

A66 Northern Trans-Pennine Project

7.34 Applicant's Responses to the Examining Authority's Further Written Questions

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

Deadline 6

04 April 2023

Infrastructure Planning

Planning Act 2008

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

A66 Northern Trans-Pennine Project
Development Consent Order 202x

**7.34 APPLICANT'S RESPONSES TO THE EXAMINING AUTHORITY'S
FURTHER WRITTEN QUESTIONS**

Deadline:	Deadline 6
Planning Inspectorate Scheme Reference	TR010062
Application Document Reference	7.34
Author:	A66 Northern Trans-Pennine Project, Project Team, National Highways

Version	Date	Status of Version
Rev 1	4 April 2023	Deadline 6

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1. Introduction

1.1. Purpose of this document

- 1.1.1 This document sets out the National Highways' (the Applicant) written responses to the Examining Authority's Further Written Questions issued on 24 March 2023, relating to the A66 Northern Trans-Pennine Project. These can be found in Table 1 in section 2. National Highways have responded to those questions directed to the Applicant and have also provided comments in response to questions CA2.4 and FDW2.1, which are directed to Cumbria County Council and the Environment Agency. Those questions directed to other Interested Parties are not contained within this document.

2. Applicant's Responses to the Examining Authority's Further Written Questions

Table 1 Applicant's Responses to the Examining Authority's Further Written Questions

Ref Number	Subject	Response by	Question	Applicant's Response
AIR QUALITY				
AQ 2.1	Design Manual for Roads and Bridges (DMRB) LA105 Assessment	The Applicant Natural England (NE)	<p>Natural England (NE) state in their Principal Areas of Disagreement Summary Statement (PADSS) [REP5-060] <i>"Natural England have discussed the chosen methodologies with the air quality specialists from National Highways, we are awaiting the promised technical notes to be produced. It is likely that Natural England's concerns will be addressed in these technical notes and therefore during examination"</i>. This position is the same as the previous NE PADSS [REP3-063]. It is stated in the NE Statement of Common Ground (SoCG) [REP5-009], that <i>"A technical note which sets out National Highways position is being produced and will be shared with Natural England during the week commencing 13th March 2023"</i>.</p> <p>Explain whether this matter been progressed and can both parties summarise the progress to date and detail whether they will be able to reach agreement within the Examination period.</p>	<p>Natural England have identified in their PADSS that they disagree with the use of DMRB LA105 as in Natural England's view aspects of it are not Habitats Regulations Assessment compliant.</p> <p>Separate from its role as the Applicant, National Highways have been in discussions with Natural England at a national level outside of this Project regarding updates to DMRB LA105 for a number of years and are currently working to get these into the next update of DMRB LA105, which is due to be consulted on shortly. Natural England are currently involved in discussions regarding the update to DMRB LA105 and National Highways will have regard to their views as part of the proposed guidance update.</p> <p>The technical note referred to in both the Natural England PADSS and SoCG is not to do with DMRB LA105, rather it is to provide written confirmation of how ammonia has been assessed for the Project following a meeting with Natural England on 8th December 2022 where the Applicant explained their approach. to Natural England. This note will be shared with Natural England by 06 April 2023. These matters have been progressed and the Applicant is confident that agreement will be reached by close of the Examination</p>
AQ 2.2	Outstanding Matters – Durham County Council	The Applicant Durham County Council (Durham CC)	<p>In the SoCG between the Applicant and Durham County Council (Durham CC) [REP5- 006], it states that <i>"most items raised by Durham CC and their Consultant have now reached understanding and agreement. There remains a small number of questions relating to the Construction Phase, specifically relating to the section of The Sills between County Bridge and Bowes Road in Barnard Castle which are subject to ongoing discussion."</i></p> <p>Confirm whether these matters have been progressed and agreed and</p>	<p>An initial meeting was held on 10 February 2023 between the Applicant and Durham County Council (DCC) to discuss the outstanding queries, followed by a second meeting on 28 February 2023 to agree next steps for closing out these matters relating to the construction phase. Further to the second meeting, information was provided by the Applicant to AECOM on behalf of DCC to resolve a number of matters (as reported in the SoCG (REP5-006) at Appendix C of that document). The Applicant understands that AECOM are preparing a memorandum in response to the information provided by the Applicant to DCC.</p> <p>As agreed in the meeting of 28 February, further engagement will continue in relation to construction traffic assumptions, the Air Quality baseline and the Environmental Management Plan measures. The Applicant has requested availability from AECOM and DCC's team for a meeting week commencing 10 April 2023 to continue discussions on these matters.</p> <p>These matters have been progressed and the Applicant is confident that agreement will be reached by close of the Examination.</p>

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			that they will be able to reach agreement by the end of the Examination period.	
COMPULSORY ACQUISITION				
CA 2.2	Affected Persons and Interested Parties	The Applicant	Provide a response to Affected Persons and Interested Parties represented by Addisons Chartered Surveyors in respect of points made in a Deadline 1 (DL1) Representation [REP1-139].	<p>The late Deadline 1 submission by Addisons Chartered Surveyors [REP1-139] comprises a series of undated letters on behalf of the clients listed therein. The submission suggests that the Applicant is not pursuing negotiations for the acquisition of the land it requires for the Project appropriately. The Applicant does not accept that this is the case. As this point has been raised by other persons acting on behalf of affected persons in their Deadline 5 submissions, the Applicant has submitted at Deadline 6 a Summary Statement on Land Acquisition Requirements and Processes. That document sets out in detail the relationship between the progression of the preliminary design to a detailed design and how the Applicant has sought to negotiate the acquisition of the interests in land it needs to deliver the Project, and incentivise early acquisition.</p> <p>The Applicant has written to Addisons in response to their Deadline 5 submissions referring to the previously mentioned document and offering to meet to discuss the land acquisition process and plans. In addition, negotiations with the Affected Persons represented by Addisons have continued throughout the examination process and are at varying stages with some well progressed.</p>
CA 2.3	Affected Persons and Interested Parties	The Applicant	The ExA wishes to better understand the Applicant's position on the suggested transfer of the 'Bivvy Site' to the Heron representors [REP5-044, para 29].	The Applicant has submitted [Document Reference: 7.37] a 'Summary Statement on Brough Hill Fair Relocation' at Deadline 6, which sets out in Section 5 the Applicant's position on this issue.
CA 2.4	Skirsgill Depot	Cumbria County Council (Cumbria CC)	In view of the apparent inconsistency between Cumbria County Council (Cumbria CC) being " <i>pleased to report that positive engagement had been ongoing with the Applicant and some progress was being made</i> " [REP5-035, para 2.1] and Cumbria CC being said by the Applicant to " <i>oppose land take and are not willing to negotiate with the Applicant at this stage</i> " [REP5-018, page 22, No. 66] concerning the Compulsory Acquisition (CA) sought in the area of the Cumbria CC Skirsgill Depot, what are the Council's current concerns in terms of particular areas of the depot that would be subject to CA bearing in mind the progress being made? Any explanation may be helped by reference to the areas that were viewed at the Accompanied Site Inspection (ASI).	Since Deadline 5, the Applicant and Cumbria CC have been working together collaboratively to reach an agreed solution regarding the Applicant's proposals to use or acquire land at the Skirsgill Depot for the purposes of the Project. The Applicant has confirmed to Cumbria CC that it will not use (or seek to acquire) land and buildings in the south-easternmost area of the depot. The Applicant has also confirmed that whilst the north-easternmost area of the depot is still required by the Applicant for use as a construction compound, this can be achieved through exercising powers of temporary possession only, such that powers of compulsory acquisition, if granted, will not be exercised in respect of the land needed for the compound. This agreed solution, which is predicated on Cumbria CC's willingness to accept the land being returned in a changed state after it has been used as a construction compound, will be secured through provisions in the overarching legal agreement between the Applicant and Cumbria CC (and as such, no change to the DCO application documentation is proposed to be made). The Applicant's Compulsory Acquisition Status of Negotiations Schedule which was submitted at Deadline 5 [Rev 2, REP5-018] will be updated accordingly at Deadline 8.
DRAFT DEVELOPMENT CONSENT ORDER (DRAFT DCO)				
DCO 2.1	Article 53 (4)(a) and (7)(a)(ii)	The Applicant	In Written Question DCO 1.5 [PD-011], the ExA expressed concerns with the wording " <i>materially new or materially worse adverse</i> ". This was	The Applicant maintains its view that its proposed form of wording is appropriate and precedent for the reasons previously set out in its response to the ExA's written question DCO 1.5 [REP4-011].

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	Environmental Management Plan (EMP)		<p>because, in our view, a considerable level of worsening of the scheme (or any part) could occur before a change is deemed "<i>materially worse adverse</i>" and as such, could extend beyond the scope and assessment of the Environmental Statement (ES). The ExA notes the Applicant's response at Deadline 4 [REP4-011] but nevertheless remains concerned. The ExA is considering whether the test should be "...<i>materially worse, or materially new adverse</i>". Switching the wording would ensure the second iteration EMP (in the case of paragraph (4)(a); or any changes to the second iteration EMP (in the case of paragraph (7)(a)(ii)) could not be significantly worse in comparison with those reported in the ES but at the same time, would allow the flexibility to achieve a betterment of the scheme as the Applicant desires. Consider and provide a response.</p>	<p>The Applicant is not clear that the form of words proposed achieves what the ExA is intending to achieve. The order in which the words 'materially new' or 'materially worse' appear in the sentence has no bearing on how it is construed and the addition of a single comma is more likely to give rise to confusion than clarity. The Applicant further notes that the formulation "materially new or materially worse adverse" appears elsewhere in the draft Order and it is desirable and a matter of good drafting practice that the same concept is expressed using the same form of words.</p> <p>Having reflected on the issue, the Applicant considers that the ExA's underlying concern could be addressed in another way.</p> <p>In the next iteration of the draft DCO the Applicant intends to replace each instance of "materially new or materially new adverse effects" with "materially new or materially different" so as to align with the Department for Transport's preferred formulation. The Applicant will also add a new paragraph (7) to article 2 (Interpretation) which will clarify that:</p> <p>"In this Order, references to materially new or materially different environment effects in comparison with those assessed in the environmental statement are not to be construed so as to include the avoidance, removal or reduction of an assessed adverse environmental effect or a positive environmental effect, or the increase of an assessed positive environmental effect."</p> <p>The Applicant considers that this formulation strikes an appropriate balance of permitting the improvement of beneficial effects, or the reduction of adverse effects, without permitting a material worsening.</p>
DCO 2.2	Article 54 Detailed Design	The Applicant	<p>The ExA is not convinced that the wording contained within Article 54 is sufficiently precise, particularly regarding the procedure for possible changes to the Design Principles, which are set out in the Project Design Principles document [REP3-040]. Paragraph 1 regulates that the detailed design must be "<i>compatible with</i>" (see part ii question below) the Design Principles (and others). However, paragraph (2) appears to jump ahead and by stating that the Secretary of State "<i>may approve</i>" a design that departs from the Design Principles. While the Applicant's comments at DL5 [REP5-024] are noted, it is not sufficiently clear if the Article requires any/all change(s) to the Design Principles to be approved by the Secretary of State or whether the decision to request the Secretary of State's approval rests with the Undertaker. Of particular concern to the ExA, as referred to by NE in its</p>	<p>The Applicant notes the ExA's concerns but consider them to be misplaced.</p> <p>Article 54 has as its starting point, what would normally be requirement 3 (detailed design) in a National Highways development consent Order. This requirement has a venerable pedigree, with its basic structure having been included in 20 development consent Orders granted to National Highways or its predecessor the Highways Agency, see for example:</p> <ul style="list-style-type: none"> • A556 (Knutsford to Bowden Improvement) Development Consent Order 2014; • A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016; • A63 (Castle Street Improvement, Hull) Development Consent Order 2020; and • A47 North Tuddenham to Easton Development Consent Order 2022. <p>All of these provisions have in common key elements (i) that the undertaker is to carry out the detailed design by reference to certified documents (typically the works plans and engineering section drawings) and (ii) that the undertaker may depart from those certified documents only with the consent of the Secretary of State, following consultation with the relevant planning authority and (iii) that the Secretary of State may only grant consent if satisfied that so doing would not offend the environmental impact assessment (iv) where the Secretary of State makes such a determination amended details are substituted for those previously certified.</p> <p>In this regard article 54 is doing nothing out of the ordinary and is wholly in line with the weight of precedent. While article 54 is included in the main body of the Order, rather than in a Schedule, as the Applicant has outlined (see the Applicant's Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (including written submissions of oral case) under agenda item 2.1 [REP1-009]), its location within the Order makes no difference to its clarity and enforceability.</p>

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			<p>PADSS [REP5-056] is whether even minor changes to the Design Principles could potentially undermine the outcomes of the Habitats Regulations Assessment.</p> <p>i. The ExA considers the similar powers contained in Article 53 (6) through to (9) should substitute the current Article 54 (2). Suggested wording is set out at Annex B to these questions. The revised wording mirrors Articles 53(6) to (9) but amended only to refer to the Article in question (as well as incorporating the suggested change set out in DCO 2.1 above) and would, in the ExA's view, provide a clear mechanism for submissions to, and the Secretary of State's approval of departures from the Design Principles. Consider and respond.</p> <p>ii. Amend Article 54(1) so that the authorised development must be designed in detail and carried out so that it is "<i>substantially in accordance with...</i>", which aligns with and is consistent with the tests in Article 53.</p> <p>The ExA will additionally consider whether Article 54 requires further amendments in respect to whether specific approval ought to be required of the Trout Beck, Cringle Beck and Moor Beck viaducts (and other structures and/or hardstanding), and if so, will notify the Applicant at a later date.</p>	<p>Indeed, if anything, the Applicant goes much further in this case than the above cited precedents by also securing compliance with the Design Principles.</p> <p>Turning to the specific questions:</p> <p>(i) The Applicant considers it to be inappropriate to apply the machinery in article 53 to article 54. Each article is dealing with the implementation of very different documents. The EMP is from the outset intended to be an iterative process that will evolve as the project progresses from the consenting stage, into detailed design and implementation and then through to operation and maintenance. In that context it is appropriate to apply a process of approvals and consultations bounded by detailed and robust procedural safeguards.</p> <p>In contrast the Design Principles, Works Plans the Engineering Section Drawings: Plan and Profiles and the Engineering Section Drawings: Cross Sections are certified documents that, once certified, are not intended to be updated iteratively. They do the important job, in combination with other provisions of the DCO, most particularly article 7 (limits of deviation), of setting the parameters of the consent. The Applicant, as the body for setting the design standards for the strategic highway network for the United Kingdom has the expertise to carry out the detailed design of its projects without requiring specific approval of such designs by the Secretary of State.</p> <p>The provision in paragraph (2) to enable the Secretary of State to approve departures from those certified documents in limited circumstances is there in order to provide a limited degree of flexibility to enable the detailed design to respond to unexpected circumstances. It is appropriately supervised as only the Secretary of State can make the determination to approve such a departure. It is not a novel provision or approach and is one that the Secretaries of State have considered to be appropriate over the last 9 years or so through its inclusion in 20 other development consent orders.</p> <p>The suggested adoption of the article 53 drafting into article 54 would create a degree of flexibility that the Applicant does not seek.</p> <p>The Applicant does, however, acknowledge the concerns of Natural England and the Environment Agency regarding the importance of some of the measures contained within the Design Principles in controlling adverse effects of relevance to their areas of statutory responsibility and expertise. To safeguard against the unlikely eventuality of the Secretary of State considering consenting an amendment that would materially affect those areas, the Applicant is minded in the next iteration of the draft DCO to include an obligation on the Secretary of State to consult those bodies in so far as it is relevant having regard to their statutory functions before determining whether to give consent. The Applicant considers this approach to be robust, proportionate and well precedented.</p> <p>(ii) The Applicant is content to amend article 54 in its next iteration of the draft DCO to adopt the phrase "substantially in accordance with".</p> <p>The ExA's further consideration of the need or otherwise for specific approval of the three viaducts is noted and the Applicant has made submissions on that matter (see Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case) under agenda item 2.2). The Applicant notes that specific approval of aspects of particular structures is highly unusual. To require the Secretary of State to approve unspecified structures and/or hardstanding would be without precedent.</p>
DCO 2.3	Schedules 2 and 7	The Applicant	In its response [REP1-005] to the ExA's Supplementary Agenda Additional Question ISH2.DCO.18 [EV-004], the Applicant suggested	The Applicant is progressing, but has not yet concluded, discussions with Cumbria County Council in relation to the appropriate number with which the de-trunked A66 is to be classified.

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			that the classification number to the de-trunked section of the A66 should be unique and is under discussion with Cumbria CC. The latest draft DCO [REP5-012] still refers to the B1066, which is not a unique classification number. Explain why this has not been amended.																																					
GENERAL MATTERS																																								
GM 2.1	SoCGs	The Applicant All Relevant Interested Parties	Table 4.1 of the Statement of Commonality for SoCGs [REP5-003] sets out the position of each SoCG between the Applicant and the relevant Interested Party. The Applicant is requested to update the table setting when it expects the final and signed SoCGs will be submitted into the Examination. Interested Parties who disagree with their respective draft SoCGs are requested to inform the ExA at Deadline 6, Tuesday 04 April 2023.	<p>A revised version of Table 4.1 is provided below. This has been updated in the Statement of Commonality that will be submitted at Deadline 8.</p> <table border="1"> <thead> <tr> <th>Document Reference</th> <th>Party</th> <th>Position at 4 April 2023</th> <th>Expected Final, Signed SoCG</th> </tr> </thead> <tbody> <tr> <td colspan="4">Local Authorities</td> </tr> <tr> <td>TR010062/APP/4.6</td> <td>CUMBRIA COUNTY COUNCIL AND EDEN DISTRICT COUNCIL (to be renamed Westmorland and Furness Council)</td> <td>SoCG in draft – feedback received 7 March 2023 and incorporated into Deadline 5 version. Discussions on remaining issues progressing.</td> <td>Deadline 8</td> </tr> <tr> <td>TR010062/APP/4.6</td> <td>DURHAM COUNTY COUNCIL</td> <td>SoCG in draft. Discussions on remaining issues progressing.</td> <td>Deadline 8</td> </tr> <tr> <td>TR010062/APP/4.6</td> <td>NORTH YORKSHIRE COUNTY COUNCIL AND RICHMONDSHIRE DISTRICT COUNCIL (to be renamed North Yorkshire Council)</td> <td>SoCG in draft. Discussions on remaining issues progressing.</td> <td>Deadline 8</td> </tr> <tr> <td colspan="4">Landowners</td> </tr> <tr> <td>TR010062/APP/4.6</td> <td>DEFENCE INFRASTRUCTURE ORGANISATION FOR MINISTRY OF DEFENCE</td> <td>SoCG agreed with DIO and signed 31/3/23</td> <td>Submitted at Deadline 6</td> </tr> <tr> <td colspan="4">Prescribed Consultees</td> </tr> <tr> <td>TR010062/APP/4.6</td> <td>HISTORIC ENGLAND</td> <td>SoCG in draft – feedback received 7 March 2023 and incorporated into Deadline 5 version. Discussions on remaining issues progressing.</td> <td>Deadline 8</td> </tr> </tbody> </table>	Document Reference	Party	Position at 4 April 2023	Expected Final, Signed SoCG	Local Authorities				TR010062/APP/4.6	CUMBRIA COUNTY COUNCIL AND EDEN DISTRICT COUNCIL (to be renamed Westmorland and Furness Council)	SoCG in draft – feedback received 7 March 2023 and incorporated into Deadline 5 version. Discussions on remaining issues progressing.	Deadline 8	TR010062/APP/4.6	DURHAM COUNTY COUNCIL	SoCG in draft. Discussions on remaining issues progressing.	Deadline 8	TR010062/APP/4.6	NORTH YORKSHIRE COUNTY COUNCIL AND RICHMONDSHIRE DISTRICT COUNCIL (to be renamed North Yorkshire Council)	SoCG in draft. Discussions on remaining issues progressing.	Deadline 8	Landowners				TR010062/APP/4.6	DEFENCE INFRASTRUCTURE ORGANISATION FOR MINISTRY OF DEFENCE	SoCG agreed with DIO and signed 31/3/23	Submitted at Deadline 6	Prescribed Consultees				TR010062/APP/4.6	HISTORIC ENGLAND	SoCG in draft – feedback received 7 March 2023 and incorporated into Deadline 5 version. Discussions on remaining issues progressing.	Deadline 8
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FDW 2.1	Flood Risk Assessment	The Environment Agency (EA)	The submitted PADSS at DL5 suggests that “a small number of queries remain outstanding in relation to the Flood Risk Assessment” [REP5-065, page 3] before the EA can be “satisfied that the applicant has demonstrated that any fluvial flood risk associated with the proposed development can be satisfactorily managed” [REP5-065, page 2]. In the event that the EA cannot complete its “assessment of the suitability of the proposed flood risk mitigation measures for Scheme 6 (Warcop)” by the end of the Examination, the ExA now needs to identify the following matters. Explain what queries remain outstanding, whether any further information is required from the	Following the Environment Agency’s comments on the Scheme 6 hydraulic modelling, the Applicant has now (3rd April 2023) shared the updated Scheme 6 models, report and responses to all substantial comments (labelled red comments) as agreed with the Environment Agency for their review and acceptance. The Applicant continues to liaise with the Environment Agency to identify the most appropriate and expedient route for the Environment Agency to sign off these updates to the modelling.																								

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			Applicant and why this is required to complete the EA's assessment.	
HISTORIC ENVIRONMENT				
HE 2.1	Intangible Heritage – Brough Hill Fair	The Applicant	Regarding points raised by Brough Hill Fair Community Association at Issue Specific Hearing 3 (ISH3) [EV-046 to EV053] relating to 'intangible heritage' in the context of the Brough Hill Fair, together with the explanation provided at DL5 by the Applicant which includes references to the Appleby Horse Fair [REP5-024], the ExA requests the Applicant to confirm whether intangible heritage relating specifically to the Brough Hill Fair has been considered and, if so, how.	The Applicant has submitted [Document Reference: 7.37] a 'Summary Statement on Brough Hill Fair Relocation' at Deadline 6, which includes the Applicant's response to points concerning the intangible cultural heritage of Brough Hill Fair at Section 4.
HE 2.2	Skirsgill Hall and Park	The Applicant	<p>The Skirsgill Park Historic Environment and Landscape Appraisal submitted by Walton Goodland Ltd on behalf of Dr Leeming at DL1 [REP1-058] considers that Plot 0102-01- 34 as shown on the Land Plans [AS-013] contributes to the setting of Skirsgill Hall which, amongst other things, defines its significance as a heritage asset. The ExA notes the Applicant's position at DL2 [REP2-015] in which the Applicant accepts the conclusions within the Historic Environment and Landscape Appraisal in relation to heritage matters.</p> <p>Confirm what assessment, if any, has been undertaken with regards to the direct loss of this current open area as a result of the Applicant's proposed landscape mitigation, and the effect on the setting of the heritage asset.</p>	<p>In response to The Skirsgill Park Historic Environment and Landscape Appraisal submitted by Walton Goodland Ltd on behalf of Dr Leeming at DL1 [REP1-058]. The Applicant notes the limitations of the report, as outlined in paragraph 1.2 in that it is not a detailed assessment and is based on a brief site visit and desk-based research. The area of concern is the proposed biodiversity mitigation planting located in plot 0102-01-34 as shown on 5.13 Land Plans Scheme 0102 M6 Junction 40 to Kemplay Bank (APP-304). Figure 4.1 of the Historic Environment and Landscape Appraisal is expressed to be a 'diagrammatic representation of key relationships of the house and park'. It suggests that there is a vista from the area of proposed woodland planting to Skirsgill Hall, however there is no supporting photograph from the front of Skirsgill Hall showing this view. On page 30 of the report there is a photograph looking back towards Skirsgill Hall from across the meander. The accompanying text notes that the area shown should be kept clear of planting. The proposed woodland would be behind the camera and therefore would not affect this view. The photograph on page 31 shows a longer view, estimated to be taken from the area of proposed woodland over 500m from Skirsgill Hall. There are no receptors from this viewpoint, but the view would be interrupted by the proposed woodland planting.</p> <p>The assessment process undertaken in 3.2 Environmental Statement Chapter 10 Landscape and Visual (APP-053) did not involve access to private land for photography and therefore a similar approach to the submitted Historic Environment and Landscape Appraisal was taken in deciding where the biodiversity mitigation measures should be best located in this area. The suggested area, located in plot 0102-01-34 as shown on 5.13 Land Plans Scheme 0102 M6 Junction 40 to Kemplay Bank (APP304), was selected in conjunction with Cultural Heritage considerations as the proposed woodland would be perceived as part of the existing mature tree line associated with the riparian corridor and the existing woodland that runs from the meander to the west, forming a backstop to views from the house. It remains the Applicant's position, informed by professional judgement and experience, that the introduction of the proposed woodland would not have a significant impact on the landscape setting associated with the house as it would be barely perceptible from Skirsgill Hall frontage as it would be seen as a part of the existing woodland.</p> <p>The cultural heritage assessment for the purposes of the Application followed a site visit and desk-based research. The assessment of Skirsgill Hall (APP-187, Table 2, ID 01-0102) noted the contribution made to the value of the heritage asset by its parkland setting. The existing planting would screen the Hall from construction activity from most directions. The proposed landscape planting would reinforce this screening effect without detracting from the parkland nature of the environs of the Hall.</p> <p>The Applicant can also confirm that a productive meeting was held on 27th March with Dr Leeming and understands that an alternative solution may be possible. Discussions are ongoing and the Applicant anticipates being able to reach agreement.</p>

Ref Number	Subject	Response by	Question	Applicant's Response
TRAFFIC AND ACCESS				
TA 2.1	Penrith Traffic Modelling	The Applicant Cumbria CC Eden District Council (Eden DC)	<p>The ExA notes that the draft SoCG between the Applicant and Cumbria CC/Eden District Council (Eden DC) [REP5-005] and the PADSS [REP5-037] illustrates that there are still outstanding issues under discussion between the Councils and the Applicant. The SoCG refers to a meeting to take place on 17 March 2023. The ExA wants a clear understanding of the outstanding matters are likely to be:</p> <ol style="list-style-type: none"> i. Resolved by the end of the Examination; ii. Resolved during the detailed design process that will be completed after the end of the Examination; or iii. Unresolved fundamental concerns about the potential traffic impact. 	<p>A meeting was held between the Applicant and Cumbria CC (as the Local Highway Authority for Eden District) on the 17th March at which the VISSIM model of Junction 40 (which also includes the access to Skirsgill Depot) and Kemplay Bank was presented. The presentation included a demonstration of the base model which has been calibrated and validated to TAG standards. The presentation also included an initial run of the opening year model run demonstrating that proposed scheme improvements at both roundabouts would operate at an acceptable level, i.e. in which the excessive queuing currently observed during the critical Friday peak period and reflected within the base model, does not occur.</p> <p>An action agreed at this meeting was for the Applicant to share the modelling with Cumbria CC such that a technical review can be undertaken. Since this meeting, the base and future year (opening year and design year) VISSIM models have been shared with Cumbria CC to allow the technical review to be undertaken.</p> <p>Technical documentation to supplement the VISSIM models will be shared by Thursday the 6th of April. In addition to this, a further junction model (LINSIG) of the proposed M6 Junction 40 layout will be shared as requested by this date. This will supplement the VISSIM models, to provide Cumbria CC with a better understanding of the capacities and saturation flows on each arm of the roundabout, in addition to the future operational performance.</p> <p>With reference to the PADSS [REP5-037], the Applicant will have provided, by the 6th of April [the Councils / Cumbria CC] with all relevant modelling information it has requested. The Applicant looks forward to discussing this further once their technical review is complete. Therefore, NH consider that it should be possible for all of the traffic capacity related issues around M6 Junction 40, Skirsgill Depot and Kemplay Bank roundabout to be resolved by the end of the Examination.</p>
TA 2.2	Private Means of Access (PMA) and Public Rights of Way (PROW)	The Applicant Cumbria CC Durham CC North Yorkshire CC	<p>Durham CC in its PADSS [REP5-041] raise the following, "<i>the question of future maintenance; if they are to become public bridleways then our ongoing maintenance responsibility is to a standard suitable for that level of public use, not to a standard for the private vehicular use. In most cases that works fine in practice, but there are concerns that the Applicant may construct very high standard vehicular access which landowners would expect Durham CC to maintain in the future. The ongoing responsibilities need to be clearly communicated to all parties.</i>"</p> <p>Explain the approach to the ongoing maintenance in this scenario and whether this approach has been agreed between the Applicant and the Local Highway Authorities.</p>	<p>The Applicant notes and agrees with the matter raised by Durham CC and its statement of its duty to maintain public highways to a standard appropriate to the permitted public use. In this regard discussions are continuing with the local highway authorities in relation to how the provisions contained within the draft DCO are to be operated and maintained in practice.</p>