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Examination Principle Issues	**Climate Change**

DEADLINE D3 SUBMISSION

Contents

1 DEADLINE 3 (D3)

1 In so far as the facts in this statement are within my knowledge, they are true. In so far as the facts in this statement are not within my direct knowledge, they are true to the best of my knowledge and belief.

2 This submission responds to the Appendix 1 of "7.8 Applicant's Response to Written Representations made by other Interested Parties at Deadline 1" [REP2-017] which specifically responds to my Written Submission [REP1-013].

3 To assist the Examining Authority, my response here follows the structure of Appendix 1.

2 ASSESSMENT OF SIGNIFICANCE IN ACCORDANCE WITH THE NPSNN

2.1 Legal and policy context

4 The section does not do what it says, that is to lay out the legal and policy context. Whilst it refers to the Planning Act 2008 and lays out quotes from NPSNN which provide a brief legal and policy context, it goes beyond this by quoting from a recent Secretary of State decision letter ("**DL**") for the M25 Junction 10 Order and referring to two other recent SoST DLs. The DLs are not legal and policy context.

5 The ExA is required to make a recommendation to the SoST on the A66 based upon the law and policy **only**. The recommendation should be based upon the merits of the A66 scheme itself. Other recent decisions do not address the A66 scheme itself, and are not relevant evidence upon which to make recommendations concerning the A66.

I note that the Applicant refers to "precedent transport-sector schemes" in their introduction to Appendix 1. There is no procedure, or law, regulation or policy, for taking account of "precedent" from other decisions, essentially it is not a legitimate commodity under the Planning Act 2008 and DCO planning regime.

6 I, therefore, respectively suggest to the ExA that it should **not** take account of the selectively extracted quotes from recent DCO DLs, as provided by the Applicant.

7 However, in relation to the M25 Junction 10 DL113, I note that it discusses principles which the SoST purports to have applied in that case. It is valuable to put these principles in context where they relate to assessing significance for carbon emissions in general:

(A) DL113 paraphrases the NPSNN 5.18 carbon test in this phrase, bolded by the Applicant "*will not have **a material impact on the ability of Government to meet its legally binding carbon reduction targets***".

However, there is no difference in intention between this phrase and my quote at [REP1-013] paragraph 13 from the IEMA Guidance, except that the latter is slightly more precise and up to date "***Does the scheme do enough to align with and***

contribute to the relevant transition scenario, keeping the UK on track towards net zero by 2050 with at least a 78% reduction by 2035 and thereby potentially avoiding significant adverse effects". This is the IEMA significance criteria/threshold for "Minor Adverse".

As I explained at [REP1-013] paragraph 14, both the thresholds and test from the IEMA guidance and the NPSNN "have a common objective, that the scheme must align with, or not have a material impact so significant on, meeting national Climate Change targets." The issue is how the evaluation of the thresholds and test is done. The IEMA guidance lays out a more comprehensive approach to evaluation, being 8-years more up-to-date than the NPSNN, and critically published in consideration of the net-zero target. I note also the Government is reviewing the NPSNN recognising that it clearly needs to be updated.

(B) The applicant also bolds "***The Secretary of State considers this aligns with the approach to significance set out in the most recent IEMA Guidance***". "this" refers to the previous sentence "*meaning a proposal which is compatible with the 2050 target and interim carbon budgets is consistent with the approach to addressing the severe adverse effects of climate change*". This shares the common objective with IEMA, and the SoST merely confirms an understanding that this aligns with IEMA. Once again, the issue is not the objective, or intention, but is how the evaluation is done and whether it is correct.

(C) It is only in the context of the existence of an evaluation of significance which has been carried out reliably, and with an appreciation of the risks to net-zero delivery, that the third bolded clause can be trusted: it says "***The Secretary of State does not consider that net zero means consent cannot be granted for development that will increase carbon emissions.***" What development can be granted consent depends upon the correct evaluation of the relevant thresholds and/or tests – the IEMA test of significance (ie: exceeds "Minor Adverse" threshold) and NPSNN 5.18.

The basis of my difference with the Applicant is that the correct evaluation of significance has not been done for the A66 scheme, it does not exist, and therefore this third bolded clause cannot be trusted. It cannot be applied to the A66 case – a comprehensive evaluation is required to see if it is true, or false, for the A66.

8 I laid this out very clearly in Section 2 of [REP1-013] "Approaches to Significance Assessment of GHGs", and the Applicant has ignored it. DL113 for the M25 Junction 10, although not relevant to, nor a material consideration for the Examination of the A66, supports my case entirely and as shown above is not in contradiction to it, on the basis of the principles and objectives involved.

9 It is very relevant here that at the ISH2 Hearing, the ExA was concerned to grapple with significance thresholds and how the significance can be determined for the A66 scheme. My Written Representation [REP1-013] was drafted to help assist with this, and I now explain further relevant context.

2.2 The Scale and Logistical Impact of Net-Zero - Why the way significance is evaluated is important

10 I wish to set out for the ExA why the issue how the carbon test, be it NPSNN 5.18 or IEMA significance thresholds (which as I have said are equivalent in addressing the principles of whether the scheme has a material impact on the ability of Government to meet its legally binding carbon reduction targets), is evaluated is of the utmost importance.

11 The enactment of the 2050 net-zero target in 2019 introduced a massive logistical impact in terms of how the society operates in the UK. The implications of the related legislative and policy changes between the pre-net-zero world and the net-zero world are huge and unprecedented in peace time, and will last for decades. This can essentially be understood by considering the "Emission space" ("**EmSp**") by which I mean the available carbon emissions which may be legitimately emitted each year under the net-zero target, and the five year carbon budgets, for example, the deeply ambitious 6th carbon budget from 2033-2037.

12 The new net-zero target updated both the targets and interim targets under the Climate Change Act 2008. Based on outdated science, the original end target for 2008 Act was an 80% reduction of greenhouse gas ("**GHG**") emissions[1] by 2050 from 1990 baseline. The new end target is 100% reduction by 2050. The massive and unprecedented logistical impacts manifest in these (numerical and phenomenological) respects:

(A) *The UK economy EmSp rapidly reduces each year until 2050* at an average year-on-year rate of c.15.6 million tonnes of $CO2$[2] from 2025, approximately equivalent to removing 15,600,000 return flights from London to New York each year, year-on-year. All existing economic activity must be contained within this rapid contraction of the EmSp by sectorial decarbonisation. New activity, eg additional traffic growth, competes for emissions required just to sustain existing activity.

(B) *The legislated year-on-year emissions contraction rate is extraordinary and is more problematic for transport than other sectors.* Total surface transport emissions in 2019 were 113 million tonnes CO2, and have hardly decreased since 1990. Essentially, there has been no change in 29 years. Transport emissions are required to reduce to zero, or near zero, by 2050 (now less than another 29 years). These figures demand a complete paradigm shift in planning and delivery of transport policy: it has not started to happen yet three years after the net-zero legislation was enacted. (Due to the risks in its delivery, and the fact that emissions have not started to reduce significantly yet, I do not consider that the Transport Decarbonisation Plan has initiated the required paradigm shift).

(C) *The removal of any on-going background EmSp from the mid-2040s*. A 20% background level of emissions, at 1990 levels, were legally permitted before the

[1] The Climate Change Act 2008 covers several GHGs. However, for this Examination, carbon dioxide (CO2), or "carbon" is the only gas of interest.

[2] 2025 is the mid-year in the legislated 4th carbon budget 2023-2027 of 1,950,000,000 tCO2e. Taking the legislated annual allowance for 2025 as 20% of this (390,000,000 tCO2e), there is 25 years to reduce this to 0 tCO2e in 2050.

> 2019 legislative changes for every year until 2050 equating to around c.160 million tonnes of CO2 a year. This allowed considerable policy and delivery flexibility that is simply and starkly no longer available: for example, legacy emissions from a "business as usual" transport system could be contained within the 80% by 2050 target, but that is no longer possible.
>
> Doubling the rate of emissions contraction, and removing the legally permitted contingency of c.160 million tonnes CO2 a year in the economy, introduces immense delivery risks to (A) interim climate targets, for example the targets for 68% reduction by 2030, and (B) to 2037 via the sixth carbon budget, and (C) the net-zero 2050 target itself.

13 The necessary governmental responses to the logistical impact of the legislation are still developing, and are far from adequate, as frequently reported by the Climate Change committee (see [REP1-013], paragraphs 128-129, and Appendix D). The scale of the challenge does require a "wartime footing" but this is not being treated seriously at the moment (for example, the lax approach to delivery for the Net Zero Strategy, as highlighted by the recent legal case).

14 I previously highlighted the risks to delivery (eg: REP1-013, paragraphs 128 (Climate Change Committee report), 135 (Net Zero Strategy legal case). The "key takeaway" here is that the mere existence of the Net Zero Strategy, or policies within that strategy, cannot be relied on alone to achieve the emissions reductions required. Delivery of the Net Zero Strategy requires careful implementation of policies and rigorous decision-making. I restate REP1-013, paragraphs 136, "this delivery risk or policy gap should be at the front of the Secretary of State's mind in considering the A66 scheme, and the assessment of significance, and, with respect, the ExA's recommendations must facilitate proper consideration of the issue".

And the key question is "*does the project increases the delivery risk (to the Net Zero Strategy and 6th carbon budget), or does it reduces it?*"

15 I regret that the Applicant's response does not start to grapple with this issue, and I respectfully request the ExA that is given a good airing at the next ISH on environmental matters.

2.3 False claims of compliance

16 The applicant states "*the assessment has been carried out in accordance with industry guidance, DMRB LA 114*". This is not true. I previously reported a non-compliance with LA114. Later in this document, I report two further non-compliances with LA114 which have become apparent from the Applicant's response on the matter of Errors in the ES Chapter 7. I also report below how the application is non-compliant with DMRB LA104.

17 Therefore, I strongly contest the quoted statement.

2.4 Sub-section: Summary of likely significant effects assessment for the A66 Project

18 I have already made a clear case that:

(A) The figures listed in this section against the national carbon budgets do not include a cumulative assessment of carbon emissions ([REP1-013], section 5). Therefore these figures are not legally compliant, and not fit to be quoted for assessment purposes.

(B) The comparison against national carbon budgets is a starting place of limited value. Assessment of Significance ([REP1-013], section 6) requires much more, including following the best practice guidance from IEMA. The scale and logistical impact of net-zero, as outlined above makes this even more necessary.

2.5 Contextualisation against local, regional or sectoral targets

19 One again, I contest the sentence "*As noted above, the Applicants have carried out a detailed and robust assessment of the likely significant effects of the A66 Project on climate (Chapter 7 of the ES [APP-050]), which is in accordance with law, the NPSNN and DMRB LA 114*". The applicant has made three non-compliances with DMRB LA114, one with LA 104, and the ES does not comply with the 2017 Regulations.

20 With respect to the first set of points a), b) and c) on PDF page 80 of [REP2-017]:

(a) (1) There is a serious question of how much the Applicant should investigate into whether their carbon assessment is adequate: currently, the Applicant has closed its mind to examining how applying IEMA contextualisation could improve the reliability of its assessment, despite me laying out in detail why it would improve reliability in my Written Representation [REP1-013].

Although the IEMA Guidance is not on a statutory footing, it is the primary guidance on assessing the significance of greenhouse gas emissions within the UK. By doggedly refusing to use the IEMA guidance, as it is intended, the Tameside principle – that a public body has a duty to carry out a sufficient inquiry prior to making its decision - may be breached[3], should this DCO examination proceed to a decision without adequate inquiry into the application of the IEMA methodology.

(2) In July 2021, the SoST published the Transport Decarbonisation Plan (TDP) which made the commitment[4] "*we will drive decarbonisation and transport improvements at a local level by making quantifiable carbon reductions a fundamental part of local transport planning and funding*". As part of this, the TDP required:

[3] Secretary of State for Education and Science v Metropolitan Borough of Tameside [1976]

[4] Transport Decarbonisation Plan, page 151.

> *"Going forward, LTPs will also need to set out how local areas will deliver ambitious quantifiable carbon reductions in transport, taking into account the differing transport requirements of different areas. This will need to be in line with carbon budgets and net zero."*

Going forward, the DfT are now promoting a quantifiable carbon reductions (QCRs) methodology for local transport plans.

(b) The Transport Decarbonisation Plan sets out a delivery pathway, related to road transport, which corresponds to a fall in residual emissions from domestic transport emissions (excluding aviation and shipping) by around 34-45% by 2030 and 65-76% by 2035, **relative to 2019 levels.** This is also the Net Zero Strategy (NZS) delivery pathway, related to road transport.

I have already provided an assessment of the scheme against this sectoral envelope for carbon reductions "related to transport" at sections 7.3 – 7.6 of [REP1-013] "Contextualisation 1: The transport system in the study area against the Net Zero Strategy transport trajectory".

The Applicant makes an argument based on selectively quoting a legal judgment which has in any case been superseded by the publication by the Government of transport sectorial envelopes with targets out to 2037.

(c) As already stated, the risks in the Government's current approach ("the government's overall strategy for meeting carbon budgets and the net zero target" have not been properly assessed, and the risks to delivery are frequently highlighted by the Climate Change Committee and by the Court.

21 With respect to the second set of points a), b), c) and d) on PDF page 80 of [REP2-017]. A number of relevant budgets exist, and I gave examples of using them as benchmarks in my contextualisations in [REP1-013]. Essentially a), b) and c) do not exist as insurmountable, practical obstacles: they are fabricated obstacles presented to bolster the Applicant's inaction. Once again, the Applicant's dogged refusal to use the IEMA guidance as it is intended, the Tameside principle may be breached[5] should this DCO examination proceed to a decision without adequate inquiry into the IEMA methodology and relevant local, regional and sectorial budgets. Points a), b) and c) are covered by this.

On point d), this is a red herring. The "baseline" being discussed would better be referred to a benchmark. It is essentially a number for comparison purposes. It is the divisor when a percentage figure is calculated for assessment purposes – the quantity of carbon emissions is the numerator. It does not need to either include, or not, the emissions from the scheme, as it is just a reference comparison (like a carbon budget is at the national level). There is no potential for double counting in using a benchmark for this purpose.

[5] Secretary of State for Education and Science v Metropolitan Borough of Tameside [1976]

22 I therefore refute the Applicant's claim that there is "*there is no reasonable basis upon which National Highways can assess the carbon emissions impact of the Scheme at a local or regional level*". There are clearly several ways that it can be done, and I laid out an incomplete list in my Contextualisations in [REP1-013].

23 I have laid out the case on the necessity for local and regional assessment in [REP1-013]. The applicant has provided no substantive reasons against it: the given reasons are refuted above. I suggest that this issue should be interrogated further by ExA questions and the next ISH.

3 CUMULATIVE IMPACT APPRAISAL

3.1 Legal and policy context

24 I have laid out the evidence that there is there is no assessment of the impact of cumulative carbon emissions in the ES. [REP1-023] section 4 entitled "A TO B: how the climate impacts assessment table is generated" explained in detail how it is only Do Something – Do Minimum (DS-DM) estimates of emissions which are taken forward to the Applicant's assessment provided at Table 7-24. Section 5 explained how the sole element of the traffic model which is different between the DS scenario and the DM scenario is the scheme itself.

25 Despite this, the Applicant's raises conjecture points which I have already addressed as follows:

(A) Top half of PDF page 83 [REP2-017] lays out the elements of the traffic model in a similar way to how I do at section 5.1 (elements 2, 3 and 4 are the same elements in both my schema and the Applicant's). The point is not whether these elements are in the traffic models or not. It is a point of common ground that these elements are in the traffic models, and in that limited sense the traffic models are "inherently cumulative".

However, as I describe at [REP1-023] paragraphs 84 – 96, the only difference between the DS and DM scenarios is the Scheme itself. Therefore, the estimated figure for the emissions from the scheme for each carbon budget used for assessment (in Table 7-24) is Scheme-only, or 'solus', and not cumulative.

(B) The Applicant quotes (PDF page 83 [REP2-017]) DMRB Chapter LA 104 on Environmental assessment and monitoring. However, with respect to paragraph 3.22.1 of LA 104, the same problem arises as (A) above. The applicant has included the elements listed by 3.22.1 1), 2) and 3) in the traffic models. However, the Applicant has made the error to assuming that the DM scenario model, which critically already contains those cumulative elements, is the baseline with which to compare the DS scenario. The result is that the effects and impacts of those cumulative elements are subtracted out, leaving a Scheme-only assessment which does not discharge the 2017 Regulations, nor the DMRB LA 104, requirement(s) for cumulative assessment. Once again, the Applicant

has followed a process to construct its traffic model which could lead to a cumulative assessment, but, in reality, breaches compliance with DMRB LA 104 by subtracting out all the cumulative elements.

(C) The first quote from IEMA (top PDF page 83 [REP2-017]) "*the approach to cumulative effects assessment for GHG differs from that for many EIA topics where only projects within a geographically bounded study area of, for example, 10km would be included*" does not help the applicant. The quote suggests that cumulative effects assessment for GHG may require a more expansive inclusion of other projects (not less) than for other environmental factors. This is because all projects contribute greenhouse gas emissions.

(D) The second IEMA quote "*effects of GHG emissions from specific cumulative projects therefore in general should not be individually assessed, as there is no basis for selecting any particular (or more than one) cumulative project that has GHG emissions for assessment over any other*" does not help the Applicant either. This refers to not assessing other projects individually. The Applicant has not done this, and nor have I ever suggested that they should. What the Applicant has done is to include other projects in the traffic modelling for the project. The incorrect, and unlawful, step on the part of the applicant is, having done this, to then subtract out the cumulative effect as described.

(E) With respect to PINS Advice note 17 (PDF page 83 [REP2-017]), the note does not address cumulative carbon assessment. There is no reference to it in the quoted section, but furthermore there is no reference to cumulative carbon assessment in the entire document[6]. Whilst the PINS Advice note 17 is part of a suite of general, and often helpful, advice provided by the Planning Inspectorate, it has no statutory status as the website states.

The writers of PINS Advice Note 17 used the word "may" in the first sentence of paragraph 3.4.4 indicating that they understood that it was not universally true that assessments would be "inherently cumulative" just based on the traffic model "including traffic data growth for future traffic flows". Again, it does not, in any case, hold when the cumulative effects are cancelled out in the assessment as has been done in the ES for carbon emissions.

(F) The Applicant again refers to recent DLs from other schemes. As above, there is no procedure, or law, regulation or policy, for taking account of precedent from other decisions, under the Planning Act 2008 and DCO planning regime.

26 At section 5.6 of [REP1-013], I identify 4750 jobs and 3545 houses which are locally committed development in the core scenario. This is not the complete total of additional

[6] https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/advice-note-17/. PINS Advice note 17.

development which should be cumulatively assessed for carbon with the scheme as the Applicant has used thresholds which eliminate smaller sites from being included.

4 REFERENCE TO 'ERRORS' IN THE QUANTIFICATION OF IMPACTS AND CONTEXTUALISATION OF EMISSIONS

4.1 Overestimation of construction emissions

27 I acknowledge the Applicant's (unsatisfactory) explanation via the reference to Paragraph 7.11.19 in the Environmental Statement [APP-050].

28 By comparing, the total construction emissions (which themselves fall across both the 4th and 5th carbon budgets) in full against each of the 4th and 5th carbon budgets, the Applicant has engaged in a form of double counting which is not compliant with DMRB LA 114, 3.19. This states "*Where a project stage extends over multiple carbon budget periods, the projects GHG emissions shall be reported against each carbon budget for each project stage.*" It does not suggest that emissions should be double counted in the way which they have.

29 I don't accept the Applicant's arguments on PDF page 85 of [REP2-017] that such double counting on construction emissions then allows the Applicant to undercount operational emissions by accounting for operational emissions only in the 6th carbon when in fact they are generated for four years of the 5th carbon budget (for example, as shown on Table CEPP.WR.Tab-4 of [REP1-013]). This is a bizarrely contorted logic is based upon a double breach of the Applicant's own DMRB LA114 guidance – the first breach is not reporting the proper construction emissions for each carbon budget as above, and the second breach is not reporting the operation emissions at all for the 5th carbon budget as I previously highlighted in [REP1-013].

30 The first breach is even less coherent when the Applicant then presents the actual estimate of construction emissions for the 4th and 5th carbon budgets at Table 2 in [REP2-017] also on PDF page 85.

4.2 Inclusion of operational emissions within the 5th Carbon Budget period

31 This sentence [bottom of PDF page 85, REP2-017] does not make sense: "*Written representations [REP1-011] and [REP1-013] queried whether operational emissions ought to be assessed against the 5th Carbon Budget; i.e. whether to apportion the total construction GHG emissions (518,562 tCO2e) on a pro-rata basis over the two budget periods.*" The author appears to have confused operational with construction emissions.

32 Further my Written Representation did not query "whether operational emissions ought to be assessed against the 5th Carbon Budget". I stated that the failure to do so was a breach of the Applicant's own DMRB LA114 guidance.

33 Again, the Applicant proposes its bizarrely contorted logic based upon the above double breach of its own DMRB LA114 guidance eg "*However, for consistency with construction,*

these operational emissions were contextualised entirely within the 6th Carbon Budget". There is nothing consistent with this: rather it is a double inconsistency and non-compliance with guidance.

34 The point remains that the Applicant should just follow the guidance and accurately report the emissions, both construction and operation, as they have estimated them for each carbon budget period.

4.3 Inclusion of maintenance emissions within the operational emissions reporting

35 It is an understatement to say that the Applicant has concocted a truly bizarre explanation in this section.

36 First of all, my analysis in [REP1-013] section 3.6 remains correct. To show this, I reproduce a section of Table CEPP.WR.Tab-4 which shows the correct calculation of the operational emissions for the 6th carbon budget which the Applicant should be making to be consistent with their own statement at paragraph 7.11.19 of the Climate Change chapter [APP-050].

6th Carbon Budget (2033-2037) // Emissions (tCO2e)
Total operational 'use stage' emissions excluding operational land use benefits
(PAS2080: B9 + (B2-B5))

	2033	2034	2035	2036	2037
Do-minimum scenario	1,427,662	1,407,869	1,388,077	1,368,284	1,348,492
Do-something scenario	1,467,440	1,447,284	1,427,128	1,406,972	1,386,816
Difference	39,778	39,414	39,051	38,688	38,324
Difference: Total across Carbon Budget					**195,255**

37 I now present this table changed only to show the calculation which the evidence would suggest that the Applicant has actually made which is the calculation omitting the emissions corresponding to the PAS2080 (B2-B5) modules.

6th Carbon Budget (2033-2037) // Emissions (tCO2e)
Total operational 'use stage' emissions excluding operational land use benefits
(PAS2080: B9 ONLY)

	2033	2034	2035	2036	2037
Do-minimum scenario	1,427,662	1,407,869	1,388,077	1,368,284	1,348,492
Do-something scenario	1,465,413	1,445,257	1,425,101	1,404,945	1,384,789
Difference	37,751	37,387	37,024	36,661	36,297
Difference: Total across Carbon Budget					**185,120**

38 185,120 tCO2e is 0.0192% of the 6th carbon budget, and this explains the incorrect figure at Table 7-24 of the ES. 195,255 is 0.0202%, and this explains the corrected figure which I presented in Table CEPP.WR.Tab-2 of [REP1-013].

39 Rather than acknowledge this error and correct it, the Applicant claims in [REP2-017] that the 0.019% figure in Table 7-24 of the ES is derived by comparing the emissions from **2044** against one year of the sixth carbon budget 2033-2037. If the Applicant wishes to sustain this explanation, then it is a clear third breach of DMRB LA 114 3.19 as rather than reporting the projects GHG emissions against each carbon budget, they have reported an estimate of carbon emissions for a year which is at minimum 7 years outside, and into the future, of the relevant carbon budget period.

40 Apart from the technical breach of the DMRB, the Applicant's explanation is simply not a credible way to estimate and assess the project's operational emissions in the sixth carbon budget. It is clearly wrong.

4.4 Summary on errors

41 The errors which I reported in [REP1-013] remain exactly as I described them. In trying to explain them, the Applicant has introduced further compliance breaches, errors and untenable arguments.

5 THE NET ZERO STRATEGY

42 I laid out at the beginning of this submission that the necessary governmental responses to the logistical impact of the 2019 net-zero legislation are still developing and are far from adequate. I also highlighted the risks to delivery (eg: [REP1-013], paragraphs 128 (Climate Change Committee report), 135 (Net Zero Strategy legal case)). The "key takeaway" here is that the mere existence of the Net Zero Strategy, or policies within that strategy, cannot be relied on alone to achieve the emissions reductions required. Delivery of the Net Zero Strategy requires careful implementation of policies and rigorous decision-making. I restate REP1-013, paragraphs 136, 'this delivery risk or policy gap should be at the front of the Secretary of State's mind in considering the A66 scheme, and the assessment of significance, and, with respect, the ExA's recommendations must facilitate proper consideration of the issue. And the key question is "does the project increases the delivery risk (to the Net Zero Strategy and 6th carbon budget), or does it reduces it?" '

43 The Applicant again refers to recent DLs from other schemes. As above, there is no procedure, or law, regulation or policy, for taking account of precedent from other decisions, under the Planning Act 2008 and DCO planning regime.

44 I regret that the Applicant's response does not start to grapple with the issue of the delivery risks to delivery of the Net Zero Strategy and the net-zero target, and how the scheme relates to these, and I respectfully request the ExA that it too is given a good airing at the next ISH on environmental matters.

[redacted]

Dr Andrew Boswell,
Climate Emergency Policy and Planning, January 24th 2023