

TR010062: Application by National Highways England for the A66 Trans-Pennine Dualling Project
The Examining Authority's Written Questions and requests for information
Issued on 31 January 2023

The following table sets out the Examining Authority's (ExA's) Written Questions and requests for information, herein referred to as WQs. If necessary, the Examination timetable enables the ExA to issue a further round of written questions in due course. If this is done, the further round of questions will be referred to as FWQs.

Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as Annex C to the Rule 6 letter of 17 October 2022. Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application against relevant policies.

Column 2 of the table indicates which Interested Parties (IPs) and other persons each question is directed to. The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number which starts with an alphabetical code and then an issue number (indicating that it is from ExQ1) and a question number. For example, the first question on air quality is identified as AQ.1.1. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact A66Dualling@planninginspectorate.gov.uk and include 'A66 Trans-Pennine Dualling Project' in the subject line of your email.

Responses and Information Requested are due by Deadline 4: 14 February 2023

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AQ	Air Quality	
AQ 1.1	<i>Castlegate Potential AQMA</i> The Applicant	Figure 8.6 of the Transport Assessment [APP-236] shows that traffic in Castlegate, Penrith is forecast to decrease. Confirm that reading of Figure 8.6 is correct and give exact figures as to the decrease in traffic flows when comparing Do Minimum to Do Something.
AQ 1.2	<i>Castlegate Potential AQMA</i> Eden DC/ Cumbria CC	Provide a plan showing the potential Castlegate Air Quality Management Area (AQMA). Also, given that there is forecast to be a reduction in traffic flows on Castlegate explain whether the Council is satisfied that the Project will not create any additional air quality issues in Castlegate that would impact on the Council’s proposed AQMA.
BHR	Biodiversity and Habitats Regulations	
BHR 1.1	<i>Trout Beck Bridge, Cringle Beck, and Moor Beck Viaduct Crossings</i> The Applicant Environment Agency Natural England	<p>In their Written Representations (WR), the Environment Agency (EA) [REP1-024] and Natural England (NE) [REP1-035] state that they are unable to come to a finding on the effect of the Proposed Development on the aquatic environment or find no adverse effect on the integrity on the River Eden SAC, River Eden and Tributaries SSSI, Temple Sowerby Moss SSSI, North Pennines SPA and Bowes Moss SSSI, Asby Complex SAC and Ravensworth Fell SSSI. This is primarily because of a lack of detail in respect to the designs of the Trout Beck bridge, and the Cringle Beck and Moor Beck viaduct structures and placement of pillars.</p> <p>The ExA notes the principles contained within the Project Design Principles document [APP-302] particularly LI04 to LI08, as well as the submission of the Overview of Design</p>



		<p>Process for Trout Beck Bridge, Cringle Beck Viaduct and Moor Beck Viaduct document at Deadline 3 [REP3-046] following the ExA's request for the Applicant to do so at the Issue Specific Hearing 2 (ISH2) held on Thursday 1 December 2022 [EV-003].</p> <p>However, while the ExA recognises the Applicant wishes to decide on the detailed designs of the three identified viaducts to the detailed design stage, the ExA nevertheless remains concerned that insufficient details remain specifically on the designs and/or commitments/principles for the three viaducts. Accordingly, the ExA is concerned that neither the EA nor NE will be able to advise the ExA or Secretary of State on the effect of the Proposed Development on European sites and on the environment in general.</p> <p>For the Applicant:</p> <p>The ExA recommends:</p> <ul style="list-style-type: none">- The Applicant submits the full designs for the Trout Beck crossing and the Cringle Beck and Moor Beck viaducts into the Examination; and/or- If that is not possible, update the Project Design Principles and/or the Overview of Design Process for Trout Beck Bridge, Cringle Beck Viaduct and Moor Beck Viaduct document with specific parameters and principles for the three viaducts on which the detailed designs must be based, including specific principles for the supporting piers and their positioning. <p>For the EA and NE:</p> <p>Set out what additional information, if any, would be required from the Applicant on the designs of the Trout Beck bridge and the Cringle Beck and Moor Beck so as to overcome the concerns raised.</p>
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CA	Compulsory Acquisition (CA)	
CA 1.1	<i>Need for CA</i> The Applicant	The ExA wishes to better understand why the CA of land is sought on areas required for temporary construction use, such as on Plots 0102-02-24 and 0102-02-25 said to be required for a temporary haul road [REP1-079 and REP2-015, page 8], in the context of areas being required for environmental mitigation, such as species rich and open grassland on Plots 0102-02-24 and 0102-02-25 [APP-041, Figure 2.8.1]. The response should cover the principles applied over the whole application.
CA 1.2	<i>Need for CA</i> The Applicant	The ExA wishes to better understand the numerical relationship, over the application as a whole, between Biodiversity Net Gain, including the minimum of no net loss, and the areas identified for environmental mitigation [REP2-015, page 10 and APP-041]. The response should also be made in the context of: the mitigation identified for and within each scheme (how the Applicant has got from need to provision) in keeping with the individual scheme by scheme Environmental Management Plans [REP1-129, para 26 and [REP2-015, page10], the level of detail required to support a compelling case for the inclusion of the relevant CA powers in the DCO [REP1-129, para 27 and 88]; and the rolling back of the acquisition powers sought [REP2-015, page 8].
CA 1.3	<i>Need for CA</i> The Applicant	Explain why the site construction compound areas are subject to CA and not Temporary Possession (TP). The response should cover the principles applied over the whole application.
CA 1.4	<i>Need for CA</i> The Applicant	Confirm whether the presumption by Penrith Properties of a 6.6m wide cycleway is correct [REP1-120 and REP2-015, page 26]. If so, justify. If not, explain the correct width and are the Order limits justified in practical terms.



CA 1.5	<i>Need for CA</i> The Applicant	The ExA wishes to better understand why the CA of land below and either side of the Trout Beck viaduct spans is sought [REP2-015, page 82]. The response should also be made in the context of the physical elements of the viaduct.
CA 1.6	<i>Need for CA</i> The Applicant	Explain why CA is being sought on Plot 09-03-26 [APP-310, Sheet 3].
CA 1.7	<i>CA Schedule Omission</i> The Applicant	Confirm whether the "Moss Family" [REP2-015, page 44] should appear in the Compulsory Acquisition Status of Negotiations Schedule [REP2-020] and if not, why not.
CA 1.8	<i>Impact from CA</i> The Applicant	In terms of the Mainsgill Farm Shop, explain "removing their direct access" to the A66 as a result of CA [REP1-102, para 2.5.2] is a component of the measures necessary to achieve the safety objectives of the scheme [REP2-015, page 59].
CA 1.9	<i>Impact from CA</i> The Applicant	Explain how has the "additional space for vehicle turning" for W Austen Richardson Ltd been 'sized' in the context of vehicle dimensions and turning circles [REP1-136, para 2.6.1 and REP2-015, page 64]. Any response could be in a plan form.
CA 1.10	<i>Statutory Undertakers</i> The Applicant	Set out whether any of the following representations engage s127 of the PA2008. If so, whether agreement is subsequently reached with the Statutory Undertaker (SU) concerned, and whether the Applicant will seek to have the representation withdrawn in writing by the SU. The SUs are: National Grid Electricity Transmission plc [REP1-031]; National Grid Gas plc [REP1-032]; Network Rail Infrastructure Limited [REP1-036 and REP1-037]; Northern Powergrid Yorkshire plc [RR-158]; United Utilities Water Limited [RR-120]; and the Environment Agency [REP1-024].



CA 1.11	<i>Representation Clarification</i> Felicity Nicholson, RK and GF Nicholson, Emma Nicholson, Tim Nicholson and Cactus Tree Guards Ltd	The ExA wishes to better understand how “the farm buildings are in the middle of the whole block of land” at Sleastonhow Farm by reference to the farm boundaries and the features in the surrounding area [REP2-015, page 91]. Any response could be descriptive or use a marked-up plan.
CA 1.12	<i>Representation Clarification</i> George F White	Explain which CA land plots relate to the access to Ravensworth Lodge [APP-310, Sheet 2, REP1-111, para 2.3.4 and REP2-015, page 61].

CE	Climate Effects	
CE 1.1	<i>Typographical Error</i> The Applicant	Clarify whether ‘traded tonnages of carbon’ be ‘non- traded tonnages of carbon’ [REP1-009, Appendix 9, page 75, first bullet point 2].
CE 1.2	<i>Typographical Error</i> The Applicant	Clarify whether ‘£9.28m Traded emissions’ be £28.13m [APP-237, Table 6-9].
CE 1.3	<i>Greenhouse Gas Assessment</i> The Applicant	The ExA wishes to better understand, in the context of the Proposed Development and in an overview form, the sources of traded and non-traded emissions used in the greenhouse gas assessment in order to understand the nature of the departure from the advice in paragraph 4.1.5 of TAG Unit A3 Environmental Impact Appraisal, where it is



		suggested that only non-traded carbon values are used [REP1-009, Appendix 9, page 76].
CE 1.4	<i>Greenhouse Gas Assessment</i> The Applicant	Explain why the (2021) Carbon emissions calculation tool [REP1-009, Appendix 10, Appendix A] is not referred to in the Greenhouse Gas Assessment [APP-176].
CE 1.5	<i>Greenhouse Gas Assessment</i> The Applicant	<ul style="list-style-type: none">- Explain whether any vehicle trips in the 'modelled 2029 and 2044 Do-Minimum and Do-Something scenarios' [APP-050, para 7.11.16 and APP-237, para 5.6.1, Table 5-32 and Table 5-33], that lead to the projected additional greenhouse gas emissions (GHG) emissions from "Vehicles using the highways infrastructure" [APP-050, Table 7-23], represent trip reductions on local roads or the wider UK road network [APP-008, para 4.4.2]. If so, explain what proportion of these additional GHG emissions represent trip reductions elsewhere [APP-237, Figure 3-11 and para 5.7.3].- Explain whether any such proportion represent part of the "conservative approach taken to quantification of emissions arising from the Project" [APP-050, page 68, footnote 79] in the context of the "Comparison of emissions against UK Carbon Budgets" [APP-050, Table 7-24]. The response should also generally identify trip reductions in terms of the Climate Emergency Planning and Policy contextualisation method boundaries of the traffic model study area [REP1-013, Section 6.2] and the Cumbria, County Durham, and North Yorkshire planning authority areas.- Explain whether the projected reduction in congestion and other improvements in traffic flow conditions along all of the A66 M6 to A1(M) route lead to reduced vehicle GHG emissions for vehicles using the A66 [APP-237, para 5.7.7 to 5.7.18] If so and not taken into account in the 'quantification of emissions arising from



		the Project', would they also represent part of this 'conservative approach' [APP-008, para 3.5.10].
CE 1.6	<i>Greenhouse Gas Assessment</i> The Applicant	Explain whether the Outline Carbon Strategy [REP3-043] makes "quantifiable carbon reductions a fundamental part of local transport planning and funding" as required by the Transport Decarbonisation Plan, SoST, July 2021 [REP3-068, para 20(a)(2)]. If so, how and if not, why not.

DCO	Draft Development Consent Order (draft DCO)	
DCO 1.1	<i>Article 2 Interpretation</i> The Applicant	<p>Cycleways and Cycle Tracks – The ExA notes that the definition of cycleway in Article 2 of the draft DCO [REP2-005] has been amended to remove "constituting or" from the definition. The definition of a cycle track remains the same in as much it "has the meaning given to it by section 329(1)(a) of the 1980 Act". Clarify the following:</p> <ul style="list-style-type: none"> i) Explain whether the "(a)" in the definition of a cycle track is required as it does not relate to the actual definition but a footnote about how and when the definition was changed. And ii) The definition in the Highways Act 1980 for a cycle track is "a way constituting or comprised in a highway, being a way over which the public have the following, but no other, rights of way, that is to say, a right of way on pedal cycles (other than pedal cycles which are motor vehicles within the meaning of the Road Traffic Act 1988) with or without a right of way on foot." The ExA assume that the changed cycleway definition is to make clear that cycleways are intended to be part of a wider highway and thus cycle tracks are intended to be a specific route not



		forming part of a wider highway. Explain whether the definition of cycle track also needs to be amended to clarify they will not form part of a wider highway.
DCO 1.2	<p><i>Article 9 (1) and (2)</i> <i>Construction and maintenance of new, altered or diverted streets and other structures</i></p> <p>Cumbria CC, Durham CC, and North Yorkshire CC</p>	<p>Article 9 (1) and (2) stipulate that any highway constructed, altered, or diverted must “be maintained by and at the expense of the local highway authority from its completion.” Confirm that the wording of this Article does not allow for any maintenance period after completion.</p>
DCO 1.3	<p><i>Article 36</i> <i>Relocation of Brough Hill Fair</i></p> <p>The Representatives of the Gypsy and Traveller Community</p>	<p>Following the ISH2 held on Thursday 1 December 2022 [EV-003], the Applicant updated the draft DCO at Deadline 2 [REP2-005] in which changes and amendments were made to this Article.</p> <p>Provide a response on those changes and amendments.</p>
DCO 1.4	<p><i>Article 53</i> <i>Environmental Management Plans (EMP)</i></p> <p>The Applicant</p>	<p>As the ExA understand it, the criteria for the Secretary of State to discharge an EMP for a given part is contained within paragraphs 1.4.8 to 1.4.51 of the first iteration Environmental Management Plan [APP-019]. These are known as “the Consultation and Determination Provisions” in the draft DCO [REP2-005].</p> <ul style="list-style-type: none"> - The ExA wishes to better understand how the mechanism for approving the second iteration EMP is controllable and enforceable if they are contained within



		<p>the very document that needs approving by the Secretary of State. Because it won't have been approved by the SoS at the point of submission, the measures contained therein particularly around the 20-day timescale for responses from Consultees will not be legally binding or agreed by the Secretary of State, making them potentially unenforceable. Provide a response.</p> <ul style="list-style-type: none">- The definition of "Consultee" as defined in paragraph 1.4.16 of the EMP is stated as meaning "<i>the person or persons that [The Applicant] is required to consult in relation to the Consultation Material</i>". The ExA seeks clarification as to whether this also refers to the Secretary of State.- In so doing, paragraph 1.4.20 of the first iteration EMP states "<i>Each consultee is entitled to respond to the consultation within the Consultation Period (which is 20 working days from the date after the Consultation Material is issued by the Authority. If any Consultee does not provide a response within the Consultation Period, that Consultee is deemed to have made no comments.</i>" The ExA seeks clarification as to whether the Secretary of State is bound by time limits and if so, whether the Order should compel the Secretary of State in this way.- The ExA is concerned about the timescales outline in paragraph 1.4.20. Whilst a working 20-day period maybe the standard practice in other made DCOs, the EMP process contained within Article 53 is not. A singular EMP for each part (which the Applicant acknowledges may include part of a Scheme or even more than one Scheme) [REP2-016] of the Proposed Development is likely to be a sizeable document, and likely to need greater resourcing from the Secretary of State and the Consultees to determine. The Applicant has offered no evidence that the Secretary of State has sufficient resources to comply with such a timescale. It is also not clear why the EMP consultation period is 20-working days, yet the time periods in Article 52 is 28-days. Respond.
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		<p>The ExA recommends that the Consultation and Determination Provisions are made legally binding within the draft DCO [REP2-005] and thus clear to all parties including the Secretary of State. Given the size and importance of the second iteration EMP for each part, the process should not be time limited particularly on the Secretary of State, who should be at liberty to determine for themselves the time needed to discharge Article 53(1) for each part. If Consultees are to be time limited, it should be reasonable given the likely size of EMP for that part. The ExA considers 20-days to be potentially too short.</p> <p>Provide a response and make any necessary amendments to the next iteration of the draft DCO.</p>
DCO 1.5	<p>Article 53 (4)(a); (7)(a)(ii) EMP The Applicant</p>	<p>At the ISH 2 held on Thursday 1 December 2022 [EV-003], the ExA expressed concerns with the words “<i>materially new or materially worse adverse</i>”; the emphasis being the latter words herein underlined. The ExA notes the Applicant’s response [REP1-009] to the reason for their inclusion, which is explained as primarily allowing for changes to the first iteration EMP which would improve the environmental effects.</p> <p>While the ExA accepts the need for flexibility, the inclusion of the words “<i>materially worse adverse</i>” could potentially permit a change which considerably worsens the environmental effect and thus would extend beyond the scope and assessment of the environmental statement. Such flexibility could potentially undermine both the conclusions and mitigation proposed in the second iteration EMP, and/or the Habitats Regulations Assessment upon which the Secretary of State’s Appropriate Assessment is based. The ExA considers any changes should not be worse than those scoped and assessed in the Environmental Statement.</p> <p>As a suggestion, the ExA recommends that the wording in both subparagraphs is amended to say:</p>



		<p>“...be substantially in accordance with the first iteration EMP insofar as it relates to the relevant part of the authorised development, unless the Secretary of State is satisfied that any part of the second iteration EMP would result in a betterment of the environmental effects, or that it would not give rise to any materially new or materially worse environmental effects to those reported in the environmental statement”. The suggested wording would provide the flexibility the Applicant is seeking as set out in its response to the ISH 2 at Deadline 1, while at the same time ensuring changes would remain within the Rochdale Envelope.</p> <p>Provide a response.</p>
DCO 1.6	<p><i>Article 53</i> <i>EMP – Second Iteration Amendments Approvals Process</i></p> <p>Environment Agency Natural England Historic England All Relevant Local Authorities</p>	<p>Comment on the revised wording of Article 53 submitted at Deadline 2 [REP2-005] in particular the amendments and additions made to new paragraphs (7), (8) and (9) and whether the Secretary of State’s call-in mechanism, and the timescale given of 14-days, eliminates the concerns over the so-called “self-approval” process of amending the second iteration of the EMP.</p>
DCO 1.7	<p><i>Article 54</i> <i>Detailed design</i></p> <p>The Applicant</p>	<p>In relation to WQ BHR 1.1 and LV 1.1, consider whether any additional documents to be submitted into the Examination on the Trout Beck Bridge and the Cringle Beck and Moor Beck viaducts as suggested in those question need to be Certified Documents in</p>



		Schedule 10 and listed within Article 54 given the importance of the designs of the said structures.
DCO 1.8	<p><i>Article 55</i> <i>Time limit from when development must begin</i></p> <p>The Applicant</p>	The ExA requests a response from the Applicant as to whether this Article ought to contain an end date for the development’s commencement. This would prevent a scheme enjoying a perpetuity consent which could be implemented at a point whereby the environmental information may be out of date.

EMP	Environmental Management Plan	
EMP 1.1	<p><i>EIA Regulations Compliance</i></p> <p>The Applicant</p>	<p>S30(2)(b)(i) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, in relation to approve an application (for development consent), states amongst other things that a decision must contain:</p> <ul style="list-style-type: none"> - The reasoned conclusions of the Secretary of State...on the significant effects of the development on the environment, taking into account the results of the examination referred to, in the case of an application for an order granting development consent in Regulation 21. - A description of any features of the development and any measures envisaged in order to avoid, prevent or reduce and, if possible, offset, likely significant adverse effects on the environment. - Any monitoring measures considered appropriate by the Secretary of State or relevant authority, as the case may be.



		<p>Regulation 21 of the said Regulations requires the Secretary of State, amongst other things, to examine the environmental information; reach a sound conclusion on the significant effects of the Proposed Development on the environment.</p> <p>Provide an explanation as to how the Secretary of State, in making the Order for development consent, can discharge their duties under the said Regulations, having regard to the information contained within the first iteration of the Environmental Management Plan [APP-019 to APP-042] and the powers contained within Article 53 of the draft DCO [REP2-005].</p>
FDW	Flood Risk, Drainage and Water Quality	
FDW 1.1	<i>Flood Risk Regulation</i> The Environment Agency (EA)	<p>In the context of flood risk, temporary construction works and specific flood modelling for the construction phase (including likely depth and velocity changes); confirm whether sufficient regulation exists within the draft DCO [REP2-005] to ensure that the Proposed Development can be constructed without unacceptable impact in terms of flood risk [REP1-024, page 5 and C2.4.7, page 20 and APP-037, para C2.2.7]. This response should also be made in the context of the updated Environmental Management Plan Annex B7 Ground and Surface Water [REP3-012].</p>
FDW 1.2	<i>Flood Risk Assessment</i> The Environment Agency	<p>Confirm that the risks of all forms of flooding arising from the project have been shown to be manageable and, where relevant, capable of mitigation, so that the development remains safe throughout its lifetime in terms of NNNPS para 5.98 [REP1-024, page 24]. If not, why not.</p>



FDW 1.3	<i>Flood Risk Assessment</i> The Environment Agency	At the stage of the Examination, confirm the position on the effect of the Proposed Development on flood risk grounds [NNNPS Para 5.101].
FDW 1.4	<i>Flood Risk Modelling</i> The Applicant	The ExA understands that a written response alongside sensitivity testing reports, to address EA comments regarding the baseline flood models, have been issued to the EA for their review [REP1-009, Section 2, Agenda Item 3.3] and that this review has raised various issues that need to be addressed [REP3-061, Table 1]. Explain whether these issues been addressed and whether the outstanding matter can be closed. If not, explain with which party does this matter currently lie and when is the next action expected to be completed.
FDW 1.5	<i>Flood Risk Assessment</i> The Applicant	Explain whether the 50% climate change allowance sensitivity check relates to the 'Upper end: Total potential change anticipated for the '2080s' (2070 to 2115)' [APP-221, para 14.2.2.35 and Table 4]. If not, why not.
FDW 1.6	<i>Flood Risk Assessment</i> The Applicant	Explain whether the Proposed Development would reduce the risk of flooding for any of the surrounding area [NNNPS Para 5.103]. If so, set out whether this risk would be reduced and what benefits would arise.
FDW 1.7	<i>Preliminary Drainage Design</i> The Applicant	Explain how the additional drainage system storage for attenuation, designed for a 40% climate change uplift, would manage flows under the sensitivity check for 50% climate change uplift [APP-221, para 14.2.2.110 and REP2-016, page 27]. The response should cover the Proposed Development in its entirety.
FDW 1.8	<i>Preliminary Drainage Design</i>	For Scheme 06, the ExA wishes to better understand how the level for level flood compensation volumes to be provided compare with those lost and under what



	The Applicant	conditions and how these would come online and drain, notwithstanding their hydraulic connectivity with the floodplain [APP-221, para 14.2.5.131 and Table 25 and REP1-024, page 26].
FDW 1.9	<i>Preliminary Drainage Design</i> The Applicant	For each scheme, provide a set of plans to identify 'level for level' compensation and 'indirect storage (or volume for volume compensation)' areas [APP-221, para 14.2.5.132 and Plate 4]. This set of plans should be in a similar format to the environmental mitigation maps [APP-041] and could be added to the mitigation maps if the Applicant considers this to be a better way of comprehensively identifying the future purposes of land within the Order limits in terms of any Compulsory Acquisition of land and rights.
FDW 1.10	<i>Preliminary Drainage Design</i> The Applicant	For the 'proposed volume for volume flood compensation storage adjacent to Moor Beck at Warcop Junction' [APP-221, para 14.2.5.132 and Plate 4], the ExA wishes to better understand how the scheme would be designed, whether it would be excavated into existing floodplain, how (and at what return period/ flow magnitude) it would fill and how it would subsequently drain.
FDW 1.11	<i>Drainage Asset Transfer</i> The Applicant	Explain how the transfer of drainage assets would take place from local authorities to the Applicant in the context of Cumbria County Council's request for a review of asset condition and formal agreement [REP1-019, para 5.5].
FDW 1.12	<i>Water Quality</i> The Applicant	Explain whether the 'up to 79.5m' mitigation for the Eamont (Upper) water body catchment in the EMP [APP-019, D-RDWE-08] reflect the 79.5m of additional mitigation required by the WFD Compliance Assessment [APP-220, Table 15]. This point repeats for other catchments.



HE	Historic Environment	
HE 1.1	<p><i>Brougham Fort and Castle</i></p> <p>The Applicant</p>	<p>Respond to the point made in Historic England’s Deadline 1 submission [REP1-026], regarding the scheduled monument known as Brougham Fort (02-0002) being conflated with another scheduled monument, north of the A66, known as “Settlement 1/3 mile (540m) east northeast of Brougham Castle” (03-0004). Both are referred in Chapter 8 of the Environmental Statement Cultural Heritage [APP-051] as “Brougham Roman fort (Brocaum) and civil settlement and Brougham Castle” and given the record number 02-0002, however HE advises that the monuments are two separate scheduled monuments and therefore should be clearly separated out.</p> <p>The ExA notes that the Project Design Principles has been updated to reflect the two separate assets [REP3-041]. Confirm whether the following documents also need to be updated, as per Historic England’s advice:</p> <ul style="list-style-type: none"> - Impact Assessment Tables [APP-187] - Annexe C3: Scheduled Monuments Method Statement [APP-038]
LV	Landscape and Visual	
LV 1.1	<p><i>Design of the Trout Beck Bridge and the Cringle Beck and Moor Beck Viaducts</i></p> <p>The Applicant</p>	<p>In their Written Representation, Cumbria County Council with Eden District Council [REP1-019.1] state that they require further design information to understand the impacts and design of the viaduct structures proposed, including an illustrative drawing of their appearance and a materials palette.</p> <p>The ExA notes the principles contained within the Project Design Principles document [APP-302], particularly LI04 to LI08, in addition to the submission of the Overview of Design Process for Trout Beck Bridge, Cringle Beck Viaduct and Moor Beck Viaduct</p>



		<p>document at Deadline 3 [REP3-046] following the ExA's request for the Applicant to do so at the ISH 2 held on Thursday 1 December 2022 [EV-003].</p> <p>Whilst the ExA recognises the Applicant wishes to decide on the detailed designs of the viaduct structures at the detailed design stage, the ExA nevertheless remains concerned that insufficient detail has been provided, specifically with regard to the designs and/or commitments/principles for the viaduct structures.</p> <p>The ExA recommends that:</p> <ul style="list-style-type: none">- The Applicant submits the designs of the Trout Beck, Cringle Beck and Moor Beck viaducts into the Examination; and/or- If that is not possible, either the update the Project Design Principles and/or the Overview of Design Process for Trout Beck Bridge, Cringle Beck Viaduct and Moor Beck Viaduct document with specific design parameters and principles for the three viaducts on which the detailed designs must be based, including specific principles for the supporting piers and their positioning. <p>The Applicant may wish to combine its response with BHR 1.1.</p>
LV 1.2	<p><i>Skirsgill Park</i></p> <p>The Applicant</p>	<p>In his Relevant Representation (RR) [RR-033] and WR [REP1-057 to REP1-061], Dr and Lady Leeming propose an alternative planting area within Skirsgill Park on a triangular piece of land between the River Eamont and the M6 highway. Dr and Lady Leeming cite reasons, amongst other things, as better respecting the openness of the park and maintenance of views to and from Skirsgill Hall. The Applicant responded at Deadline 2 [REP2-015] stating that the matter was being considered.</p> <p>Based on the evidence before us, the ExA considers the suggestion would appear to be both logical and sensible, and the ExA requests an update as to whether the Applicant</p>



		will be consenting to the change. If so, advise whether such a change will be added the forthcoming package of Change Requests and the implications for CA and timescales.
PC	People and Communities	
PC 1.1	<i>Brough Hill Fair</i> The Applicant The Representative of the Gypsy and Traveller Community	Several Interested Parties (IPs) make mention of the "Billy Welch straight line route" to the north of the existing A66 that avoids the current Brough Hill Fair site. Provide a plan showing the approximate location of this option.
PC 1.2	<i>Brough Hill Fair</i> The Applicant The Representative of the Gypsy and Traveller Community	At ISH2 held on Thursday 1 December 2022 [EV-003], mention was made by Mr Welch concerning the gypsy and traveller community's concerns over the safety of horses on the proposed site. The Brough Hill Fair Technical Note [REP3-045] analyses a number of close boarded fence options that form both a noise barrier and horse safety fencing. For the Applicant: Provide details of the height of fence being proposed as the barrier along the site. For the Representative of the Gypsy and Traveller Community: Comment on the suitability and height of a close boarded fence to prevent horses getting onto the A66
PC 1.3	<i>Brough Hill Fair</i> The Applicant	Cumbria CC and Eden DC in their response [REP2-028] to the Applicant's ISH2 post Hearing Submissions [REP1-009], note that "Cumbria CC has been asked by the Applicant to consider taking on responsibility for future management of the Brough Hill Fair. The Council is not willing to take on this responsibility and it understands that the



		Ministry of Defence is unwilling to continue in this role.” Clarify for the proposed site for the Brough Hill Fair who will be taking on its management.
PC 1.4	<i>Warcop Proposed Footpath</i> The Applicant	Warcop PC in their respective RR and WR [RR-013] and [REP1-137] suggested the Applicant should consider a new pedestrian footpath. The Applicant has responded [REP2-107] stating that a designated funds application has been submitted to undertake a feasibility study for this footpath provision. Provide: <ul style="list-style-type: none"> i) An update of this application. ii) A plan showing the proposed footpath. And iii) An update as to the next steps in delivering the footpath assuming the funds application is granted.

TA	Traffic and Access	
TA 1.1	<i>Detrunking Arrangements</i> The Applicant Cumbria CC Durham CC North Yorkshire CC	Provide an update on progress of detrunking agreements. Although not part of the Application the ExA needs to establish that any recommended DCO wording will correctly reflect any agreements made between the Applicant and LHA’s concerning detrunking arrangements.
TA 1.2	<i>Active Travel England</i> Applicant	Cumbria CC in Section 6 of their Local Impact Report (LIR) [REP1-019] ask for assurances that design of new WCH routes are to a standard acceptable to Active Travel England. Please confirm the current statutory consultee status of Active Travel England with respect to this Application and also explain how such a request could be accommodated as part of the ongoing design process.



TA 1.3	<i>Cycle Route and Private Means of Access</i> Applicant	<p>The ExA note concerns expressed by the Penrith Ramblers [REP1-137] and other IPs with regard to coincident cycle track/ cycleways with private vehicle rights of access. The ExA seeks clarification of the legal status of these coincident uses. Taking one example (reference c on page 121 of the draft DCO [REP2-005]) that states, "To be substituted by a new private means of access 10 metres north-west of the existing access Reference c, together with a right of vehicular access over the new (note the and new have been corrected from what is written in the draft DCO) cycle track References C, B and E, for the benefit of the land affected by the stopping up of private means of access reference C." Explain:</p> <ul style="list-style-type: none">i) How such private vehicle right of access can be regulated along a public highway.ii) How would these be signed. Andiii) How safety considerations of vehicles using cycleways and cycle tracks have been taken into account.
TA 1.4	<i>Shared cycleways</i> Applicant	<p>Page 116 of the draft DCO [REP2-050] and corresponding reference on the Rights of Way Plan [APP-349] detail a shared cycleway. The definition of cycleway already includes the potential use of pedestrians but no definition or explanation is provided of what a shared cycleway is. Provide clarification and definition of a shared cycleway.</p>
TA 1.5	<i>ROW drafting and amendments</i> Applicant	<p>A number of representations including Penrith Ramblers Group, Cumbria and Lakes Joint Local Access Forum, Cumbria, Durham and North Yorkshire County Councils and others have referred to a number of drafting and consistency issues relating to the ROW plans and the draft DCO. To assist in the Examination, provide a schedule/ table of the issues mentioned alongside, the source of the issue, the Applicants response to the concern and finally when and how any corrections/ modifications will be made to the ROW plans and the draft DCO.</p>



TA 1.6	<i>Diversion Routes</i> Applicant	Given the representations from the Councils in their LIRs and WRs [REP1-109], [REP1-020], [REP1-022], [REP1-040] and [REP1-042] concerning potential diversion routes both during construction and for operational purposes provide an update on discussions on the approach to dealing with the need for diversions both during construction and during operation.
TA 1.7	<i>Diversion Routes</i> Cumbria CC Durham CC North Yorkshire CC	Explain whether there are any barriers to agreeing a suitable approach to diversion management as part of the development of the Construction Traffic Management Plan and during the operational period. Outline any relevant concerns.
TA 1.8	<i>M6 Junction 40 and Kemplay Bank Roundabout – junction modelling.</i> Applicant Cumbria CC Eden DC	In its LIR response [REP2-018], Cumbria CC and Eden DC state in paragraph 2.3.19. that it is believed the model accurately represents the conditions that were surveyed in 2017, the operational model is currently being updated using September 2022 traffic data. National Highways propose to consult directly with the Councils about the outcomes of the model and discuss the associated key issues at forthcoming planned meetings with Cumbria CC and Eden DC. Provide an update as to any revised modelling and whether this addresses the outstanding concerns from the Councils.
TA 1.9	<i>Skirsgill Deport Access</i> Cumbria CC	Provide details of outstanding concerns relating to proposed revised access junction onto the A66 from Skirsgill Depot.
TA 1.10	<i>HGV Facilities</i> Applicant	The ExA understand there is a nationwide freight study running in parallel with the DCO application to establish what interventions can be undertaken to improve the service National Highways provides for its freight customers. Parking, facilities, information provision and customer insight fall within the scope of the freight study. To enable the



		ExA to properly inform the SoS of any potential issues, we would like to understand if the Applicant is confident that this nationwide study is not likely to recommend additional infrastructure interventions within the limits of the current project that would require retrofitting solutions after completion of any works.
TA 1.11	<i>Kirby Stephen bypass</i> The Applicant	Anthony Metcalfe [RR-040] and [REP1-050] queries whether the Applicant's quoted cost of £88 million is correct, as he considers this is an overestimate, and thus queries whether the value for money calculation of the Kirby Stephen bypass has been done correctly. In the Applicant's response [PDL-011] it is stated that the Applicant does not know where this £88 million figure was taken from. This figure is in Table 1.9 [APP-249] Appendix 5 Northern Trans-Pennine Routes Strategic Study Stage 3 Report. Respond to his concern and explain whether this figure has been used in considering the assessment of the Kirby Stephen bypass option.

Abbreviations Used

AQ	Air Quality	FWQs	First Written Questions	SAC	Special Area of Conservation
AQMA	Air Quality Management Area	GHG	Greenhouse Gas Emissions	SoS	Secretary of State
BHR	Biodiversity and Habitats Regulations	HGV	Heavy Goods Vehicle	SoST	Secretary of State for Transport
CA	Compulsory Acquisition	IPs	Interest Parties	SPA	Special Policy Area
CC	County Council	ISH	Issue Specific Hearing	SSSI	Site of Special Scientific Interest
CE	Climate Effects	LHA	Local Highway Authority	SU	Statutory Undertaker
DC	District Council	LIR	Local Impact Report	TA	Transport Assessment
DCO	Development Consent Order	LV	Landscape and Visual	TP	Temporary Possession
draft DCO	draft Development Consent Order	ROW	Rights of Way	UK	United Kingdom
ExA	Examining Authority	RR	Relevant Representations	WCH	Walking, Cycling and Horse riding
EA	Environment Agency	NE	Natural England	WR	Written Representations
EMP	Environmental Management Plans	NNNPS	National Networks National Policy Statement	WFD	Water Framework Directive
FDW	Flood Risk, Drainage and Water Quality	PC	Parish Council	WQs	Written Questions