



A66 Northern Trans-Pennine Project

TR010062

7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

Deadline 5

14 March 2023

Infrastructure Planning

Planning Act 2008

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

A66 Northern Trans-Pennine Project
Development Consent Order 202x

**7.29 COMPULSORY ACQUISITION HEARING 2
(CAH2) POST HEARING SUBMISSIONS (INCLUDING
WRITTEN SUBMISSIONS OF ORAL CASE)**

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1. INTRODUCTION

- 1.1 This document sets out the post hearing submissions and summarises the oral submissions made by National Highways (the “**Applicant**”) at Compulsory Acquisition Hearing 2 (“**CAH2**”) dealing with compulsory acquisition and temporary possession powers, held on 1 March 2023 in relation to the Applicant's application for development consent for the A66 Northern Trans-Pennine Project (the “**Project**”).
- 1.2 CAH2 was attended by the Examining Authority (the “**ExA**”) and the Applicant, together with a number of Interested Parties.
- 1.3 Where the ExA requested additional information from the Applicant on particular matters, or the Applicant undertook to provide additional information during the hearing, the Applicant's response is set out in or appended to this document.
- 1.4 This document does not purport to summarise the oral submissions of parties other than the Applicant, and summaries of submissions made by other parties are only included where necessary in order to give context to the Applicant's submissions in response.
- 1.5 The structure of this document generally follows the order of items as they were dealt with at CAH2 set out against the detailed agenda items published by the ExA on 31 January 2022 (the “**Agenda**”). Numbered items referred to are references to the numbered items in the Agenda. Where post hearing notes have been added such notes are prefixed with “Post Hearing Submission” for clarity.

2. WRITTEN SUMMARY OF THE APPLICANT'S ORAL SUBMISSIONS

1.0 Welcome and Introduction	
<u>Agenda Item</u>	<u>The Applicant's Response</u>
<p>This Supplementary Agenda generally follows the agenda on 31 January 2023. It provides further details of the matters the ExA wishes to examine.</p>	<p>Robbie Owen, for the Applicant, did not make any submissions on the Applicant in relation to this agenda item.</p>
2.0 Summary of DCO Provisions	
<u>Agenda Item</u>	<u>The Applicant's Response</u>
<p>2.1 The Applicant to set out very briefly which draft Development Consent Order (DCO) Articles engage Compulsory Acquisition (CA) and Temporary Possession (TP) powers [REP2-005].</p>	<p>The ExA asked the Applicant to set out which draft DCO Articles engage CA and TP powers.</p> <p>Robbie Owen, for the Applicant, noted that the key articles in the draft DCO which engage powers of CA and TP are as follows:</p> <p>For CA:</p> <ul style="list-style-type: none"> • Article 19 which provides for the compulsory acquisition of land. <ul style="list-style-type: none"> ○ Article 19 applies to all pink and blue land on the Land Plans. ○ Article 19 is subject to: <ul style="list-style-type: none"> ▪ Article 22 (compulsory acquisition of rights and restrictive covenants); ▪ Article 27 (acquisition of subsoil, etc., only); and ▪ Article 29 (temporary use of land for constructing the authorised development).

	<ul style="list-style-type: none"> • Article 22 which provides for the compulsory acquisition of rights and restrictive covenants. • Article 27 which provides for the acquisition of subsoil, etc., only. <p>For TP:</p> <ul style="list-style-type: none"> • Article 29 which provides for the temporary use of land for constructing the authorised development; and • Article 30 which provides for the temporary use of land for maintaining the authorised development.
<p>2.2 The Applicant to summarise very briefly any other provisions in the draft DCO relating to CA and TP</p>	<p>The ExA asked the Applicant to summarise any other provisions in the draft DCO relating to CA and TP.</p> <p>Robbie Owen, for the Applicant, noted that the other provisions in the draft DCO relating to CA and TP are as follows:</p> <ul style="list-style-type: none"> • Article 20 (Compulsory acquisition of land – incorporation of the minerals code). • Article 21 (Time limit for exercise of powers to possess land temporarily or to acquire land compulsorily). • Article 23 (Private rights over land). • Article 24 (Power to override easements and other rights). • Article 25 (Modification of Part 1 of the Compulsory Purchase Act 1965). • Article 26 (Application of the Compulsory Purchase (Vesting Declarations) Act 1981). • Article 28 (Rights over or under streets). • Article 31 (Statutory undertakers). • Article 32 (Apparatus and rights of statutory undertakers in stopped up streets). • Article 33 (Recovery of costs of new connection). • Article 34 (Special category land). <ul style="list-style-type: none"> ○ Mr Owen noted that this article allows the provision of replacement land in exchange for special category land which is proposed to be acquired pursuant to the Order. • Article 35 (Crown rights).

	<ul style="list-style-type: none"> ○ Mr Owen noted that this article provides that nothing in the dDCO authorises the Applicant to take, use, enter upon or in any manner interfere with any Crown land or any rights over land which are held by the Crown, without the written consent of the appropriate Crown authority. ● Article 36 (Relocation of Brough Hill Fair). <ul style="list-style-type: none"> ○ Mr Owen noted that this article provides for the transfer of the Brough Hill Fair rights to the replacement Brough Hill Fair site as identified in the Order. <p>In relation to compensation, the Applicant submits that the following articles are relevant:</p> <ul style="list-style-type: none"> ● Article 37 (Disregard of certain interests and improvements). <ul style="list-style-type: none"> ○ Mr Owen noted that this article provides for the Lands Chamber of the Upper Tribunal to disregard certain interests in, and enhancements to, the value of land, for the purposes of assessing CA compensation, where such interest or enhancement was created or made with a view to obtaining or increasing the compensation. ● Article 38 (Set-off for enhancement in value of retained land). <ul style="list-style-type: none"> ○ Mr Owen noted that this article provides that in assessing compensation for the CA of land or rights over land, the Tribunal shall set off, against the value of the land, any increase in the value of any contiguous or adjacent land belonging to the claimant, where such increase in value arises out of the implementation of the authorised development. ● Article 39 (No double recovery). <ul style="list-style-type: none"> ○ Mr Owen noted that this article provides that compensation is not payable for the same loss or damage under the DCO <i>and</i> any other compensation regime, nor is it payable under two or more different provisions of the DCO.
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3.0 Human Rights and Duties under the Equality Act 2010	
<u>Agenda Item</u>	<u>The Applicant's Response</u>
<p>3.1 The Applicant to explain briefly, in relation to the application:</p> <ul style="list-style-type: none"> • Article 1 of the First Protocol to the European Convention on Human Rights (ECHR); • Article 6 of the ECHR; • Article 8 of the ECHR; and • Any duties it has under the Equality Act 2010. 	<p>In response to the ExA's question on this agenda item, Heidi Slater, for the Applicant, noted that the Applicant's consideration of Article 1 of the First Protocol, and Articles 6 and 8 of the European Convention on Human Rights (ECHR) – and how those Convention rights are to be assessed and dealt with in relation to the Project – is introduced in the Statement of Reasons (SoR) (REP2-012) at section 6.2.</p> <p>Ms Slater summarised the relevant articles as follows:</p> <p>Article 1 of the First Protocol, which protects the right to peaceful enjoyment of possessions: no one can be deprived of their possessions except in the public interest.</p> <p>Article 6 of the ECHR, which entitles those affected by compulsory acquisition powers to a fair and public hearing.</p> <p>Article 8 of the ECHR, which 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.</p> <p>Ms Slater noted that the SoR, at paragraph 6.2.3, sets out paragraph 10 of the Government's CA Guidance (<i>Planning Act 2008; Guidance related to procedures for compulsory acquisition of land</i>), which states that “<i>the Secretary of State must be persuaded that the purpose for which an order authorises CA are legitimate, and are sufficient to justify interfering with the human rights of those with an interest in the land. Regard must be had to Article 1 of the First Protocol, and, in the case of the acquisition of a dwelling, article 8.</i>”</p> <p>Ms Slater noted that in relation to Article 1 of the First Protocol, the Applicant submits that whilst the delivery of the Project would result in interference with the peaceful enjoyment of possessions, through the dispossession of land, the Applicant considers that such interference would be in the public interest, because of the public benefits that would be realised if the Project is delivered.</p> <p>Ms Slater confirmed that the Applicant's compelling case in the public interest is outlined in Chapter 5 of the Statement of Reasons [APP-299] and in the Case for the Project [APP-008]; and where compulsory acquisition powers are sought, these are the minimum necessary to secure delivery of the Project, based on available knowledge and understanding of the Project requirements at the preliminary design stage of the Project.</p>

Ms Slater noted that as previously discussed, the extent of land shown on the DCO Land Plans as being required for compulsory acquisition purposes represents the worst-case scenario and, once more information becomes available, as the detailed design of each scheme is progressed, the Applicant will be able to refine its knowledge and understanding of what land is required, and once furnished with that knowledge, will only acquire what is actually needed to deliver the project.

This is the point at which the condition (or 'test') in subsections (2)(a) and (b) of section 122 of the Planning Act 2008 must be met – the land can only be acquired:

- if it "*is required for the development*" (s.122(2)(a)); or
- if it "*is required to facilitate or is incidental to that development*" (s.122(2)(b)).

Ms Slater noted that the interference with the human rights protected by Article 1 of the First Protocol, which the Applicant acknowledges would arise if the Project is delivered, is therefore considered to be both proportionate and justified.

Ms Slater noted that in relation to Article 6 of the ECHR, which entitles those affected by compulsory acquisition powers to a fair and public hearing, the Applicant is confident that proper procedures have been followed during consultation on the emerging Project proposals and in determining the need for CA powers.

Ms Slater noted that the Applicant has carried out extensive statutory and non-statutory engagement and has provided those directly affected by the Project, as well as the wider public, with opportunities to comment on its proposals. The outputs of this engagement are reflected in iterative design changes to the Project.

Ms Slater noted that as the Project goes through the examination stage of the process for applying for development consent, people will have a right to participate in the examination and, should development consent be granted by the Secretary of State in due course, they will also have a right to challenge that decision, via judicial review.

Ms Slater confirmed that the Applicant therefore considers that the Convention Rights which Article 6 seeks to preserve are properly protected by the procedural requirements prescribed by the Planning Act 2008, to which the Applicant has had due regard.

In relation to Article 8 of the ECHR, which protects the right of the individual to respect for his private and family life, his home and his correspondence, **Ms Slater** noted that the Applicant acknowledges that the Project does affect some residential dwellings. **Ms Slater** confirmed that the Applicant has sought to acquire, as early as possible, properties which would be severely affected and impacted by the proposals. This includes the acquisition of several properties

located on the proposed route of the Project. The owners of these properties submitted blight notices which were accepted by the Applicant; and they have now been successfully moved and rehoused.

The **ExA** requested that the Applicant provide a summary on progress with blight notice purchases and discretionary purchases of residential dwellings in its post hearing submissions.

Post hearing note:

Following the **ExA's** request for a summary on progress with blight notice purchases and discretionary purchases of residential dwellings in its post hearing submissions, the Applicant confirms that the properties in question are:

- Monk's Rest Farm (comprising a residential dwelling, plus two barns and 20 acres of land) on Scheme 09;
- The Old Rectory (comprising a residential dwelling, plus an annexe and 7 acres of land) on Scheme 08;
- Cross Lanes Farm (residential dwelling and garden) on Scheme 08; and
- Dunelm (comprising residential dwelling (bungalow) and lands) on Scheme 0405.

The Applicant has also negotiated terms with another two parties to be relocated and these are awaiting legal completion; these being:

- Mains House, on Scheme 06 – this was originally a blight case, but the landowner wanted to take advantage of the Acquisition Completion Premium. Solicitors were instructed on 1 December 2022 and the terms have been agreed. Conveyancing is currently under way and completion is expected to take place in July 2023; and
- Swans, at Winthorn, on Scheme 0405 – this was also originally a blight case, but the landowner wanted to take advantage of the Acquisition Completion Premium. Solicitors were instructed on 24 February 2023 and the terms have been agreed. Conveyancing is currently under way and completion is expected to take place in July 2023.

The Applicant is also currently negotiating the acquisition of three further properties:

- Croft Cottage, on Scheme 06 – this was originally a blight case, but the landowner wanted to take advantage of the Acquisition Completion Premium. Terms are currently being negotiated;
- Lightwater Cottages, on Scheme 03 – negotiations are currently paused pending potential design change considerations (as the proposed change DC-07 would save these cottages); and

	<ul style="list-style-type: none"> • High Barns, on Scheme 03 – the terms are provisionally agreed. A trustees meeting is scheduled to be on 23 March to agree and sign off on the sale of this property. <p>Happy Hooves (an equestrian unit on Scheme 02) is used as both residential and business premises. Happy Hooves has submitted a discretionary purchase application which is currently being progressed by the Applicant, in that the specific values are being agreed. Provisional agreement has been reached on compensation subject to the claimant securing a replacement property. The claimant is currently considering renting alternative accommodation until a suitable property becomes available. Based on discretionary guidelines, exchange is expected to take place 6 months from the date of the offer (30 May 2023).</p> <p>In addition (whilst noting that it is not a residential dwelling), the Applicant has purchased the Llama Karma Café (and associated premises comprising a café, bed and breakfast accommodation, and two holiday cottages) (on Scheme 03) pursuant to a blight claim (which is now a café partly repurposed as the Project hub and offices).</p> <p>In summary, the Applicant’s view is that the Project’s interference with the human rights protected by the Convention is justified on the basis that it would be lawful, proportionate, and in the public interest, given the public benefits which the Project would deliver.</p> <p>Ms Slater also confirmed that as a public authority, the Applicant is subject to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (EqA 2010). The Applicant must therefore, in the exercise of its functions, have regard to the need to:</p> <ul style="list-style-type: none"> • eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the EqA 2010; • advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; • foster good relations between persons who share a relevant protected characteristic and persons who do not share it. <p>Ms Slater noted that the PSED applies to “public authorities” in the exercise of their functions. “Public authority” is defined in section 150 of the EqA 2010 as a person specified in Schedule 19. Both the Applicant and “A Minister of the Crown” are listed in Part 1 of Schedule 19 so both the Applicant and the SoS are required to have due regard to the PSED.</p>
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Ms Slater noted that the Applicant has had regard to the fact that protected characteristics are as follows: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. **The ExA** requested further detail in relation to the particular issues that the Applicant's Equalities Impact Assessment (EqIA) has considered, which **Ms Slater** confirmed that the Applicant would provide as a post hearing submission.

Post hearing note:

The Applicant has had due regard to its PSED and has undertaken an extensive Equalities Impact Assessment (EqIA) [APP-243]. Separate Equalities Impact scoping reports were produced and consulted upon prior to the production of the EqIA. The Applicant agreed to provide more detail on this in its post hearing submissions. The details are as follows.

The Applicant notes that mitigation to address any negative impacts are set out in Table 11 (Mitigation Table) of the EqIA. The EqIA was carried out in accordance with the Applicant's Equality Impact Screening and Assessment guidance.

The EqIA outlines how key equality receptors were identified and engaged with throughout the development of the project. Key potential equalities receptors identified along the route of the Project include:

- The Gypsy and Traveller population in relation to Appleby Horse Fair and Brough Hill Fair ground at Warcop;
- Elderly residents at Winters Park Care Home at Penrith;
- Various schools and children's nurseries along the route of the Project;
- Happy Hooves Riding Stables at Penrith, which hosts the Changing Lives Through Horses Programme, under the auspices of the British Horse Society (BHS), as well as providing a Riding for the Disabled Group; and
- Numerous religious centres along the route of the Project.

Potential equalities receptors were engaged with throughout the development of the Project, through a number of formal consultation events which are reported in the consultation report [APP-252]. A review of consultation responses was undertaken to identify key equality concerns. Seldom Heard Groups were identified in consultation with the local authorities and were then actively engaged with during the consultation period.

Engagement, by the stakeholder engagement team, with specific equalities receptors has also been ongoing throughout development of the Project, including with Kirkby Thore School, Happy Hooves Riding Stables and representatives of the Gypsy and Traveller communities. Specific engagement was undertaken with representatives of the gypsy and traveller population around potential impacts on Appleby Fair, Fair Hill site; and around a suitable replacement site for Brough Hill Fair.

	<p>In relation to land acquisition, the EqIA identified the following potential effects on equalities receptors:</p> <ul style="list-style-type: none"> • A temporary adverse impact on Kirkby Thore Primary School as a result of temporary land use required to facilitate works to an existing overhead cable, affecting outdoor space. • Adverse impacts on the Riding for the Disabled facilities and Changing Lives services at Happy Hooves with lack of certainty over the availability of alternative facilities. • Direct loss of the current Brough Hill Fair site, the loss of which will be mitigated with a replacement site to the immediate west. • Potential positive impacts on the gypsy and traveller population as result of the relocation of the Brough Hill Fair site. The proposed replacement site will provide greater separation from the A66, as well as safer access, being accessed from local roads rather than directly from the A66. <p>Mitigating action to address the potential negative impacts identified includes:</p> <ul style="list-style-type: none"> • Ongoing discussions with representatives of Kirkby Thore Primary School around potential impacts on the outdoor space available at the school, including the duration and timings of works to the overhead cable, to seek to avoid school opening hours. • Ongoing discussions with the owners of the Happy Hooves Riding Stables around facilitation of relocation to an appropriate extent, should the business be minded to do so. • Ongoing consultation with the Gypsy and Traveller community, with regard to the replacement site for Brough Hill Fair – including appropriate mitigation for the chosen site, such as land remediation to improve ground conditions and environmental screening such as earth bunds or planting if or as required.
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4.0 Representations from Affected Persons and other Interested Parties	
<u>Agenda Item</u>	<u>The Applicant's Response</u>
4.1 Affected Persons who requested a CA Hearing and wish to make oral representations.	<p>Michelle Sparks, on behalf of Cumbria County Council, noted that Cumbria County Council has had positive engagement with the Applicant and progress is being made. Robbie Owen, on behalf of the Applicant, confirmed that the Applicant agrees and has nothing further to add in relation to Cumbria County Council.</p> <p>Michael Walton, on behalf of Eden District Council, noted that Eden District Council's concerns relate to the objection of CA for plots 0102-01-32, 0102-01-33 and 0102-01-47. Mr Walton queried the justification for the acquisition of the open space land at Wetheriggs Country Park, in particular the need for the Walking, Cycling and Horse Riding (WCR) route through the park, as it is believed that this is open space with woodland strips being able to be retained. Mr Walton also noted that a study is being undertaken in relation to the provision of a masterplan for this route, with the study not yet having been completed.</p> <p>Heidi Slater, on behalf of the Applicant, confirmed that Plots 0102-01-32 and 0102-01-47 are required in connection with works to widen the carriageway to the north. Plot 0102-01-33 is required temporarily for the purposes of construction and so does not constitute the compulsory acquisition of open space land within the terms of section 131 of the Planning Act 2008. The carriageway of the A66 widens from two lanes to three lanes at this location, and, to preserve existing WCR provision the existing footway would be adjusted accordingly on the same alignment (into plots 0102-01-32 and 0102-01-47). This arrangement preserves existing pedestrian usage patterns and desire lines and delivers the most compact solution that minimises the requirement for the acquisition of open space land and consequently reduces the requirement to provide replacement land for open space elsewhere, reducing the overall burden of compulsory acquisition.</p> <p>The masterplan feasibility study is proceeding under designated funding provided by the Applicant. This is separate to the Project. The Wetheriggs Country Park Masterplan is intended to consider opportunities for the improvement of the Country Park outside of the Order limits and separately to the Applicant's proposed DCO. The proposed alternative of providing a footpath and cycleway on alternate land within Wetheriggs Country Park is not an alternative to the Applicant's proposal. The Applicant requires the open space land identified for the purposes of widening the carriageway of the existing A66 and maintaining an existing footway provision in a compact arrangement. The proposed alternative, a wholly new footway and cycleway and associated infrastructure would occupy more public open space and therefore require more replacement open space land, than the Applicant's proposal and service</p>

different desire lines and usage patterns. The Applicant is supportive of the Eden District Council's proposed masterplan (indeed, it is funding it separately through designated funds).

The ExA noted that it had walked the pathways of the park, including the lowest pathway, and had understood from the plans that this was along the boundary and towards the eastern end, coming into the small area of acquisition. **Mr Walton** confirmed that this was the area being referred to.

Caroline Horn on behalf of George F White LLP Clients, confirmed that she acted on behalf of several clients of George F White LLP – the Heron family, the Hayllar family, the Taylor family, Mr Carruthers, Mr Foster, Mr Hobson, Mr White, the Manners family, Mr G.S. Harrison, Mr Moss, W. Austen Richardson, the Hammond family, the Henshaw family and Mr S. Harrison. **Ms Horn** stated that her clients had a number of general issues and concerns and set these out initially, which are as follows:

- **Ms Horn** raised concerns regarding the adequacy of consultation and information provided by the Applicant, particularly a lack of effort to negotiate and engage – despite a number of meetings, the requisite detail required by the landowners was not received. This leads to queries on the justification for the permanent acquisition of land and the extent of what is needed, alongside concerns regarding the increased cost of the scheme.
- **Ms Horn** raised a concern that little thought or consideration has been given to the design of the environmental mitigation, particularly with large amounts taken out of food production – the best use of food-producing land is not to be used as environmental mitigation.
- **Ms Horn** raised a concern about areas of unmanaged land.
- **Ms Horn** raised a concern about the Project adversely affecting existing patterns of land drainage. In particular, **Ms Horn** noted that there had been a failure to look at who will be responsible for the maintenance of drainage ponds, with an excessive number of drainage ponds being present. **Ms Horn** requested hydrology and drainage assessments, which have not yet been forthcoming.
- **Ms Horn** sought confirmation that her clients will not become liable to maintain infrastructure. **Ms Horn** noted concerns regarding a lack of detail from the Applicant regarding ownership and liability of various structures and underpasses.

Mr Owen confirmed that the Applicant would respond to **Ms Horn's** general concerns in its post hearing submissions and would respond to the issues raised specifically on behalf of particular affected persons once Ms Horn has completed her submissions. **Mr Owen** noted that the changes referred to by **Ms Horn** have been consulted upon, with

consultation finishing on 27 February 2023. The Applicant is considering the output of this consultation and will be considering which of the changes to bring forward and in what form – these are not currently before **the ExA**.

Post hearing note: For ease of reference the Applicant responds firstly to the general matters raised by Ms Horn on behalf of her clients. It will then briefly summarise the issues raised by Ms Horn in her oral submissions before responding to each in a post hearing note.

Turning to the general concerns; in relation to the concern regarding the adequacy of consultation and information provided by the Applicant, the Applicant submits that the essence of this complaint is the alleged inadequacy of the level of design information that is currently available. The Applicant has prepared a reference design of sufficient detail to develop parameters for environmental assessment and to determine the land required for the Project on a 'worst case' basis. If development consent is granted, the Applicant would then develop the detailed design within those parameters. At this stage it is not possible to commit to the precise details of the design of the Project, as a detailed design is still being developed. This is the normal approach taken for the development of the design of nationally significant infrastructure projects. There is a clear need for the land identified by the Applicant as being required for the Scheme and the Applicant has made offers to acquire the land it requires under its ACP policy.

In relation to the concern regarding environmental mitigation, the Applicant submits that the Applicant's general approach has been set out in detail in its response to WQ CA 1.2 [REP4-011]. All of the land identified for environmental mitigation is required to mitigate the adverse environmental effects of the Project – none is required solely for biodiversity net gain. As required by paragraph 5.33 of the National Networks National Policy Statement (NNNPS) which requires the Secretary of State to consider 'whether the Applicant has maximised such opportunities in and around development' – the Applicant has sought such opportunities, by for example, providing habitat linkages to increase connectivity to areas of semi-natural habitats within the wider area and therefore enhancing and tying into existing green infrastructure. The approach taken was to locate the required mitigation as close as possible to the identified impact or where the affected habitat was expected to be lost. Where this was not possible an alternative location was chosen within the same Scheme. The design of the environmental mitigation is an indicative design that will be refined alongside the Project's detailed design if development consent is granted. The Applicant is also seeking to acquire the interests in land that it requires on a negotiated basis with compulsory acquisition used as a last resort. If, as a result of the detailed design of the ecological mitigation, the Applicant no longer requires the land, or could achieve its purposes by exercising a lesser power, such as the acquisition of rights only, it would do so. However, the Applicant seeks authorisation of compulsory acquisition as a 'last resort' and to ensure that the Project can deliver the mitigation that has been assessed as being required.

In relation to what is said to be unmanaged land, the Applicant notes that all of the land required for the Project will be managed appropriately. Where such land forms part of the operational highway it will be managed by the relevant highway authority and in relation to landscape and environmental mitigation this will be managed in accordance with the relevant obligations contained in the first iteration EMP.

In relation to the concern regarding drainage, the Applicant has set out its response in various places in PDL-012 (see for example pages 101 and 102). In summary, the Applicant has submitted with its application for development consent a Flood Risk Assessment and Outline Drainage Strategy [APP-221] which assesses flood risk to and from the Project and outlines its proposals for the drainage of surface water from the Project. The Environmental Management Plan [REP3-003] contains measures to protect existing patterns of land drainage including measure MW-PH-02 where the Applicant has committed to minimising impacts upon field drainage during construction by liaising with agricultural land owners during detailed design and construction planning to understand the needs of their agricultural practice and measure D-RDWE-11 in which the Applicant commits that any works that disturb drainage features, including land drainage, shall include necessary mitigation or reinstatement to ensure the features fulfil their original function and baseline drainage conditions are maintained.

In relation to the size, location and orientation of drainage features proposed to serve the Project, the Flood Risk Assessment and Outline Drainage Strategy [APP-221] outlines the drainage system proposed for the Project prepared in accordance with the Design Manual for Roads and Bridges. It sets out on a Scheme by Scheme basis the proposed catchments, the requirements for storage and the need to include an allowance for climate change. The Outline Drainage Strategy will be developed into a detailed drainage design alongside the development of the detailed design of the Project, in accordance with measure D-RDWE-02 set out in the Environmental Management Plan [REP3-003]. While this does allow for a proportionate degree of design flexibility which may permit refined designs to further reduce the impacts to landowner's retained land; the location of drainage features is sensitive to criteria that includes the size of the drainage catchment, the topography of the local area, the location of watercourses for outfalls where required and the desirability of siting drainage features in close proximity to the roads that they serve and the requirement for access to maintain drainage features during operation. The drainage system is an essential element of the Project and is required for it to operate safely and avoid increasing flood risk elsewhere. The Applicant's Outline Drainage Strategy makes provision for separate systems for the trunk road and local road networks. The Applicant is exploring, where appropriate and as part of the detailed design and with the agreement of the local highway authority concerned, to combine drainage features for local roads and for the trunk road network. Where this is deliverable it would reduce the overall quantum of land required for drainage features. The Applicant's efforts to acquire the land it requires have been set out previously, but in the absence of agreement it requires the power to acquire the land identified for drainage

features. Absent agreement, there is no reasonable alternative to the compulsory acquisition of such land, any suggestion that they could be located elsewhere is to merely move the burden of such acquisition elsewhere, rather than avoid it.

In relation to the concern regarding maintenance, the Applicant submits that in relation to private means of access, public rights of way, bridges and other structures, the liability to maintain those features is set out in article 9 of the draft DCO. Local roads and public rights of way that do not form part of the trunk road network would be maintained by the relevant local highway authority (article 9(1) and (2)). Private means of access are to be maintained by the persons enjoying the benefit of that means of access (article 9(4)). In relation to public rights of way that are also subject to private means of vehicular access; these ways are foremost public rights of way that would be maintained by the relevant highway authority.

Ms Horn, on behalf of the Heron Family, the Heron's favoured a northern alignment onto the land owned by the Ministry of Defence and Heron Family have also suggested a number of alternative replacement Brough Hill Fair (BHF) sites, which have not been considered. **Ms Horn** noted that the Applicant has not adequately considered the impact of the replacement BHF site on the Heron family's retained land in terms of potential conflict, when the fair is being held, between their use of their land and the use by the Gypsy and Traveller Community of the replacement BHF site. **Ms Horn** noted that the location proposes safety issues, with access to the proposed site being located where many HGVs will be using the entrance. **Ms Horn** stated that a safety assessment needs to be undertaken. **Ms Horn** noted that the Heron Family has additional concerns regarding animal welfare, security, safety and contamination.

Post hearing note:

The Applicant's response to the parts of the representation that relate to an alternative alignment to the north of that proposed can be found in REP2-015 at pages 41 and 42. In relation to the issues raised concerning the impact of the replacement Brough Hill Fair site on the Heron's retained land his can be found at REP2-015, pages 54-55. In summary, the Equalities Impact Assessment submitted with the DCO application ([APP-243] acknowledges the importance of the fair to the Gypsy community. The Applicant has carefully considered its proposed site for the replacement Brough Hill Fair. The loss of this site and the proposed alternative site were discussed in a number of meetings with Billy Welch as representative of the Gypsy community in the preliminary design stage, leading up to statutory consultation (autumn, 2021). As a result of feedback at statutory consultation the design team sought an alternative location. A supplementary consultation was undertaken where two alternative sites were considered: (1) the bivvy site (previously referred to as 'Central site') this site lies to the immediate west of the existing site and is currently used by the MoD as a 'bivvy' or camping site and training area; and (2) the proposed alternative eastern site – this site

is to the south of the A66 approximately 1.6 miles to the east of the current site. The Gypsy community had reservations about both sites, however, it was concluded by the Applicant's project team that the bivvy site is the preferred replacement site. The Applicant has discussed the Heron's proposed alternative site. The primary reasons for the selection of the bivvy site include the means to improve the access to the site via the local road network, the comparable size and topography of the site and the proximity and means to connect with, the existing Brough Hill Fair Site and the Applicant is making good progress in discussions with the MoD for the acquisition of the bivvy site. More information concerning the selection of the replacement Brough Hill Fair site can be found in the Applicant's Deadline 5 submission titled: *Issue Specific Hearing 3 (ISH3) Post Hearing Submission – Response to Examining Authority's Request Under Agenda Item 10: Replacement Sites Considered for Brough Hill Fair* (Document Reference 7.32).

A Road Safety Audit was undertaken on the Project based on the design that was presented at Consultation in Autumn 2021. No matters were raised in this vicinity (Station Road) in respect to road safety. An Operational Risk Assessment of the proposed site is currently being planned in response to the request by Ms Horn. This will assess the potential risks for the intended use of the bivvy site for the period of Brough Hill Fair. It will also consider if any mitigation measures will need to be considered during the detailed design stage of the project. It is our intention to engage with the GRT community (via Mr Welch) and Mr Heron (via Ms Horn) as part of this process. Subject to the timely availability of all parties it is our intention to provide the assessment to the examination as soon as is reasonably practicable.

Ms Horn also noted that the Heron family are not referenced in the Book of Reference nor the CA Status of Negotiations.

Post hearing note:

The Book of Reference identifies David Crystal Heron and Maureen Mary Heron as Freeholders of Land Registry title CU242729 and Margaret Isabel Anne Heron and William John Heron as Freeholders of Land Registry title CU158611. Steven Heron is listed as an Occupier on plots 06-03-54, 06-04-13, 06-04-17, 06-04-24 and 06-04-26 and David Crystal Heron is also identified as a Tenant Occupier on plots 06-03-54, and 06-04-17. As Steven Heron is listed as an Occupier on the plots he was not included in the Schedule of Negotiations as this document only includes Freeholders and Leaseholders.

Ms Horn, on behalf of the Hayllar Family, noted that in addition to the general concerns raised above, the Hayllar Family have also raised concerns regarding the size and locations of the ponds.

Post hearing note:

The current drainage strategy is to provide separate drainage ponds for Trunk road and Local Road drainage systems, in accordance with the Design Manual for Roads and Bridges and to outfall these ponds via pipes and/ or ditches into the nearest available watercourse. National Highways and the Local authorities recognise there may be efficiencies in combining the ponds, but this will be subject to legal discussion and agreements with the local highway authorities concerned. Design development of the ponds will continue in the detailed design stage which may involve amendments to pond locations and /or shape to better fit the existing landscape/ field patterns, in consultation with the drainage authorities and having regard to the views of the relevant affected persons. The Applicant has submitted with its application for development consent a Flood Risk Assessment and Outline Drainage Strategy (Document Reference 3.4, APP-221) which assesses flood risk to and from the proposed Project and outlines its proposals for the drainage of surface water from the Project (see Annex A of that document). The detail of the drainage system for the Project will be further developed after the grant of development consent, if development consent is granted, in accordance with the provisions of the Environmental Management Plan (Document Reference 2.7, APP-019) and the Project Design Principles (Document Reference 5.11, APP-302), in particular measure D-RDWE-02 in the Register of Environmental Actions and Commitments at Table 3-2 of the Environmental Management Plan (Document Reference 2.7, APP-019) which requires the production of an operational drainage design that is compatible with the Outline Drainage Strategy.

Ms Horn, on behalf of the Taylor Family, noted that in addition to the general concerns raised above, the Taylor family object to the design of the Long Marton Junction, which will bisect a field. Ms Horn also noted that the Taylor family consider there are more efficient designs of public rights of way, and referred to 317/006 and 217/012 and the access track to drainage pond which were said to be three routes in the same field. the re-alignment of public rights of way (PRoW) where they are moved to field margins, but objects to the creation of new.

Post hearing note:

The Applicant considers that it has responded to the concerns raised in relation to the design of the Long Marton Junction on page 33 of REP2-015. In addition, the Applicant notes that for the Long Marton Junction, the alignment is compliant with highway design standards to provide a safe junction near the existing long Marton and Bolton junctions. This was driven by public consultation feedback highlighting the need for the junction here, the fact that the junction on the alignment of the existing Long Marton (road) would require departures from standards due to reduced junction visibility, public consultation objections to not having a junction in this area and diverting traffic to the previously

proposed junction north of Appleby, the proposed Appleby junction having departures from standards for reduced visibility and unconventional junction design and the requirements for proposed junction compliance with standards and the safest solution to provide a junction.

In relation to the public rights of way, the Applicant understand this to be a reference to sheet 6 of the Rights of Way and Access Plans for Scheme 0405 ([APP-344]. These show the routes of the existing footpath 317/006 and bridleway 317/012 which would be severed by the Project. As such, the Applicant proposes to stop-up lengths of both routes so that they can be diverted under the proposed Crackenthorpe underpass. Part of the diverted route runs along the existing farm track and will be subject to a private means of access and private means of access for the Applicant to maintain the drainage pond. The pond is located at the low point on the alignment, adjacent to an existing watercourse to discharge to, has access from a local road for maintenance and is away from over land flow paths. The location of the drainage pond is high enough to outfall to the watercourse, but low enough to drain the road.

Ms Horn, on behalf of Mr Carruthers, noted that in addition to the concerns raised above, Mr Carruthers' business relies on passing trade. The Applicant proposes to close the Far End junction and instead provide an underpass which customers would not be able to access. A customer wishing to carry on towards Penrith would need to drive an additional 2.5 miles turning at the Sandford Junction near Warcop. Mr Carruthers wishes to use the existing underpass to allow his business to continue, with segregated dual use being implemented to ensure safety.

Post hearing note:

The Applicant considers that this has been responded to in REP2-015, page 50 and 51. In summary, the Applicant notes that Café 66 currently enjoys access only to and from the eastbound carriageway of the A66. Access to Café 66 will be provided via an off slip from the eastbound carriageway leading to the car park serving the building. Access to the eastbound carriageway is provided via an on slip. There will be no access to the westbound carriageway ensuring current formal arrangements are maintained. The off and on slip will be shared with local landowners to access severed lands.

Ms Horn, on behalf of Mr Foster, noted that in addition to the concerns raised above, Mr Foster owns farms both to the north and south of the A66 and uses the existing Clint Lane Bridge for access and to move his stock north and south of the A66. The Applicant proposes to demolish and rebuild the bridge on the same alignment, but Mr Foster is unclear how access and services will be maintained during this period.

Post hearing note:

The Applicant response Mr Taylor's relevant representation is contained in PDL-012, pages 122-129, and REP2-015, pages 31-32, 35-37 and 43-44 contains the Applicant's response to his written representation. The existing bridge would be demolished, which means that the existing route will close for a period whilst demolition and construction of the new Clint Lane bridge is taking place. There is an alternative route that Mr Foster can use to access his land, but this will require transporting livestock by vehicle rather than the current arrangement where they can travel on foot over Clint Land bridge. In relation to the water supply, the Applicant (as owner of this structure) does not have details of any private water supply in this location. The Applicant considers that this point ties in with the issue regarding livestock on the north side of the A66 – if water needs to be supplied then a temporary connection on the north side may be required or alternative it would need water to be transferred via tanker at regular intervals. An accommodation works strategy is being developed over the coming months and we will continue to engage with Mr Foster and his agent as this develops. It is relevant to note that the Environmental Management Plan [REP3-004] includes measures to protect unlicensed surface and groundwater abstractions, and where appropriate replace such supplies (measure D-RDWE-09).

Ms Horn, on behalf of Mr Hobson, noted that in addition to the concerns raised above, Mr Hobson raises further concerns regarding the impact to his business. He operates the Old Armoury Caravan Park with 16 pitches for motorhomes, touring caravans and camping. **Ms Horn** said the Applicant seeks to acquire two thirds of the land used for the business and will render it unviable, as Mr Hobson will not be able to operate this as the Caravan Park will be surrounded by the impacts of the Project and its construction works. People will therefore camp elsewhere, so he will lose business.

Post hearing note:

The Applicant refers to its response at PDL-012, pages 111-112, and REP2-015, pages 39-40. In summary, the Environmental Management Plan, Annex B5 Noise and Vibration Management Plan details how construction related noise and vibration will be managed. The Environmental Mitigation Maps [APP-041] show landscape integration and woodland planting to the south of Mr Hobson's retained land (on plot 07-02-47). The precise form this would take is subject to further detailed design in accordance with the provisions of the EMP. The methodology for the noise and vibration assessment of the construction and operation of the project, follows the guidance set out within the Design Manual for Roads and Bridges (DMRB) policy LA 111. The methodology follows government policy as well as best practice guidance and is presented in section 12.4 Assessment methodology of the Noise and Vibration chapter. For

construction, detailed information on specific mitigation measures at the Old Armoury Caravan Park will be developed during detailed design when construction information becomes available and will follow the project's Environmental Management Plan (EMP). Construction noise and vibration impacts will be controlled with the implementation of the EMP. Within the EMP, commitment reference D-NV-01 notes that no part of the Project can start until a Noise and Vibration Management plan (NVMP) is developed in detail in substantial accordance with the outline plan included at Annex B5 of the EMP. The NVMP shall include a commitment to implement Best Practicable Means (BPM) methods at all times, and BPM examples are provided within the document. With regards to operational noise, the ES concluded that there are no adverse likely significant effects upon the Old Armoury Caravan Park as a result of the operation of the Project. This is because the noise increase upon the majority of the site is less than 2.9dB(A), and the majority of the site is predicted to be exposed to noise levels below the SOAEL. In line with DMRB policy LA 111, this is unlikely to result in a significant effect. As such, there is no requirement for additional mitigation in the form of earth bund and noise screening. The Applicant does not consider it to be accurate to say that the Applicant seeks to acquire two thirds of the campsite. The acreage is in the region of one third of the site which is used for tent pitches. The hard standings used for the caravans are not included within the Order limits.

Ms Horn also noted that Mr Hobson raises concerns regarding planning permission for the reconfigured site. Mr Hobson claims that the Applicant assured him that it would cover his costs to pursue an application for planning permission to reconfigure the site, thereby mitigating his losses. Mr Hobson suggests that subsequent to this the Applicant has reneged on the position and is no longer providing assurance that it would cover the costs of applying for planning permission. Mr Hobson suggests that this delay means that the site could not operate during construction and, as a result, regular customers would take their business elsewhere. Mr Hobson suggests costs of the planning application is a "relocation cost" that the Applicant should bear.

Post hearing note:

The Applicant has sought to address Mr Hobson's concerns within the compensation code by seeking, for example, to agree compensation to enable an advance payment to be made. It is then open to Mr Hobson to spend that compensation however he deems best, which could include, for example, paying the costs associated with reconfiguring his site. The Applicant has offered to compensate for the cost of the planning permission application but requires a charge to be registered against the title to protect its position. The reasons for this were explained to Mr Hobson's agent in Summer 2021, but the Applicant was told that Mr Hobson would not agree to the registration of a charge.

Ms Horn, on behalf of Mr White, noted that in addition to the general concerns raised above, Mr White raised concerns regarding the acquisition of land for the purposes of a drainage pond, namely whether the entirety of the land is necessary to be acquired, and concerns in relation to existing drainage hydrology assessments to protect the land.

Post hearing note:

The Applicant considers that both of these matters raised on behalf of Mr White are addressed in its response to Ms Horn's general matters above.

Ms Horn, on behalf of the Manners Family, noted that in addition to the concerns raised above, the Manners family queried the location for the overbridge.

Post hearing note:

The Applicant considers that this concern has been responded to in PDL-012, pages 108-111, 404-406 and 425, and REP2-015, pages 31-31 and 35-39. In summary, not all landowners with A66 access also have A67 access. This means that the bridge is the most feasible alternative access at this stage. It is not in compliance with DMRB guidance to provide access from trunk road laybys. The proposed bridge had been moved east after the 2021 Statutory Consultation. Moving it further east is not feasible.

Ms Horn, on behalf of Mr G. S. Harrison, noted that in addition to the concerns raised above, Mr G. S. Harrison objects to the co-incident PRoW and PMA on safety grounds. The access proposed for his farm is also going to be a PRoW, with the farm using that area to unload HGVs and wagons. The Applicant should divert this PRoW to others in the area that already exist. He is concerned by the stopping up of direct access from the A66 to Streetside Farm and re-provision of a co-incident PMA and Cycle Track.

Post hearing note:

The Applicant considers that this concern has been responded to in REP2-015, pages 48-49. In summary, those pedestrian, cyclist and horse-rider facilities that would be severed by the scheme are proposed to be reconnected via grade-separated crossings. Existing at-grade crossings will be replaced with grade-separated crossings which means that vulnerable road users are removed from the dual carriageway environment, providing a safer route for users. Action has been taken to provide more east-west connections on those schemes that were being dualled as part of the

Project. At this location, there is a desire to link the Cross Lanes and Rokeby junction by means of a new cycleway, which would provide connectivity eastwards to Greta Bridge thereby enhancing the active travel connectivity across the scheme extents.

Ms Horn, on behalf of Mr Moss, noted that in addition to the concerns raised above, Mr Moss' farm will be unable to operate due to the disproportionate land take, alongside noting concerns of a lack of efficiency in design which has led to unnecessary acquisition.

Post hearing note:

The Applicant considers that this concern has been responded to in REP2-015, pages 45-47 address the specific design issues raised, and in the general response to **Ms Horn** above.

Ms Horn, on behalf of W. Austen Richardson, noted that in addition to the general concerns raised above, W. Austen Richardson are concerned that the proposed accommodation works (slurry store) are inadequate and will not allow appropriate vehicular manoeuvres.

Post hearing note:

In the Applicant's Response to the Examining Authority's Written Questions (REP4-011) in response to WQ CA 1.9 [REP4-011], the plan within Appendix A to REP4-011 shows an area for a replacement slurry tank and associated indicative swept path arrangement for vehicles to access and manoeuvre within the adjacent space (sketch ref:HE565627-AMY-HAC-S09- SK-CH-701205.). This is located on plot 09-01-19 as shown on Sheets 1 and 2 of the Stephen Bank to Carkin Moor Land Plans (APP-310). The area for the replacement tank has been sized based on the existing tank. Additional space is included, to provide for flexibility in locating the tank. Vehicle swept paths are based on a 16.5m articulated lorry and for a tractor and trailer combination. Options have been shown for the vehicles to drive in and turn around in one movement or to adopt a stop and reverse manoeuvre. Further discussions will be required with the landowner as to the preferred option and sizing of the tank and turning area to allow refinement where possible, but it is clear from the plan provided in Appendix A to REP4-011 that there is sufficient space to accommodate the desired vehicle movements.

Ms Horn also noted that W. Austen Richardson stated that the underpass is needed for business and safety of road users, alongside seeking clarity on security measures, including a request for the gates to be locked, and noting that the dual use rights of way are inappropriate.

Post hearing note:

The provision of a rural bridleway via an underpass replaces an at-grade bridleway facility in the same location. This approach is in keeping with the wider walking, cycling and horse-riding (WCH) strategy that has been adopted on the project. Grade separating the bridleway from the dual carriageway, principally on the same alignment, provides the most appropriate and safest route for all users. The underpass is designed to have clear line of sight through it enabling users to feel safer. In terms of the measures that may be employed during detailed to address safety and security, these are considered in more detail in a post hearing note in the Applicant's Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case) under agenda item 6.1.

Ms Horn, on behalf of the Hammond Family, noted that in addition to the concerns raised above, the Hammond family queried the PRow which is shown to be going through a building. They assume this is a mistake, but seek clarity as there is no need to divert the footpath.

Post hearing note:

This is difficult to discern from the plans provided in the written representation of Ms Hammond [REP1-072], but it may relate to the small shed/ barn opposite the Fox Hall Inn on the north side of the de-trunked A66. The DCO proposes an equestrian track to run on the north side of the de-trunked A66, but it is proposed to locally narrow the width of the track adjacent to the shed to avoid any direct impact to it.

Ms Horn, on behalf of the Henshaw Family, noted that in addition to the concerns raised above, the Henshaw family raised concerns in relation to access to the Mainsgill Farm Shop and wish to see a temporary roundabout that the Applicant is contemplating outside of the scope of the development consent order, become a permanent feature of the Scheme and queried the requirement for drainage on their land.

Post hearing note:

The Applicant considers that this point has been responded to in REP2-015, page 9, and REP4-011, WQ CA 1.8. In summary, the road between Browson Bank and Warrener Lane has not been promoted as a service road. It is the de-trunked A66 which will be reclassified under the DCO proposals as the C165. This introduction of a slip road onto the A66 westbound at Brownson Bank was as a result of feedback from the autumn 2021 Statutory Consultation relating to long detours for residents from Ravensworth and surrounding villages wishing to access the westbound A66, and also potential misuse of a long stretch of local road. Traffic modelling work has shown that the traffic utilising the westbound onslip are primarily drawn from the villages to the western end of the scheme and no reduction in traffic past Mainsgill is forecast within the model. Local traffic would still be required to pass Mainsgill when leaving the A66 from an eastbound or westbound direction. The Applicant also notes that the plan extract provided by the affected party refers to the Collier Lane overbridge and junction and not the proposed slip road at Brownson Bank. A separate direct access for Mainsgill Farm Shop onto the westbound carriageway of the new A66 mainline dual carriageway has not been included within the Project due to the proximity of a proposed new all-movement junction which is required in this location (slightly to the west of Mainsgill Farm Shop) to provide connectivity between the new A66 and existing local access roads both north and south of the A66. Providing a separate A66 westbound direct access to Mainsgill Farm Shop in addition to, and located close to, this new all-movement junction would directly result in junction spacing standards being significantly compromised and would be inherently unsafe as a consequence. Mainsgill Farm Shop currently has a direct access onto the existing A66. Within the Project proposals, the existing access to Mainsgill Farm Shop will not be removed; however, for the reasons explained above, this access will be retained onto what will become the detrunked A66. As noted above, the new junction located approximately 165m to the west of the Farm Shop access will provide local access from the de-trunked A66 to the new A66 dual carriageway, via a grade separated junction, for eastbound and westbound travel, and vice versa. These elements of the project are shown on Sheet 3 of the General Arrangement Drawings for Scheme 09 (APP-017) and on Sheet 3 of the Rights of Way and Access Plans for Scheme 09 (APP-348).

In relation to the temporary roundabout, this is a matter being contemplated by the Applicant's contractor and would proceed by way of an application under the Town and Country Planning Act 1990. It is not a proposal that is currently before the Examining Authority in relation to this Project.

Plot 09-03-30 is required for a new outfall route from the proposed attenuation pond located to the west of Mainsgill Farm Shop. It will be determined in detailed design whether this is a ditch or a pipe and it will be maintained by the relevant highway authority.

Ms Horn, on behalf of Mr S. Harrison, noted that in addition to the concerns raised above, Mr S. Harrison objects to an underpass carrying a bridleway onto his land, with a bridge being the preferred option.

Post hearing note:

The Applicant considers that it has responded to this concern at REP2-015, page 47. In summary, this is an existing bridleway facility that intersects the existing A66 and users cross via an at grade crossing facility. The proposed underpass will provide a safer means of crossing the dual carriageway in this location.

In addition, **Ms Horn** confirmed that she represented the following additional Affected Persons – Bowes and Ronald Charity, the Brogden family, Kenneth Thompson Discretionary Will Trust, Mr Kenneth, the McSkimming family, Mr Richmond and the Stead family. **Ms Horn** did not raise any further individual concerns in relation to these parties, therefore the Applicant has nothing further to add in relation to these parties.

In response **Mr Owen** noted that the Applicant would respond to the general comments made by Ms Horn and the specific concerns raised on behalf of individual clients but noted that in many instances this would take the form of referencing back to where those matters had been dealt with previously. **Mr Owen** noted that Ms Horn had referred on a number of occasions to the Applicant's proposed changes in relation to which it has recently consulted and is considering whether to take those proposed changes and if so in what form. **Mr Owen** agreed that it would be appropriate at this time, when the Applicant's proposed changes are not yet before the Examining Authority, for references to those proposed changes to be treated as though they were alternatives to the Application currently before the Examining Authority.

Mr Walton, on behalf of Dr and Lady Leeming, stated that CA powers should only be granted as a last resort, where adequate consultation has taken place. The Applicant's consultation has not been adequate. The Applicant has produced an outline design, but it is not clear what land or interests are required. Large areas of pink-coloured land are included in the designs, which will never be acquired permanently. In addition, **Mr Walton** noted that there are various discussions ongoing, with new design areas being produced, but this Application remains premature due to a lack of detail.

Mr Walton continued that a variation has been submitted to the Project in relation to the frontage of the Skirsgill estate. This relates to the provisional speed limit of 30mph, which Dr and Lady Leeming strongly support. **Mr Walton** noted that the site has been inspected and the existing exit must turn left due to the dual carriageway. There is

restricted visibility to the right and therefore a 30mph speed limit would be helpful in relation to the exit. If the variation is accepted, it is understood that there is a possibility that less of the land referred to as the West Park will not be required for the Project. In any event, **Mr Walton** stated that compulsory acquisition is unnecessary as his client would be prepared to grant the Applicant the rights that it requires. **The ExA** clarified that the Applicant's proposed changes are not part of the Application currently before them, but it would hear such representations as suggestions of an alternative to the compulsory acquisition of land.

Mr Walton also noted that Plot 0101-01-06 is required for a surface water drainage feature. He considers there to be no justification for the requirement for a pond. The entrance to Skirsgill Business Park does not need to be permanently acquired. The access for construction and subsequent maintenance can be given from A66 direct if needed. If the pond is justified, the construction would be desirable for this to be a more natural looking pond. The existing 24" drain and outfall to the River Eamont should be sufficient to drain the small area of hard surface proposed. **Mr Walton** also noted that Dr and Lady Leeming object to the permanent acquisition of Plots 0102-0107 and 0101-01-50, with an easement being sufficient to connect the drainage pond to the River Eamont.

Mr Walton also noted that Dr and Lady Leeming queried the methodology on the planting for mitigation and biodiversity. The East Park is allegedly required for tree planting, as part of the environmental mitigation. A landscape consultant's report has been submitted which suggests that the provision could be made in alternative land, which is more sensible. In the Applicant's response, the Applicant stated that the alternative land is 0.4 hectares and is therefore not large enough – this is in fact 1.7 hectares, which is larger than the proposed area of 1.6 hectares. The total woodland being taken in relation to the estate amounts to 0.55 hectares. **Mr Walton** noted that Dr and Lady Leeming have no issues in relation to the mitigation itself, but consider that it should not be this site if alternatives are available. Whilst they have support for the Project in principle, the Applicant has not made a compelling case and has made little progress on a highways agreement which would meet the Applicant's requirements. **Dr Leeming** also noted that the area for mitigation is ecologically diverse and choosing another area would therefore give a larger biodiversity net gain.

Mr Owen noted that many of the points raised by Mr Walton and Dr Leeming are on the agenda for ISH3 and confirmed that the relevant technical experts would be available at that hearing to address the issues on the agenda.

Mr Owen noted that, as a general point, and as **Mr Owen** explained on behalf of the Applicant in Compulsory Acquisition Hearing 1, at agenda item 2.3, and as summarised in writing in the Applicant's Compulsory Acquisition Hearing 1 (CAH1) Post-Hearing Submissions [REP1-007], the Project involves more than a single stage compulsory

acquisition process, in that it is currently at a preliminary design stage, where contractors are appointed and detailed design is underway, which will not be concluded by the time a decision as to whether to grant consent for the DCO is made. At this stage, the Applicant needs to demonstrate that the extent of land over which compulsory acquisition and temporary possession powers are proposed is necessary, justified and proportionate, and that there is a compelling case in the public interest, taking into account the stage that the Project has reached.

Crucially, the terms of the draft DCO [REP2-005] impose a second stage to the application of these tests, in that the power of compulsory acquisition under articles 19(1) and 22 only apply to so much of the Order land as is required for the authorised development, or required to facilitate it. Similarly, in relation to temporary possession powers, the power in article 29 of the draft DCO can only be used in relation to the construction of the authorised development. The Applicant must therefore comply with the second stage of the 'test' before exercising any of the powers that the DCO would grant in respect of land. It must demonstrate that the land in question is required at the detailed design stage to realise the Project. As such, the Applicant is not proposing anything unusual in the context of a complex highways scheme.

The ExA queried whether this approach has been reflected in other DCO applications. **Mr Owen** confirmed that the Applicant would provide a full explanation of this, including examples, in its post hearing submissions, but to give one example, the A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2017 where this approach was specifically put to the Examining Authority and accepted by the Secretary of State by the making of that Order.

The ExA queried if the existing 24" pipe had an easement, which **Mr Walton** responded to by saying that the 24" pipe was installed when the M6 was built and currently drains the road as it stands. The Department for Transport would be granted an easement for this. **The ExA** queried why a similar easement could not be put in place for the Applicant's proposed new pipe at Plot 0102-01-07. **Mr Owen** confirmed that the Applicant would respond to this in its post hearing submissions.

Post hearing note:

The Applicant has responded to the landscape and cultural heritage report submitted on behalf of Dr and Lady Leeming in REP2-015, pages 5-6. In summary, the Applicant's intention is for the design and form of new attenuation ponds are to use the layout and form of their context (i.e. respond to local topography) to reduce use of materials and minimise visual impact where reasonably practicable (having regards to the functions of the pond), supported by

strategic planting drawn from an appropriate native species palette (local to the appropriate catchment where reasonably practicable). They must be integrated into the landscape with carefully designed landforms to tie into the local context and conditions, and avoiding use of geometric shapes and steep, uniform bank profiles. The proposed ditches are needed as part of the water treatment system, but these will be sensitively developed at the detailed design stage into more natural looking streams and to minimise the impact on the existing landscape features. This is secured in paragraphs LI15, LI16 and LI19 of the Project Design Principles [APP-302]. The detailed design elements including paving, signs and fencing will be designed following approval of the DCO application. Access tracks for maintenance are intended to be permeable surfaces (such as grass concrete or gravel surfaces) that are suitable for occasional vehicle access to the ponds have less visual impact than a paved track. Some small signs will be required to direct maintenance and emergency services to the valves within the chambers adjacent to the ponds. Fencing is typically included along the highway land boundary and around ponds where the risk assessment determines a need, however the Applicant will continue to liaise with the landowner throughout each design phase to minimise the impact. The proposed pond and ditches are required to both attenuate and treat the highway runoff before it is discharged to the watercourse. Tanks and pipes do not offer the same level of water treatment as a sustainable drainage system and would not meet the requirements of paragraph 5.220 of the NNNPS and have therefore been discounted. The historic landscape report is noted and its conclusions accepted as far as they concern heritage matters.

The attenuation pond to be located on 'West Park' (plot 0102-01-06) is required to treat and attenuate the water from road run-off and spills to the relevant Environmental Quality Standards (EQS) as required by the Environment Agency under the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 and to then allow water to be discharged to an agreed rate. The inclusion of attenuation ponds is a standard requirement for all road schemes developed by the Applicant and is within DMRB LA 113. It is important that water discharged into the water environment is appropriately treated to avoid a detrimental impact upon the receiving watercourses – in this case the River Eamont, which is part of the wider River Eden Special Area of Conservation (SAC) which is an internationally designated site under Conservation of Habitats and Species Amendment (EU Exit) Regulations 2019. The size of the attenuation pond is largely dictated by the storage requirements, which is driven by the requirement for new areas of hardstanding to be attenuated back to an equivalent greenfield runoff rate. Following discussions with Dr Leeming and refinement of the preliminary design, the Applicant reduced the size of the pond and whilst the Applicant did look at relocating it closer to the river (away from the A66). It is also worth noting that relocating the pond would also necessitate providing an access path to the new pond location (which could increase land take). Consequently, the Applicant considers that the requirement for the land is necessary and is no more than is reasonably required to deliver the project.

Following receipt of existing drainage information, the Applicant proposed to try and discharge the drainage from the new pond to the existing 24" pipe that currently runs south through Dr Leeming's land and outfalls at the River Eamont. However, it is unclear what the condition and depth of this pipe is, which may mean that it is not suitable for the Applicant's purposes. It is also worth noting that there is an underground utility (electrical cable) that traverses Dr Leeming's land (east-west) which may clash with the pipe which outfalls from the pond, therefore affecting our proposals to discharge into the existing system. Without further investigation, it is not clear how this will impact the Applicant's drainage proposals. As a consequence, the Applicant allowed for a worst case scenario i.e. that the Applicant may need to construct a separate outfall system (adjacent to or replacing the line of the existing) and may need to divert the existing electrical cable.

It is because of this risk of a requirement to divert the electrical cable that the power to acquire rights only is considered by the Applicant to be insufficient for its purposes. This is because if utility diversion works are required the Applicant would expect that the owner of the apparatus to require that it is granted the rights to operate and maintain that apparatus. The Applicant's approach in such circumstances is discussed and justified in paragraphs 2.5.8 to 2.5.9 of the Statement of Reasons [REP2-012]. Those paragraphs explain that if it is the landowner's preference to retain the land and grant the required rights to the third party on the basis of terms agreed with the Applicant, then the Applicant would not exercise powers of compulsory acquisition over the land. However, it is necessary to retain the ability to acquire the land to enable the Applicant, in the absence of an agreed solution, to still be able to grant the rights required to the utility apparatus' owner.

In relation to the access to the Skirsgill Business Park the Applicant has no intention of stopping this up, as can be seen from sheet 1 of the Rights of Way and Access Plans for Scheme 0102 [APP-342] which does not show the existing private means of access being stopped up.

In relation to the design of the environmental mitigation on land within Dr Leeming's ownership and the consideration of alternative locations, the Applicant notes that Dr Leeming also attended Issue Specific Hearing 3 (ISH3) on 2 March 2023, in which this issue was discussed in further detail. The Applicant therefore refers to its post-hearing submissions for ISH3, specifically in relation to agenda items 2.5 and 3.2.

In relation to the two-stage approach to design and the fixing and subsequent exercise of powers of compulsory acquisition, the Applicant notes that this same approach was reflected in several DCOs that were successfully applied for by the Applicant. The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016 is the key example where the approach was considered in detail by that Examining Authority, see in particular

paragraphs 7.8.13 to 7.8.31 of the Examining Authority's report. The approach was also accepted in the A303 (Amesbury to Berwick Down) Development Consent Order 2020, see in particular paragraph 8.11.32 of the Examining Authority's report.

The Applicant further notes the form of drafting in article 19 that adopts this two stage approach is included in numerous other of its development consent orders including, the A63 (Castle Street Improvement, Hull) Development Consent Order 2020, the A303 (Amesbury to Berwick Down) Development Consent Order 2020, the M25 Junction 10/A3 Wisley Interchange Development Consent Order 2022 and the A417 Missing Link Development Consent Order 2022.

The Applicant also notes that within ISH3, **Ms. Emma Nicholson** raised queries about the transition from preliminary to detailed design. Whilst Ms. Nicholson did not attend CAH2, the Applicant refers to the explanation above as a response to this concern.

Tim Parsons, on behalf of the Trustees of the Winderwath Estate, noted that the trustees object to the proposed environmental mitigation and state that there is no compelling case in the public interest for the acquisition of land required for biodiversity net gain. **Mr Parsons** noted that his client has offered 'Adrian's wood' as an alternative site for environmental mitigation that would avoid the acquisition of other land proposed by the Applicant and expressed the view that rights only (rather than acquisition) would be sufficient for the purposes of environmental mitigation. During CAH2, and in a document that the Applicant has also received from Mr Parsons, further concerns on behalf of the Trustees of the Winderwath estate were set out. These are summarised as follows:

- The Applicant's responses are ambiguous as to whether or not biodiversity net gain is being sought that adversely effects the land of the trustees and goes beyond the present statutory requirements applicable to the Applicant's proposals. There can be no compelling case to acquire land for such biodiversity gain, and any such land should be removed from the land to be compulsorily acquired;
- The Trustees contend that the location and compulsory acquisition of the environmental mitigation land at Whinfell House being mainly grade 2 is not in line with either policy. As such there is no compelling reason for compulsory acquisition of plots 03-04-04, 03-04-12 and 03-04-14;
- The Trustees have not received any proposals from the Applicant on the use of rights;

- The Trustees believe that the possible payment of compensation does not justify compulsory acquisition where that acquisition is unnecessary in the first place, either because excessive areas are being sought, or where the Applicant's interest can be protected by taking rights only over the relevant land; and
- The Trustees feel that Plots 03-02-01 (required for diversion of a gas main), 03-02-18 (compound), 03-03-06, 03-02-32 (compound, borrow pit and re-profiling) and 03-02-33 (compound) are not essential mitigation land and as such the trustees object to the extent of the proposed permanent acquisition which should be reduced to a minimum and not be acquired permanently.

Mr Owen noted that discussions have been taking place between the Applicant and the trustees for some time, and that in relation to environmental mitigation land the Applicant is not seeking biodiversity net gain for its own sake, but rather this is being done pursuant to the Applicant's obligation to seek opportunities to improve biodiversity in line with the NNNPS. As above, **Mr Owen** confirmed that the Applicant would respond in further detail to the trustees' concerns in its post hearing submissions and noted that the Applicant had shared with Mr Parsons a technical note explaining the reasons why it considered the Adrian's Wood proposal did not offer the same advantages as the Applicant's proposal. **Mr Owen** agreed to take instructions on either submitting the technical note to the examination or to including a summary of its contents in the post hearing note.

Post hearing note: the Applicant notes that these issues were considered in ISH3 and therefore refers to its responses to these concerns in its post-hearing submissions for ISH3, specifically in relation to agenda item 3.2 which incorporates the material that was included in the technical note referred to at this point in CAH2.

In relation to the environmental mitigation on plot 03-02-01, this is discussed in ISH3 under agenda item 3.2. In relation to the utility diversion required under that plot the Applicant would expect that the owner of the apparatus to require that it is granted the rights to operate and maintain that apparatus. The Applicant's approach in such circumstances is discussed and justified in paragraphs 2.5.8 to 2.5.9 of the Statement of Reasons [REP2-012]. Those paragraphs explain that if it is the landowner's preference to retain the land and grant the required rights to the third party on the basis of terms agreed with the Applicant, then the Applicant would not exercise powers of compulsory acquisition over the land. However, it is necessary to retain the ability to acquire the land to enable the Applicant, in the absence of an agreed solution, to still be able to grant the rights required to the utility apparatus' owner.

In relation to plots 03-02-18 and 03-03-06 this land is required for landscape re-profiling as is indicated on sheets 2 and 3 of the General Arrangement Plans for Scheme 03 (APP-012). Where landscape re-profiling is required the Applicant is concerned that once re-profiled the land may be changed in character to such an extent that the

landowner may no longer be in a position to derive a beneficial use from it and that it may prove impossible to 'restore the land to the reasonable satisfaction' of its owner as would be required by article 29(4) of the draft DCO were it to be temporarily possessed. Similarly, the Applicant considers that it would be equally unjust to potentially fundamentally change the character of the land through re-profiling subject only to rights where to do so would deprive the current owner of its beneficial use. To safeguard against this eventuality the Applicant seeks the power to compulsorily acquire the land. If the Applicant's concerns are not realised and the land is capable of being beneficially used by its current owner whilst also continuing to serve the purposes required for the Project, it would be capable of being returned to the landowner by agreement in accordance with the Crichel Down rules.

In relation to plot 03-03-32, this land is required for a temporary diversion of the existing A66 during construction of the Project to enable the continued flow of traffic whilst the Project is being constructed. For similar reasons as plots 03-02-18 03-03-06 the Applicant is concerned that, following such use of the land there is a risk that it may not be capable of being restored to a condition that would meet the 'reasonable satisfaction' of its owner and occupier, as would be required were the land to be subject only to the temporary possession power contained in article 29. As such, it is included in the Order land as land to be acquired under article 19 as a 'worst case'. If it proves necessary to compulsorily acquire the land (if for example, the Applicant's efforts to acquire the land by agreement are unsuccessful) and the Applicant's concerns in relation to the restoration of the land do not materialise such that it is in a condition that is capable of being returned to the landowner, the Applicant would be required, within the Crichel Down Rules, to offer it back to the landowner before otherwise disposing of it on the open market. The Applicant considers this approach to be wholly consistent with the note on the Environmental Mitigation Maps that indicates the land may be suitable to be returned to the landowner by agreement. In addition, part of this plot is required in relation to the diversion of existing utility apparatus, and for the same reasons as plot 03-02-01 discussed above, the Applicant requires the ability to acquire the land to safeguard the grant to utility undertakers of the rights they require in relation to their apparatus.

In relation to plot 03-03-33 this is required in connection with, among other matters, the new A66 and the permanent diversion of footpath 311/004 and a private means of access (reference J on sheet 3 of the Rights of Way and Access Plans for Scheme 03 [APP-343]).

David van der Lande, on behalf of Penrith Properties, noted that there had been inadequate efforts from the Applicant to obtain the correct contact details. The relevant letters were not received by Penrith Properties. There is a requirement of diligent enquiry under human rights legislation in relation to ownership of land.

Mr van der Lande also noted that there had been no justification provided for acquiring Plot 0102-01-20. This represents excess land take and mitigation has not been adequately considered in terms of the submission. Access to the site has been offered, but this has not been taken up.

Mr van der Lande also noted that there was a lack of sufficient drawings of Plot 0102-01-20, plus noting that the referencing of documents by the Applicant (section Ch 9840 in the sectional drawings) in relation to the width of the pavement and cycleways adjoining this Plot is incorrect (as it does not adjoin to Penrith Properties' land, therefore misrepresents the extent of the land take), alongside querying the extent of this land take and noting that there is no requirement to take this land for environmental purposes.

Ms Slater for the Applicant, noted that in relation to the diligent inquiry matter the Applicant responded in detail in REP4-015, pages 25-26. The Applicant considers that at this stage in the detailed design all of the land required for a 3m wide cycleway, a 2m wide footway and 1.5m separation from the carriageway and it is not excessive once a reasonable allowance has been made to account for the Applicant's limits of deviation. As previously mentioned by Mr Owen, at the point of implementation before exercising the power to acquire compulsorily the Applicant is required to consider whether the land in question is in fact required for, or to facilitate the Project, once the full extent of the land requirement is known. **Ms Slater** confirmed that the Applicant would check the chainage reference (Ch 9840) as referred to in the Applicant's Response to Written Question CA1.4 relating to Plot 0102-01-20 and provide revised section drawings in relation to this Plot in its post hearing submissions.

Post hearing note:

The Applicant undertook diligent inquiry to identify persons with interests in the land affected by the Project and Penrith Properties has suffered no prejudice as a result of the contact referencing difficulties it has identified and has been able to fully engage with the examination of the Applicant's proposals.

The Applicant considers that the requirement for the land has been addressed in PDL-012, page 403, and REP2-015, pages 25-29. In summary, the relevant plot of land is marked for compulsory acquisition for the improvement of the existing M6 southbound diverge slip road to the M6 Junction 40 roundabout and the construction of an additional auxiliary lane at the M6 Junction 40 and the improvement of the existing A592 and the improvement of the existing A66 circulatory carriageway at M6 Junction 40 and the provision of non-motorised user facilities, landscaping and reprofiling.

In relation to the Applicant's response to the Examining Authority's written question CA 1.4 (REP4-011), the Applicant referred to the nearest available section to explain its proposals in this area. Nonetheless the response given in CA 1.4 remains the Applicant's position in that it requires a reasonable degree of flexibility within which to deliver the detailed design of its proposals in this area.

The Applicant has provided a revised section drawing showing the proposed land take and engineering proposals in Plot 0102-01-20, to better explain the need for proposed land take, in response to the concerns expressed by Mr Van der Lande. As this was also discussed in detail during Issue Specific Hearing 3 (ISH3), this drawing is provided in Appendix G to the ISH3 Post Hearing Submission document, which has been uploaded separately due to the size of the file: *Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case): Appendix G: M6 Junction 40 Typical Sections (CH 450 & CH 9666)* (Document Reference 7.30).

William Salvin, on behalf of Mortham Estates, stated that none of the land take is necessary, justified and proportionate – the land take is excessive. There has been no evidence to show that this is not the case and it is not clear what will happen to people's businesses. **Mr Salvin** expressed an unease about permitting permanent acquisition of certain plot on the basis that they may not be required, subject to detailed design, with there being no other chance to challenge the Applicant if approval was granted. **Mr Salvin** noted that there has been inadequate consultation from the Applicant on Plot 08-03-17 (required for the telephone cable route), Plot 08-03-08 and Plot 08-03-05 (west of St Mary's church, which needs to be planted).

Mr Salvin queried whether the Applicant has assessed the impact of its proposals on the agricultural businesses potentially affected by the Project.

Mr Salvin noted that there is general support for the Cross Lanes junction, but the landowners wish to see some changes. The proposed junctions west of Rokeby Church and west of St Mary's Church will have adverse environmental and visual impact. There are concerns over the impact on historic landscapes, alongside an objection to the cycle track south of Rokeby Grove. The landowners will promote the Blue II proposal ahead of the Applicant's Black Route. **Mr Salvin** noted that Historic England supported the Black Route as it did not sever the RPG, but **Mr Salvin** contends that this would in fact cause severance. No assessment has been produced on the heritage importance or the impact of the Blue or Black proposals on the RPG to show the degree of harm that either proposal would cause. **Mr Salvin** contends that the Black Route will harm St Mary's Church. An impact assessment has only been produced for an, unlisted rectory which the Applicant has required, but not on the heritage assets, with no explanation given as to why this approach has been taken.

The ExA queried if the areas referenced on ASI (Plots 08-01-25 and 08-01-16), around Princess Charlotte's Wood, those that would be impacted. **Mr Salvin** confirmed that this extends beyond Cross Lanes – the historic estate continues along the corridor and is funnelled to the north and the south. The landscape changes from an enclosed arable intensively farmed area to a less intensive grassland with drystone walls. All woodland planting is designed to take the traveller from Rokeby Park to the west. The proposal in the Application regarding Plots 08-01-16, 08-01-22 and 08-01-19 would create a larger block of woodland that would not fit into the character conveyed of Princess Charlotte's Wood, and would sterilise the mineral resource within Durham County Council's Local Plan.

The ExA queried if Mr Walton had similar examples of this point in relation to Princess Charlotte's Wood, particularly to the north of the A66. **Mr Walton** noted that Plot 08-02-09 is already being planted, but that there is no other largescale planting.

The ExA noted that Mr Walton referred to woodland blocks to the south of the A66 and queried if he had any other examples for mitigation in relation to the points made. **Mr Walton** responded that there is a large block of woodland at Cross Lanes, under Plot 08-02-20, with the current plans differing from the consultation plans (which contained an aerial flythrough). This is a strip alongside the A66.

As above, **Mr Owen** confirmed that the Applicant would respond to Mortham Estates' concerns in its post hearing submissions. However, **Mr Owen** noted that in relation to the test of necessity, proportionality and justification, the Applicant does not agree with Mortham Estates' position and will continue to produce evidence as such. In relation to the acreage, the Applicant refers to the explanation above regarding the two-staged design process. At this stage, the Applicant contends that it has found the correct balance in terms of the land required. **Mr Owen** noted that there are established ways of calling the Applicant to account, with the judicial review process an option if the landowners do not think that obligations in the DCO are being complied with, and **Mr Owen** noted that the breach of the terms of a development consent is in itself a criminal offence. These procedures can be relied upon to hold National Highways to account at the second stage.

In relation to the mitigation planting, **Mr Owen** noted that this would be discussed during ISH3. As for the impact of the Project on the heritage assets on Rokeby, **Mr Owen** noted that the issue of a statement of significance was discussed in detail at ISH1 and referred to the Applicant's post hearing submissions (REP1-006). **Mr Owen** explained that that the heritage assessments contained within the Applicant's Environmental Statement contain all of the information required to consider the impacts of the Project before the Examining Authority and that further experts assessments will not assist.

Mr Salvin noted that there is a mismatch between the resource available to those having their land acquired and those who are acquiring the land, and those having their land acquired are faced with the comment that the Applicant does not believe a heritage assessment is required in relation to the church, but has been done on the refectory, which seems inconsistent. **Mr Owen** reiterated that through the Environmental Statement, the Applicant has provided a full and detailed expert assessment on all heritage assets, including the Rokeby Estate. **Mr Owen** confirmed that the Applicant will consider any further documentation provided by Mr Salvin, but does not accept that there is anything lacking in terms of an assessment on the impacts of the Project.

Post hearing note:

In relation to the assessment of the impacts to agricultural (and indeed other businesses) these are set out in Chapter 13 of the Applicant's Environmental Statement [APP-056].

In relation to the submissions regarding alternative routes, the Applicant believes that this point has been responded to in PDL-012, page pages 81-94, and REP2-015, pages 23-24. In summary, the junction spacing guidelines, safety concerns, design standards and the listed status of Cross Lanes Farmhouse have all been considered in determining the design of the proposed junction west of Cross Lanes. Requirements for landscape mitigation within the scheme to ensure maintenance of the existing characteristics are secured within the Project Design Principles. There is no viable alternative that avoids harm to heritage designations in the area. Areas of concern (Brignall and Westwick Road to the north) are unlikely to experience a significant change in view. Traffic in the setting of the Church of St Mary will be reduced as it will no longer pass between the Church and Old Rectory. With mitigation, impacts to Jack Wood are non-significant. Data was collected on agricultural holdings affected by the project and agricultural landowners were consulted during the assessment process on the operation of their businesses, with likely significant effects assessed. Dialogue will continue with land interests to minimise impacts. Mitigation measures include the removal of alien screen planting around the Old Rectory, allowing the built form group to be recognised. Mitigation regarding noise and air pollution from the Black Route is not necessary as the new A66 will take traffic further from St Mary's Church. Blue II Option was discounted because of the requirement not to construct within Grade II listed Registered Park and Garden of Rokeby Park. Other requests for design changes will be reviewed by the Applicant.

In relation to plot 08-03-17 and the requirement for the for a utility diversion, as with other utility diversions the Applicant would expect that the owner of the apparatus to require that it is granted the rights to operate and maintain that apparatus. The Applicant's approach in such circumstances is discussed and justified in paragraphs 2.5.8 to 2.5.9 of the Statement of Reasons [REP2-012]. Those paragraphs explain that if it is the landowner's preference to retain

the land and grant the required rights to the third party on the basis of terms agreed with the Applicant, then the Applicant would not exercise powers of compulsory acquisition over the land. However, it is necessary to retain the ability to acquire the land to enable the Applicant, in the absence of an agreed solution, to still be able to grant the rights required to the utility apparatus' owner.

Dr Mary Clare Martin, on behalf of Andrew Thompson and Joy Thompson, expressed criticism of the proposals at the location of her parents' house at Langrigg and suggested that the draft Order breaches human rights and is discriminatory against the protected characteristic of age.

Dr Martin expressed a preference for the northern route, as the current Appleby-Brough and Temple Sowerby sections involve extensive slip roads and underpasses (increasing the cost of the build) through the AONB, which a northern route would avoid.

Dr Martin also noted that there has been an infringement on equalities legislation, on the grounds of age and disability. In addition, **Dr Martin** stated that discrimination has been exacerbated by Project Speed, amongst other issues such as lack of consultation and consideration of suitable alternatives.

Dr Martin also noted that the dual carriageway will prevent walking on the AONB. People living close by will therefore be unable to walk there, and may not all be able to drive in the immediate future.

Dr Martin also noted that there has been no regard to health problems and anxiety issues of people living nearby the Project.

Mr Owen responded that, as discussed at the previous set of hearings, the Applicant is considering a change to the Application in this area. This has been consulted on and the Applicant is considering the outcome of this consultation. It is hoped that this will be possible, in order to reduce the impact on Dr Martin's parents as far as possible. The issue of the AONB incursion has been addressed at length in previous submissions and hearings (for example ISH1 REP1-006) and the Applicant's position remains that it is governed by National Networks National Policy Statement which applies irrespective as to what has gone on in the past and irrespective of policies that might apply to other projects such as HS2 which runs through the Chiltern AONB as mentioned previously by **Ms Caroline Horn**. HS2 is a wholly different subject, which is being brought forward by its own Act of Parliament and which is not subject to the National Networks National Policy Statement. The Applicant considers that its position on why further incursions within the AONB would not be appropriate, is clear.

Post hearing note:

The Applicant has had due regard to its PSED and has undertaken an extensive Equalities Impact Assessment (EqIA) [APP-243]. Separate Equalities Impact scoping reports were produced and consulted upon prior to the production of the EqIA. The EqIA outlines how key equality receptors were identified and engaged with throughout the development of the project and considers, amongst other Protected Characteristic Groups (PCGs), potential impacts on age and disability. EqIA works on assessing potential disproportionate or differential effects on PCGs at a community/population level. This is the established approach that has been undertaken throughout the planning of the A66 Project and there continues to be engagement to inform the project through the examination and delivery phases to seek to understand and mitigate potential impacts.

National Highways' proposals in relation to public rights of way are summarised in the Walking, Cycling and Horse-riding (WCH) Proposals document (Document Reference 2.2, APP-010), are shown on the Rights of Way and Access Plans (Document Reference 5.19, APP-346) and are described in Schedule 2 to the draft DCO (Document Reference 5.1, APP-285).

WCH provisions have been considered throughout the Project with new routes being proposed to improve linkages across the route, therefore maintaining as a minimum existing access to active travel.

Chapter 13 (Document Reference 3.2, APP-056) includes an assessment of WCH provisions, with the likely significant effects reported within Section 13.10. Further details are provided in the Walking, Cycling and Horse-Riding Proposals (Document Reference 2.4, APP-010). Annex B6 (Document Reference 2.7, APP-026) of the EMP provides an extended essay plan of the Public Rights of Way (PRoW) Management Plan that will be further developed and implemented at construction stage. The plan will detail the proposed diversions and new routes before and during construction, which seek to mitigate impacts on the PRoW network. It will also set out a hierarchy of mitigation to help maintain access across the PRoW network during construction, for example through the use of appropriate signage, diversions and/or public liaison where necessary. The preparation and delivery of the detailed Public Rights of Way Management Plan will incorporate inputs from the local community through the appointed Public Liaison Officer.

Operationally significant Walking, Cycling and Horse-Riding (WCH) provision is included in the proposed A66 upgrade work, to facilitate and encourage sustainable transport and active travel. For further information please see the Walking, Cycling and Horse-riding Proposals (Document Reference 2.4, APP-010). The scheme is anticipated to lead to improvements in travel conditions. This will be particularly beneficial at peak times during summer months The

scheme is anticipated to lead to improvements in travel conditions. This will be particularly beneficial at peak times during summer months.

In specific regard to the impact upon walkers within and around the North Pennines AONB no significant effects were identified within the ES assessment following the implementation of the afore mentioned mitigation and design strategies, see Section 13.10 Assessment of likely significant effects (APP-056).

Health effects arising from the construction and operation of the Project are assessed in the Human Health assessment, Chapter 13 of the ES (APP-056). This includes effects arising from environmental changes such as noise, visual and lighting impacts, as well as severance and access. Health effects have been considered at the population level. Mental health indicators and the prevalence of vulnerable groups such as older people and people with existing health conditions were considered in the baseline and taken into account in the assessment of the sensitivity of the population.

Appendix 13.3 Health Evidence Literature Review (APP-219) presents a review of evidence on the links between the environmental and social factors considered in the assessment and the resulting effects on health and wellbeing. This review identifies both mental and physical health effects associated with a range of factors including noise, visual effects, lighting, severance and access to green space. Based on this evidence, the health effects reported in the ES include both mental and physical health outcomes.

The Applicant recognises that adverse health effects can occur prior to the construction of the Project as a result of uncertainty and stress associated with the route selection, design and planning process. The applicant has taken steps to reduce this by engaging with the public through the consultation process as set out in the Consultation Report (APP-252). Local authorities were approached to help identify hard to reach stakeholder groups and recommended tactics were implemented, such as advertising in community venues and using the consultation bus to reach smaller communities. Dedicated Public Liaison Officers (PLOs) engaged with landowners and other stakeholders early in the Project planning stages to identify those who might be considered more vulnerable on an individual case by case basis. Where vulnerable people were identified, a member of the senior National Highways team was deployed to support the stakeholder and design teams and escalate any issues for consideration within NH.

Effects on the health and wellbeing of those affected by the Project during the construction phase will be mitigated by measures set out in the Environmental Management Plan (EMP) (REP3-004), which will manage and reduce environmental effects and other issues such as severance. EMP Annex B11 Community Engagement Plan sets out

	the steps to be undertaken by National Highways to make sure that those living in the vicinity of the Project are informed of activities and developments relating to its construction; this will help to reduce anxiety associated with uncertainty during the construction phase.
4.2 Any other Affected Persons wishing to make oral representations.	Robbie Owen, for the Applicant, did not make any submissions on the Applicant in relation to this agenda item.
4.3 Any section 102 Interested Parties or Category 3 persons wishing to make oral representations.	Robbie Owen, for the Applicant, did not make any submissions on the Applicant in relation to this agenda item.
4.4 Any Interested Parties wishing to make oral representations on the temporary use of land.	Robbie Owen, for the Applicant, did not make any submissions on the Applicant in relation to this agenda item.

5.0 Review of Compulsory Acquisition	
<u>Agenda Item</u>	<u>The Applicant's Response</u>
<p>5.1 The Applicant to advise whether any updates to the application Funding Statement will now be provided to the Examination [REP1-007, Agenda Item 4.1] in the context of increasing costs reported in the technical press [REP1-065, page 28].</p>	<p>The ExA asked the Applicant to advise whether any updates to the application Funding Statement will now be provided to the Examination [REP1-007, Agenda Item 4.1] in the context of increasing costs reported in the technical press [REP1-065, page 28].</p> <p>Mr Owen, for the Applicant, noted that there has been discussion about the Project costs in the technical press; however, the Applicant notes that the sums stated in those reports align with the position set out in the Applicant's Funding Statement which indicates that the Project has a most-likely estimate of £1,490 million, including allowances for risk and inflation at the date of application; this estimate includes all costs to deliver the Project from options appraisal stages through to the opening for traffic – and for the avoidance of doubt, it also covers all land acquisition costs.</p> <p>Mr Owen confirmed that in CAH1 and in its subsequent post hearing submission (REP1-007, at agenda item 4.1), the Applicant reported that there was no update to the cost estimate that informed the Funding Statement submitted as part of the DCO application [Document Reference 5.6, APP-289]. This was because the information on which the Funding Statement was based was the same as the information used for securing approvals for the Project from the Applicant itself, from the Department for Transport and the Treasury, between May and August 2022.</p> <p>Ms Owen noted that at the time of CAH1 (December 2022), the Applicant reported that its next formal review of the cost estimate for the Project is planned to take place after the end of the DCO Examination process, to align with development of the Project's detailed design. This is still the case.</p> <p>Mr Owen confirmed that the Applicant's position therefore remains unchanged, and accordingly there is no further update to the costs position as reported in the Funding Statement.</p>
<p>5.2 The Applicant to provide an update on discussions with the Ministry of Defence (MoD) and the Public Trustee.</p>	<p>The ExA asked the Applicant to provide an update on discussions with the Ministry of Defence (MoD) and the Public Trustee.</p> <p>Heidi Slater, for the Applicant, noted that discussions with Defence Infrastructure Organisation (DIO) on behalf of the MoD are progressing well. At CAH1 (REP1-007), the Applicant stated that it was working towards a Statement of Common Ground, which was subsequently included in its Deadline 3 submissions (REP3-052). At CAH1, the Applicant also stated that there was general agreement between the Applicant and the MoD regarding the areas of land required for the Project and that one of the proposed changes that the Applicant seeks to introduce will relate to the areas of MoD</p>

land which are required for environmental mitigation for the Project, but which need to be adjusted to accommodate the MoD's current operational requirements. **Ms Slater** confirmed that this statement of the position as it was then remains valid.

Ms Slater referenced the recent consultation on proposed changes to the DCO application change reference DC-21, which showed the different areas within MoD land which are now proposed to be made available for environmental mitigation for the Project. The Applicant's request for Crown authority consent from the MoD is currently being considered by the Defence Infrastructure Organisation and they have committed to engage their solicitors with the aim of ensuring that the form of Crown authority consent is signed before the close of the Examination. In response to a question from the **ExA** on a deadline by which Crown authority consent is sought, **Ms Slater** confirmed that this is sought by the end of April 2023.

In relation to the Public Trustee, **Ms Slater** confirmed that discussions with the Public Trustee on behalf of the Ministry of Justice are also making progress. The Applicant and the solicitor for the Public Trustee are currently engaging in detailed consideration of the drafting intent and construction of relevant legislation and related caselaw, with a view to determining whether a Court order is indeed required before the Public Trustee is able to grant the form of Crown authority consent required by the Applicant under the PA 2008.

Since the Applicant last reported on its discussions with the Public Trustee at CAH1 (REP1-007), the Applicant has engaged in calls and several rounds of correspondence with the Public Trustee's solicitors. In consequence of this engagement, the most recent draft of the Applicant's request for Crown authority consent is currently with the Public Trustee's solicitor for consideration. The Applicant is hopeful that a solution is within reach, as Heads of Terms are in place.

The ExA requested that the Applicant provide a letter of comfort from the Public Trustee in its post hearing submissions, which **Ms Slater** confirmed that the Applicant would do, if possible.

Post Hearing Submission

The Applicant is continuing to work positively with the Public Trustee with a view to obtaining the Crown consent required before the close of the examination. In relation to the letter of comfort, the Applicant has shared with the Public Trustee a draft letter of comfort for its consideration. The Applicant intends to procure the submission of the letter of comfort to the examination at the earliest available opportunity.

<p>5.3 The Applicant to explain why Plot 06-03-34, which appears to be grazed and has ‘Military Firing Range’ warning signs, is not identified as land with an MoD interest?</p>	<p>The ExA asked the Applicant to explain why Plot 06-03-34, which appears to be grazed and has ‘Military Firing Range’ warning signs, is not identified as land with an MoD interest.</p> <p>Heidi Slater, for the Applicant, noted that Plot 06-03-34 comprises land which is owed by the Secretary of State for Defence. This has been inadvertently omitted from the Crown Land Plans for Scheme 06 [APP-312] and Part 4 of the Book of Reference [AS-035]. In reviewing this area of land, the Ms Slater confirmed that the Applicant has also noticed that Plot 06-03-38 has also been inadvertently omitted from the same documents.</p> <p>The ExA requested that the Applicant provide updated documentation to rectify the omission of the Crown land interests in these two plots, which Ms Slater confirmed that the Applicant would provide as a standalone Deadline 5 submission.</p>
<p>5.4 The Applicant to explain the Book of Reference entry for Plot 0102-01-05 which includes ‘the disposition of the registered estate and in respect of a restrictive covenant’ [AS-015]. This repeats elsewhere.</p>	<p>The ExA requested that the Applicant explain the Book of Reference entry for Plot 0102-01-05, which includes ‘the disposition of the registered estate and in respect of a restrictive covenant’ [AS-015].</p> <p>Robbie Owen, for the Applicant, noted that the current wording in the Book of Reference must include the names of all those that have proprietary interest in the land, which can include those with restrictive covenants. Those interests are protected by the Land Registry to include restrictions that ensure that when land is transferred, people are aware of their existence. The fact that a restriction is on the register it does not follow that the restriction itself represents a proprietary interest in land and therefore it is probably therefore not technically correct to refer to the disposition of the registered estate and in respect of a restrictive covenant as the Book of Reference currently does. The Applicant notes that this is not an indication that any land interests have been omitted, but is instead a question of the correct wording.</p> <p>The ExA requested that the Applicant confirm a timeframe for the appropriate correction to the Book of Reference entry for Plot 0102-01-05 in its post hearing submissions, which Mr Owen confirmed that the Applicant would provide.</p> <p><u>Post Hearing Submission</u></p> <p>Following the ExA’s request for the Applicant to confirm a timeframe for the appropriate correction to the Book of Reference entry for Plot 0102-01-05 and other instances where that wording is used, the Applicant can confirm that, based on the current examination timetable, this will be at Deadline 8 when the final version of the Book of Reference is due to be submitted.</p>
<p>5.5 The Applicant to summarise progress to date with negotiations</p>	<p>Heidi Slater, for the Applicant, noted that the Applicant is continuing to negotiate with 21 statutory undertakers. Ms Slater confirmed that the Applicant would provide a detailed update of the progress of negotiations with all statutory undertakers as a standalone submission at Deadline 5.</p>

on protective provisions in relation Statutory Undertakers [REP2-022].

Ms Slater also noted that the Applicant is discussing protective provisions and side agreement with statutory undertakers, where these are required. **The ExA** asked if there are any that are very advanced and close to completion, or whether there are any lagging behind. **Ms Slater** confirmed that for National Grid Gas, a separate side agreement is being discussed. National Grid have recently received a draft agreement which is under review, with discussions also ongoing in relation to the timing of the relocation works. **Ms Slater** noted that technical discussions are ongoing with National Grid Electricity Transmission, including discussion relating to impacts associated with the Applicant's proposed non-material change request.

Ms Slater noted that for Network Rail Infrastructure Limited ('Network Rail'), negotiations are ongoing and the draft agreement is being provided back and forth. **The ExA** asked if the Network Rail agreement was the furthest behind of the statutory undertakers with which the Applicant is engaging. **Ms Slater** confirmed that this was not the case, as it is progressing well and Network Rail are engaging proactively.

The ExA asked if all protective provisions will be closed out by the end of the examination. **Ms Slater** confirmed that the Applicant expects this to be the case. **Ms Slater** used the example of the Environment Agency to show that the Applicant met with the Environment Agency on 27 February 2023, where it was confirmed that they were updating their standard form protective provisions, with this work expected to be completed by the end of March 2023. Given that the Applicant and the Environment Agency agree protective provisions across the wide range of the Applicant's DCO applications generally, there is no reason for either party to believe that such agreement will not be similarly reached in respect of this Project. **Ms Slater** confirmed that the Applicant expects all protective provisions to be concluded by the end of April 2023.

The ExA raised a concern that, given the Environment Agency are updating their model protective provisions, the Applicant may receive this update and disagree with them, leaving no time to agree these for this Project. **Jonathan Leary, for the Applicant**, noted that the Environment Agency are updating their protective provisions more widely, with these changes not necessarily being wide-ranging but more to achieve consistency across the board. **Mr Leary** confirmed that the Applicant holds a copy of their working draft, which is hoping to be concluded by the end of March 2023. **Mr Leary** confirmed that the Applicant is in the process of reviewing these, but do not expect any insurmountable issues to arise. **Mr Leary** confirmed that the Environment Agency would want these protective provisions to be in agreed form before consent is granted for under section 150 of the Planning Act 2008 to the inclusion in the Order of provisions disapplying the Environment Agency's consent requirements.

The ExA noted that it appears as though the agreement of protective provisions for this Project is becoming muddled with Environment Agency policy issues in regard to their general protective provisions. **The ExA** queried whether there

is a risk of delay to the process and therefore no agreement being in place at the end of the Examination, alongside whether a letter of comfort could be used as a fallback in this situation.

Mr Leary stated that the fallback used by the Applicant would be the Statement of Common Ground it is negotiating with the Environment Agency, though the Applicant does not anticipate needing to rely on that. **The ExA** confirmed that this was not being suggested.

Robbie Owen, for the Applicant, noted that the Applicant has experienced this before with the Environment Agency, when they were undertaking a similar review of their general protective provisions at the time of another DCO application being considered. This happens every few years and is not unusual. **Mr Owen** confirmed that the Applicant does not expect there to be an issue here and is as confident as it can be that by the end of the Examination, a set of protective provisions will be in place with the Environment Agency. **Mr Owen** confirmed that if this is not the case, the Applicant will outline the form of protective provisions that it wishes to be endorsed, but the Applicant is not aware of any major areas of contention. The Environment Agency's position is held up in the general review exercise, with the purpose of the protective provisions for this Project being to replace the protection that they would otherwise have, and the Environment Agency will not give consent to any disapplication until the protective provisions are agreed. **Mr Owen** confirmed that the Applicant has been reasonably assured that these will be concluded by the end of the Examination, and that pursuant to the Rule 8 letter the final draft DCO (submitted on 16 May 2023) will include these. **Mr Owen** confirmed that if there are any outstanding issues, **the ExA** will be made aware of these. **Mr Owen** again noted that the Applicant would provide a detailed update of the progress of negotiations with all statutory undertakers as a standalone submission at Deadline 5.

The ExA noted that the Applicant has referenced side agreements with certain statutory undertakers and queried who these were with and how these would work alongside any protective provisions. **Ms Slater** confirmed that side agreements would work in comparison with protective provisions and are being negotiated with National Grid Gas plc, National Grid Electricity Transmission plc, Network Rail Infrastructure Limited, Northern Powergrid Yorkshire plc, Northern Gas Networks, United Utilities Water Limited and Yorkshire Water Limited. **Ms Slater** confirmed that Electricity North West Limited confirmed that only protective provisions are required. **Ms Slater** confirmed that there are no side agreements for Cellnex, Vodafone or Virgin Media – side agreements were offered for these parties, but not accepted. A similar situation is found for BT/Openreach, Zayo Group Limited, Energis Communications Limited and Neos Networks Limited. **The ExA** stated that it wished for agreement with as many parties as possible by the end of the Examination. **Ms Slater** agreed and confirmed that the Applicant would provide a detailed update of the progress of negotiations with all statutory undertakers as a standalone submission at Deadline 5.

The ExA noted that it has previously received information on numbers of properties and status of matters in relation to blight. **Ms Slater** confirmed that the Applicant would provide a summary on progress with blight notice purchases and discretionary purchases of residential dwellings in its post hearing submissions (above at Agenda Item 3.1).

The ExA noted that the Maple Bridge Corporation Ltd, the Reay family and Mr Taverner (RR-169, RR-199 and RR-161 respectively) may be affected persons and that the Applicant has stated that ongoing engagement is taking place with these parties. **Ms Slater** confirmed that the Applicant would provide an update on these negotiations in its post hearing submissions.

5.5 Post Hearing Submission

The Applicant agreed to provide an update on negotiations with the Maple Bridge Corporation Ltd, the Reay family and Mr Taverner (RR-169, RR-199 and RR-161) respectively. This is provided below.

Maple Bridge Corporation is the trading name for the Bridge Bistro at Kirkby Thore, which is owned by Mr M and Mrs L Reay (the 'Reays'). The Reays met with the project team at Stage 2 (2019) and expressed concerns about both the proximity of traffic to the bistro and the loss of businesses presented by the two routes offered at options consultation. Meetings were held with the Reays during the consultation in May / June 2019. Once the PRA was made in May 2020, the Reays were no longer impacted by the northern route proposed.

Subsequently, during the alternatives discussions in July 2021, the orange route (following the existing A66) was re-tabled along with a blue and red alternative to the north. The PLO met the Reays with Chris Brown in August 2021 to discuss the orange route. They were very concerned that there would be four lanes of traffic passing their business but there would be no easy access for vehicles to use their café. The orange route was later discarded in favour of the northern route at Kirkby Thore. The PLO contacted the Reays to explain the outcome.

The Reays and Maple Bridge Corporation Ltd are not included in the Compulsory Acquisition Status of Negotiations Schedule as they are not directly impacted by the project. They are subsoil freeholders of unregistered adopted highways (plot 0405-04-10) so are included in the BoR.

There has been considerable engagement with Stephen Reay both directly and via his agent. He was due to attend a meeting at the project hub in Brougham in spring 2022 but this was unavoidably cancelled by Mr Reay. He then requested all communication be undertaken by email as he is hard of hearing, which the Applicant has subsequently done. He is potentially impacted by the construction of a cycleway and the potential removal of access to Chapel Wood where he harvests timber. He also had concerns about a failing drain on land earmarked for acquisition, which has been

reported to NH's operational team for inspection. The list below shows efforts made to contact Matthew Bell (Mr Reay's agent) to get a date in the diary for a meeting, but feedback has not been forthcoming:

06.06.22 - Email to NH
 09.06.22 - Email to NH
 17.06.22 - Email to NH
 23.06.22 - Email from PLO to SR
 03.07.22 - Email from PLO to SR
 08.07.22 - Email from PLO to SR
 03.07.22 - Email to NH
 12.07.22 - Email to NH
 16.09.22 - Email from PLO to SR
 03.01.23 - Email from PLO to agent re meeting
 05.01.23 - Email from PLO to agent re meeting
 10.01.23 - Email from PLO to agent re meeting
 17.01.23 - Email from PLO to agent re meeting
 18.01.23 - Email from agent to PLO
 19.01.23 - Email from PLO to agent re meeting
 30.01.23 - Email from PLO to agent re meeting
 03.02.23 - Email from PLO to agent re meeting
 07.02.23 - Email from PLO to agent re meeting
 08.02.23 - Email from agent to PLO confirming he will request meeting dates from his client
 07.03.23 – Email from PLO chasing meeting dates.

In addition, Stephen Reay has been contacted by Ardent with a letter to negotiate in March 2022 and a follow up letter in January 2023.

Mr Tavener is not an impacted landowner. He has submitted a representation about the closure of a central reservation on a currently dualled section of route. He does not have any interest in land within the Order limits.

6.0 Any Other Requests to Speak	
<u>Agenda Item</u>	<u>The Applicant's Response</u>
Any other requests to speak.	Robbie Owen, for the Applicant , did not make any submissions on the Applicant in relation to this agenda item.
7.0 Any Other Business	
<u>Agenda Item</u>	<u>The Applicant's Response</u>
Any other business.	<p>In response to a question from Dr Mary Clare Martin on a potential further hearing to accommodate the further consultation from the Applicant on the proposed changes to the Application, Robbie Owen, for the Applicant, noted that it is currently considering the outcome of this consultation. Mr Owen confirmed that it remains the Applicant's intention to bring those changes forward, to the extent it wishes to continue with them, by 24 March.</p> <p>Mr Owen noted that the Applicant is considering the extent to which the changes will trigger the regulations relating to compulsory acquisition if additional land is required and is in active discussion with the landowners concerned. Insofar as there are changes that require additional land, the intention is to produce the consent of the owners, or the CA regulations will be triggered. Active consideration is being given to all proposed changes and the Applicant notes that it is possible that not all of the changes will be pursued. Mr Owen confirmed that the Applicant has an obligation to review all of these proposed changes after the consultation, which it is now doing, and decide which to pursue.</p>