.16 Social value is embedded into the Project through understanding local community needs from consultations, social value-led design and solution development, smarter delivery and a lasting legacy capture.
- 2.3.17 The Project incorporates the following social value objectives:
- Customers and communities understand the wider socio-economic benefits the Project will deliver
  - Creation of a pipeline of future skills to equip the industry for the future in the region
  - Everyone working on the A66 understands their contribution to social value.
- 2.3.18 In line with the above objectives, the Project commits to a target of £150m in social value across the Project through:
- 15,000 hours of volunteering in the local community
  - Provision of 100 STEM ambassadors, to support school engagement and careers
  - Over 50 apprenticeships supported
  - More than 75 roles for trainees and newly qualified graduates
  - 10 ex-forces personnel recruited into the Project
  - Over 10,000 school and college pupils meaningfully engaged
  - Over £50,000 invested in local environmental improvement or heritage initiatives.

## Provision for walkers, cyclists and horse riders (WCH)

- 2.3.19 Where public rights of way (PRoW) are severed by or converge at the upgraded A66 carriageway, then they have been gathered and redirected to the nearest grade-separated crossing facility in order to provide a safe place to cross the dual carriageway. The nearest crossing may be a new grade-separated junction, an accommodation underpass or overbridge, or a designated WCH underpass or bridge. All schemes have some level of betterment compared with the provision on the existing single carriageway lengths. This is either through full design changes or through upgrades to existing provision where standards require. For most schemes, this includes a

parallel shared multi-user route segregated from the dual carriageway. This parallel provision is in the form of either a new path adjacent to the dualling or has been provided along the verge of the old de-trunked A66, where it remains. Detail on the WCH provision for each scheme is provided in Chapter 6 of this document and set out in detail within the WCH Design Proposals (Application Document 2.4).

## 2.4 Environmental Benefits

### Environmental Enhancement, Heritage and Archaeological Benefits

2.4.1 Table 2-3 below outlines the environmental and cultural heritage benefits the Project brings, broken down scheme by scheme.

**Table 2-3: Project Biodiversity, Cultural Heritage and Population & Human Health operational Benefits**

Topic	During Operation
<b>Biodiversity</b>	Route wide, several underpasses have been included suitable for badger and located at key crossing points identified by the baseline surveys. The provision of these underpasses, as well as green bridges which have the capacity to also support badger safely crossing the live carriageway, will minimise the likelihood of species mortality or injury caused by road traffic collisions during operation. As a result, the effect is considered to be of slight benefit
<b>Cultural Heritage</b>	<p><b>Penrith to Temple Sowerby</b></p> <p>The scheme will present significant permanent beneficial effects upon the Scheduled Monument and Grade II* listed Countess Pillar, Grade II* listed Alms Table. This is due to a new amenity parking area and footway access providing better access to the site.</p> <p>The existing car park will be relocated improving accessibility to the Scheduled Monument of St Ninian's and Grade II listed Church of St Ninian.</p>
<b>Population &amp; Human Health</b>	<p><b>M6 Junction 40 to Kemplay Bank</b></p> <p>The scheme presents significant permanent beneficial effects to 24 community assets and to the Lake District tourism sector</p> <p>The scheme presents significant permanent beneficial effects to one community asset as a result of reductions in noise and vibration</p>
	<p><b>Penrith to Temple Sowerby</b></p> <p><b>The scheme presents significant permanent beneficial effect to one community asset as a result of permanent noise and vibration changes</b></p> <p><b>The scheme presents significant permanent beneficial effect to one business</b></p>
	<b>Temple Sowerby to Appleby</b>



Topic	During Operation
	<p><b>The scheme presents significant permanent beneficial effects to four community assets</b></p> <p><b>The scheme presents significant permanent beneficial effect to one business</b></p> <p><b>The scheme presents significant permanent beneficial effects to five community assets and four businesses as a result of permanent noise and vibration changes</b></p>
	<p><b>Appleby to Brough</b></p> <p><b>The scheme presents significant permanent beneficial effects to 12 community assets</b></p> <p><b>The scheme presents significant permanent beneficial effect to one business</b></p>
	<p><b>Bowes Bypass</b></p> <p><b>The scheme presents significant permanent beneficial effects to three community assets</b></p> <p><b>The scheme presents significant permanent beneficial effect to one business.</b></p>
	<p><b>Stephen Bank to Carkin Moor</b></p> <p><b>The scheme presents significant permanent beneficial effect to two business</b></p>

## Carbon Strategy

- 2.4.2 The Project will document its approach to carbon management within a Carbon Strategy which is being developed. This document will set out the principles of the carbon management process that will be adopted through the lifetime of the Project.
- 2.4.3 As such, the strategy will inform:
- The carbon management process
  - The carbon reduction target
  - The baseline against which to assess the carbon reduction performance
  - Carbon emissions quantification methodologies
  - Reporting
  - Continual improvement of carbon management and performance.
- 2.4.4 National Highways are committed to net zero and the plan sets out a comprehensive roadmap to rapidly decarbonise the strategic road network.
- 2.4.5 The Project seeks to work towards net zero ambitions and through a carbon management process that will provide a framework to consider carbon from its inception to end of life on a whole life basis.

## 2.5 Flexibility

- 2.5.1 There are no alternatives (such as, for example, options on the form of any structures) proposed within the DCO, for any of the Schemes comprised in the Project.
- 2.5.2 Due to the nature of the design process and the timing of the consenting process, the Applicant requires a degree of flexibility as to where certain elements of the Project, for example the new link between Flitholme Road, Langrigg Lane and the new A66, on Scheme 06 Appleby to Brough, can be constructed within defined limits of deviation which are provided for in the draft DCO (see article 7, Limits of deviation) and shown on the Works Plans (Application Document: 5.16).
- 2.5.3 At this stage, all the Land in the Order Limits is considered to be necessary to deliver the Project. However, should it transpire that any part of the Land within the Order Limits is not required, for instance, as a result of the detailed design process, the Applicant would only seek to acquire that part of the Land required, and in all events, will seek to minimise the effects on land interests.
- 2.5.4 For example, at this stage in the DCO application process, land required for environmental mitigation is shown pink on the Land Plans (Application Document 5.16) indicating that is proposed to be acquired compulsorily. However, wherever possible, the Applicant's preference would be to acquire, by agreement (achieved through negotiations with the relevant landowner) new rights (including restrictive covenants) to enable the environmental mitigation to be delivered and maintained on the land, without the landowner being deprived of the ownership of the land.
- 2.5.5 For example, if a land owner agrees to grant to the Applicant the rights (or to accept the imposition of restrictive covenants) necessary to enable the delivery and long-term maintenance of environmental mitigation measures on the Land, then the Applicant would not exercise powers of compulsory acquisition over that land.
- 2.5.6 If, on the other hand, it was not possible to achieve agreement on that basis, then the Applicant could acquire rights over the land compulsorily, to enable it to deliver the environmental mitigation; or, if, for example, maintenance rights were required to be granted to a third party engaged to maintain the mitigation measures on behalf of the Applicant, then the Applicant, if it exercised its powers of compulsory acquisition to acquire the land outright, could then grant rights for the benefit of that third party to enable them to maintain the land.
- 2.5.7 Additionally, the power of outright compulsory acquisition is sought in respect of land required for environmental mitigation as a contingency measure, to ensure that a landowner is not left in a position where the Applicant has acquired rights over the land which enable the Applicant to deliver the mitigation measures required for the Project, but which then preclude the continued beneficial use and enjoyment of that land by its owner. In this scenario, outright acquisition of the land may be the preferred approach.
- 2.5.8 Similarly, land which is required to facilitate the installation of utilities or the diversion of statutory undertakers' apparatus is shown shaded pink on the

Land Plans. -This is to ensure that if the Applicant is required by the statutory undertaker to grant rights to enable the statutory undertaker to install, access and maintain its apparatus in the location required to accommodate the Project, the Applicant will be in a position to be able to grant such rights for the benefit of the statutory undertaker. - This would not be possible if the Applicant were only to acquire rights over the land, as the benefit of such rights, acquired under the DCO, would not be transferrable from the Applicant to a third party<sup>3</sup>.

2.5.9 If the land is shaded pink and the Applicant has a power to acquire it outright, the Applicant can then grant rights for the benefit of third parties out of the interest which it has acquired itself. -As mentioned above, this approach is aimed at accommodating requests from statutory undertakers for the benefit of rights relating to their apparatus, but it applies equally where the Applicant may be required to grant a right of access (e.g. for a private means of access) for the benefit of land owned by a third party. -If however, in such scenarios, the land owner's preference is to retain ownership of the land but to grant the necessary rights directly to the third party (whether for access, or for utility diversions, or for environmental mitigation) on the basis of terms agreed with the Applicant, then the Applicant would not exercise powers of compulsory acquisition over the land in question.

2.5.10 For the reasons set out above, in terms of land which is proposed to be acquired compulsorily, and which is therefore shown shaded pink, the Land Plans (Application Document 5.13) present a worst case scenario. - This approach is, however, necessary to provide sufficient flexibility and to ensure that, in the absence of an agreed solution, the Applicant is still able to grant the rights required by statutory undertakers or by persons needing rights of access to land affected by the Project, and is still able to deliver the environmental mitigation which is essential to the Project.

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<sup>3</sup> Other than where consent to transfer the benefit of the Order had been successfully applied for by the Applicant and granted by the Secretary of State for Transport. However, this approach is potentially incompatible with the timely delivery of the Project.

## 3 Compulsory Acquisition

### 3.1 Scope of compulsory acquisition powers with reference to the draft DCO

- 3.1.1 The purpose of the compulsory acquisition powers in the DCO is to enable the Applicant to construct, operate and maintain the Project. The specific compulsory acquisition powers sought by the Applicant are set out in full in Part 3 of the draft DCO (Application Document:5.1).
- 3.1.2 Section 122 of the 2008 Act provides that an order granting development consent may include provision authorising compulsory acquisition of land. To the extent that this is sought, the decision maker (the Secretary of State) in respect of the application must be satisfied that certain conditions are met. The way in which the Project meets these conditions is considered in Chapter 5 of this Statement.
- 3.1.3 In addition to the powers of compulsory acquisition, section 120 of the 2008 Act provides that the DCO may make provision relating to, or to matters ancillary to the development in respect of which a DCO is sought. The matters in respect of which provision may be made includes (but is not expressly limited to) matters listed in Schedule 5 of the 2008 Act, including:
- the acquisition of land, compulsorily, or by agreement (paragraph 1);
  - the creation, suspension or extinguishment of, or interference with, interests in rights over land, compulsorily, or by agreement (paragraph 2);
  - the abrogation or modification of agreements relating to land (paragraph 3); and
  - the payment of compensation (paragraph 36).

### 3.2 Main Compulsory Acquisition Powers

- 3.2.1 The main powers authorising the compulsory acquisition of land, or interests in, or rights over land, are contained in articles 19 (compulsory acquisition of land) and 22 (compulsory acquisition of rights and restrictive covenants) of the draft DCO. The Compulsory Acquisition and Temporary Possession Schedule (Application Document 5.9) lists the plots of land shown on the Land Plans (Application Document 5.13) and described in the Book of Reference (Application Document 5.7) which is subject to powers of outright acquisition in accordance with the terms of article 19. The purpose for acquiring this land is to enable the Applicant to construct the permanent works on the land and other elements described in relation to each plot of land in the Compulsory Acquisition and Temporary Possession Schedule (Application Document 5.9).
- 3.2.2 Article 22 (Compulsory acquisition of rights and restrictive covenants) allows rights over land (including restrictive covenants over land) to be acquired instead of outright acquisition. This allows flexibility in approach and a reduction in the impact on the interests of the land interest. the- Compulsory Acquisition and Temporary Possession Schedule -provides a description of the

land which is subject to the acquisition of rights or the imposition of restrictive covenants. These rights are necessary for the purposes of constructing the works and the maintenance of the works thereafter, ensuring that the operator of the finished Project is able to fulfil their functions.

3.2.3 Other compulsory acquisition powers are sought in the draft DCO (identified below) and these similarly relate to land and will, or may, authorise, interfere with property, rights or interests.

3.2.4 In addition, powers are sought in the draft DCO to enable the temporary possession and use of land.

3.2.5 In each case, the party having an interest in the land, or the interest or right in the land, may be entitled to compensation.

### **3.3 Other Compulsory Acquisition Powers**

3.3.1 The other compulsory acquisition powers sought by the Applicant in the draft DCO include:

#### **Article 23 Private Rights Over Land**

3.3.2 Article 23 provides for the extinguishment of private rights over land from the earlier of the date of acquisition of the land or the date on which the Applicant enters the land.

3.3.3 The article further provides that, where new rights are being compulsorily acquired or restrictive covenants are being imposed on land then any existing private rights or restrictive covenants which that land is subject to may be extinguished to the extent that continuing enjoyment of those private rights or restrictive covenants would be inconsistent with the new rights acquired or restrictive covenants imposed.

3.3.4 With regard to the land of which the Applicant may take temporary possession, article 23 of the draft DCO provides that all private rights over that land will be suspended and unenforceable for as long as the Applicant is in lawful possession of the land.

3.3.5 The power to extinguish existing rights is required to ensure that such rights do not interfere with the construction and operation of the Project.

3.3.6 The article provides that any person who suffers loss caused by the extinguishment or suspension of rights (pursuant to the exercise of the power in article 23 is entitled to reasonable compensation.

#### **Article 27: Acquisition of subsoil or airspace only**

3.3.7 Article 27 provides that where the Applicant has, in respect of any land, powers of compulsory acquisition under article 19 then it may, for the same purposes for which it is authorised to acquire the whole of the land, choose instead to acquire only the subsoil underneath, or airspace over the land. This power is included for flexibility as it would allow the Applicant to minimise its costs and/or impact to land interests by acquiring subsoil or airspace only where it is possible to do so and still deliver the Project, leaving land interests in possession of the valuable part of the land.

### **Article 28: Rights under or over streets**

- 3.3.8 Article 28 is not in a strict sense a power of compulsory acquisition. However, it is included here for completeness because it would authorise the Applicant to:
- a. enter on and appropriate so much of the subsoil underneath or the airspace over any street within the limits of the DCO as may be required to provide the Project; and
  - b. use that subsoil or airspace for the purposes of carrying out the Project or any purpose ancillary to it.
- 3.3.9 Save in the case of subways or underground buildings, or to cellars or similar structures forming part of a building fronting the street, the Applicant may exercise its power under article 28 without having to acquire any part of the street or any easement or right in the street.

## **3.4 Temporary Possession Powers**

- 3.4.1 The Applicant further seeks, in the DCO, powers to take temporary possession of the land to carry out and thereafter maintain the Project. The Compulsory Acquisition and Temporary Possession Schedule (Application Document 5.9) provides a description of the land which may be occupied temporarily. The powers of temporary possession in the DCO are as follows:

### **Article 29: Temporary use of land for carrying out the authorised development**

- 3.4.2 Article 29 would authorise the Applicant to take temporary possession of:
- a. the land specified in columns (1) and (2) of Schedule 6 to the DCO; or
  - b. any other land within the limits of the DCO, so long as the Applicant has not served a notice of entry or executed a General Vesting Declaration (GVD) in respect of the land.
- 3.4.3 In addition to taking possession of the land Article 29 would authorise the Applicant to:
- a. remove buildings and vegetation from the land;
  - b. construct temporary works (including accesses) and buildings on the land; and
  - c. construct any permanent works specified in Schedule 1 to the DCO.
- 3.4.4 The power to take temporary possession would be subject to time limits under article 21. The Applicant cannot remain in possession unless the owner of the land agrees:
- (a) as regards to any land specified in columns (1) and (2) of Schedule 6 to the DCO, for more than a year after completing that part of the Project specified in relation to that land in column (3) of Schedule 6; and
  - (b) as regards to any other Order land, for more than a year after completing the work for which temporary possession was taken (unless before the end of that period the Applicant has made a GVD or served notice of entry in relation to that land).

3.4.5 Article 29 provides that before giving up possession of any land the Applicant would be obliged to remove all temporary works and restore the land to the condition it was in on the date on which possession of the land was first taken or such other condition as may be agreed with the owners of the land.

**Article 30: Temporary use of land for maintaining the authorised development**

3.4.6 Article 30 would empower the Applicant to take temporary possession of any land within the limits of the DCO, if reasonably required for the purpose of maintaining the Project, at any time during the maintenance period (i.e. five years from the date on which that part of the Project is first open for use).

3.4.7 This article would allow the Applicant to construct temporary works and buildings on the land, so far as reasonably necessary for the purpose of maintenance. The Applicant would not be able to take temporary possession of a house, or a garden belonging to a house, or any other occupied building under this article.

3.4.8 The Applicant may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the Project for which possession was taken. Before giving up possession of land temporarily possessed under this article, the Applicant would be required to remove all temporary works and restore the land to the condition it was in on the date on which possession of the land was first taken or such other condition as may be reasonably agreed with the owners of the land.

3.4.9 The powers to use land temporarily for carrying out the Project ensures that appropriate work sites, working space and means of access are available for use during the construction and maintenance period and provides space for mitigation and other permanent works. This temporary power minimises the impact on land interests by ensuring that the Applicant does not have to acquire land it only requires temporarily.

3.4.10 The powers to use land temporarily for maintaining the Project ensures that the land is available for maintenance works during a five-year period from when that part of the Project is first opened for use. This is in the public interest as it ensures that it is possible to maintain the Project and the public benefits it will deliver. Temporary powers are sought for this purpose as permanent powers would entail an excessive impact on land interests.

## 3.5 Other Rights and Powers

3.5.1 In addition to powers of compulsory acquisition, if made the DCO would also confer other rights and powers on the Applicant that may interfere with property rights and private interests. These additional powers (which are explained in more detail in the Explanatory Memorandum (Application Document: 5.3)) are as follows:

- a) Article 11: Temporary prohibition, restriction or regulation of use or temporary alteration or diversion of streets;
- b) Article 10: Permanent stopping up of streets and private means of access;
- c) Article 15: Authority to survey and investigate the land;
- d) Article 14: Protective works to buildings; and
- e) Article 17: Felling or lopping of trees and hedgerows.

3.5.2 In each case (for both the principal powers and other powers) the parties having interest in the land, or the interest or right in the land, may be entitled to compensation. Any dispute in respect of the compensation payable is to be determined by the Lands Chamber of the Upper Tribunal.

## 3.6 Conclusion

3.6.1 The Applicant considers that the powers sought in the draft DCO as set out in this Chapter are reasonable, proportionate and necessary to deliver and thereafter maintain the Project.



## 4 Land Interests

### 4.1 The extent of the land subject to powers

- 4.1.1 The full extent of the Land subject to compulsory acquisition and temporary possession powers and required in order to enable the Applicant to construct the Project is described in Chapter 2 of this Statement and is shown on the Land Plans (Application Document:5.13) and the Works Plans (Application Document: 5.16). It is further described in the Book of Reference (Application Document: 5.7).
- 4.1.2 The Land subject to the powers comprises approximately 900 hectares. Of this approximately 870 hectares is proposed to be acquired permanently, together with a further 2.6 hectares which is proposed to be acquired for the purpose of providing replacement land; 27 hectares is proposed to be subject to temporary possession with use of land; and 0.5 hectares is proposed to be subject to the permanent acquisition of rights over land.
- 4.1.3 The Applicant has sought powers of compulsory acquisition (or rights of use) in respect of all plots of land required for the Project even where it already holds an interest or presumes it holds an interest in the land. This approach has been taken to ensure that the Applicant has the right to acquire the interest it needs in all of the Land, even where an unknown or unregistered interest later asserts an interest in land which the Applicant believe it owns and clearing the title would be necessary.
- 4.1.4 The purpose for which each plot of land is required is described in the Compulsory Acquisition and Temporary Possession Schedule (Application Document 5.9).

### 4.2 Location

- 4.2.1 The Project is approximately 80 km in length and located in the counties of Cumbria, Durham and North Yorkshire between Penrith (at M6 Junction 40) and Scotch Corner (at A1(M) Junction 53).
- 4.2.2 The Project location is provided on the Location Plan (Application Document: 5.12).
- 4.2.3 The land is within the administrative area/s of Cumbria County Council, Durham County Council, North Yorkshire County Council, Eden District Council, and Richmondshire District Council.

### 4.3 Existing Land Use and Character

#### Project location and character

- 4.3.1 The A66 lies within three local planning authority administrative areas: Eden District, Durham County and Richmondshire District.
- 4.3.2 The A66 runs through the North Pennines Area of Outstanding Natural Beauty (AONB) between Brough and Bowes. The Lake District National Park is

approximately 2km south-west of Penrith and the Yorkshire Dales National Park is located approximately 3.5km south of the A66.

- 4.3.3 The A66 lies within an area of rolling landscape. From Penrith the road corridor generally passes through gentle valleys characterised by large regular fields and areas of deciduous woodland. The road generally follows a similar route to the river Eamont and the river Eden as far as Appleby-in-Westmorland. Moving east the elevation rises rapidly from approximately 170m above ordnance datum (AOD) at Brough to a high point of approximately 440m AOD as it passes over Bowes Moor, before gradually descending again to an elevation of approximately 150m AOD at Scotch Corner.
- 4.3.4 The A66 roughly follows the line of a Roman road and as a result is straight in alignment for large lengths, but, with notable deviations as it passes around key settlements along the route, including, Penrith, Temple Sowerby, Kirkby Thore, Appleby-in-Westmorland, Brough, Bowes, Greta Bridge and Scotch Corner.
- 4.3.5 The majority of the surrounding land is agricultural with a number of farms lying adjacent to and having direct accesses onto the A66. Some of this land is classified as being Grade 2 which is defined as 'very good' agricultural land.
- 4.3.6 There are a number of historic features along the route including conservation areas, Scheduled Monuments and a large number of Grade I, II\* and II listed buildings, many of which lie directly adjacent to the A66. These are presented in Chapter 8 of the ES: Cultural Heritage (Application Document 3.2-3.4).
- 4.3.7 The North Pennine Moors Special Protection Area (SPA) and Special Area of Conservation (SAC) are encompassed within the North Pennines AONB. The river Eden SAC and its tributaries, which run adjacent to and underneath the A66, are also a key consideration. These sites are all important at European level and are presented in Chapter 6 of the ES: Biodiversity (Application Document 3.2-3.4).
- 4.3.8 The river Eden (designated a main river) crosses the A66 at Coupland Viaduct and 3km south-east of Appleby-In-Westmorland. Flood Zones 2 and 3 associated with the river Eden, its tributaries and other watercourses are located along the route and are presented in Figures 14.1: Surface Water Features to Figure 14.8: Groundwater Flooding Susceptibility, in Chapter 14 of the ES: Road Drainage and the Water Environment (Application Document 3.2-3.4).

## 4.4 Identifying persons with an interest in the land

- 4.4.1 In preparing the DCO application, the Applicant has carried out diligent inquiry in order to identify all persons with an interest in the Land as defined by section 44 of the 2008 Act.
- 4.4.2 Those persons who were identified by the Applicant are listed in the Book of Reference (Application Document 5.7) and have been consulted about the application in accordance with section 42 of the 2008 Act as described in the Consultation Report (Application Document: 4.4).

4.4.3 Diligent inquiry to identify affected landowners and occupiers, those with another type of interest in land and those with a potential claim was undertaken by the Applicant's expert land referencing supplier. The categories of persons identified, and the methods used to identify them, are described below with reference to the categories in the Book of Reference.

4.4.4 Land referencing has been undertaken throughout the pre-application period with the objective of ensuring that any changes in interest or new interests have been identified, consulted and subject to engagement. Land referencing will continue to be undertaken throughout the DCO process to ensure that any changes in interest are identified and to ensure any new interests will have an opportunity to engage with the Project and to give their views on it. Any changes to land interests will also be recorded and updated in the Book of Reference.

#### **4.5 Category 3 persons – section 10 of the Compulsory Purchase Act 1965 (CPA 1965) and/or section 152(3) of the 2008 Act**

4.5.1 Category 3 persons are those with potential claims under the above legislation should the Project be carried out. They mainly relate to those whose land may be injuriously affected (i.e.: its value would be diminished) as result of the Project, although the land in question is not acquired outright.

4.5.2 Identification of Category 3 persons, as defined in section 44 of the 2008 Act, was undertaken at an early stage of development of the Project, in order to inform the design of the Project and preparation of the application.

4.5.3 In order to identify potential Category 3 persons who may be entitled to make a claim under section 10 of the CPA 1965, a desk-based assessment, involving design engineers, environmental consultants and legal advisers was carried out to identify properties with a potential claim.

4.5.4 Furthermore, where proposed new residential developments were identified as developments with planning permission within the administrative area of Eden District Council, these were taken into account and the draft Order limits (for Scheme 0405: Temple Sowerby to Appleby, at the Old Railway Station and Sidings east of Kirkby Thore, and in the village of Kirkby Thore to the west of the Church) were amended to ensure that there was no conflict between the Project and the development proposals.

## **4.6 Assessment of Category 3 persons which fall under Part I of the Land Compensation Act 1973 (LCA 1973)**

- 4.6.1 In assessing potential claimants under Part I of the LCA 1973, physical factors and the impacts of the Project were considered, including:
- properties closest to the highway and within the Order Limits; and
  - properties identified as a receptor as a consequence of the property being located outside of the Order Limits but adjacent to the highway.
- 4.6.2 The Applicant's land referencing team were provided with guidance from environmental specialists involved in the compilation of the ES (Application Documents: 3.2-3.4). This guidance was based on the topography of the land and the likely significant effects arising from the Project. For example, the noise assessments had regard to information available at the time regarding:
- background noise levels; and
  - distance to receptors.
- 4.6.3 Initially a buffer zone of 300 metres was applied to the draft Order limits and land referencing enquiries were undertaken to ascertain land interests for potential Part 1 claimants.
- 4.6.4 In liaison with the District Valuer, to assess potential claims; and with environmental specialists to assess significant effects on receptors, the buffer was reduced to include only those receptors having the potential to make a claim.
- 4.6.5 Based on the above information, professional judgement was used to ascertain whether a person would or might be able to make a relevant claim for compensation under section 57(4) of the 2008 Act, based on a worse-case assessment. Further details about the noise assessments undertaken can be found in Chapter 6, Noise and Vibration of the ES.

## **4.7 Non-contact Referencing**

- 4.7.1 Identification of Category 1 and 2 persons, as defined in section 44 of the 2008 Act, was undertaken at the early stages of development of the Project in order to inform the design of the Project and the preparation of the application.
- 4.7.2 A shapefile of the search area, being the anticipated land requirements (before the Order Limits shown on the Land Plans were defined), was submitted to the Land Registry. Land Registry data was received in the form of a digital shapefile (a GIS layer) and digital copies of the Official Copy Registers and Title Deeds. All relevant freehold, leasehold, mortgagee, beneficiary, other charges and restrictive covenants information was extracted and stored in a land referencing database. Further Land Registry searches have been used to ensure that any changes in title in respect of Land potentially required for or affected by the Project were identified.
- 4.7.3 On completion of the initial desk-based exercise described above, the extent of unregistered land interests became known. In order to establish interests in relevant areas of unregistered land public sources of information were used

including site visits, posting of sites notices, Companies House website, the relevant Highway Authority, records held by Statutory Undertakers and other online resources.

- 4.7.4 The information obtained from the above exercises was used to populate Part 1, Part 2 and Part 3 of the Book of Reference.

## 4.8 Contact Referencing

- 4.8.1 Following the initial non-contact methods described above, persons identified as having an interest in the Land or a potential claim were issued a letter enclosing a plan describing the extent of their land holding within the Order limits, and a questionnaire requesting return of information about their interests in the Land.
- 4.8.2 This was followed up by telephone and letter contact confirming that the Project was in development and because there could be impact on their land interest the Applicant needed to ensure the correct information was held.
- 4.8.3 Where no initial response was received, additional correspondence and telephone calls to the persons identified as having an interest in the Land or a potential claim were carried out.
- 4.8.4 Where no response was received following the additional attempts described above, and where Land was potentially in unknown ownership, site notices requesting information were erected and monitored.

## 4.9 Negotiation to acquire by agreement

- 4.9.1 As well as consulting all persons with an interest in the Land about the Project proposals in accordance with section 42 of the 2008 Act, the Applicant is aware of the requirement (paragraph 25 of the CA Guidance) to seek to acquire land by negotiation wherever practicable. The power to acquire land compulsorily should only be sought if attempts to acquire by agreement fail.
- 4.9.2 At the same time, the Applicant notes that the CA Guidance also recognises that where proposals would entail the compulsory acquisition of many separate plots of land, it may not always be practicable to acquire each plot of land by negotiation. As the CA Guidance states “Where this is the case, it is reasonable to include provision authorising compulsory acquisition covering all the land required at the outset”.
- 4.9.3 The Applicant has engaged with all landowners, leaseholders and occupiers with a view to acquiring their land interest by agreement by writing to them to inform them of the Applicant’s willingness to negotiate to acquire the Land by agreement, and to invite dialogue at that point. As a result, the Applicant is in the process of continuing to engage with all persons with land interests with regard to the acquisition of land by agreement; and negotiations with this objective will be ongoing throughout the DCO process. The status of such negotiations is set out in the Schedule of Negotiations (Application Document 5.10).
- 4.9.4 Whilst negotiations are ongoing, the Applicant is mindful that it is under a duty to acquire land at best value and that it is required to deliver the Project within

a specified timescale. It has concluded that it may not be possible to acquire all land interests necessary to deliver the Project within this timescale.

4.9.5 Furthermore, within the Order limits there are 598 plots in unknown ownership, and in respect of which it has not been possible to ascertain ownership. -These plots of land in unknown ownership, details of which are included in the Book of Reference (Application Document 5.7) cannot be acquired by agreement, such that powers of compulsory purchase are necessary to secure the land in these plots.

4.9.6 Therefore, the Applicant has concluded that the Project is unlikely to be capable of being delivered without compulsory acquisition powers.

4.9.7 Land already owned by the Applicant is included in the DCO to ensure that no known or unknown third-party rights, which might impede delivery of the Project, remain over the land.

## 5 The Case for Compulsory Acquisition

### 5.1 Introduction

5.1.1 In seeking compulsory acquisition and temporary possession powers in the DCO (Application Document: 5.1), the Applicant has had regard to the conditions in section 122 of the 2008 Act and to the tests set out in the CA Guidance.

### 5.2 The statutory conditions and CA Guidance

5.2.1 Section 122 of the 2008 Act states that:

5.2.2 “An order granting development consent may include provision authorising the compulsory acquisition of land only if the Secretary of State is satisfied that the conditions in subsections (2) and (3) are met”

5.2.3 The conditions are:

- In subsection (2), that the land is:
  - a) “required for the development to which the development consent relates;
  - b) required to facilitate or is incidental to that development; or
  - c) replacement land which is to be given in exchange for the order land under sections 131 and 132 of the 2008 Act;” and
- In subsection (3) “that there is a compelling case in the public interest for the land to be acquired compulsorily”

5.2.4 The CA Guidance (paragraph 11) sets out the considerations which the Secretary of State will take into account in deciding whether the condition in subsection (2) has been met. It states:

- a) “In respect of whether land is required for the development, the applicant should be able to demonstrate to the satisfaction of the Secretary of State that the land in question is needed for the development. The Secretary of State will need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development.
- b) In respect of whether the land is required to facilitate or is incidental to the proposed development, the Secretary of State will need to be satisfied that the development could only be carried out to a satisfactory standard if the land in question were to be compulsorily acquired and that the land to be taken is no more than is reasonably necessary for that purpose and that it is proportionate.
- c) In respect of whether the land is replacement land, the Secretary of State will need to be satisfied that the compulsory acquisition is needed for replacement land, that no more land is being taken than is reasonably necessary for that purpose and that it is proportionate”.

5.2.5 In respect of the condition in subsection (3), the CA Guidance states at paragraphs 12 and 13 that the Secretary of State will need to be persuaded that there is compelling evidence that the public benefits that would be derived

from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired.

5.2.6 Paragraphs 8 to 10 of the CA Guidance are also relevant, setting out a number of general considerations to be taken into account by the applicant in seeking compulsory acquisition powers:

- a) “That all reasonable alternatives to compulsory acquisition (including modifications to the Project) have been explored;
- b) That the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate;
- c) That the applicant has a clear idea of how they intend to use the land which is to be acquired;
- d) That there is a reasonable prospect of the necessary funds for the acquisition becoming available; and
- e) That the purposes for which compulsory acquisition powers are included in the application are legitimate and sufficiently justify interfering with the human rights of those with an interest in the affected land”.

5.2.7 Finally, paragraph 25 of the CA Guidance states that applicants should seek to acquire land by negotiations wherever practicable.

### **5.3 Need for the Land and the purposes for which compulsory acquisition powers are sought**

5.3.1 The Applicant is satisfied that the condition in section 122(2) of the 2008 Act is met. As explained in Chapter 3 of this Statement the Land subject to compulsory acquisition powers is either needed for the development (the Project), or is needed to facilitate the development, or is incidental to the development or is replacement land.

5.3.2 In the Compulsory Acquisition and Temporary Possession Schedule (Application Document 5.9), the Applicant sets out why compulsory powers are necessary in relation to each individual parcel of the Land, with reference to the relevant DCO works numbers and the nature of the works as set out in Schedule 1 to the draft DCO. The proposed use of this land and the benefits this will bring to the Project are set out in general summary in Chapter 2 of this Statement. The Compulsory Acquisition and Temporary Possession Schedule (Application Document 5.9) sets out in granularity the purpose of acquisition / use of each plot.

5.3.3 The Applicant considers that the land included in the draft DCO is the minimum land-take required to construct, operate, maintain and mitigate the Project and is necessary to achieve the objectives of the Project. The Applicant has sought to achieve a balance between minimising land-take and securing sufficient land to deliver the Project, noting that the detailed design of the Project has yet to be developed. In that context, the limits of deviation have been drawn as tightly as possible so as to avoid unnecessary land-take. In the event that less land proves to be required in a particular area following the detailed design stage, the Applicant would only seek to acquire that part of the land that is required and, in all events, will seek to minimise effects on land interests.



5.3.4 The compulsory acquisition powers are also required to override any existing rights and interests in the land as well as to grant the right to take temporary possession of land for construction and maintenance purposes. Again, without these rights over the Land, the Project cannot be delivered.

5.3.5 The Applicant is accordingly satisfied that the Land to be taken is reasonable and proportionate.

## **5.4 Compelling case in the public interest**

5.4.1 The Applicant is satisfied that the condition set out in section 122(3) of the 2008 Act is met and that there is a compelling case in the public interest for compulsory acquisition.

5.4.2 The need case for and the benefits of the Project are summarised in Chapter 2 of this Statement and are set out in detail in other application documents, including (Chapters 3, 4, 5 and 6 of the Case for the Project (Application Document: 2.2)). Together they demonstrate that there is a compelling case in the public interest for the Project to be delivered.

5.4.3 In particular, as set out in Chapter 7 of the Case for the Project, paragraph 2.2 of the NNNPS identifies a “critical need” to improve the national networks to address road congestion and crowding on the railways to provide safe, expeditious and resilient networks that better support social and economic activity; and to provide a transport network that is capable of stimulating and supporting economic growth. It goes on to state that improvements may also be required to address the impacts of the national networks on quality of life and environmental factors.

5.4.4 The way in which the strategic objectives of the Project are aligned with the NNNPS are set out in detail in Chapter 7 of the Case for the Project. General compliance with the NNNPS is set out in the Legislation and Policy Compliance Statement (Application Document: 2.2).

## **5.5 Consideration of Alternatives**

5.5.1 As explained in Chapter 2 of the Consultation Report (Application Document:4.4); Chapter 3 of the ES (Application Document: 3.2) and Chapter 2 of the Case for the Project (Application Document 2.2), the Applicant has explored alternative options for the Project. -As the Project comprises eight Schemes, alternative options were considered for each Scheme, prior to the announcement of a preferred route for each Scheme.

5.5.2 In designing the Project and determining the Land subject to compulsory acquisition and temporary possession powers, the Applicant has considered alternatives and modifications to the Project to minimise the potential land-take. These alternatives and modifications were consulted on and the preferred route for each Scheme has been chosen based on a thorough consideration of relevant issues. This process is described in detail in Chapter 3 of the ES, Chapter 5 of the Project Development Overview Report (Application Document 4.1) and Chapter 2 of the Case for the Project.

- 5.5.3 Following public consultation, the Applicant selected the most appropriate option for each Scheme. Further details about the consultation carried out by the Applicant can be found in Chapter 3 of the Consultation Report. This route selection process took account of various factors, including, amongst others, views of consultees, including persons with a land interest. Other factors included environmental impacts, meeting the objectives of the Project, affordability, value for money, safety, construction and operational considerations.
- 5.5.4 None of the alternatives or modifications considered for any of the Schemes comprising the Project would obviate the need for the compulsory acquisition and temporary possession of the Land.

## **5.6 Reasonable prospect of funding**

- 5.6.1 The Applicant is content that there is reasonable prospect of the necessary funds for acquisition and payment of compensation being available for the reasons set out in the Funding Statement (Application Document: 5.6).

## **5.7 Acquisition by Agreement**

- 5.7.1 The Applicant recognises that the authority to acquire land compulsorily should only be sought if attempts to acquire by agreement fail. However, the Applicant notes that the CA Guidance recognises that, in some cases, it may not always be practicable to acquire each plot of land by agreement. Where this is the case the CA Guidance confirms that it is reasonable to include provision authorising compulsory acquisition covering all the land required at the outset. It also recognises that in some cases it may preferable, or necessary, to acquire land compulsorily rather than by agreement.
- 5.7.2 The Applicant sets out Chapter 4 of this Statement and in the Schedule of Negotiations (Application Document 5.10) the discussions it has had with land interests to acquire the Land by agreement. It is satisfied that compulsory acquisition and temporary possession powers are required to ensure that the Project can be delivered in a reasonable timescale and in the event that it does not prove possible to acquire all of the Land by agreement.

## 5.8 Conclusions

- 5.8.1 The Applicant is satisfied that the conditions in section 122 of the 2008 Act are met and that the tests in the CA Guidance are satisfied.
- 5.8.2 All of the land subject to compulsory acquisition and temporary possession powers is necessary to construct, operate, maintain and mitigate the Project; and necessary to achieve the objectives of the Project. The extent of the Land sought is reasonable and proportionate.
- 5.8.3 There is a compelling case in the public interest to include the compulsory acquisition powers sought by the Applicant in the DCO. The exercise of the compulsory acquisition powers that are sought is shown throughout this Statement to be necessary and proportionate to the extent that interference with private land and rights is required. In the absence of compulsory powers, the Applicant considers that it would not be possible to proceed with the Project, and the benefits of the Project would not be realised.

## 6 Human Rights

- 6.1.1 Whilst, in designing each of the Schemes comprising the Project, the Applicant has sought to avoid or minimise impacts on residential properties wherever possible, ten residential properties have been identified as being affected by the proposed compulsory acquisition of land required for the Project. Of these ten, three are affected only superficially, insofar as no buildings are proposed to be acquired, but only a very small part of the external premises; and in the case of one of the properties, only an area of hardstanding adjoining the property is required for the Project.
- 6.1.2 However, the remaining seven properties are more substantially affected; and three of them are the subject of valid blight claims.- The Applicant acknowledges the human rights implications of its proposals to acquire residential property in furtherance of the Project and does not do so lightly, given that the Convention rights protected by Article 8 will be infringed.
- 6.1.3 However, the private loss suffered by the owners of the affected properties is considered to be outweighed by the substantial public benefits (outlined in Chapter 2 of this Statement and in the Case for the Project (Application Document 2.2) which would be realised if the Project were to be delivered.- In this context, the Applicant is of the view that the use of compulsory acquisition powers to acquire residential properties is proportionate, lawful and justified, in that it would be in the public interest.
- 6.1.4 The Applicant notes that any person affected by the exercise of compulsory acquisition powers (or by the exercise of temporary possession powers), may be entitled to compensation. This entitlement to compensation is provided for by the existing compensation code and by provisions in the draft DCO. To ensure that compensation is paid fairly, any dispute in respect of the compensation payable may be referred to the Upper Tribunal (Lands Chamber), an independent tribunal, for determination.

### 6.2 The protected rights

- 6.2.1 The Human Rights Act 1998 incorporated into domestic law the provision of the European Convention on Human Rights (ECHR). The relevant articles can be summarised as follows:
- Article 1 of The First Protocol – protects the rights to peaceful enjoyment of possessions. No one can be deprived of their possessions except in the public interest.
  - Article 6 – entitles those affected by compulsory powers to a fair and public hearing.
  - Article 8 – protects the right of the individual to respect for his private and family life, his home and his correspondence. Interference with this right can be justified if it is in accordance with law and is necessary in the interests of, among other things, national security, public safety or the economic wellbeing of the country.
- 6.2.2 Section 6 of the Human Rights Act 1998 prohibits the public authorities from acting in a way which is incompatible with rights protected by the ECHR.

6.2.3 Paragraph 10 of the CA Guidance sets out how applicants should take into account Human Rights:

*“The Secretary of State must ultimately be persuaded that the purposes for which an order authorises the compulsory acquisition of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected. In particular, regard must be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of acquisition of a dwelling, Article 8 of the Convention.”*

6.2.4 The DCO, if made, may infringe the human rights of persons with an interest in land. This infringement is authorised by law provided that:

- There is a compelling case in the public interest for the compulsory acquisition powers included within the DCO, and that proper procedures are followed.
- Any interference with a human right is proportionate and otherwise justified.

### 6.3 Compliance with the convention

6.3.1 The Applicant recognises that the Project may have an impact on individuals but considers that the significant public benefits that will arise from the Project, as set out in this Statement, outweigh any harm to those individuals. The DCO strikes a fair balance between the public interest in seeing the Project proceed (which is unlikely to happen in the absence of the compulsory acquisition powers being included in the DCO) and the private rights which will be affected by the compulsory acquisition.

6.3.2 In relation to both Article 1 and 8, the compelling case in the public interest for the compulsory acquisition powers included within the DCO has been demonstrated in Chapter 5 of this Statement and in the Case for the Project. The Land included over which compulsory acquisition powers are sought as set out in the DCO is the minimum necessary to ensure the delivery of the Project. The Project has been designed to minimise harm whilst achieving its publicly stated objectives. In this respect the interference with human rights is both proportionate and justified.

6.3.3 In relation to Article 6 the Applicant is content that proper procedures have been followed for both the consultation on the Project and for the determination of the compulsory acquisition powers included in the DCO. Throughout the development of the Project, the Applicant has given persons with an interest in the Land a full opportunity to comment on the proposals, both in a statutory and non-statutory capacity, and the Applicant has endeavoured to engage with land interests. The Applicant has had regard to land interest feedback in both the initial design of the Project and in iterative design changes throughout the life of the Project to date. Examples of design changes are provided within the Consultation Report (Application document: 4.4).

6.3.4 Furthermore, any individuals affected by the DCO may submit representations by way of an objection to the application in response to any notice given under

section 56 of the 2008 Act, the examination of the application by the Examining Authority, any written representations procedures which the Examining Authority decides to hold and in particular, any compulsory acquisition hearing held under section 92 of the 2008 Act, at which each affected person is entitled to make oral representations about the compulsory acquisition request.

- 6.3.5 If the DCO is made, a person aggrieved may challenge the DCO by judicial review in the High Court if they consider that the grounds for doing so are made out pursuant to section 118 of the 2008 Act.

## **6.4 Fair compensation**

- 6.4.1 Any person affected by the exercise of compulsory acquisition powers or by the exercise of temporary possession, may be entitled to compensation. This entitlement to compensation is provided for by the existing compensation code and by articles 22, 23, 24, 29 and 30; and Schedule 5 to the DCO. The Applicant has the resources to pay such compensation and has demonstrated in the Funding Statement (Application Document: 5.6) that these resources are available.

- 6.4.2 Any dispute in respect of the compensation payable may be referred to the Upper Tribunal (Lands Chamber), an independent tribunal, for determination.

## **6.5 Equality Act 2010**

- 6.5.1 The Applicant has complied with its duties under section 149 of the Equality Act 2010 and has had regard to the need to (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited under the equality Act 2010; (ii) advance equality of opportunity between persons who share a protected characteristic and persons who do not share it; and (iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 6.5.2 The Applicant has conducted an Equalities Impact Assessment (Application Document 3.10) which explains how it has had regard to its public sector equality duty in the context of the Application for development consent for the Project.

## **6.6 Conclusions**

- 6.6.1 For the reasons set out above, the Applicant considers that any infringement of the ECHR rights of those whose interests in the land might be affected by the exercise of powers of compulsory acquisition would be proportionate and legitimate, would be in the public interest and would be in accordance with national and European law. The Applicant therefore considers that it would be appropriate and proportionate for the Secretary of State to make the DCO including the grant of compulsory acquisition powers.

## 7 Special considerations

### 7.1 Crown Land

- 7.1.1 As shown in Part 4 of the Book of Reference (Application Document: 5.7) and on the Crown Land Plans (Application document: 5.14) for Scheme 6: Appleby to Brough, and for Scheme 07: Bowes Bypass, the Order limits include some land which comes within the definition of Crown land in section 227 of the 2008 Act. Accordingly, the DCO (Application Document: 5.1), at article 35, includes provision for the acquisition of Crown land, and land for the time being held otherwise by or on behalf of the Crown, subject to the consent of the appropriate Crown authority.
- 7.1.2 The Crown land on Scheme 06 is owned by the Secretary of State for Defence and is occupied and used by the Ministry of Defence ('MoD'). The Crown land on Scheme 07 (comprising a single plot) is owned by the Public Trustee, which operates within the Ministry of Justice ('MoJ').
- 7.1.3 Section 135 of 2008 Act states that an Order granting development consent may include provision applying to Crown land only if the appropriate Crown authority consents to the inclusion of the provision.
- 7.1.4 Accordingly, the Applicant has entered into discussions with the MoD, with the aim of securing the necessary Crown authority consents. The Schedule of Negotiations includes reference to initial correspondence; detailed discussions have also been taking place between the Applicant and the MoD with a view to both parties agreeing arrangements for the provision, by the Applicant, of replacement facilities for the MoD in the vicinity of the land needed for Scheme\_06.
- 7.1.5 Provision for the delivery of such replacement facilities is made in Work No. 06-9, as described in Schedule 1 to the draft DCO, and the area within which the facilities are proposed to be delivered is identified on the Works Plans (Application Document 5.16) within the limits of deviation for non-linear Work No. 06-9.
- 7.1.6 The Applicant hopes that agreement will be reached on all matters relating to the replacement MoD facilities and the acquisition of MoD land by agreement in the near future.
- 7.1.7 Initial contact has also been made with the MoJ in respect of the Crown land on Scheme 07.

## 7.2 Special category land – land forming part of a common, open space, or fuel or field garden allotment – including any exchange land arrangements

7.2.1 The Land includes the following types of special category land, as defined in section 19 of the Acquisition of Land Act 1981, as applied by section 131(12) of the 2008 Act:

- Land which is open space; and
- Land which is common land.

7.2.2 As shown in Part 5 of the Book of Reference (Application Document: 5.7) and on the Special Category Land Plans (Application Document: 5.15), there is special category land on the following Schemes comprised in the Project:

- S0102 M6 Junction 40 to Kemplay Bank – open space
- S0405 Temple Sowerby to Appleby – open space
- S06 Appleby to Brough – common land and open space
- S07 Bowes Bypass – common land

7.2.3 Further details of the special category land are set out below.

7.2.4 The draft DCO makes provision, in the preamble and in article 34, for the acquisition of the above-mentioned special category land.

7.2.5 Section 131 of the 2008 Act applies to compulsory acquisition of any land forming part of a common, open space, fuel or field garden allotment. Section 132 of the 2008 Act applies to the compulsory acquisition of any rights over land forming part of a common, open space, fuel or field garden allotment.

7.2.6 Sections 131 and 132 make provision for Special Parliamentary Procedure ('SPP') to apply where a DCO authorises the compulsory acquisition of land or of rights over such land. This means the DCO will be subject to SPP unless the Secretary of State is satisfied that one of the following circumstances applies:

- Replacement land will be given in exchange for the land to be compulsorily acquired, with the same rights, trusts and incidents; or
- The land to be acquired does not exceed 200 square metres or is required for the widening or drainage of an existing highway and the giving of land in exchange is unnecessary; or
- For open space land only, replacement land in exchange is not available or would only be available at a prohibitive cost, but it is strongly in the public interest for a Project to proceed sooner than SPP would allow; or
- For open space land only, the land is only being compulsorily acquired for a temporary purpose; or
- In respect of the acquisition of rights only, the land when burdened with the new rights will be no less advantageous than it was before.

7.2.7 Sections 131 and 132 of the 2008 Act only apply to the compulsory acquisition of land and rights over land and do not apply to the temporary possession and use of land pursuant to articles 29 and 30 of the draft DCO. -However, for



completeness, the Special Category Land Plans (Application Document 5.15) include special category land which is proposed to be subject to powers of temporary possession, as well as special category land which is proposed to be subject to powers of compulsory acquisition.

7.2.8 The total area of special category land affected by the Project is 63,572 square metres, of which:

- 55,757 square metres is proposed to be subject to powers of compulsory acquisition;
- 3,595 square metres is proposed to be subject to the acquisition of new rights; and
- 4,175 square metres is proposed to be subject to powers of temporary possession.

7.2.9 Further detail about the special category land affected by the Project is set out below on a Scheme by Scheme basis.

### Scheme 0102 – M6 J40 to Kemplay Bank – Open Space

7.2.10 There are two areas of special category land, both comprising open space, on S0102: at Weatheriggs Country Park and at Thacka Beck, together totalling 1.579 hectares.- Details are set out below:

Land use powers sought in the DCO	Plots	Area (sqm)	Replacement land to be provided	Plots	Area (sqm)
<b>Open Space</b>					
Land to be acquired compulsorily	0102-01-32 0102-01-47 0102-02-01 0102-02-08 0102-02-22	8,020 sqm	Yes	0102-02-20	10,833 sqm
Land to be subject to the creation and acquisition of new rights (permanent rights for environmental mitigation)	<u>0102-02-54</u> 0102-02-57 0102-02-58 0102-02-68 0102-02-70 0102-02-72 0102-02-73	<del>3,595</del> <u>4,624</u> sqm	No, because the land, when burdened with the new rights will be no less advantageous than before	N/A	N/A
Land to be subject to powers of	0102-01-33 0102-02-21	4,175 sqm	No (not required because not	N/A	N/A

Land use powers sought in the DCO	Plots	Area (sqm)	Replacement land to be provided	Plots	Area (sqm)
temporary possession			compulsory acquisition)		
<b>Total area of special category land on S0102: <del>15,790</del> <u>16,819</u> sqm</b>					

- 7.2.11 The special category land at Weatheriggs Country Park is open space land; it is proposed to be acquired compulsorily because it is needed for the widening of the A66, to enable the construction of additional carriageway on the north side of the existing A66 and improvements to the existing A66, together with the provision of associated landscaping and reprofiling.
- 7.2.12 Whilst part of the special category land is only required temporarily, as working space to facilitate construction, other parts will be permanently required by, and lost to, the Scheme.
- 7.2.13 Replacement land is therefore proposed to be acquired, to re-provide the open space.- The replacement land currently comprises a field used for grazing; the area proposed by way of replacement exceeds the area which will be lost (see table above for area measurements) and will be capable of beneficial use for the purposes of public recreation.
- 7.2.14 The special category land at Thacka Beck, which is proposed to be subject to the acquisition of new rights (including the imposition of restrictive covenants), is required for the purposes of planting, and thereafter maintaining, woodland habitat to mitigate the environmental impacts of the Scheme.- However, no replacement land is proposed because the land will still be capable of beneficial use for the purposes of public recreation once the woodland planting is in place.
- 7.2.15 As such, the exception in section 132(3) applies: the order land, when burdened with the order right, will be no less advantageous than it was before, to the persons in whom it is vested, to other persons, if any, entitled to rights of common or other rights, and to the public.

### Scheme 0405 – Temple Sowerby to Appleby – Open Space

7.2.16 There is one area of special category land, comprising open space, on S0405: the land forms part of the playing field at Kirkby Thore Primary School, totalling 0.1679 hectares.- Details are set out below:

Land use powers sought in the DCO	Plot	Area	Replacement land to be provided	Plot	Area
<b>Open Space</b>					
Land to be acquired compulsorily	0405-02-82	1,679 sqm	No, for the reasons set out below	N/A	N/A
<b>Total area of special category land on S0405: 1,679 sqm</b>					

7.2.17 The land comprising part of the playing field is shown on the Land Plans and Special Category Land Plans as being subject to powers of compulsory acquisition.- However, the purpose of this is to enable the Applicant to grant rights over the land for the benefit of the utility undertaker which owns and operates the existing overhead power lines which currently pass above the playing field, and which will continue to do so once the scheme is in place.- As the use of the playing field itself will be unaffected, the Applicant does not propose to provide replacement land.

7.2.18 It is the Applicant's intention to relocate an existing wooden utility pole at the side of the road which runs along the east side of the school playing field; the wooden pole currently supports an existing overhead powerline which passes above the school playing field.- To facilitate the delivery of the Project, it will be necessary to raise the wooden pole up onto an embankment, as the level of the existing side road, which passes to the east side of the school playing field, will be raised to enable the side road to pass over the new A66 (on a bridge) to the north of Kirkby Thore.- The overhead powerline will be retained in its existing location above the school playing field, and will be several metres higher than it is currently. -See Figure 7-1 below, which illustrates the Scheme proposals.

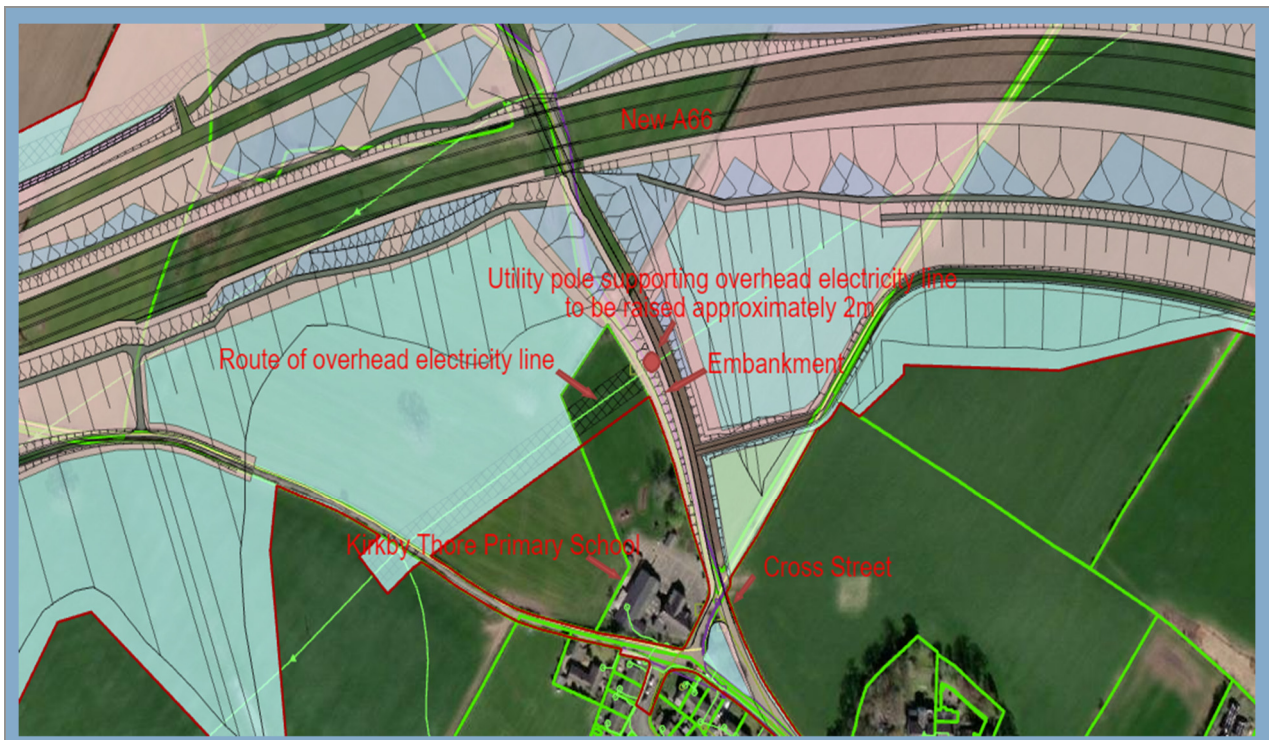
7.2.19 The Applicant expects to be required to grant a right to the utility undertaker to keep installed and to maintain the relocated apparatus (powerline and pole); and the Applicant needs to acquire land to enable it to grant that right for the benefit of the utility undertaker.- This approach to the exercise of compulsory acquisition powers aligns with that set out in paragraphs 2.5.9 and 2.5.10 of this Statement.

7.2.20 As noted above, once the wooden pole has been relocated on the new embankment, the powerline will be higher above the playing field than it is currently. -See Figures 7-2 and 7-3 below, which show the current position of the playing field, the side road, the wooden utility pole and the overhead powerline which passes above the goal area on the playing field).

7.2.21 Once the Scheme is in place and the works have been completed, there will be no change to the way in which the playing field is able to be used. For these reasons, the Applicant does not propose to provide replacement land.

7.2.22 Furthermore, if the owner of the land agrees to grant the rights directly to the utility undertaker, then the Applicant would have no need to acquire any interest in the land comprising the school playing field.

**Figure 7-1: Scheme proposals in relation to open space (playing field) at Kirkby Thore**



**Figure 7-2: Existing powerlines above the playing field at Kirkby Thore School**



**Figure 7-3 Existing powerlines above the playing field and utility pole on side road**



### Scheme 06 – Appleby to Brough – Common Land and Open Space

7.2.23 On S06 there ~~are two~~ is one areas of special category land, ~~one~~ comprising common land ~~and the other, open space, on S06: the common land~~ which is located to the north-east of Café Sixty Six ~~;~~ the open space is a playing field owned by the MoD which is understood to be used by the public for the purposes of recreation. The total area of special category land on S06 is ~~4.3137~~ 1.2961 hectares. Details are set out below:

Land use powers sought in the DCO	Plots	Area	Replacement land to be provided	Plots	Area
<b>Common Land</b>					
Land to be acquired compulsorily	06-01-04 06-01-05 06-01-10 06-01-44 06-01-45 06-01-46	12,961 sqm	Yes	06-01-39	12,961 sqm
<b>Open Space</b>					
Land to be acquired (compulsorily)	<del>06-03-52 06-04-04 06-04-05 06-04-06</del>	<del>30,176 sqm</del>	<del>No, as the land will not be acquired compulsorily – see explanation below</del>	<del>N/A</del>	<del>N/A</del>
<b>Total area of special category land on S06: <u>12,961</u> <del>4,137</del> sqm</b>					

7.2.24 To enable the delivery of the western-most end of the Scheme, the Applicant proposes to acquire an area of land which is understood to be common land. Replacement land is therefore proposed to be provided on an equivalent, like for like basis, adjacent to the area of common land required for the Scheme.

7.2.25 The DCO, in article 34 (special category land), makes provision for the special category land to be acquired and to vest in the undertaker once the Secretary of State has certified (in consultation with the local planning authority) that a scheme for the provision of the replacement land (as open space or as common land, as the case may be) and a timetable for the implementation of that scheme, have been received from the Applicant.

~~7.2.26~~ Whilst the land required for ~~The area of special category land on S06 which comprises open space is, as mentioned above, includes~~ a playing field which is owned and used by the MoD, the Applicant understands (following confirmation of such by the Defence Infrastructure Organisation on behalf of the MoD in December 2022) that this playing field ~~but which is also not made~~

~~made~~ available to the public for the purposes of public recreation, ~~al purposes~~. It is therefore not open space and, accordingly, the land is not included in the Special Category Land Plans and in Part 5 of the Book of Reference for S06. Versions of these documents have been updated accordingly for submission at Deadline 2 of the Examination. ~~for completeness and to acknowledge its use as open space; however, no replacement land is proposed, because the special category land is also Crown land, which cannot be acquired compulsorily. As such, the requirement to provide replacement land does not arise in relation to this area of special category land.~~

### 7.2.26

~~7.2.27~~ Furthermore, as explained in paragraph 7.1 above, ~~Scheme 06 includes replacement facilities for the MoD, and these facilities will include a replacement playing field.~~

### Scheme 07 – Bowes Bypass – Common Land

~~7.2.28~~ 7.2.27 There is one area of special category land, comprising common land, on S07: the common land is on the south side of the existing A66, to the south-west of the Collier Lane overbridge; it is registered common land but comprises highway, a former bus turning circle, hardstanding and highway verge. Details are set out below:

Land use powers sought in the DCO	Plots	Area	Replacement land to be provided	Plots	Area
<b>Common Land</b>					
Land to be acquired compulsorily	07-01-48 07-01-51 07-01-53 07-01-61 07-01-63 07-01-64 07-01-75 07-01-76 07-01-86 07-01-87 07-01-89 07-01-94	2,921 sqm	Yes	07-01-25	4,728 sqm
<b>Total area of special category land on S07: 2,921 sqm</b>					

~~7.2.29~~ 7.2.28 On S07, the special category land comprising registered common land is required to enable the delivery of the part of Scheme which involves the widening of the existing A66 and the related construction of a new, replacement bridge to carry Collier Lane over the new A66. Notwithstanding the fact that the common land currently comprises existing highway, a former bus turning circle, hardstanding and highway verge, the Applicant proposes to provide replacement land.

~~7.2.30~~7.2.29 The replacement land will enable the test in section 131(4) to be met, as whilst it is also required for the provision of environmental mitigation for the Scheme, the replacement land will be vested in Durham County Council, being the owner of the existing common land, and will be subject to the same rights, trusts and incidents as attach to the Order land, pursuant to the scheme for the provision of replacement land for which article 34 of the DCO makes provision.

### **7.3 Replacement land for Brough Hill Fair**

7.3.1 Brough Hill Fair is a fair held and attended annually by the traveller community on land adjacent to the A66. -This land will be required for the Project. -Whilst the land on which the Fair is held does not comprise special category land, the Applicant proposes to provide replacement land on which the Fair may continue to be held annually.

7.3.2 The DCO therefore includes article 36 (Relocation of Brough Hill Fair), the purpose and effect of which is to enable any customary or prescriptive rights that may subsist in relation to the holding of the Brough Hill Fair to be relocated on the replacement Brough Hill Fair site, which is identified in the DCO as plots 06-04-32 and 06-04-33, and a part (approximately 4,000 sqm) of plot 06-04-43.

### **7.4 National Trust “inalienable” land**

7.4.1 None of the land proposed to be acquired for the Project is National Trust “inalienable” land for the purposes of section 130 of the 2008 Act.

### **7.5 Statutory Undertaker land**

7.5.1 The DCO (Application Document: 5.1), if made, will authorise the permanent compulsory acquisition of land which is owned by statutory undertakers, comprised in the plots listed in Table 7-1 below, and which are also described in the Book of Reference (Document Reference: 5.7) and shown on the Land Plans (Document Reference: 5.13). This land is held by the statutory undertakers named in Table 7-1 below for the purposes of carrying out their statutory undertakings.



**Table 7-1 – Plots in which statutory undertakers have an interest and which are proposed to be acquired for the Project**

Name of statutory undertaker	Land owned by statutory undertaker	Nature/ description of the land	Nature of Category 1 interest	Land use power sought	Purpose for which land is needed
British Telecommunications Public Limited Company	0405-02-65	Hardstanding and verge adjoining public highway (A66), Kirkby Thore, Penrith	Freeholder	Permanent	Required to facilitate the improvement of the existing A66, once de-trunked and the provision of non-motorised user facilities, new private means of access, landscaping and reprofiling.
Network Rail Infrastructure Limited	0405-07-66	Track (Roman Road (High Street)) and bridge structure over railway line (Settle-Carlisle Railway), Crackenthorpe, Appleby-in-Westmorland	Freeholder Occupier	Permanent	Required to facilitate the construction of the new A66 eastbound and improvements to sections of the existing A66 eastbound and works related to the construction of a new compact grade separated junction, de-trunking and reclassification of the existing A66, provision of public rights of way (including overbridge) and new and replacement private means of access and the provision of new private means of access, landscaping and reprofiling.
Network Rail Infrastructure Limited	0405-07-78	Railway line (Settle-Carlisle Railway) and bridge structure over public highway (A66), public highway (A66), verge and grassland, Appleby-in-Westmorland and overhead cables	Freeholder Occupier	Permanent	The construction of the new A66 eastbound and improvements to sections of the existing A66 eastbound and works related to the construction of a new compact grade separated junction, de-trunking and reclassification of the existing A66, provision of public rights of way (including overbridge) and new and replacement private means of access and the construction of the new A66 westbound and improvements to sections of the existing A66 westbound, including a compact grade separated junction, stopping up and re-provisions of public rights of way and the provision of landscaping and reprofiling.

Name of statutory undertaker	Land owned by statutory undertaker	Nature/ description of the land	Nature of Category 1 interest	Land use power sought	Purpose for which land is needed
North Cumbria Integrated Care NHS Foundation Trust	0102-02-35	Agricultural land, east of Bridge Lane, Penrith	Freeholder	Temporary Use	Required for the provision of working space and to facilitate the construction of additional carriageway and improvements to sections of the existing A686 and its tie-in to the new Kemplay Bank Junction and the provision of environmental mitigation, landscaping and reprofiling.
North Cumbria Integrated Care NHS Foundation Trust	0102-02-37	Agricultural land, east of Bridge Lane, Penrith	Freeholder	Permanent	The construction of additional carriageway and improvements to sections of the existing A686 and its tie-in to the new Kemplay Bank Junction and the provision of non-motorised user facilities, landscaping and reprofiling.
United Utilities Water Limited	03-01-32	Unnamed private road to Whinfell Holme Sewage Works, Brougham, Penrith CA10 2AB	Freeholder Occupier	Permanent	Required to facilitate the construction of a new shared cycle track and private means of access commencing at the junction of the B6262 with Moor Lane and continuing on the south side and then on the north side of the improved A66 and the provision of non-motorised user facilities, new private means of access, landscaping and reprofiling, permanent diversion of third party apparatus.
United Utilities Water Limited	03-01-34	Unnamed private road and verge, north of A66, Brougham, Penrith	Freeholder Occupier	Permanent	Required to facilitate the construction of a new all-purpose dual carriageway ("the new A66") and of improvements to the existing A66 ("the improved A66") between Penrith and Temple Sowerby and the construction of a new shared cycle track and private means of access commencing at the junction of the B6262 with Moor Lane and continuing on the south side and then on the north side of the improved A66 and the provision of landscaping and

Name of statutory undertaker	Land owned by statutory undertaker	Nature/ description of the land	Nature of Category 1 interest	Land use power sought	Purpose for which land is needed
					reprofiling, permanent diversion of third party apparatus.
United Utilities Water Limited	03-01-70	Pumping station, south of A66, Brougham, Penrith	Freeholder Occupier	Temporary Use	Required for the provision of working space and to facilitate the construction of a new all-purpose dual carriageway (“the new A66”) and of improvements to the existing A66 (“the improved A66”) between Penrith and Temple Sowerby and related works and the provision of landscaping and reprofiling, construction of surface water drainage infrastructure.
United Utilities Water Limited,	0102-02-95	Agricultural land and hedgerow, south of A66, Penrith and telecoms apparatus	Freeholder Occupier	Permanent	Required to facilitate the construction of additional carriageway and improvements to sections of the existing A66 and the provision of new private means of access.

7.5.2 Section 127(3) of the 2008 Act provides that where a representation has been made by a statutory undertaker objecting to the acquisition of statutory undertakers’ land, a DCO may only authorise the compulsory acquisition if the Secretary of State is satisfied that:

- a. The land can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or
- b. If purchased, it can be replaced by other land belonging to, or available for acquisition by, the undertaker without serious detriment to the carrying on of the undertaking.

7.5.3 Section 127(5) of the 2008 Act provides that a DCO may only authorise the compulsory acquisition of rights over statutory undertakers’ land where a representation has been made by a statutory undertaker objecting to the acquisition if the Secretary of State is satisfied that:

- a. The rights can be acquired without any serious detriment to the carrying on of the undertaking; or
- b. Any consequential detriment to the carrying on of the undertaking can be made good by the undertaker by the use of the land belonging to or available for acquisition by the undertaker.

7.5.4 The Applicant has, during the preparation of the DCO application, been in discussion with all of the statutory undertakers listed in Table 7-1 above and Table 7-2 below about the diversion of existing utilities along the length of the Project. -Where the Applicant has also been in discussion with statutory undertakers regarding proposals to acquire land needed for the Project, the status of these discussions is set out in of the Schedule of Negotiations (Application Document 5.10).

7.5.5 The Applicant has sent draft Protective Provisions to all of the statutory undertakers having land or apparatus with the potential to be affected by the Project (as identified in Tables 7-1 and 7-2). -Whilst the Applicant considers that the Protective Provisions included the draft DCO are adequate to protect each statutory undertaker’s undertaking and to ensure that it suffers no serious detriment, the Applicant nevertheless seeks to agree terms with all statutory undertakers having land or apparatus affected by the Project, and discussions are underway and ongoing in pursuance of that objective.

**Table 7-2 – Statutory undertakers having a right or possibly having a right to keep equipment on, in or over land within the Order limits**

Statutory undertaker (or other similar body)
British Gas Limited
British Telecommunications plc
<a href="#">Cadent Gas Limited</a>
Cellnex
EE Limited
Electricity North West Limited
Energis Communications Limited
GTC Pipelines Limited
Mastdata Limited
National Grid Electricity Transmission plc
National Grid Gas plc
<a href="#">National Grid plc</a>
Neos Networks Limited (formerly SSE)
Network Rail Infrastructure Limited
North West Ambulance Service NHS Trust
Northern Gas Networks
Northern Powergrid (Northeast) plc
Northern Powergrid Limited
Northumbrian Water Limited
Openreach Limited
RWE Renewables UK Swindon Limited
Shell Chemicals UK Limited
Shell Group Limited
Telefonica O2 UK Limited
<a href="#">The Electricity Network Company Limited</a>
United Utilities Group plc
United Utilities Water Limited
Virgin Media Limited

Vodafone Limited
Yorkshire Water Limited
Zayo Group Limited

## 7.6 Other consents

7.6.1 The Consents and Agreements Position Statement (Application Document: 5.4) sets out the additional consents outside of the DCO and the current position as to the status of securing those consents. The Consents and Agreements Position Statement will continue to be updated as necessary during examination.

7.6.2 The Applicant is satisfied that all necessary consents to enable the Project to proceed have been identified and that there is no reason why such consents should not be secured or granted pursuant to the DCO.

## 8 Conclusions

### 8.1 Overview

- 8.1.1 This Statement sets out why compulsory acquisition powers have been sought in the DCO application and explains why the Applicant considers such powers are necessary, proportionate, and justified.
- 8.1.2 In determining the extent of compulsory acquisition and temporary possession powers proposed in the DCO (Application document:5.1) the Applicant has had regard to the legislative tests set out in the 2008 Act and to the advice in the CA Guidance. The Applicant is content that the scope of powers sought and the extent of the interests in the Land to be acquired by compulsory acquisition are required for the Project and are the minimum necessary that will allow the Applicant to construct, operate and maintain the Project. The purpose for which each part of the Land is required is set out in the Compulsory Acquisition and Temporary Possession Schedule (Application document 5.9).
- 8.1.3 The Applicant has consulted all persons<sup>4</sup> affected by the compulsory acquisition and temporary possession powers and persons who may have a claim for compensation arising from the Project. The Applicant has consulted such persons during preparation of the DCO application and in the design of the Project to address their concerns and to ensure that any impacts are reduced or removed. The Applicant has further sought to acquire any interests in the Land by agreement wherever practicable. The status of negotiations with affected land interests for the acquisition of their interest is set out in the Schedule of Negotiations (Application document 5.10).
- 8.1.4 The Applicant has considered the human rights of the individuals affected by the compulsory acquisition and temporary possession powers. The Applicant is satisfied that there is a compelling public interest case for compulsory acquisition and that the significant public benefits arising from the Project will outweigh the harm to those individuals.
- 8.1.5 Without the grant of compulsory acquisition and temporary possession powers the Applicant considers that it will not be possible to construct the Project, or realise the public benefits arising from it.

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<sup>4</sup> With the exception of those persons identified in Annex H to the Consultation Report (Application Document 4.4)