

# **A66 Northern Trans-Pennine Project**

**TR010062**

## **7.35 Applicant's Response to Deadline 5 Submissions**

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

**Deadline 6**

**Planning Act 2008**

**04 April 2023**

Infrastructure Planning

Planning Act 2008

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

A66 Northern Trans-Pennine Project  
Development Consent Order 202x

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**7.35 APPLICANT'S RESPONSE TO DEADLINE 5  
SUBMISSIONS**

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<b>Deadline:</b>	Deadline 6
<b>Planning Inspectorate Scheme Reference</b>	TR010062
<b>Application Document Reference</b>	7.35
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## APPENDICES

### Appendix A

**Figure 1-1: 2044 AM Peak Do Minimum Select Link Plot on Castlegate**

**Figure 1-2: 2044 AM Peak Do Something Select Link Plot on Castlegate**

**Screenline Data in Penrith – 2044 AADT**

Example Journey Time Data in Penrith – AM Peak 2044 Model (MM:SS) – A66 East of  
Kemplay Bank to Cromwell Road / A592 Roundabout

## **1. Introduction**

### **1.1. Purpose of this document**

1.1.1. This document sets out the National Highways' response to some of the submissions made at Deadline 5 of the Examination of the A66 Northern Trans-Pennine Project (the Project).

1.1.2. National Highways has reviewed the submissions made by Interested Parties at Deadline 5 of the Examination and considers that some submissions require a response, where new matters have been raised or where a clarification of a point would be beneficial. Where a matter has been addressed previously it is not responded to in this document, although references are provided to the document where the response can be found.

### **1.2. Structure of this document**

1.2.1. This document is set out as follows:

- Section 2: Applicant's response to Deadline 5 submissions made by Local Authorities
- Section 3: Applicant's response to Deadline 5 submissions made by Statutory Environmental Bodies.
- Section 4: Applicant's response to Deadline 5 submissions made by Affected Persons.
- Section 5: Applicant's response to Deadline 5 submissions made by other Interested Parties.

## 2. Applicant's response to Deadline 5 submissions made by Local Authorities

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>1</sup>	Applicant's Response
Cumbria County Council and Eden District Council Deadline 5 Submission – Cover Letter [REP5-033]	Statement of Common Ground Draft DCO	Cover letter for Deadline 5 Submissions. Notes that <i>“In relation to matters of disagreement, the Councils still have other issues that do not constitute Principal Areas of Disagreement. These will need to be resolved with the Applicant and where appropriate will be tracked in the Statement of Common Ground.</i>  <i>“We are working collaboratively with the Applicant to resolve issues through the Statement of Common Ground, amendments to the DCO and/or through side agreements.”</i>	The Applicant notes that this submission is a cover letter for Cumbria County Council's accompanying Deadline 5 Submissions [REP5-034 to REP5-037 inclusive]. The Applicant intends to submit an updated, finalised Statement of Common Ground with Cumbria County Council and Eden District Council at Deadline 8 and will work with the Councils to address their comments on the revision submitted at Deadline 5 [REP5-005]. The Applicant continues to engage with CCC and EDC and update the SoCG accordingly including on the comments included in submission REP05-033..
Cumbria County Council and Eden District Council Deadline 5 Submission – Comments on any further information. Submissions received by	Air quality	The Councils' response to the Applicant's response to the Examining Authority's Written Questions for Deadline 4 – submitted at Deadline 5.  AQ 1.1: Castlegate; logic of changing routes, further evidence and analysis is required as well as updates to	The reduction on Castlegate is due to the switch of routes for traffic travelling between the A66 (east of Kemplay Bank) to the Cromwell Road / Brunswick Road in Central Penrith. Without the Project in place the quickest route is to leave the A66 at Kemplay Bank Roundabout and turn right onto the A6 and then follow to Castlegate (Route 1). With the Project in place the modelled quickest route is to carry on along the A66 until junction 40 and then use the A592 (Route 2). This is shown in the two select link plots Figures 5.1 and 5.2 contained in Appendix A of this document. Screen line AADT data and journey time data is also provided within the appendix.

<sup>1</sup> This section sets out the issues raised in the written submission. This includes either a direct quote or a summary where the quote is too long to be copied in full.

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>1</sup>	Applicant's Response
Deadline 4 [REP5-034]		the Environmental Management Plan [EMP]. [REP5-036] Principal issues to be addressed with the Environmental Statement	<p>Currently, according to Google maps Route 1 takes between 5 and 7 minutes, and Route 2 takes between 5 and 9 minutes. This suggests that while route 1 is likely to be the preferred choice at the moment the route choice is reasonably marginal.</p> <p>However, the improvements brought around by the Scheme would see the junction at Kemplay Bank grade separated, and widening works undertaken to the approaches at Junction 40. Therefore, for traffic on the A66 with the Scheme in place Route 2 will be improved as it no longer needs to go through Kemplay Bank Roundabout, removing the need for traffic to go through three sets of traffic signals (an important consideration to some drivers), therefore this route will get quicker, as shown by the modelled journey time data in Appendix A. Route 1 will still need to travel through Kemplay Bank roundabout, therefore there will be less benefit to this route.</p> <p>The Applicant has responded to the suggested EMP updates as outlined in the "Environmental Issues Note for Deadline 5 below under "Principal issues to be addressed with the Environmental Statement". Where the changes are agreed and accepted they are included within an updated EMP which has been submitted to the examination at Deadline 6.</p>
Cumbria County Council and Eden District Council Deadline 5 Submission – Comments on any further information. Submissions received by Deadline 4 [REP5-034]	Compulsory acquisition	The Councils' response to the Applicant's response to the Examining Authority's Written Questions for Deadline 4 – submitted at Deadline 5. CA 1.2: Councils do not see how enhancement of biodiversity is not a requirement for the Project. The Councils have raised in their LIR opportunities for this.	Whilst Biodiversity Net Gain (BNG) is not currently a statutory requirement that is in force for Nationally Significant Infrastructure Projects, one of the Project objectives is to seek to achieve no net loss as a minimum and looks to deliver enhancements where opportunities exist within the Project footprint, where practicable. For example, the Project design provides habitat linkages to increase connectivity to areas of semi-natural habitats within the wider area and therefore enhances and ties into existing green infrastructure networks. In addition, planting required for landscape integration, visual screening and water attenuation has been designed to maximise biodiversity enhancements (Project Design Principles, Document Reference 5.11, REP3-040; BNG03). The Project has given full consideration to and is fully compliant with paragraph 5.33 of the National Policy Statement for National Networks. It should also be noted that further engagement with the Councils will be undertaken regarding appropriate measures to enhance biodiversity at detailed design through the second iteration of the LEMP.

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<p>Cumbria County Council and Eden District Council Deadline 5 Submission – Comments on any further information. Submissions received by Deadline 4 [REP5-034]</p>	<p>Draft DCO</p>	<p>The Councils' response to the Applicant's response to the Examining Authority's Written Questions for Deadline 4 – submitted at Deadline 5.</p> <p>DCO 1.4: Concern some details regarding mitigation not available, reserve position until other documents have been reviewed (draft DCO, Applicant's ISH3 Post Hearing Submissions).</p> <p>DCO 1.7: Concern at limited detail / information in Landscape and Visual Impact Assessment ("LVIA") with insufficient information provided on key sensitive receptors and how impacts will be mitigated. The Councils support the Examining Authority suggested amendments to Article 54 as discussed at Issue Specific Hearing 3.</p>	<p><u>DCO 1.4</u> The Applicant acknowledges the Councils' comments and would refer them to the Applicant's Deadline 5 Submission – 7.30 Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.30, REP5-024].</p> <p><u>DCO 1.7</u> The Applicant's response to the Councils in respect of Article 54 of the draft DCO is covered under Agenda Item 2.2 (pages 8-9) of its Deadline 5 Submission – 7.30 Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.30, REP5-024]. National Highways will continue to engage with the Councils regarding the LVIA to understand specifically where further information is requested.</p>
<p>Cumbria County Council and Eden District Council Deadline 5 Submission – Comments on any</p>	<p>Draft EMP</p>	<p>The Councils' response to the Applicant's response to the Examining Authority's Written Questions for Deadline 4 – submitted at Deadline 5.</p>	<p>Please refer to the responses to REP5-036 below. A number of updates have been made to the Environmental Management Plan (EMP) in response to these specific queries, and an updated EMP has been submitted at Deadline 6. In addition, further engagement is taking place with the authorities in light of their Deadline 5 submissions with a view to resolving any outstanding issues as soon as possible.</p>

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further information. Submissions received by Deadline 4 [REP5-034]		EMP 1.1: ES assessments not progressed so significant effects are not mitigated, due to absence of survey and design information.	
Cumbria County Council and Eden District Council Deadline 5 Submission – Comments on any further information. Submissions received by Deadline 4 [REP5-034]	Flooding and drainage	<p>The Councils' response to the Applicant's response to the Examining Authority's Written Questions for Deadline 4 – submitted at Deadline 5.</p> <p>FDW 1.7: Lead Local Flood Authority ("LLFA") will seek to ensure the drainage design principles are complied with in second iteration of EMP. The Council welcomes commitments to consult with Councils during production of drainage, flood and water quality plans.</p> <p>FDW 1.11: Transfer of drainage assets and requirements. The Councils agree that they will not be providing the Applicant with any drainage assets currently under their ownership. The Councils acknowledge incompleteness of drainage asset data but requires complete asset conditional survey information alongside any</p>	<p><u>FDW 1.7</u> The Councils commitment to continue working with the Applicant as the detailed design is developed is noted, and welcomed.</p> <p><u>FDW 1.11</u> Draft de-trunking agreement proposals were issued to Cumbria County Council in September 2022, following consultation with specialists at the Council. The proposals include Road Safety Audits, interface of National Highways and Local Authority assets, transfer of assets including related commuted sums in lieu of remediation and programme milestones. National Highways engagement with Cumbria County Council, to progress the de-trunking agreements, will continue through the Examination period.</p>



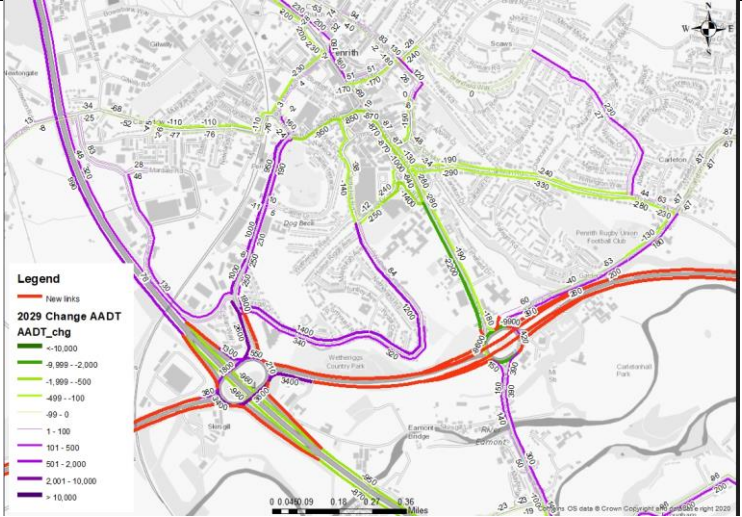
Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>1</sup>	Applicant's Response
		<p>proposed remediation measures, prior to asset transfer. The Councils go on to explain various considerations and prerequisites in regard to asset transfer.</p>	
<p>Cumbria County Council and Eden District Council Deadline 5 Submission – Comments on any further information. Submissions received by Deadline 4 [REP5-034]</p>	<p>People and communities</p>	<p>The Councils' response to the Applicant's response to the Examining Authority's Written Questions for Deadline 4 – submitted at Deadline 5. PC 1.3: Councils will not take on ownership or maintenance for relocated Brough Hill Fair.</p>	<p>The Applicant has submitted [Document Reference: 7.37] a 'Summary Statement on Brough Hill Fair Relocation' at Deadline 6. The future management and ownership of the relocated site is addressed in Section 5 of that document.</p>
<p>Cumbria County Council and Eden District Council Deadline 5 Submission – Comments on any further information. Submissions received by Deadline 4 [REP5-034]</p>	<p>Traffic and access</p>	<p>The Councils' response to the Applicant's response to the Examining Authority's Written Questions for Deadline 4 – submitted at Deadline 5. TA 1.1: De-trunking arrangements – broadly in agreement with wording of draft DCO subject to condition of assets and side agreement. TA 1.2: Expect Active Travel England to be consulted on</p>	<p><u>TA 1.1</u> Draft De-trunking agreement proposals were issued to Cumbria County Council in September 2022, following consultation with specialists at the Council. The proposals include Road Safety Audits, interface of National Highways and Local Authority assets, transfer of assets including related commuted sums and programme milestones. National Highways engagement with Cumbria County Council, to progress the De-trunking agreements, will continue through the Examination period. <u>TA 1.2</u> The Applicant notes that Active Travel England will have statutory consultation status on certain planning applications from 1<sup>st</sup> June 2023. While this status does not cover DCO applications, National Highways is committed to continued engagement with all</p>

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		<p>design of active travel network/new WCH provision (ATE become statutory consultee on planning applications from 1 June 2023).</p> <p>TA 1.6: Concern potential traffic and WCH diversion routes not assessed as part of EIA and may fall outside of DCO boundary. Detailed discussions to be on agenda for 14 March meeting. Concern risks at Eamont Bridge. Reserve position until Applicant's Deadline 5 submissions have been reviewed.</p> <p>TA 1.8: Not seen operational models for J40 and Kemplay Bank. Awaiting further information on junction modelling. Concern on design.</p> <p>TA 1.10: Continue discussions to identify solutions for HGVs along A66. Request National Highways make written binding commitment to implementing recommendations of freight study.</p>	<p>consultees, as applicable, in relation to the ongoing detailed design and construction phase. This will include Active Travel England.</p> <p><u>TA 1.6</u></p> <p>The Applicant refers to the Environmental Management Plan ("EMP") [Document Reference 2.7 (Rev 2), REP3-004] which confirms that no part of the Project can start until a Construction Traffic Management Plan and a Public Rights of Way Management Plan are developed in consultation with e.g. local planning authorities, local highway authorities etc., to include Cumbria County Council and Eden District Council. This will provide for, amongst other things, the following:</p> <ul style="list-style-type: none"> <li>• Details of proposed traffic management measures, including phasing plans, route restrictions and speed limits.</li> <li>• Details of planned carriageway and local road closures, including proposed stakeholder and community engagement protocols in advance of closures.</li> <li>• Details of proposed diversion routes, durations of use and proposals for encouraging compliance with designated diversion routes (with consideration for potential noise impacts).</li> <li>• Details of management measures to be implemented for each walking, cycling and horseriding route affected, including information about how information will be provided to users of the routes.</li> </ul> <p>The CTMP and PRowMP will include, amongst other commitments, the commitment for diversion routes to be developed in consultation with the Local Highway Authority in advance of required closures.</p> <p>The Environmental Statement identified the potential effects that could arise from diversions of both roads and walking, cycling and horseriding routes across the scheme and set out the best practice mitigation that shall be implemented once the detailed construction plans are developed, as secured through the EMP described above. These mitigations are tried and tested, and this approach to developing the detail of construction phase traffic management as the project evolves (and indeed keeping mitigation planning live throughout construction through monitoring of diversion routes and adaptive mitigation) is not a new or novel approach. Mitigation</p>

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			<p>that is likely to be implemented (e.g. monitoring, signage) would not require an extension of the DCO boundary.</p> <p>National Highways consider that this matter is agreed in so far as possible at this stage and with commitment to further engagement as cited above.</p> <p><u>TA 1.8</u></p> <p>A meeting was held between the Applicant and Cumbria CC (as the Local Highway Authority for Eden District) on the 17<sup>th</sup> 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 6<sup>th</sup> 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 6<sup>th</sup> 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</p>

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			<p>traffic capacity related issues around M6 Junction 40, Skirsgill Depot and Kemplay Bank roundabout to be resolved by the end of the Examination.</p> <p><u>TA 1.10</u></p> <p>Information about the scope of the freight study that has been undertaken by the National Highways Customer, Strategy and Communications Directorate was shared in Section 2.7 of Applicant's Comments on Local Impact Report submitted at Deadline 2 [REP2-018]. The Applicant will continue to work with the team undertaking the study and will continue to engage with local authorities and Interested Parties, sharing the outcomes of the study with them.</p>
<p>Cumbria County Council and Eden District Council Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-035]</p>	<p>CAH2 ISH3 Statement of Common Ground</p>	<p>Written Submission of case put orally at Examination hearings held on 1 March 2023 and 2 March 2023</p> <p>Regarding CAH2, noted positive engagement between the Applicant and Cumbria County Council since Compulsory Acquisition 1 in relation to CA matters.</p> <p>Regarding ISH3, Councils provided submission in relation to:</p> <ul style="list-style-type: none"> <li>• Agenda Item 2.6 Design and Landscape</li> <li>• Agenda Item 3.1 Biodiversity</li> <li>• Agenda Item 6.1 Traffic and access, De-trunking, Private means of access and public</li> </ul>	<p>The latest position in relation to any additional points raised by the Councils at Compulsory Acquisition Hearing 2 and Issue Specific Hearing 3, that has not been covered in responses to REP5-033, REP5-034, REP5-036 or REP5-037, is set out in the Applicant's Deadline 5 Submission – 4.5 Statement of Common Ground Cumbria County Council and Eden District Council - Rev 3 [Document Reference 4.5, REP5-005].</p>

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		<p>rights of way arrangements, Traffic modelling in Penrith</p> <ul style="list-style-type: none"> <li>• Agenda Item 8.0 PADSS</li> <li>• Agenda Item 9.0 Draft Development Consent Order: Maintenance period for new highways, Article 9(1) and (2); Article 53 (EMP).</li> </ul>	
<p>Cumbria County Council and Eden District Council Deadline 5 Submission – Principal issues to be addressed with the Environmental Statement [REP5-036]</p>	<p>Air quality Traffic modelling Design, engineering and construction</p>	<p>Technical Note (prepared by WSP) setting out areas within the Environmental Statement where the assessment is considered insufficiently detailed for the Councils to identify nature/degree of impacts upon assets they are statutorily obliged to protect, based upon comments in the LIR. The note also identifies where amendments to the EMP would provide greater clarity, assurance and comfort to the Councils.</p> <p>With regard to air quality, traffic and verification, and monitoring, the Councils raise concern on the potential Impact of additional or redistributed traffic on Castlegate proposed AQMA arising from uncertainty over the</p>	<p><u>Traffic data screening</u></p> <p>Rather than providing tabulated traffic data, a map has been provided below to visually present the changes in traffic flow across the Penrith area, which is hopefully more helpful than a table. This shows that predicted two-way AADT movements on Ullswater Road and Clifford Road will exceed the DMRB LA 105 screening threshold (1000 AADT). Improvements (reductions) in AADT can be seen along Victoria Street with volumes exceeding the thresholds. These roads have therefore been included in the air quality modelling. There are also predicted reductions in AADT below the screening thresholds in the central Penrith area (shown in green), and small increases in AADT further north (shown in purple). These changes were below the DMRB LA 105 screening thresholds and have therefore not been included in the air quality modelling.</p>

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		<p>modelled impact. Concern raised that the AQ verification adjustment factor based on insufficient and/or incorrectly located monitoring sites.</p> <p>With regard to construction compound locations, the Councils suggest re-wording of paragraph B4.8.1 of the AQDMP as air quality and dust control measures need to be specific to the activities at each specific compound.</p>	 <p><b>Alternative Precautionary Traffic Screening Criteria</b></p> <p>The use of the IAQM/EPUK land use planning guidance has not been used for this assessment as the scheme is a National Highways scheme which dictates that the screening thresholds in LA 105 must be used.</p> <p>As previously set out, Ullswater Road and Clifford Road are predicted to experience increases in the AADT and have been included in the Assessment. Castlegate and King Street/Victoria Road are predicted to experience a decrease in traffic flows within the Project in place, as are the other roads located in the centre of Penrith. A small number of additional roads in the centre of Penrith can be seen to experience a predicted increase in vehicle flows however these are also below the EPUK/IAQM criteria of 500 AADT for non-AQMAs and therefore would not have been scoped into</p>



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			<p>the assessment in any case. Overall, no changes to the conclusions of the assessment are anticipated if the EPUK.IAQM criteria had been employed.</p> <p><u>Verification site exclusion</u></p> <p>Between March - May 2021 the Applicant's Project team contacted Eden District Council to engage on the assessment approach, including to discuss the location of the monitoring sites in Castlegate however limited information was received. A call was held with an officer in April 2021 however the air quality representative at EDC did not attend and therefore the locations of these sites could not be confirmed. These wider monitoring sites are located more than 200m from the edge of the air quality Affected Road Network, and therefore as per the standards outlined in DMRB LA 105 it was not considered appropriate for these sites to be included in the verification exercise in any case.</p> <p>Overall if these sites had been included in model verification it is considered unlikely that this would change the overall conclusions of the assessment. Therefore, an updated verification factor has not been produced.</p> <p><u>Ullswater Road</u></p> <p>Further monitoring was not undertaken beyond 4 months as no exceedances of air quality objectives were identified.</p> <p>The additional data could not be used formally in the assessment verification due to programme constraints, however since the submission of the ES a detailed review of the data was undertaken, in relation to the gathered data and its use for comparison against the formal verification. Overall, the factor using scheme specific monitoring had a high level of agreement to the verification factor reported in the ES, both resulting in verification factors &lt;1. It was therefore clear there would be no material changes to the conclusions of the assessment.</p> <p><u>Construction compound locations</u></p> <p>Environmental Management Plan Annex B4 (APP-024), Paragraph B4.8.1 - The point made by CCC/EDC is accepted, and the Applicant agrees that an amendment is appropriate. The wording as suggested, however, would require an update to the</p>

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			<p>EMP (and necessary approvals that would be subsequently required) and it is the Applicant's view that this would overly complicate the process and introduce unnecessary delays to implementing remedial action. Alternative wording has been suggested by the Council that ensures reasonable measures would be agreed with the Local Authority and implemented, This amendment has been included within an updated version of Annex B4 Air Quality and Dust Management Plan and has been submitted to the examination at Deadline 6.</p>
<p>Cumbria County Council and Eden District Council                      Deadline 5 Submission – Principal issues to be addressed with the Environmental Statement [REP5-036]</p>	<p>Biodiversity Landscape Environmental Management Plan</p>	<p>The Councils seek updates to wording within the LEMP to ensure adequate mitigation for species, TPOs and trees and to confirm representation on the Biodiversity Working Group.</p>	<p>Environmental Management Plan Annex B1, Paragraph B1.1.3 - The amendment proposed is accepted, and the change has been included within an updated version of Annex B1 Landscape and Ecological Management Plan, and has been submitted to the examination at Deadline 6.</p> <p>Environmental Management Plan Annex B1, Paragraph B1.2.3 - The intent was that the organisations listed in Paragraph 1.2.4 would be invited to join the working group or be consulted with during the development of the ecological and landscape design. An amendment has been made to Paragraph 1.2.4 to make it clear that local authorities will be invited to be part of the working group. This amendment has been included within an updated version of Annex B1 Landscape and Ecological Management Plan, and has been submitted to the examination at Deadline 6.</p> <p>Environmental Management Plan Annex B1, Paragraph B1.5.23 - Schedule 3 to the DCO contains a list of TPO trees which are subject to powers in the DCO. Any works to these trees is included in the environmental assessment and mitigation included as applicable. In addition, the EMP contains a commitment within the Register of Environmental Actions and Commitments (Table 3.2) at commitment ref D-LV-01 that an Arboricultural Impact Assessment will be undertaken at the detailed design stage. The intent of this paragraph was to ensure that records are kept up to date regarding TPOs that may be located outside the Order Limits, to ensure appropriate protection is implemented for any trees immediately outside the Order Limits. The wording of Paragraph B1.5.23 has been amended to more clearly reflect this position, and include for consultation with the local authority at the detailed design stage. This amendment has been included within an updated version of Annex B1 Landscape</p>



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			<p>and Ecological Management Plan, and has been submitted to the examination at Deadline 6.</p> <p>Environmental Management Plan Annex B1, Paragraph B1.7.6 - National Highways understands why the amendment has been proposed, but because species rich grassland has been used widely within the environmental mitigation scheme (as a more biodiverse alternative to standard grassland), the commitment would be very onerous and not necessarily appropriate for all areas intended to be species-rich grassland. Alternative wording has been proposed within the revised Annex B1, committing that this approach will be implemented for key areas included as ecological mitigation specifically. The second iteration EMP will include information about how the habitat type will be implemented, and there will therefore be an opportunity at this stage for CCC/EDC to request that more is done with this regard if the proposals are deemed to be insufficient.</p> <p>Environmental Management Plan Annex B1, Paragraph B1.7.14 - The amendment proposed is accepted, and the change has been included within an updated version of Annex B1 Landscape and Ecological Management Plan, and has been submitted to the examination at Deadline 6.</p> <p>Environmental Management Plan Annex B1, Paragraph B1.16.1 – The suggested amendment is accepted in its intent, however an alternative proposed wording has been suggested by National Highways. This is to clarify the intent of the paragraph regarding the commitment that replacement specimen trees shall be like for like in relation to species, and that planting shall utilise as large a stock size as is practicable/appropriate for that species to ensure its successful establishment. The proposed amendment has been included within an updated version of Annex B1 Landscape and Ecological Management Plan, and has been submitted to the examination at Deadline 6.</p> <p>Environmental Management Plan Annex B1, Paragraph B1.21.15 – Key existing underpasses are located at the following locations: Scheme 01/02 (NGR NY52432926), Scheme 01/02 (NGR NY51582849), Scheme 04/05 (NGR NY62292619) and Scheme 6 (NGR NY72091792). Enhancement where practicable</p>

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			<p>will be maintaining or creating good habitat connectivity with existing landscape features such as hedges and ditches, in addition to planting as close to the underpasses as possible. This has been illustrated in the Environmental Mitigation Maps (Document Reference 2.8, APP-041) alongside appropriate mammal fencing to direct badger to the proposed underpasses/tunnels, where appropriate. This has been secured in the Environmental Management Plan (Document Reference 2.7, REP3-005, Table 3.2, D-BD-05) a revised version of which has been submitted at this Deadline 6. Regarding ownership and future control of the land on and surrounding the existing underpasses, this would need to be reviewed on a case-by-case basis once further details have been provided in the second iteration of the EMP through further consultation with the Councils.</p> <p>Environmental Management Plan Annex B1, Paragraph B1.21.29 - The amendment proposed is accepted, and the change has been included within an updated version of Annex B1 Landscape and Ecological Management Plan, and has been submitted to the examination at Deadline 6.</p>
<p>Cumbria County Council and Eden District Council                      Deadline 5 Submission – Principal issues to be addressed with the Environmental Statement [REP5-036]</p>	<p>Biodiversity</p>	<p>With regard to County Wildlife Sites and Ancient Woodland, the Councils seek further information on how the mitigation hierarchy has been applied and request that the LEMP be updated to demonstrate same.</p>	<p>The only areas of Ancient Woodland and County Wildlife Site included within the Order Limits are included to allow for drainage to connect to existing outfalls. In all cases the sites have been avoided as far as possible, and it is anticipated that the works can be undertaken with minimal disturbance to the habitats. This is set out in the Environmental Statement at Chapter 6 Biodiversity (APP-049) pages 6-77, 6-78 and 6-81. The potential disturbance of ancient woodland is also controlled through the Project Design Principles (PDP, REP3-040) at principle 08.10. This principle clearly sets out that the works should aim to avoid impact on the ancient woodland (by tying the outfall in as far upstream as possible), and if it cannot then it should minimise disturbance. To ensure the same controls apply to the potential works within County Wildlife Sites the following Principles have been added to the PDP and has been submitted to the examination at Deadline 6:</p> <p><b>0102.11</b></p> <p>The small encroachment into Skirsgill Wood County Wildlife Site (CWS) is required for essential drainage upgrades/connections in the event that the existing outfalls</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>1</sup>	Applicant's Response
			<p>cannot be used at detailed design. Investigation to utilise the existing outfalls to avoid the requirement for drainage connection works within the CWS will be undertaken during detailed design in the first instance. Where this is not <u>reasonably</u> practicable, drainage connections/upgrades will be designed to minimise disturbance to the site. The Council and key representatives responsible for these sites will be consulted relating to proposed drainage connection works at this site.</p> <p><b>0405.17</b></p> <p>The small encroachment into Chapel Wood CWS is required for essential drainage upgrades/connections in the event that the existing outfalls cannot be used at detailed design. Investigation to utilise the existing outfalls to avoid the requirement for drainage connection works within the CWS will be undertake during detailed design in the first instance. Where this is not <u>reasonably</u> practicable, drainage connections/upgrades will be designed to minimise disturbance to the site. The Council and key representatives responsible for these sites will be consulted relating to proposed drainage connection works at this site.</p>
<p>Cumbria County Council and Eden District Council                      Deadline 5 Submission – Principal issues to be addressed with the Environmental Statement [REP5-036]</p>	<p>Biodiversity</p>	<p>With regard to Habitats, the Councils request confirmation that the accumulation of road salts has been considered in the assessment.</p>	<p>The report 'Improved Determination of Pollutants in Highway Runoff' (WRc 2008) summarises an extensive research project funded jointly by National Highways (Highways Agency then) and the Environment Agency and is a comprehensive UK study of pollutants in road runoff. It also considered the toxicological effects of different runoff concentrations based on in-field and laboratory work. The combined dataset (both the chemistry of the runoff and its effects on aquatic species) form the basis for HEWRAT (Highways England Water Risk Assessment Tool), which is the tool National Highways require designers to use for the assessment of the risk from highway runoff to water quality and aquatic ecology and has been approved for use by the Environment Agency. A list of “significant pollutants” that pose a risk of short-term acute impacts and/or long term chronic impacts on ecosystems was agreed between the Highways Agency and the Environment Agency following the WRc 2008 report. De-icing salt (reported as chloride (Cl-) was not regarded as one of the significant pollutants and is therefore not assessed by HEWRAT.</p>

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			<p>High concentrations of de-icing salt only occur in the runoff in winter when river flows are typically higher, such that the salt concentrations will be reduced through dilution in the receiving watercourse. The application of de-icing salt therefore represents a low risk to aquatic ecology due to higher river flows giving greater dilution during the winter when salt is applied and is not considered to give rise to likely significant effects.</p> <p>Although HEWRAT does not assess de-icing salt, for the contaminants it does consider whether toxicological thresholds would be exceeded in the receiving watercourse when that watercourse is near to its lowest flow rate, i.e. when dilution of highway runoff is limited. Specifically, HEWRAT uses the 'Q95' which is the flow rate in the watercourse which is exceeded 95% of the time. It is noted that concentrations of de-icing salt (reported as chloride (Cl<sup>-</sup>)) in road runoff varies seasonally, with concentrations in 'winter' (January to March) an order of magnitude higher than in 'summer' (June to October). Notably, the values reported and shown in the chart are the end-of-pipe concentrations, i.e. before any dilution in the receiving watercourse.</p> <p>The Freshwater Annual Average Environmental Quality Standard (EQS) for chloride is 250 mg/l. The freshwater EQS is also a threshold for in-river (diluted) concentrations, not the undiluted end-of-pipe concentrations reported by WRc 2008. However, no other EQS is available for comparison with the WRc data. Comparing the freshwater annual average EQS with the monthly median values presented in WRc 2008 shows the EQS is exceeded only in January, February and March. In the months where river flows are usually at their lowest (July to September), the maximum recorded chloride concentration is below the EQS.</p>
<p>Cumbria County Council and Eden District Council                      Deadline 5 Submission – Principal issues to be addressed with</p>	<p>Biodiversity</p>	<p>With regard to Species, the Councils request that red squirrel mitigation include grey squirrel control and suggest that the cost of Animex wildlife bridges would be more effectively used in supporting</p>	<p>In response to the Councils' request that red squirrel mitigation include grey squirrel control, consultation with the Penrith Red Squirrel Group has been undertaken to discuss the inclusion of grey squirrel control as part of the Project. The following proposed text has been included within an updated version of Annex B1 Landscape and Ecological Management Plan, and has been submitted to the examination at Deadline 6:</p>

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the Environmental Statement [REP5-036]		red squirrel elsewhere in the district. The Councils are awaiting confidential species reports.	<p><b>'Grey Squirrel Control'</b></p> <p><b>Grey squirrels</b> – Further consultation will be undertaken at detailed design with the Councils and relevant parties including Penrith Red Squirrel Group to determine whether appropriate grey squirrel control can be appropriately incorporated as part of the red squirrel mitigation for the Project.</p> <p>In response to the Councils' concerns relating to the use of the Animex wildlife bridge (or equivalent) as part of the proposed mitigation specified to connect red squirrel habitat severed by the Project, evidence does exist to suggest the success in reducing isolating/fragmentation impacts on mammals species (White, I.C., Hughes, S.A., 2019<sup>2</sup>); however there is no evidence base as yet to suggest the success of Animex wildlife bridges on the scale required for the A66 so the use of the bridge as part of the mitigation proposals for the A66 will act as a pilot scheme to inform further research in this area. It should also be noted that the second iteration EMP will include detailed design information relating to the proposed red squirrel crossings, and there will therefore be an opportunity at this stage for CCC/EDC to provide further input/consultation if concerns remain regarding these proposals.</p> <p><u>Confidential species reports</u></p> <p>The requested confidential species reports, data and figures were issued to the Councils in December 2022 and reissued in March 2023.</p>
Cumbria County Council and Eden District Council Deadline 5 Submission – Principal issues to be addressed with	Cultural Heritage	The Councils request further detail on the categorisation of each mitigation area referring to the A428 Black Cat to Caxton Gibbet and A303 schemes. If this isn't possible the Councils would require a commitment	<p><u>Further detail</u></p> <p>Table 5 at section B3.5 of Annex B3 sets out the reasons for proposed mitigation. Where these reasons cite the results of survey (positive or negative) the detail can be consulted in the relevant survey report at 3.4 Environmental Statement Appendix 8.4 AP and LiDAR Assessment (APP-181) - 3.4 Environmental Statement Appendix 8.7 Geochemical Survey Report (APP-184).</p>

<sup>2</sup> White, I.C., Hughes, S.A., (2019) 'Trail of a bridge for reconnecting fragmented arboreal habitat for hazel dormouse *Muscardinus avellanarius* at Briddlesford Nature Reserve, Isle Wight, UK' Conservation Evidence **16**, 6-11.

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>1</sup>	Applicant's Response
the Environmental Statement [REP5-036]		<p>from National Highways that secures such an assessment which would be submitted to the Councils (or other relevant Local authority) for approval prior to the submission of any Site Specific Written Scheme of Investigation (SSWSI).</p> <p>The councils suggest re-wording of paragraph B3.1.12 of the Outline HMS to reflect more appropriately both the chronological obligations of all parties for leading to the approval of a SSWSI.</p> <p>The Councils request that Paragraph B3.1.11 of the Outline HMS be updated to ensure their involvement with this element of public engagement,</p> <p>The Councils suggest rewording of EMP REAC D-CH-01 to secure approval by the local authorities.</p>	<p>The examples provided for A428 Black Cat to Caxton Gibbet and A303 schemes are welcomed. It is expected that similar details will be provided in the SSWSI(s).</p> <p><u>Outline Heritage Mitigation Strategy</u>  <u>Environmental Management Plan Annex B3, Paragraph B3.1.12</u></p> <p>The proposed amendments are accepted in principle, however in line with the process for the second iteration EMP, National Highways would prefer an appropriate time limit to be placed on the consultation and approvals process for clarity of all parties. A proposed amendment has been suggested, following similar timescales as that proposed for the second iteration EMP. The alternative proposed wording has been included within an updated version of Annex B3 Outline Heritage Mitigation Strategy, and has been submitted to the examination at Deadline 6.</p> <p><u>Environmental Management Plan Annex B3, Paragraph B3.1.11</u></p> <p>The proposed amendments are accepted in principle, and further information on this is held in ES Appendix 8.9 Historic Environment Research Framework. The proposed amendment has therefore been adapted to refer to this framework, and provide clarity about who determines what is nationally significant and provide flexibility regarding how public access to such material might be facilitated. The alternative proposed wording has been included within an updated version of Annex B3 Outline Heritage Mitigation Strategy, and has been submitted to the examination at Deadline 6.</p> <p><u>Environmental Management Plan Table 3.2 Register of Environmental Actions and Commitments, ref number D-CH-01</u></p> <p>The Outline Heritage Mitigation Strategy is one of the documents listed for inclusion within the second iteration EMP. The approval of that document will therefore be undertaken by the Secretary of State, following consultation with the relevant local authorities, as set out in Section 1 of the EMP. The proposed amendment has therefore not been made as this would contradict the approvals process built into the EMP.</p>



Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>1</sup>	Applicant's Response
<p>Cumbria County Council and Eden District Council</p> <p>Deadline 5 Submission – Principal issues to be addressed with the Environmental Statement [REP5-036]</p>	<p>Climate</p>	<p>The Councils remain supportive of further proposals that can be supported by National Highways that address the significant increase in carbon emissions during the construction of the Project. This would build upon the Council's earlier comments in Paragraph 10.25 of their LIR. The Councils will continue discussions with National Highways that address this concern.</p>	<p>Section 7.10 of the Environmental Statement Chapter 7 Climate [Document Reference 3.2, APP-050] provides the essential mitigation and enhancement measures secured within the design of the Project, including:</p> <ul style="list-style-type: none"> <li>• Minimising lighting requirements</li> <li>• Utilising existing carriageways</li> <li>• Reprofilling embankments to reduce the volumes of stabilisation and imported materials.</li> </ul> <p>In addition, further reductions will be made as part of the EMP process as there is a requirement for all contractors to feed into and approve a project Carbon Strategy (Ref: MW-CL-01). The draft Outline Carbon Strategy [REP3-043] provides outline detail on the Project's carbon strategy including the commitments the contractors will adhere to during construction, such as following PAS 2080 on Carbon Management in Infrastructure, which promotes carbon reduction on a whole life basis.</p> <p>The contractors are bound to quarterly GHG emissions reporting in accordance with National Highways' requirements (Ref: MW-CL-02).</p>
<p>Cumbria County Council and Eden District Council</p> <p>Deadline 5 Submission – Principal issues to be addressed with the Environmental Statement [REP5-036]</p>	<p>Landscape and visual</p>	<p><u>Arboricultural Assessment</u></p> <p>The Councils are concerned as to how trees out with the Order Limits will be protected during construction. The Councils remain unsure as to whether National Highways is intending, or is at least seeking consent for, the removal or harm to trees out with the Order Limits. The Councils do not see how National Highways can avoid such harm if they receive consent and approval for</p>	<p>Information on the measures and commitments included within the DCO that protect trees within and adjacent to the Order Limits can be found in:</p> <ul style="list-style-type: none"> <li>• Deadline 1 Submission - 7.3 Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (REP1-009), Post Hearing Submissions</li> <li>• Deadline 2 Submission - 7.9 Applicant's Comments on Local Impact Report - Rev 1 (REP2-018)</li> <li>• Deadline 4 Submission - 7.25 Tree Loss and Compensation Planting Report (REP4-012).</li> </ul> <p>Important individual trees to be protected within the order limits are shown on Environmental Mitigation Maps (Document Reference 2.8, APP-041).</p> <p>Within the Environmental Management Plan (EMP) (DCO Document Reference 2.7 / APP-019) commitments have been included to ensure that tree removal is kept to a</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>1</sup>	Applicant's Response
		<p>vegetation clearance up to the Order Limits. This is of particular interest to the Councils where Tree Preservation Orders are present in the Penrith area. The Councils have raised this as a matter of concern previously and National Highways have responded in Paragraph 2.17.6 of their response to the LIR to the Council's concerns. The Councils are concerned about the response as it makes no reference to the protection of vegetation out with the Order Limits. The Applicant commits to Tree Protection Plans but these only serve the purpose when there is a realistic opportunity to retain the tree in question and Tree Protection Plans serve no purpose if an arboricultural feature is to be removed. In the absence of this information, it can only be assumed that some vegetation out with the Order Limits will be harmed and the Councils therefore do not see how and where suitable mitigation and compensation for this impact is allowed for. If</p>	<p>minimum and that at the detail design stage there must be more detailed inspections undertaken and tree protection measures (ref. D-LV-01, D-LV-02 and D-LV-04). The subsequent surveys must be in line with the British Standard BS5837:2012: Trees in Relation to Design, Demolition and Construction – Recommendations which detail the steps that should be taken to ensure trees are appropriately and successfully retained when development is taking place.</p> <p>In order to comply with BS5837:2012, an Arboricultural Impact Assessment (AIA) must be undertaken, and will comprise the following: a detailed tree survey, tree protection plan and arboricultural method statement.</p> <p>A detailed tree survey must be based on a detailed topographical survey combined with detailed site inspections of both individual trees and groups of trees (woodlands) that fall within the development or within close proximity. This survey would identify the tree species, height, stem diameter taken 1.5m from ground, branch spread, height of crown, age class, physiological condition, structural condition, preliminary management requirements, estimated safe useful life expectancy and category grade as per BS 5837.</p> <p>Following a detailed tree survey a tree protection plan would be produced to scale which would comprise existing and proposed buildings or structures, all retained trees on and adjacent to the scheme with corresponding Root Protection Areas and crown spread, the location of protective fences or barriers (with details of how these are to be constructed), proposed location of all plant and material storage, drainage runs, roads, existing and new accesses, and any other surface or underground features which may affect the trees.</p>



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		<p>National Highways cannot confirm that vegetation out with the Order Limits will not be harmed (and at the present stage of the Examination there is no information to inform as to the status of this vegetation i.e. the presence of Ancient/Veteran trees) then the Councils require assurance that the impacts are provided and secured through a Requirement for an AIA that would fully justify the removal or harm caused to all Ancient/Veteran trees through demonstrating that there was no reasonable alternative to the design.</p>	
<p>Cumbria County Council and Eden District Council                      Deadline 5 Submission – Principal issues to be addressed with the Environmental Statement [REP5-036]</p>	<p>Landscape and visual                      Proposed change application</p>	<p>Notwithstanding that amendments to the DCO application have not yet been accepted into the Examination, if it is assumed that amendments to the Center Parcs junction (DC-08) are accepted, then the Councils require a commitment from National Highways within the LEMP that pursues all reasonable opportunities to retain the symbolic Scots Pine</p>	<p>The referenced symbolic Scot's Pine is lost under the westbound carriageway in both the current design and proposed design amendment. There is a PDP commitment (03.04) to replace it: "Compensation planting must be provided for the loss of the landmark pine tree at the Center Parcs junction (CH23000), with the new junction at Center Parcs realigned internally to be level with the top of the embankments and this area then to be planted with replacement semimature landmark pine tree/s. This will create a distinctive orientation feature in the long term."</p>

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		that is present the west of the existing junction.	
Cumbria County Council and Eden District Council Deadline 5 Submission – Principal issues to be addressed with the Environmental Statement [REP5-036]	Landscape and visual Draft EMP	The Project passes through highly sensitive landscapes and it is therefore of integral importance that all hard engineered surfaces that will be visible are designed to be a sympathetic as possible. To that end, all final appearances and proposals require Secretary of State approval. This point was raised by the Councils in paragraph 10.42 of their Local Impact Report although no response was made by National Highways in their response to this document which was submitted at Deadline 2.	The issue of design was most recently discussed at Issue Specific Hearing 3 (“ISH3”), with National Highways providing a number of responses on this topic in its post-hearing submission [REP5-024], specifically, in relation to approvals, under agenda item 2.2. National Highways’ position is that Secretary of State approval for the design of structures is unnecessary (given the requirements of article 54 and the Project Design Principles – see Appendix A of the above referenced submission, which expanded on this point), but did provide DCO drafting on a without prejudice basis in relation to approvals of three specific structures. Expanding any approvals beyond this to all hard engineered surfaces is considered wholly disproportionate, particularly given the Project Design Principles, and without precedent on highway DCOs. The approach taken in article 54 of the DCO is well preceded in National Highways DCOs made by the Secretary of State and it is only in very specific circumstances where design approvals have been required on other projects. Where this has been the case, there has certainly not been a ‘general’ approach to approval of hard engineered surfaces which is unnecessary.
Cumbria County Council and Eden District Council Deadline 5 Submission – Principal issues to be addressed with the Environmental Statement [REP5-036]	Noise and vibration	The Councils have previously stated the following in their LIR.... “The Councils would particularly note that no noise barrier is proposed in the Kirkby Thore area “due to engineering constraints” and Table 12-45 states that “additional mitigation measures assessed as not sustainable”. The Councils request that these engineering	With regards to the engineering cross-sections (first bullet point of the CCC/EDC request) showing the earth bunds and Sanderson Croft, these have been provided in Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case): Appendix B: Engineering Cross Sections [Document Reference 7.30, REP5-025].  With regards to the additional assessment requested (remaining bullet points in the CCC/EDC request), the Applicant is working through the comments and matters raised by WSP (on behalf of the Councils) and is undertaking some additional sensitivity tests in response to the issues raised. These sensitivity tests are expected to be completed by mid-April in order for further discussions to take place. The

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>1</sup>	Applicant's Response
		<p>constraints and unsustainable measures are clearly identified.” The response from National Highways does not go into sufficient detail to reassure the Councils of the justification and therefore, to be specific, the Councils require:</p> <ul style="list-style-type: none"> <li>• A line and level section drawing that shows the height of the carriageway, any bunding and barrier and the respective level of properties on Sanderson Croft.</li> <li>• Analysis, accompanied by suitable modelling results, of the effect of the inclusion of a noise barrier on top of the bund at 1m, 2m and 3m in height (for example).</li> <li>• The cost-benefit analysis should also be provided, as well as a detailed justification for any design reason the barrier cannot be constructed.</li> <li>• This should also be balanced with any justification for not increasing the height of the bund, including consideration of engineered slopes to</li> </ul>	<p>Applicant is seeking to arrange a meeting with the Councils in April to progress matters and look to reach agreement.</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>1</sup>	Applicant's Response
		minimise the impact on land take. ▪ Should the barriers/increased bund height demonstrate a significant reduction in noise level, then National Highways should update the proposals to ensure that it is secured through the DCO because the Councils cannot see at present how such a barrier (assuming it delivers significant noise reductions) would be unsustainable.	
Cumbria County Council and Eden District Council Deadline 5 Submission – Principal issues to be addressed with the Environmental Statement [REP5-036]	Noise and vibration Draft EMP	<p><b>D-NV-03</b> - the Councils are concerned that the nature of the resulting noise at Skirsgill Lodge has not been identified. The Councils do not believe that it is appropriate to identify the mitigation at a later stage (post Examination) in consultation with Historic England and the residents. This consultation should be progressed prior to determination so that the SoS can make an informed decision on the resulting noise effects.</p> <p><b>D-NV-04</b> - this action should include a commitment to share</p>	<p><u><a href="#">Environmental Management Plan Table 3.2 Register of Environmental Actions and Commitments, ref number D-NV-03</a></u></p> <p>The comment provided references D-NV-03 but given it concerns Skirsgill Lodge, it is assumed this should read D-NV-02. Appropriate noise mitigation, in the form of a barrier, has been identified and set out in the Environmental Statement. However given the nature of Skirsgill Lodge and its location immediately adjacent to the road, there are implications of installing a barrier at this location, not least landscape and visual impact from and towards the property. National Highways therefore believes it is appropriate to allow for ongoing engagement with both the property holder and the local authority to agree the most appropriate mitigation to be implemented. The Environmental Statement is based on a worst-case assumption that the resident would prefer not to have the barrier, and therefore a significant effect from noise is reported, in Chapter 12 Noise and Vibration (APP-055), at this location absent a barrier. This information is in front of the examination and will be available to the Secretary of State to allow them to make an informed decision given the nature and proximity of the property to the road at this location.</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>1</sup>	Applicant's Response
		<p>the updated assessment with the relevant Local Authority and should the assessment identify a resulting effect that is worse than presented in the Environmental Statement, then mitigation should only be implemented following the agreement of the Secretary of State. The Councils do not consider that it is appropriate for National Highways to be the sole arbitrator of what is appropriate mitigation without first seeking the opinion of the relevant Local Authority or allowing the SoS to arbitrate should the Local Authority not be in agreement with the proposals.</p> <p>Kirkby Thore primary school - The Councils require a commitment within the DCO that stipulates that an updated construction noise assessment will be undertaken specifically for Kirkby Thore Primary School when greater detail on the construction process and any specific mitigation is available.</p>	<p><u>Environmental Management Plan Table 3.2 Register of Environmental Actions and Commitments, ref number D-NV-04</u></p> <p>The point made by CCC/EDC is acknowledged. It is proposed that the timing of this commitment is amended, requiring updated modelling to be undertaken, where the limits of deviation have been utilised, prior to the start of works. Where this modelling predicts that additional receptors to those reported in the ES will experience significant adverse effects, mitigation measures considered practicable and sustainable must be investigated. The modelling and proposed mitigation must be consulted on and implemented. . This amendment has been made to REAC commitment D-NV-04, and an updated version of the EMP has been submitted to the examination at Deadline 6.</p> <p><u>Kirkby Thore Primary School</u></p> <p>The point made by CCC/EDC is acknowledged, however the provision for further noise assessment is provided for in REAC Table 3.2 of the EMP, commitment reference D-NV-01 which requires a Noise and Vibration Management Plan to be developed. Annex B5 of the EMP - an outline of the Noise and Vibration Management Plan contains key commitments, including the provision of noise assessment of construction effects to be provided as part of Section 61 examples. Paragraph B5.1.4 allows for specific locations to be agreed with the Environmental Health Officer, and sets out the information that would be required to support such an application (which constitutes assessment of the construction noise effects on those agreed receptors). The intent of this paragraph was to allow liaison with the EHO to agree such locations. In response to the point raised, Kirby Thore Primary School has been specifically added to this paragraph as an example and to make it clear that would be a location where Section 61 consent would be required. This amendment has been included within an updated version of Annex B5 Noise and Vibration Management Plan, and has been submitted to the examination at Deadline 6.</p> <p><u>Environmental Management Plan Annex B5, Paragraph B5.6.9</u></p>

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		<p>The Councils requires updates to the Noise and Vibration Management Plan paragraphs B5.6.9 and B5.8.1 as set out in red text.</p>	<p>The amendment proposed is accepted, and the change has been included within an updated version of Annex B5 Noise and Vibration Management Plan and has been submitted to the examination at Deadline 6.</p> <p><u>Environmental Management Plan Annex B5, Paragraph B5.8.1</u></p> <p>The point made by CCC/EDC is acknowledged, and National Highways agrees that an amendment is appropriate. The final sentence of the wording as suggested, however, would require a formal update to the EMP should remedial action be required in the event that monitoring of noise or complaints identify that the proposed mitigation is not effective. This would result in formal approval being required and it is National Highways view that this would overly complicate the process and introduce unnecessary delays to implementing remedial action. Alternative wording has been suggested that ensures reasonable measures would be agreed with the Local Authority and implemented. This amendment has been included within an updated version of Annex B5 Noise and Vibration Management Plan, and has been submitted to the examination at Deadline 6.</p>
<p>Cumbria County Council and Eden District Council                      Deadline 5 Submission – Principal issues to be addressed with the Environmental Statement [REP5-036]</p>	<p>Drainage and flooding</p>	<p>The Councils and National Highways are in separate discussions with regard to agreeing Protective Provisions with regard to their statutory responsibilities and it is anticipated that successful resolution and agreement in this regard would satisfy all remaining issues with regard to Road Drainage and the Water Environment.</p>	<p>National Highways note the response provided by the Councils.</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>1</sup>	Applicant's Response
<p>Cumbria County Council and Eden District Council</p> <p>Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-037]</p>	<p>Traffic</p>	<p><u>Junction capacity at M6 J40, Penrith</u></p> <p>Operational models awaited. Concern that the designs of the roundabouts at Junction 40 and Kemplay Bank do not provide sufficient capacity for the additional traffic predicted for the A66.</p> <p><u>Impact upon Skirsgill Depot, Penrith</u></p> <p>Modelling work still being refined and further technical meeting due to take place.</p> <p><u>Junction capacity at Kemplay Bank, Penrith</u></p> <p>Details of the future year traffic flows for different movements at the grade-separated roundabout need to be shared.</p> <p><u>Impact on local road network, Penrith</u></p> <p>Awaiting Vissim modelling information.</p>	<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>
<p>Cumbria County Council and Eden District Council</p>	<p>Public open space</p>	<p><u>Wetheriggs Country Park, Penrith</u></p> <p>Working to develop initial options. Resolution dependent</p>	<p>The Applicant has committed to fund a masterplan for Wetheriggs Country Park via Eden District Council and is engaging with Sport England throughout this process. The masterplan was granted designated funding by National Highways for the feasibility stage. However, the masterplan does not form part of the Applicant's</p>



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Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-037]	Walking, cycling and horse-riding	on the Applicant agreeing to implement to recommended masterplan option for changes to the cycleway route within the DCO boundary.	application for development consent and is being progressed outside of this process through the National Highways designated funds programme.
Cumbria County Council and Eden District Council Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-037]	Design, engineering and construction	<u>De-trunking (road and structures)</u> Welcome the proposals. Concerns about the high alumina cement content in the Walk Mill High structure. Comments about handover.	National Highways has considered CCCs concerns about the high alumina cement in Walk Mill High structure and will review details of the structure and high alumina cement testing/investigations undertaken to date to inform the de-trunking proposal (including a review of the structure's assumed design life and associated commuted sums) for this structure, ensuring the risk associated with the high alumina cement content is properly accounted for.
Cumbria County Council and Eden District Council Deadline 5 Submission – Updated Principal Areas of Disagreement Summary	Design, engineering and construction Draft EMP	<u>New structures</u> Awaiting detail designs. <u>New structures and impact of those upon drainage</u> Expected to be resolved through detailed design discussions and EMP. <u>Diversions and construction impacts</u>	<u>New structures; New structures and impact of those upon drainage</u> The detailed design for the Project is currently being developed in accordance with the principles outlined in the Project Design Principles Report (Document Reference 5.11, REP3-040). During this time, National Highways will be engaging with Local Authorities and affected/interested parties to ensure that concerns are being considered and incorporated as appropriate. Once complete, National Highways will share detail design proposals with the Local Authorities as required. <u>Diversions and construction impacts</u>



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Statements [REP5-037]		<p>Concern that the detailed proposals for diversions have not been assessed.</p> <p><u>Soil storage</u> Continue discussions. CMP needs to contain location of compounds and storage areas and mitigation.</p>	<p>The Construction Traffic Management Plan (“CTMP”) will be developed within Environmental Management Plan Annex B13.2 [Document Reference 2.7, APP-033] to ensure that the following key objectives are considered and addressed:</p> <ul style="list-style-type: none"> <li>• Safety of the travelling public, non-motorised users and roadworkers to ensure that no person is injured either working within or travelling through the site on the strategic road network</li> <li>• Clarity of temporary traffic management schemes to ensure that the CTMP is built around the customers and stakeholders</li> <li>• Minimising delays to travellers on both trunk and local roads</li> <li>• Meeting the needs of the relevant Local Highway Authorities</li> <li>• Addressing the needs of key local stakeholders</li> <li>• Maintaining adequate access for the emergency services and all affected properties during the construction works.</li> </ul> <p>The measures agreed through the CTMP will therefore be implemented to limit the diversion of traffic away from the A66 during construction such that the local roads can continue to fulfil their current function.</p> <p><u>Soil storage</u> Details of construction compound locations (which includes areas for storage of materials) are identified in the Environmental Statement (ES) Chapter 2 (Document Reference 3.2, APP-045). Storage areas will be proposed where large cut and/or fill requirements are needed or where key structures are required. Requirement D-GS-01 of the EMP (Document Reference 2.7, REP3-004) requires a Materials Management Plan (MMP) to be developed in detail in substantial accordance with the essay plan included in Annex B8 of the EMP (Document Reference 2.7 APP-028) including plans showing material storage locations. Information is also provided within Chapter 2 of the ES in regard to construction haul roads, satellite compounds and the anticipated construction workforce. The assessments contained within the ES are based on Chapter 2 and have considered these elements of the construction phase.</p>

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Cumbria County Council and Eden District Council Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-037]	HGVs	Continue discussion to identify solutions for HGVs along A66. Request NH make written binding commitment to implementing recommendations of freight study.	Information about the scope of the freight study that has been undertaken by the National Highways Customer, Strategy and Communications Directorate was shared in Section 2.7 of the Applicant's Comments on Local Impact Report submitted at Deadline 2 [REP2-018]. Please also note the Applicant's response to TA 1.10 in its Response to the Examining Authority's Written Questions [REP4-011]. The Applicant will continue to work with the team undertaking the study and will continue to engage with local authorities and Interested Parties, sharing the outcomes of the study with them.
Cumbria County Council and Eden District Council Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-037]	Drainage and flooding	Protective provisions in draft DCO will be subject of ongoing discussions.	National Highways note the response provided by the Councils and look forward to those discussions progressing.
Cumbria County Council and Eden District Council Deadline 5 Submission – Updated Principal Areas of	Walking, cycling and horse-riding Safety	Awaiting plan of the complete WCH route. Awaiting details of safety audit/risk assessment for Penrith.	Drawings outlining the current/upgraded and new WCH routes throughout Schemes 1-6 are being prepared and have been shared with the Local Authorities. A Stage 1 Road Safety Audit (RSA) was carried out on all of the schemes back in late 2021, based on the preliminary design at the time. National Highways will share these documents with the local authorities if that would be helpful, noting that the design has developed since this time. A Stage 2 RSA will be carried out on

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Disagreement Summary Statements [REP5-037]			completion of detailed design, which is anticipated later this year. We would be happy to share the findings of this report with the local authorities once it is available.
Cumbria County Council and Eden District Council  Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-037]	Draft EMP	<u>Appleby Horse Fair</u> CTMP secured through the EMP and an Operational Management Plan should be in place to ensure safe operation. Response awaited on preparation of risk/safety assessment and any proposed mitigation.	<p>The Applicant understands the issues raised by the Councils regarding access to the Appleby Horse Fair on the local network, rather than the A66. The Applicant agrees that it is likely to be beneficial that the Councils' Appleby Horse Fair Traffic Management Plan is updated, and supports the alignment of this with the Applicant's CTMP, rather than any duplication of, or overlapping with, the Applicant's CTMP itself. The Applicant will continue to work alongside the Councils in supporting the updating of their Appleby Horse Fair Traffic Management Plan, as and when the Councils bring this forward.</p> <p>The Applicant is facilitating the creation of safe and proper layby areas, available to all authorised road users, as part of the development of the Project. The Applicant does not intend to provide any further bespoke provisions within the Project. On completion of the Project, the Applicant would expect lower traffic volumes on the de-trunked sections west of Appleby, which will improve access for local traffic (and therefore attendees of the Appleby Horse Fair) without the need for specific provisions or required contributions from the Project.</p> <p>The Applicant will not be producing a specific risk assessment in relation to the Appleby Horse Fair, as the Councils' issues regarding this already exist, rather than resulting from the Project itself.</p> <p>The Applicant refers to page 77 of its latest Statement of Common Ground with Cumbria County Council and Eden District Council [REP5-005] and paragraphs 2.5.14 to 2.5.21 of its Comments on Local Impact Report [REP2-018] for its position on this issue.</p>

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Cumbria County Council and Eden District Council Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-037]	Draft EMP	Matters of concerns within ES and EMP (submitted as Environmental Issues Note for Deadline 5). Dependent upon Applicant agreeing to change the EMP.	Please refer to the responses to REP5-036 above. A number of updates have been made to the Environmental Management Plan in response to these specific queries, and an updated EMP has been submitted at Deadline 6.
Durham County Council Deadline 5 Submission – Response Letter [REP5-039]	Statement of Common Ground Proposed change application Design, engineering and construction	Cover letter for Deadline 5 submissions. Notes that <i>“The Applicant has provided DCC with the opportunity to comment upon an updated draft SoCG prior to submission but DCC has not yet responded. Any document therefore submitted by applicant is not yet and agreed document at this stage, although it is not considered that there are major issues of disagreement between the parties.”</i> Regarding the Proposed Change Application, <i>“DCC is of the view, based on plans previously seen, that it is unlikely new issues would be</i>	The Applicant notes that this submission is a cover letter for Durham County Council's accompanying Deadline 5 Submissions [REP5-040 and REP5-041]. The Applicant intends to submit an updated, finalised Statement of Common Ground with Durham County Council at Deadline 8 and will work with DCC to address its comments on the revision submitted at Deadline 5 [Document Reference 4.5, REP5-006]. The Applicant acknowledges the position of DCC in respect to the Change Application. The Applicant acknowledges the need to liaise with DCC regarding ongoing and final highway design and related matters.

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>1</sup>	Applicant's Response
		<p><i>introduced that would alter the position stated above.</i></p> <p><i>“DCC considered that there continues to be a need for the Applicant to liaise with DCC regarding the ongoing and final highway design of the scheme as well as other related matters.”</i></p>	
<p>Durham County Council Deadline 5 Submission – Appendix 1 – Post-hearing submissions including written submissions of oral case [REP5-040]</p>	<p>Design, engineering and construction</p>	<p>Update to Durham County Council's <i>“position on diversions, de-trunking and why DCC considers a 12 month maintenance period to be appropriate.”</i></p>	<p>The Applicant confirms a <b>12-month maintenance period will be provided for new works constructed as part of the Project</b> that are then transferred to DCC. This shall include ponds / basins and any surfacing associated with the re-aligned highway. Remediation of accidental damage is not included within this <b>12-month maintenance period</b>. The length of the maintenance period is a well-established principle that strikes a reasonable balance between the Applicant's powers to construct the Project and the highway authority's duties to maintain the public highways in its area.</p>
<p>Durham County Council Deadline 5 Submission – Appendix 2 – Principal Areas of Disagreement Summary Statement [REP5-041]</p>	<p>Development of the Project and alternatives Air quality Biodiversity Rights of Way and access</p>	<p>Further update to Principal Areas of Disagreement Summary Statement.</p> <p>Durham County Council reiterate that <i>“it does not object to the proposed junction at Rokeby; however...the strong preference of the Council remains for the “Blue” route.”</i></p> <p>Ongoing discussions on outstanding issues – Air quality,</p>	<p>The Applicant continues to engage with DCC to resolve current under discussion issues. A final revision of the Statement of Common Ground will be submitted at Deadline 8.</p> <p>The Applicant thanks DCC for confirming that they do not object to the proposed junction at Rokeby. The Applicant notes that DCCs preference for the alternative blue proposal presented at options consultation. It is the Applicants position that the submitted junction design remains the preferred solution.</p> <p>With regard the outstanding issues noted by Durham County Council, see below.</p> <p><u>Air quality</u></p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>1</sup>	Applicant's Response												
		climate change, biodiversity, access and rights of way.	<p>Most items raised by DCC and their Consultant within the PADSS have now reached understanding and agreement.</p> <p>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 discussions.</p> <p><u>Climate</u></p> <p>The Applicant notes DCC's request for vehicle kilometres travelled data. The table below provides modelled vehicle kilometres for the traffic reliability area (TRA) as used within the Climate ES assessment (APP-050).</p> <table border="1" data-bbox="1066 762 2069 976"> <thead> <tr> <th>Modelled Year</th> <th>Do-Minimum (veh-km)</th> <th>Do-Something (veh-km)</th> <th>Project Difference (veh-km)</th> </tr> </thead> <tbody> <tr> <td>2029</td> <td>19,395,832</td> <td>20,124,765</td> <td>728,933</td> </tr> <tr> <td>2044</td> <td>23,343,106</td> <td>24,300,553</td> <td>957,447</td> </tr> </tbody> </table> <p><u>Biodiversity Net Gain</u></p> <p>Biodiversity Net Gain is not currently a statutory requirement for Nationally Significant Infrastructure Projects (NSIPs). The Environment Act 2021 provisions relating to biodiversity net gain will only take effect for NSIPs after Government has published a biodiversity gain statement, or statements, setting out the objective for biodiversity net gain and how the objective is to be met, including transitional arrangements. These are not currently in effect.</p> <p>Government has recently consulted in respect of secondary legislation relating to net gain; and has indicated that it intends to bring the biodiversity net gain requirements for NSIPs into effect for terrestrial projects no later than November 2025. The Applicant has however sought opportunities to maximise biodiversity enhancements</p>	Modelled Year	Do-Minimum (veh-km)	Do-Something (veh-km)	Project Difference (veh-km)	2029	19,395,832	20,124,765	728,933	2044	23,343,106	24,300,553	957,447
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2029	19,395,832	20,124,765	728,933												
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			as part of its mitigation where possible. For example, by 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 networks.
North Yorkshire County Council and Richmondshire District Council Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-061]	Design, engineering and construction	Highway design to be developed through ongoing detailed design. Development of a full traffic management and construction traffic management plan needed. Continued development of WCH strategy required.	<p>The Applicant refers to the Environmental Management Plan (“EMP”) [Document Reference 2.7 (Rev 2), REP3-004] which confirms that no part of the Project can start until a Construction Traffic Management Plan and Public Rights of Way Management Plan are developed in consultation with e.g. local planning authorities, local highway authorities etc., to include North Yorkshire County Council. This will provide for, amongst other things the following:</p> <ul style="list-style-type: none"> <li>• Details of proposed traffic management measures, including phasing plans, route restrictions and speed limits.</li> <li>• Details of planned carriageway and local road closures, including proposed stakeholder and community engagement protocols in advance of closures.</li> <li>• Details of proposed diversion routes, durations of use and proposals for encouraging compliance with designated diversion routes (with consideration for potential noise impacts).</li> <li>• Details of management measures to be implemented for each walking, cycling and horseriding route affected, including information about how information will be provided to users of the routes.</li> </ul> <p>The CTMP and PRowMP will include, amongst other commitments, the following commitment for diversion routes to be developed in consultation with the Local Highway Authority in advance of required closures.</p> <p>The Environmental Statement identified the potential effects that could arise from diversions of both roads and walking, cycling and horseriding routes across the scheme and set out the best practice mitigation that shall be implemented once the detailed construction plans are developed, as secured through the EMP described above. These mitigations are tried and tested, and this approach to developing the detail of construction phase traffic management as the project evolves (and indeed keeping mitigation planning live throughout construction through monitoring of diversion routes and adaptive mitigation) is not a new or novel approach. Mitigation</p>



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			<p>that is likely to be implemented (e.g. monitoring, signage) would not require an extension of the DCO boundary.</p> <p>National Highways consider that this matter is agreed in so far as possible at this stage and with commitment to the further engagement as cited above.</p>
<p>North Yorkshire County Council and Richmondshire District Council</p> <p>Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-061]</p>	<p>Flooding and drainage</p>	<p>Continued work on the drainage strategy required.</p>	<p>National Highways met with the drainage subject matter expert from CCC and NYCC regarding the remediation of any grade 3 structural defects on 28 March 2023. National Highways has proposed a compromise, which includes remediating any loose covers in the carriageway and providing a commuted sum for the Councils to undertake remediation measures by lining any non-hairline cracks and infiltration). National Highways has re-issued the CCC de-trunking document and intends to replicate the text in the other de-trunking proposals where appropriate.</p>
<p>North Yorkshire County Council and Richmondshire District Council</p> <p>Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-061]</p>	<p>Landscape and visual</p>	<p>Explanation of design principles to demonstrate good design required. Inclusion of illustrations. These issues need to be picked up and secured through further iterations of the draft Environmental Management Plan (dEMP). Evidence of the aesthetic review should be provided as part of ongoing development of the dEMP. Continued work with the applicant to develop the</p>	<p>A meeting was held on 9th March with NYCC and their landscape architect to work through the Project Design Report, the approach to design and how the Project Design Principles secure the required landscape mitigation. We are working with them through ongoing engagement to provide reassurance as to how the commitments within the PDP will be realised when the scheme is implemented. Should this ongoing engagement identify appropriate updates required within the Environmental Management Plan or Project Design Principles, these will be incorporated into the EMP or PDP prior to the end of examination.</p>



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		landscape strategy secured through the dEMP and DCO.	
North Yorkshire County Council and Richmondshire District Council Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-061]	Legislation and policy	Discussions ongoing to understand scope and timing of additional TCPA applications – noted outside of scope of DCO.	The Applicant acknowledges that the Local Authorities welcome further discussion to understand the scope and timing of additional Town and County Planning Act applications that continue to run alongside the DCO application. The TCPA applications are being managed as part of the detailed design stage by the Delivery Partners, who will communicate with Local Authorities as the applications progress.
North Yorkshire County Council and Richmondshire District Council Deadline 5 Submission – Comments on any further information/submissions received by Deadline 4 [REP5-062]	Compulsory acquisition	The Councils' response to the Applicant's response to the Examining Authority Written Questions for Deadline 4 – to be submitted to Deadline 5. CA 1.2, 1.6: Do not see how biodiversity enhancement is not a requirement of the Project. We understand that the application is coming forward as a town and county planning act application and is therefore outside of the DCO application. Consultation will take place as a matter of course under the	<u>CA 1.2</u> Whilst Biodiversity Net Gain (BNG) is not currently a statutory requirement that is in force for Nationally Significant Infrastructure Projects, one of the Project objectives is to seek to achieve no net loss as a minimum and looks to deliver enhancements where opportunities exist within the Project footprint, where practicable. 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 networks. In addition, planting required for landscape integration, visual screening and water attenuation has been designed to maximise biodiversity enhancements as a result of the Project (Project Design Principles, Document Reference 5.11, REP3-040; BNG03). The Project is therefore considered compliant with regards to paragraph 5.23 of the National Policy Statement for National Networks.

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		<p>TCPA however it is not clear what will happen if that application is refused. If the compound would go ahead as part of the DCO, simply later in the process, this would understandably not be acceptable to the local community and be very difficult to reconcile. Clearer understanding is needed on the process. At this point the authorities await pre application for the compound.</p>	<p><u>CA 1.6</u> Consistent with the Project Speed initiative which aims to see the public benefits of new infrastructure delivered more quickly National Highway's appointed contractors (DIPs) are exploring how they can deliver elements of the Project earlier. This includes bringing forward certain preparatory work, that can be carried out in advance of the DCO being granted, To enable these works the DIPs are considering the submission of TCPA applications in order to secure consent for the works in advance of the DCO being granted. This approach is being explored for the construction compound for Scheme 9 that is referenced in the Council's submission. If an TCPA application is submitted it can be determined by the Council and the Councils will benefit from being in a position to attach conditions to any permission as long as these are reasonable and appropriate (meeting the required tests set out in Government advice/ circulars). The local authorities are correct in their submission that if planning permission were refused or delayed, and if development consent for the Project is granted, then those works would instead be carried out under the terms of the DCO, if granted.</p>
<p>North Yorkshire County Council and Richmondshire District Council Deadline 5 Submission – Comments on any further information/submissions received by Deadline 4 [REP5-062]</p>	<p>Draft DCO</p>	<p>The Councils' response to the Applicant's response to the Examining Authority Written Questions for Deadline 4 – to be submitted to Deadline 5. DCO 1.4, 1.5: <i>"Notwithstanding that compliance with the EMP will be a legal requirement upon the Applicant, the Councils are concerned that some details regarding mitigation are not available at this stage."</i></p>	<p><u>DCO 1.4 &amp; 1.5</u> The Applicant will continue to work with NYCC and RDC to understand the mitigation details that the Councils refer to as this is not evident in the latest Principle Area of Disagreement Statement (REP5-061), which refers to environmental mitigation matters linked to the EMP. The Applicant considers that the mitigation details submitted with the DCO application and the subsequent updates through the Examination period are adequate, proportionate, and sufficient at this stage of the Project.</p>

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North Yorkshire County Council and Richmondshire District Council Deadline 5 Submission – Comments on any further information/submissions received by Deadline 4 [REP5-062]	Draft EMP	The Councils' response to the Applicant's response to the Examining Authority Written Questions for Deadline 4 – to be submitted to Deadline 5. EMP 1.1: ES assessments not progressed so significant effects are not mitigated, due to absence of survey and design information.	<u>EMP1.1</u> As with Cumbria County Council and Eden District Council (where a similar point was made) a number of updates have been made to the Environmental Management Plan to seek to address various outstanding issues and an updated EMP has been submitted at Deadline 6. In addition, further engagement is taking place with the authorities in light of their Deadline 5 submissions with a view to resolving any outstanding issues as soon as possible.
North Yorkshire County Council and Richmondshire District Council Deadline 5 Submission – Comments on any further information/submissions received by Deadline 4 [REP5-062]	Traffic and access	The Councils' response to the Applicant's response to the Examining Authority Written Questions for Deadline 4 – to be submitted to Deadline 5. TA 1.1: De-trunking arrangements - broadly in agreement with wording of dDCO subject to condition of assets and side agreement. TA 1.5: Clarity required in terms of the legal status and type of access for the public rights of way and the private means of access.	<u>TA 1.1</u> The Applicant acknowledges NYCC and Richmondshire's position. <u>TA 1.5</u> The Applicant considers these points are addressed under Agenda Item 6.1 (pages 21-22) of its Deadline 5 Submission –Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.30, REP5-024]. <u>TA 1.6</u> The Applicant refers to the Environmental Management Plan (“EMP”) [Document Reference 2.7 (Rev 2), REP3-004] which confirms that no part of the Project can start until a Construction Traffic Management Plan and a Public Rights of Way Management Plan are developed in consultation with e.g. local planning authorities, local highway authorities etc., to include North Yorkshire County Council. This will provide for, amongst other things, the following: <ul style="list-style-type: none"> <li>• Details of proposed traffic management measures, including phasing plans, route restrictions and speed limits.</li> </ul>

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		<p>TA 1.6: Construction traffic management plan and suitable diversion routes required.</p> <p>TA 1.10: Support Nationwide Freight Study and will continue discussions with NH to identify appropriate solutions on the A66.</p>	<ul style="list-style-type: none"> <li>• Details of planned carriageway and local road closures, including proposed stakeholder and community engagement protocols in advance of closures.</li> <li>• Details of proposed diversion routes, durations of use and proposals for encouraging compliance with designated diversion routes (with consideration for potential noise impacts).</li> <li>• Details of management measures to be implemented for each walking, cycling and horseriding route affected, including information about how information will be provided to users of the routes.</li> </ul> <p>The CTMP and PRowMP will include, amongst other commitments, the commitment for diversion routes to be developed in consultation with the Local Highway Authority in advance of required closures.</p> <p>The Environmental Statement identified the potential effects that could arise from diversions of both roads and walking, cycling and horseriding routes across the scheme and set out the best practice mitigation that shall be implemented once the detailed construction plans are developed, as secured through the EMP described above. These mitigations are tried and tested, and this approach to developing the detail of construction phase traffic management as the project evolves (and indeed keeping mitigation planning live throughout construction through monitoring of diversion routes and adaptive mitigation) is not a new or novel approach. Mitigation that is likely to be implemented (e.g. monitoring, signage) would not require an extension of the DCO boundary.</p> <p>National Highways consider that this matter is agreed in so far as possible at this stage and with commitment to further engagement as cited above.</p> <p><u>TA 1.10</u></p> <p>The Applicant notes the Councils support of the freight study that has been undertaken by the National Highways Customer, Strategy and Communications Directorate and was shared in Section 2.7 of the Applicant's Comments on Local Impact Report submitted at Deadline 2. The Applicant will continue to work with the</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>1</sup>	Applicant's Response
			team undertaking the study and will continue to engage with local authorities and Interested Parties sharing the outcomes of the study with them.
North Yorkshire County Council and Richmondshire District Council Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-063]	Statement of Common Ground	Cover letter for Deadline 5 Submissions, outlining intention for further engagement with the Applicant on the Environmental Management Plan, Landscape issues, and Flood Risk Assessment (with reference to Lead Local Flood Authority).	The Applicant notes the submission as a cover letter for North Yorkshire County Council and Richmondshire District Council's accompanying Deadline 5 Submissions [REP5-061 and REP5-062]. The Applicant intends to submit an updated, finalised Statement of Common Ground with North Yorkshire County Council and Richmondshire District Council at Deadline 8 and will work with the Councils to address their comments on the revision submitted at Deadline 5 [REP5-010].
North Yorkshire County Council and Richmondshire District Council Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-063]	Draft EMP	Better understanding of process between first and second iteration of EMP. Concerns remain with regard to 20 working days to turn around consultations – understand this could be extended.	The concerns raised by the Councils regarding the consultation period are noted, and the Applicant is pleased that the Councils are reassured by the ongoing engagement. The Applicant commits to continue working closely with the councils, to stagger submissions as much as possible and to provide advance notice/advanced drafts of documents as much as reasonably practicable. The EMP has also been amended (at Deadline 3) to provide a mechanism for a request to be made by a consultee to extend the prescribed consultation period. This mechanism remains in the revised draft EMP submitted at this Deadline 6.
North Yorkshire County Council and Richmondshire District Council	Landscape and visual	Productive meeting between landscape architects. Hope to be able to remove landscape from PADS.	A useful meeting was held on 9th March with NYCC and their landscape architect. We are working with them through ongoing engagement to provide reassurance as to how the commitments within the PDP will be realised when the scheme is implemented.

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>1</sup>	Applicant's Response
Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-063]			
North Yorkshire County Council and Richmondshire District Council Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-063]	Drainage and flooding	<p><u>Flood Risk Assessment – Lead Local Flood Authority</u>                      Following meeting, drainage aspects largely agreed. Some details on de-trunking and its impact on drainage assessment remain – hope to remove drainage from PADS.</p>	<p>The Applicant is pleased that the Councils are reassured by the ongoing engagement and that the drainage aspects are largely agreed. The Applicant commits to continue working closely with the councils to ensure that the remaining concerns on de-trunking and drainage assessment are resolved and can be removed from the Council's PADS.</p>

### 3. Applicant's response to Deadline 5 submissions made by Statutory Environmental Bodies

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>3</sup>	Applicant's Response
<p>Historic England Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-056]</p>	<p>Draft DCO Draft EMP</p>	<p>Historic England acknowledges the amendments made to the draft EMP submitted at Deadline 3. They refer to their Deadline 4 submission [REP4-031] which set out the changes to the DCO and EMP they continue to seek. Anticipate receipt of revised DCO at Deadline 5; upon receipt, will review and provide commentary at Deadline 6.</p>	<p>Historic England raised a number of additional points regarding the EMP and its supporting documents in their Deadline 4 submission. A number of amendments have been made to the EMP, to Annex B3 Outline Heritage Mitigation Strategy and Annex C3 Method Statement for working in or near Scheduled Monuments in response to the comments raised by Historic England and those raised by the Local Authorities. Updated versions of these documents have been submitted to the examination at Deadline 6.</p> <p>Discussions are ongoing with Historic England regarding the remaining points raised in their Deadline 4 response, with the most recent conversation being held on the 27.03.2023. During discussions we have confirmed that Historic England will be consulted where an amendment is proposed to an approved second iteration EMP and a report on the consultation will be provided to the SoS where a 'referral' is made under article 53(8) of the DCO. The SoS has the authority to call in the application for determination during which they may approach HE for advice.</p> <p>National Highways hopes to provide an update to this issue as part of the final Statement of Common Ground at Deadline 8.</p> <p>Information is being prepared which will be sent to Historic England to address Historic England's Deadline 4 note regarding interaction between the project and the</p>

<sup>3</sup> This section sets out the issues raised in the written submission. This includes either a direct quote or a summary where the quote is too long to be copied in full.



Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>3</sup>	Applicant's Response
			Lake District World Heritage Site (REP4-031 section 4). The information will be composed in line with ICOMOS guidance on screening for Impact Assessments in a World Heritage Context.
Natural England Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-060]	Air quality	No further changes required on project but NH and NE are working together to agree new air quality assessment methodology for assessing road traffic air pollution emissions.	We thank Natural England for confirming that no further changes are required to the A66 project as a result of the air quality assessment and methodology.  The Applicant acknowledges that there is ongoing engagement between National Highways and Natural England on the topic of Air Quality methodology and the adequacy of DMRB LA105 on National Highways projects outside of the scope of this A66 NTP Project. Please see the Applicant's response to AQ 2.1 of the Examining Authority's Further Written Questions for more detail on this.
Natural England Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-060]	Draft EMP	Any measures used to inform the decision about the effects on the integrity need to be sufficiently secured and likely to work in practice. In the case of the DCO, measures used to inform the decision about the effects on the integrity will be secured through DCO itself, via (for example) the DCO Order Limits, Project Design Principles or Environmental Management Plan (EMP).  At present the EMP is in draft form, and specific and detailed mitigation measures are not finalised. Reassurance is also needed that if the project design principles are not adhered to (e.g., the design for an open span bridge with piers across the Troutbeck Floodplain) then the outcomes of the HRA may change.  Whilst we agree the outcome of the HRA – that there will be no adverse effect on the integrity of the River Eden	A third revision of both the First Iteration EMP and Project Design Principles Report is being submitted at Deadline 6, which includes a number of changes requested by consultees in response to the previous submission at Deadline 3.  Following SoS approval of the DCO (should it be forthcoming), the First Iteration EMP and PDP will be fixed and unable to be changed (although the PDP can be amended with agreement from the Secretary of State in limited circumstances – see National Highways' response to Written Question DCO2.2 which is submitted alongside this document at Deadline 6 which touches on this point). Any and all mitigation and proposals must be implemented in compliance with those documents and articles 53 and 54 of the DCO. This includes the development of a second iteration EMP in line with the

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>3</sup>	Applicant's Response
		SAC, this is dependent on the design principles and mitigation measures in the draft CEMP not changing.	first iteration EMP which must be approved by the Secretary of State In line with the proposals within the first iteration EMP, further engagement with Natural England as detailed design develops will be undertaken to ensure they are satisfied that the scheme is compliant with those specific requirements, including formal consultation on the second iteration EMP.
Environment Agency Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-065]	Drainage and flooding	<p>We have not yet agreed that the baseline hydraulic modelling used to inform the Flood Risk Assessment (FRA) is fit for purpose...</p> <p>There is insufficient time left in the Examination to allow us to validate all the hydraulic models used to support each Scheme within the DCO application. However, in so far as it relates to our remit and apart from Scheme 6 (Warcop), we are satisfied that the applicant has demonstrated that any fluvial flood risk associated with the proposed development can be satisfactorily managed. The validation of modelling approaches used for Schemes other than Scheme 6 could be completed in accordance with the Environmental Management Plan and Project Design Principles during the detailed design stage.</p> <p>The validation of the modelling approach used for Scheme 6 (Warcop) and the assessment of the suitability of the proposed flood risk mitigation measures is a priority for us and for National Highways. We will continue to work with National Highways to try and resolve the outstanding concerns with the proposals at Warcop in advance of Deadline 8 as a matter of urgency.</p>	<p>Following the Environment Agency's comments on the Scheme 6 hydraulic modelling, the Applicant has now (3 April 2023) shared the updated Scheme 6 models, report and response to comment spreadsheets addressing all red comments with the Environment Agency for their review and acceptance.</p> <p>Following discussions between the Applicant and the Environment Agency it has been confirmed that the reference to 'validation of modelling approaches' and its relationship to the EMP and PDP is intended to be associated with Ref D-RDWE-02 of the EMP in respect to detailed design only.</p> <p>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..</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>3</sup>	Applicant's Response
Environment Agency Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-065]	Drainage and flooding Draft DCO	<p>The Environment Agency is currently not able to agree to disapplication of the Environmental Permitting Regulations 2016 in relation to flood risk activity permits. S150 Planning Act provides that the Environment Agency must consent to the inclusion of any provision within the DCO for the disapplication of any permits that it issues...</p> <p>We continue to work with National Highways to agree an acceptable suite of Protective Provisions to allow us to agree to disapplication. We are in the process of updating the wording of our standard suite of Protective Provisions and we anticipate that this will be complete by the end of March 2023. Once the update has been completed, we will share the wording of the updated Protective Provisions with the ExA and with National Highways for inclusion in Schedule 9 of the DCO.</p>	The Applicant is in regular contact with the Environment Agency in relation to its protective provisions and it is understood that both the Applicant and the Environment Agency anticipate being in a position to confirm that these are agreed by the end of the examination.
Environment Agency Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-065]	Draft EMP	<p>The Environmental Management Plan (EMP) proposes a new approach to agreeing a range of details and documents post-DCO approval...</p> <p>National Highways have largely resolved our concerns in relation to the proposed self-approval process. We have one outstanding query regarding the re-consultation process associated with submissions to the Secretary of State for changes to an approved EMP. However, following Issue Specific Hearing 3, we understand further updates to the DCO are likely to be proposed regarding this issue and it seems highly likely that it will be addressed.</p>	A revised version of the DCO was submitted into the Examination at Deadline 5 [REP5-012], which included amendments to article 53(8) which provided a mechanism for the Secretary of State to extend the 'referral' period in relation to proposed amendments to an approved second iteration EMP. It is understood this addresses the Environment Agency's comment and this will be reflected in the next version of the Statement of Common Ground submitted into the Examination.
Environment Agency	Project Design Principles	Our review of the Project Design Principles (PDP) and has identified several queries...	The Environment Agency has raised a number of amendments to principles within the PDP. They have

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>3</sup>	Applicant's Response
Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-065]		National Highways have updated the PDP to address most of our comments; a small number of queries remain outstanding, and we have suggested revised wording to National Highways which we consider would resolve the outstanding queries.	been incorporated into the third revision of the PDP which will be submitted at Deadline 6.
Environment Agency Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-065]	Environmental Statement	Our review of the Environmental Statement (ES) and supporting information has identified several queries... ...a small number of queries remain in relation to the Flood Risk Assessment, and we are continuing to work through these with the applicant for resolution in advance of Deadline 8.	National Highways continue to engage with the Environment Agency on this matter.

#### 4. Applicant's response to Deadline 5 submissions made by Affected Persons

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
<p>Brough Hill Fair Community Association</p> <p>Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-031]</p>	<p>Equalities</p> <p>Cultural heritage</p> <p>Development of the Project and alternatives</p> <p>Legislation and policy</p>	<p>Relocation of the Brough Hill Fair site.</p> <p>Requests the intangible cultural heritage of Brough Hill Fair is included in the EMP.</p> <p>Lack of Equality Impact Assessment and reference to equality issues in regard to gypsy heritage.</p> <p>Requests alternative alignment for the section of the A66 east of Warcop, retaining Brough Hill Fair in current location (“Billy Welch straight line route”).</p>	<p>The Applicant has submitted [Document Reference: 7.37] a ‘Summary Statement on Brough Hill Fair Relocation’ at Deadline 6, to address these points.</p>
<p>Dr Mary Clare Martin [on behalf of Mrs Joy Thompson, landowner of Low Broomrigg]</p> <p>Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-038]</p>	<p>Equalities</p> <p>Design, engineering and construction</p> <p>Land</p>	<p>At CAH3 I reiterated that the DCO designs for the Langrigg Junction comprise an infringement of human rights legislation on grounds of age and disability. The ExA noted that there were a number of relevant issues.</p> <p>The barrister for National Highways indicated that the proposed change to the Langrigg Junction would be an improvement for the residents of Low Broomrigg, and that everyone wanted to see this issue resolved. However, we do not yet know the results of the new non-statutory consultation, nor whether the proposed change will be accepted by the ExA. Moreover, moving the dual carriageway further from the house, although an improvement, will not remove the harm done by living near construction works, and close to additional roads, particularly for old and disabled people. The roads will also have a detrimental effect on the value of the property.</p>	<p>The Applicant considers the points raised have been addressed under Agenda Item 4.1 of its Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [pages 36-37 of REP5-023].</p> <p>In addition, Appendix C of the Applicant's Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case) [REP5-024] provides information relating to the Equalities Impact Assessment undertaken for the Project, with specific reference to the impact of the proposed works in the vicinity of Low Broomrigg.</p> <p>In relation to human rights legislation, the Applicant considers that its response to Agenda Item 3.1 of its Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [pages 4-9 of REP5-</p>

<sup>4</sup> This section sets out the issues raised in the written submission. This includes either a direct quote or a summary where the quote is too long to be fully copied.

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			<p>023] sufficiently explains the Applicant's position on this point and provides substantial detail on its compliance with the relevant legislation.</p> <p>The Applicant submitted a Change Application to the ExA on 24 March 2023, which proposed 24 changes to the DCO application as was originally submitted. It is now with the ExA to make a Procedural Decision on whether to accept and examine the changed application and confirm how it will be examined. If the ExA decide to accept the changed application, the examination will proceed in consideration of the changes proposed.</p>
<p>Dr Mary Clare Martin [on behalf of Mrs Joy Thompson, landowner of Low Broomrigg]                      Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-038]</p>	<p>Landscape and visual</p>	<p>Photomontages. As a member of the public, I was shocked that National Highways did not provide the photomontages that were asked for by the ExA.                      ...much of this [carbon emissions] will be generated by the viaducts which will be built. As yet we have not seen photomontages to accurately assess their impact on the landscape either.</p>	<p>The Applicant communicated its proposed approach and justification for visualisations as opposed to photomontages for these locations in detail under Agenda Item 2.1 of its Deadline 5 Submission – 7.30 Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case) [REP5-024]. This also supports earlier information explaining the approach outlined in Deadline 4 Submission – 7.28 Viaduct Visualisations: Technical Note [REP4-015] and in the Applicant's original Deadline 1 Submission – 7.3 Issue Specific Hearing 2 (ISH2) Post Hearing Submissions [REP1-009], at Agenda Item 3.1.</p> <p>With particular reference to the Deadline 5 submission referred to above, photomontages of the requested locations were explained as inappropriate for the following reasons:</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			<ul style="list-style-type: none"> <li>i. design development;</li> <li>ii. distance and proximity in relation to the relevant scheme in some instances; and</li> <li>iii. the need to be very clear on the purpose of photomontage and not to undermine this in relation to the existing DCO LVIA photomontages.</li> </ul> <p>In the case of this latter issue, with reference to REP5-024, photomontages are aids to the assessment process to examine the efficacy of mitigation, to inform the making of assessment professional judgements. The Applicant further notes this is with consideration to other relevant factors including findings on site and professional judgement., Furthermore photomontages are intended to assist with the understanding of significant or non-significant environmental effects in borderline cases. They are not meant as tools to explain design intent.</p>
<p>Dr Mary Clare Martin [on behalf of Mrs Joy Thompson, landowner of Low Broomrigg]                      Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-038]</p>	<p>Noise and vibration                      Human health</p>	<p>Noise: I have asked on many occasions for information about the project increased noise levels at Low Broomrigg, particularly since an additional spur near the house was inserted after the consultation. I was shown briefly, but am still awaiting information from National Highways. It has been admitted that there will be a predicted change from the current levels of 52-57 to a predicted 57-62. I would like to know if this includes the impact of the spur (or additional road) near the house. Chapter 12 of the environmental statement makes no reference to the detrimental effect of the noise of road construction at Low Broomrigg, while it does mention other properties.</p>	<p>The Applicant acknowledges the points made by Dr Martin and will share details of how to access the noise information within the digital Environmental Statement.</p> <p>In the meantime, reference should be made to Appendix C of the Applicant's Deadline 5 Submission – 7.30 Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submission of oral case) [Document Reference 7.30, REP5-024], where information about the noise impacts associated with the construction and operation of the Project for sensitive receptors, including those at the Low Broomrigg property, are presented.</p> <p>Regarding the additional 'spur' near the house, the noise model used for the prediction of road traffic noise is</p>



Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			<p>based on the engineering design submitted for development which is presented in the General Arrangement Drawings Scheme 06 Appleby to Brough [Document Reference 2.5, APP-014]. Sheet 5 of 6 of this drawing shows the “spur (additional road)” next to the New Langrigg Westbound Junction. The noise model includes the contribution to the noise level at the property from this junction and spur road.</p>
<p>Dr Mary Clare Martin [on behalf of Mrs Joy Thompson, landowner of Low Broomrigg]                      Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-038]</p>	<p>Climate</p>	<p>Table 7-32 shows that there will be a huge amount of carbon emissions during construction on the Appleby-Brough section, far more than on any other section of the route (about 65,000). I gather than much of this will be generated by the viaducts which will be built.</p>	<p>Assessment of the potential effects of the Project on the Climate and any required mitigation is set out in Environmental Statement Chapter 7 (Document Reference 3.2, APP-050). Table 7-21 reports that the scheme with the highest emissions associated with construction is the Appleby to Brough Scheme at 143,621 tCO<sub>2</sub>e.</p> <p>Whilst the Greenhouse Gas (GHG) assessment has identified an increase in GHG emissions, in the context of the overall UK GHG emissions the magnitude of the increase will not have a material impact on the Government meeting its carbon reduction targets.</p> <p>As detailed design progresses opportunities will be sought through construction and design development to reduce the carbon emissions resulting from construction of the Project. Measures to reduce carbon are included within the Environmental Management Plan (Document Reference 2.7, APP-019), see Table 3-2 References D-CL-01 and MW-CL-01. In addition, the contractors must adhere to the commitments of the Outline Carbon Strategy, a draft of this has been published [REP3-043].</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
<p>Dr Mary Clare Martin [on behalf of Mrs Joy Thompson, landowner of Low Broomrigg]                      Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-038]</p>	<p>Air quality                      Human health</p>	<p>I have been unable to find any detail about air pollution round the proposed Langrigg Junction, and it is very likely this will contribute to health problems of elderly people. Nor is it clear what measures will be taken for environmental mitigation.</p>	<p>A series of mitigation measures including enforcing speed limits, dampening haul routes with water during dry weather, locating stockpiles away from sensitive receptors and the use of water sprays to suppress dust have been included in the Environmental Management Plan [Document Reference 2.7, APP-019] to reduce the impact of construction dust. Environmental Statement Chapter 5 Air Quality (APP-048) Section 5.10 (Assessment of likely significant effects) summarises the assessment of the impacts of construction dust across the study area, including the Langrigg Junction area. The receptors assessed are shown on ES Figure 5.3: Air Quality Construction Phase Assessment (Application Document 3.3, APP-067). This section of the report summarises that across the study area, including the Langrigg Junction area, with the implementation of these mitigation measures the impact of construction dust will be negligible and not significant.</p> <p>Representative residential receptors were included in the air quality model across the study area, including representing the Langrigg Junction area. Modelled concentrations at human receptor locations across the study area were below the relevant air quality objectives at all locations and are therefore the impact of traffic on air quality associated with the construction and operation of the Project is predicted to be negligible and not significant. This is summarised in Environmental Statement Chapter 5 Air Quality Section 5.10 (Assessment of likely significant effects).</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
George F White LLP on behalf of Bowes and Romaldkirk Charity Estates Post-hearing submissions including written submissions of oral cases [REP5-043]	Land Design, engineering and construction Engagement	Concerns over detail/certainty provided on design, acquisition, future land management and lack of meaningful attempt to negotiate terms with landowners and occupiers.	National Highways considers that the points raised are addressed under Agenda Item 4.1 (pages 11-14) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].  Reference should also be made to the Applicant's Deadline 5 Submission – 7.11 Compulsory Acquisition Status of Negotiations Schedule Rev 2 [Document Reference 7.11, REP5-018 for the Clean version and REP5-019 for the Tracked version].
George F White LLP on behalf of Bowes and Romaldkirk Charity Estates Post-hearing submissions including written submissions of oral cases [REP5-043]	Flooding and drainage	Request for further details from the Applicant regarding design of flood storage identified for plots 07-02-101; 07-02-106; 07-03-01; 07-03-02 on land owned by the Bowes and Romaldkirk Charity Estates, and whether they can remain in agricultural production in some way.  Request for further information and engagement regarding field drainage.	National Highways considers that the points raised are addressed under Agenda Item 4.1 (pages 11-14) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].  Plots 07-02-101, 07-0-106, 07-03-01 and 07-03-02, to the north of the dual carriageway have been identified to accommodate flood water from a tributary to the River Greta as a consequence of the widening of the works in to the floodplain. Flood modelling is subject to detailed design but it is anticipated that the land may need to be regraded in part. Outwith flood events it is expected that the land will remain viable for agricultural use.  Field drainage will be developed as part of the accommodation works during detailed design.

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
George F White LLP on behalf of Messrs Heron Post-hearing submissions including written submissions of oral cases [REP5-044]	Land Legislation and policy Development of the Project and alternatives	Deadline 5 Submission in the matter of land to be acquired for the Brough Hill Fair; maintain opposition to use of the Bivvy Site for the relocation of the Brough Hill Fair.	<p><b>The Applicant has submitted [Document Reference: 7.37] a 'Summary Statement on Brough Hill Fair Relocation' at Deadline 6 to address these points.</b></p> <p>In addition, reference should also be made to Agenda Item 4.1 (pages 14 and 15) of the Applicant's Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].</p>
George F White LLP on behalf of Messrs Heron Post-hearing submissions including written submissions of oral cases [REP5-045]	Land Design, engineering and construction Engagement	Concerns over detail/certainty provided on design, acquisition, future land management and lack of meaningful attempt to negotiate terms with landowners and occupiers.	<p>National Highways considers that the points raised are addressed under Agenda Item 4.1 (pages 11-14) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].</p> <p>In terms of the Applicant's efforts to incentivise the acquisition of the interests in land that it requires to deliver the Project alongside the development of the detailed design of the Project, please see the Applicant's Summary Statement on Land Acquisition Requirements and Process, which it submitted at this Deadline 6.</p> <p>Reference should also be made to their Deadline 5 Submission – 7.11 Compulsory Acquisition Status of Negotiations Schedule Rev 2 [Document Reference 7.11, REP5-018 for the Clean version and REP5-019 for the Tracked version].</p>
George F White LLP on behalf of Messrs Heron	Environmental mitigation Biodiversity	2.5 Ecological Mitigation Areas Queries regarding status of land marked for ecological mitigation; whether areas shown constituted restoration	Regarding the general points raised about ecological mitigation areas, National Highways consider these points addressed under Agenda Item 4.1 (pages 12 to

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
<p>Post-hearing submissions including written submissions of oral cases [REP5-045]</p>		<p>of existing grassland rather than improvements in the form of woodland or wetlands, etc. to offset losses elsewhere.</p> <p>Specific query in relation to plots 06-04-26, 06-04-24 and 06-04-13; details requested as to whether these plots have been categorised as areas for EFB or EFD.</p> <p>For EFB areas, confirmation sought as to whether post works, they can remain in agricultural production.</p> <p>For any EFD areas, clarity sought as to what form they will take, and who will manage these areas.</p>	<p>13) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].</p> <p>In addition, reference should also be made to their Deadline Submission – 7.24 Applicant's Response to the Examining Authority's Written Questions [Document Reference 7.24, REP4-011], specifically the response provided to Written Question CA 1.2 (pages 4 to 7 for REP4-011).</p> <p>Plots 06-04-26, 06-04-24 and 06-04-13 are classified as EFB primarily as they comprise landscape integration planting around settlement ponds (Plot 06-04-24) and restoration of habitat after temporary use for construction (Plots 06-04-26 and 06-04-13). There is an area of woodland planting around the proposed junction in the north of Plot 06-04-24 which is for ecology mitigation (EFD) and will be managed for woodland by National Highways as part of the A66 soft estate.</p>
<p>George F White LLP on behalf of Messrs Heron</p> <p>Post-hearing submissions including written submissions of oral cases [REP5-045]</p>	<p>Flooding and drainage</p>	<p>Section 2.6 Flood Storage</p> <p>Further details requested from the Applicant as to how flood storage areas will be designed and whether agricultural production can be maintained.</p> <p>Particular plots of relevance, on land occupied by Messrs Heron, listed as: plot 06-03-52, part 06-03-51, part 06-03-36, part 06-03-46.</p>	<p>National Highways consider the points raised regarding flood storage on land occupied by Messrs Heron, to be addressed under Agenda Item 5.2 (pages 19 to 20) of their Deadline 5 Submission – 7.30 Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.30, REP5-024].</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
George F White LLP on behalf of Mr & Mrs Hayllar Post-hearing submissions including written submissions of oral cases [REP5-046]	Land Design, engineering and construction Engagement	Concerns over detail/certainty provided on design, acquisition, future land management and Negotiation of terms with landowners and occupiers.	National Highways considers that the points raised are addressed under Agenda Item 4.1 (pages 11-14) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].  In terms of the Applicant's efforts to incentivise the acquisition of the interests in land that it requires to deliver the Project alongside the development of the detailed design of the Project, please see the Applicant's Summary Statement on Land Acquisition Requirements and Process, which it submitted at this Deadline 6.  Reference should also be made to their Deadline 5 Submission – 7.11 Compulsory Acquisition Status of Negotiations Schedule Rev 2 [Document Reference 7.11, REP5-018 for the Clean version and REP5-019 for the Tracked version].
George F White LLP on behalf of Mr & Mrs Hayllar Post-hearing submissions including written submissions of oral cases [REP5-046]	Environmental mitigation Biodiversity	2.3 Ecological Mitigation Areas  Queries regarding status of land marked for ecological mitigation; whether areas shown constituted restoration of existing grassland rather than improvements in the form of woodland or wetlands, etc. to offset losses elsewhere.  Specific query in relation to plots 06-05-29, 06-06-06, 06-06-14, 06-06-05, 06-06-22 and 06-06-23; details requested as to whether these plots have been categorised as areas for EFB or EFD.  For EFB areas, confirmation sought as to whether post works, they can remain in agricultural production.	Regarding the general points raised about ecological mitigation areas, National Highways consider these points addressed under Agenda Item 4.1 (pages 12 to 13) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].  In addition, reference should also be made to their Deadline Submission – 7.24 Applicant's Response to the Examining Authority's Written Questions [Document Reference 7.24, REP4-011], specifically the response

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
		<p>For any EFD areas, clarity sought as to what form they will take, and who will manage these areas and whether they can be farmed to any extent.</p>	<p>provided to Written Question CA 1.2 (pages 4 to 7 for REP4-011).</p> <p>Plot 06-05-29 has a landscape integration function (EFB). Subject to the performance of its restoration and its continuing use remaining consistent with its landscape integration function, it may be suitable for return to agricultural use. However, at this stage in the development of the design the Applicant cannot guarantee that it will be able to return the land in a condition that would meet the current owner's reasonable satisfaction and so powers of compulsory acquisition are sought over it.</p> <p>Plot 06-06-06 has a nature conservation function (EFD) and will be subject to a 30-year woodland management plan to enhance condition of the woodland for wildlife, which could be undertaken by the landowner under agreement with National Highways. The plot is currently wooded and it would be likely that livestock such as sheep would need to be excluded to encourage natural regeneration of trees.</p> <p>Plot 06-06-14 partly has a landscape integration function (EFB). In relation to its landscape integration function, the same considerations apply as is described above in relation to plot 06-05-29.. The woodland within this plot will be under the same woodland management plan as Plot 06-06-06 with conditions as above.</p> <p>Plot 06-06-05 has a landscape integration function (EFB) with planting around a settlement pond, likely to be mixture of species-rich grassland, scrub and woodland.</p>



Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			<p>This would remain in the permanent land take of the scheme for maintenance of the pond.</p> <p>Plots 06-06-22 and 23 partly have a landscape integration function (EFB). In relation to its landscape integration function, the same considerations apply as is described above in relation to plot 06-05-29. The woodland within these plots along Lowgill Beck will be under the same woodland management plan as Plot 06-06-06 with conditions as above.</p>
<p>George F White LLP on behalf of Mr &amp; Mrs Hayllar                      Post-hearing submissions including written submissions of oral cases [REP5-046]</p>	<p>Land Socioeconomics</p>	<p>2.4 Farm Impact Assessment                      Concerns over percentage of total farmed area/best, most versatile agricultural land to be affected by the Project.                      Unaware of any substantive review of the impacts having been conducted by the Applicant. Submit that these impacts must be fully considered and accounted for in order to fully understand the costs of the Project and implications for impacted businesses.</p>	<p>The Applicant can confirm that the impact on the Hayllar's agricultural land holding was assessed and reported in Chapter 13: Population and Human Health of the Environmental Statement (ES) [Document Reference 3.2, APP-056 and ES Figure 13.5 (APP-125)]. The assessment was undertaken in accordance with applicable Design Manual for Roads and Bridges Guidance. Under this guidance the assessment considered the characteristics of the land itself (i.e., farming practices such as arable or pastoral) and any associated infrastructure for the purpose of agricultural production, amongst other parameters such as location and accessibility. The baseline parameters are set out in Appendix 13.2 Agricultural land holding baseline summary (REP3-029). Robust worst-case assumptions were utilised, which resulted in the impact on the Hayllar's landholding (West View) being concluded as a significant adverse effect (see Table 13-51 of the Chapter 13 of the ES). This inherently took into account any impacts on the agricultural business operations taking place on the land.</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			<p>As such, the Applicant maintains that an appropriate, precautionary assessment of the impacts of the Scheme on the Hayllar's agricultural land holding has been undertaken, with a worst-case reported. The resulting significant adverse effect, alongside all others reported in the ES, will need to be taken into account by the Secretary of State in determining whether or not to grant the DCO having regard to the requirements of the National Networks National Policy Statement and the overall balancing exercise in respect of considering whether the adverse effects of the Scheme outweigh its benefits.</p>
<p>George F White LLP on behalf of Mr &amp; Mrs Henshaw                      Post-hearing submissions including written submissions of oral cases [REP5-047]</p>	<p>Land Design, engineering and construction Engagement</p>	<p>Concerns over detail/certainty provided on design, acquisition, future land management and lack of meaningful attempt to negotiate terms with landowners and occupiers.</p>	<p>National Highways considers that the points raised are addressed under Agenda Item 4.1 (pages 11-14) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].</p> <p>In terms of the Applicant's efforts to incentivise the acquisition of the interests in land that it requires to deliver the Project alongside the development of the detailed design of the Project, please see the Applicant's Summary Statement on Land Acquisition Requirements and Process, which it submitted at this Deadline 6.</p> <p>Reference should also be made to their Deadline 5 Submission – 7.11 Compulsory Acquisition Status of Negotiations Schedule Rev 2 [Document Reference 7.11, REP5-018 for the clean version and REP5-019 for the Tracked version].</p>

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<p>George F White LLP on behalf of Mr &amp; Mrs Henshaw</p> <p>Post-hearing submissions including written submissions of oral cases [REP5-047]</p>	<p>Design, engineering and construction</p>	<p>2.3 Temporary Roundabout</p> <p>Suggest that the temporary roundabout proposed to be built to the west of the realigned Warrener Lane adjacent to Mainsgill Farm Shop for the duration of the works, become a permanent feature of the scheme and be linked into the de-trunking agreement for the A66, and therefore be considered as part of the Examination of the DCO.</p>	<p>National Highways considers that the points raised are addressed under Agenda Item 4.1 (pages 22-23) of their Deadline 5 Submission - 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions or oral case) [Document Reference 7.29, REP5-023].</p> <p>In summary, <i>“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.”</i></p>
<p>George F White LLP on behalf of Mr Foster</p> <p>Post-hearing submissions including written submissions of oral cases [REP5-048]</p>	<p>Land Design, engineering and construction Engagement</p>	<p>Concerns over detail/certainty provided on design, acquisition, future land management and lack of meaningful attempt to negotiate terms with landowners and occupiers.</p>	<p>National Highways consider the points raised addressed under Agenda Item 4.1 (pages 11-14) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].</p> <p>In terms of the Applicant’s efforts to incentivise the acquisition of the interests in land that it requires to deliver the Project alongside the development of the detailed design of the Project, please see the Applicant’s Summary Statement on Land Acquisition Requirements and Process, which it submitted at this Deadline 6.</p> <p>Reference should also be made to their Deadline 5 Submission – 7.11 Compulsory Acquisition Status of Negotiations Schedule Rev 2 [Document Reference 7.11, REP5-018 for the clean version and REP5-019 for the Tracked version].</p>

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<p>George F White LLP on behalf of Mr Foster</p> <p>Post-hearing submissions including written submissions of oral cases [REP5-048]</p>	<p>Rights of Way and access</p>	<p>2.3 Access</p> <p>Concerns about access to retained land during and after completion of the works, including over Clint Bridge.</p> <p>Concerns about protection for services that run over the bridge and are required for livestock welfare.</p>	<p>The Applicant considers that the points raised have been addressed under Agenda Item 4.1 (pages 17-18) of its Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].</p>
<p>George F White LLP on behalf of Mr Foster</p> <p>Post-hearing submissions including written submissions of oral cases [REP5-048]</p>	<p>Environmental mitigation Biodiversity</p>	<p>2.4 Ecological Mitigation Areas</p> <p>Queries regarding status of land marked for ecological mitigation; whether areas shown constituted restoration of existing grassland rather than improvements in the form of woodland or wetlands, etc. to offset losses elsewhere.</p> <p>Specific query in relation to plot 07-01-44; details requested as to whether this plot has been categorised as an area for EFB or EFD.</p> <p>For EFB areas, confirmation sought as to whether post works, they can remain in agricultural production.</p> <p>For any EFD areas, clarity sought as to what form they will take, and who will manage these areas.</p>	<p>Regarding the general points raised about ecological mitigation areas, National Highways consider these points addressed under Agenda Item 4.1 (pages 12 to 13) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].</p> <p>In addition, reference should also be made to their Deadline Submission – 7.24 Applicant's Response to the Examining Authority's Written Questions [Document Reference 7.24, REP4-011], specifically the response provided to Written Question CA 1.2 (pages 4 to 7 for REP4-011).</p> <p>Plot 07-01-44 is required in order to allow for the relocation/redesign of settlement ponds and a drainage outfall to the river. The proposed mitigation in this plot is for landscape integration (EFB) of the settlement ponds and drainage and restore the area after construction. The landscaping will likely consist of species-rich grassland and woodland/ scrub to restore existing habitat. This is required for landscape integration and does not have a specific ecology mitigation function. It is within the</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			permanent land take of the scheme currently to facilitate further drainage design.
George F White LLP on behalf of Mr G S Harrison Post-hearing submissions including written submissions of oral cases [REP5-050]	Land Design, engineering and construction Engagement	Concerns over detail/certainty provided on design, acquisition, future land management and lack of meaningful attempt to negotiate terms with landowners and occupiers.	National Highways considers that the points raised are addressed under Agenda Item 4.1 (pages 11-14) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].  In terms of the Applicant's efforts to incentivise the acquisition of the interests in land that it requires to deliver the Project alongside the development of the detailed design of the Project, please see the Applicant's Summary Statement on Land Acquisition Requirements and Process, which it submitted at this Deadline 6.  Reference should also be made to their Deadline 5 Submission – 7.11 Compulsory Acquisition Status of Negotiations Schedule Rev 2 [Document Reference 7.11, REP5-018 for the clean version and REP5-019 for the Tracked version].
George F White LLP on behalf of Mr G S Harrison Post-hearing submissions including written submissions of oral cases [REP5-050]	Land Socioeconomics	2.3 Farm Impact Assessment Concerns over land take and future access arrangements.  Unaware of any substantive review of the impacts having been conducted by the Applicant. Submit that these impacts must be fully considered and accounted for in order to fully understand the costs of the Project and implications for impacted businesses.	The Applicant can confirm that the impact on the Harrison's agricultural land holding was assessed and reported in Chapter 13: Population and Human Health of the Environmental Statement (ES) [Document Reference 3.2, APP-056 and ES Figure 13.5 (APP-125)]. The assessment was undertaken in accordance with applicable Design Manual for Roads and Bridges Guidance. Under this guidance the assessment considered the characteristics of the land itself (i.e., farming practices such as arable or pastoral) and any associated infrastructure for the purpose of agricultural

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			<p>production, amongst other parameters such as location and accessibility. The baseline parameters are set out in Appendix 13.2 Agricultural land holding baseline summary (REP3-029). Robust worst-case assumptions were utilised, which resulted in the impact on the Harrison's land-holding being concluded as a significant adverse effect (see Table 13-53 of the Chapter 13 of the ES). This inherently took into account any impacts on the agricultural business operations taking place on the land.</p> <p>As such, the Applicant maintains that an appropriate, precautionary assessment of the impacts of the Scheme on the Harrison's agricultural land holding has been undertaken, with a worst-case reported. The resulting significant adverse effect, alongside all others reported in the ES, will need to be taken into account by the Secretary of State in determining whether or not to grant the DCO having regard to the requirements of the National Networks National Policy Statement and the overall balancing exercise in respect of considering whether the adverse effects of the Scheme outweigh its benefits</p>
<p>George F White LLP on behalf of Mr G S Harrison                      Post-hearing submissions including written submissions of oral cases [REP5-050]</p>	<p>Rights of Way and access</p>	<p>2.4 Access                      Seek clarification on whether new farm accesses would constitute a PMA with public rights over it, or a public right of way with additional private rights.                      Maintain position that the dual use of routes for farm traffic and public rights of way is unsafe.</p>	<p>The Applicant considers the points raised regarding rights on accesses to be addressed under Agenda Item 6.1 (pages 21-22) of their Deadline 5 Submission – 7.30 Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.30, REP5-024].</p> <p>The Applicant considers the points raised in relation to the dual use of routes and safety on these, addressed on pages 48-49 of the Applicant's Deadline 2 Submission –</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			<p>7.6 Applicant's Response to Written Representations made by Affected Persons at Deadline 1 – Rev 1 [Document Reference 7.6, REP2-015].</p> <p>Further information on this, in response to Mr Harrison's concerns raised by Ms Horn of George F White LLP at Compulsory Acquisition Hearing 2, can be found under Agenda Item 4.1 (pages 20-21) of the Applicant's Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].</p>
<p>George F White LLP on behalf of Mr Hobson                      Post-hearing submissions including written submissions of oral cases [REP5-050]</p>	<p>Land Design, engineering and construction                      Engagement</p>	<p>Concerns over detail/certainty provided on design, acquisition, future land management and lack of meaningful attempt to negotiate terms with landowners and occupiers.</p> <p>Concerns raised in respect of disproportionate impact on Mr Hobson's Camping and Caravan Site with proposed permanent or temporary works surrounding the site.</p>	<p>National Highways consider the points raised addressed under Agenda Item 4.1 (pages 11-14) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].</p> <p>In terms of the Applicant's efforts to incentivise the acquisition of the interests in land that it requires to deliver the Project alongside the development of the detailed design of the Project, please see the Applicant's Summary Statement on Land Acquisition Requirements and Process, which it submitted at this Deadline 6.</p> <p>Reference should also be made to their Deadline 5 Submission – 7.11 Compulsory Acquisition Status of Negotiations Schedule Rev 2 [Document Reference 7.11, REP5-018 for the clean version and REP5-019 for the Tracked version].</p> <p>Regarding the points raised in respect of disproportionate impacts on Mr Hobson's Camping and Caravan Site</p>



Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			business, National Highways would refer to their post-hearing notes provided under Agenda Item 4.1 (pages 18-19) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].
George F White LLP on behalf of Mr Hobson Post-hearing submissions including written submissions of oral cases [REP5-050]	Flooding and drainage	2.3 Drainage Concerns over perceived lack of detail as to proposed drainage arrangements. Specifically, paragraph 2.3.3 states: <i>“A reduction in the efficacy of drainage will reduce the available areas for visitors, particularly during wet weather or at the ends of the season generally, and increase the likelihood of unsightly damage to the ground. All of these factors will be to the detriment of the existing business.”</i>	National Highways consider the points raised in relation to detail of drainage arrangements addressed under Agenda Item 4.1 (pages 11 and 13) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].
George F White LLP on behalf of Mr Hobson Post-hearing submissions including written submissions of oral cases [REP5-050]	Design, engineering and construction Safety	2.4 Safety Review Safety concerns with junction with A67 and would like sight of safety review carried out by Applicant.	National Highways note that a sufficient response was previously provided to Mr Hobson in respect of the safety concerns raised, on page 40 of their Deadline 2 Submission – 7.6 Applicant's Response to Written Representations made by Affected Persons at Deadline 1 [Document Reference 7.6, REP2-015].
George F White LLP on behalf of Mr Manners	Land Design, engineering and construction	Concerns over detail/certainty provided on design, acquisition, future land management and lack of meaningful attempt to negotiate terms with landowners and occupiers.	National Highways consider the points raised addressed under Agenda Item 4.1 (pages 11-14) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
Post-hearing submissions including written submissions of oral cases [REP5-051]	Engagement		<p>submissions of oral case) [Document Reference 7.29, REP5-023].</p> <p>In terms of the Applicant's efforts to incentivise the acquisition of the interests in land that it requires to deliver the Project alongside the development of the detailed design of the Project, please see the Applicant's Summary Statement on Land Acquisition Requirements and Process, which it submitted at this Deadline 6.</p> <p>Reference should also be made to their Deadline 5 Submission – 7.11 Compulsory Acquisition Status of Negotiations Schedule Rev 2 [Document Reference 7.11, REP5-018 for the clean version and REP5-019 for the Tracked version].</p>
George F White LLP on behalf of Mr Manners Post-hearing submissions including written submissions of oral cases [REP5-051]	Landscape and visual	<p>2.3 Request for Visualisation</p> <p>Request for the Applicant to provide an image showing the proposed bridge to the east of Stone Bridge Farm when viewed from Mr Manners' property.</p>	<p>This location is represented by viewpoint photos 7.7 and 7.7A in the DCO Landscape and Visual Impact Assessment ("LVIA"), Environmental Statement Chapter 10 Landscape and Visual [Document Reference 3.2, APP-053]. Significant adverse visual impacts are already recorded in the LVIA in relation to this receptor. National Highways does not consider that a photomontage would add any further detail. National Highways would also not wish to undermine the primacy of the LVIA assessment photomontages by producing a visualisation. National Highways would reiterate that the purposes of photomontages are to articulate and review mitigation efficacy and to assist with the making of impact assessment judgements, particularly in borderline cases between significant and non-significant effects.</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
George F White LLP on behalf of Mr Manners Post-hearing submissions including written submissions of oral cases [REP5-051]	Design, engineering and construction	2.4 Reasonable Need for Bridge to the East of Stonebridge Farm Note accesses to relevant properties to the north of the A67 which already exist and could provide access to these properties without the need for the bridge, thus reducing Project costs.	National Highways consider these points addressed under Agenda Item 4.1 (page 20) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].
George F White LLP on behalf of Mr Manners Post-hearing submissions including written submissions of oral cases [REP5-051]	Land	2.5 Book of Reference Errors noted in the Book of Reference. Specifically, the following plots should be identified as falling within the freehold ownership of Mr Manners, but are currently attributed to other parties: 07-03-05, 07-03-44, 07-03-13, 07-03-04 and 07-03-06.	The plots mentioned are all noted in the Book of Reference as being owned by either Jennifer, John or William Manners. As per the land referencing methodology we would consider the interests to be correct as plot 07-03-04 is under HMLR title DU241799 which is owned by Jennifer and John Manners. Plots 07-03-05, 07-03-06, 07-03-13 and 07-03-44 all form part of a highway on land which does not have its title registered with HMLR. In such circumstances the <i>ad medium filum</i> presumption would apply whereby it is presumed that the frontagers either side of the highway own interests in the sub soil up to the mid point of the highway. The <i>ad medium filum</i> presumption is a presumption which may be rebutted by evidence and the Applicant would consider any evidence made available to it as to the ownership of the sub soil interests in the relevant plots.
George F White LLP on behalf of Mr Moss Post-hearing submissions	Land Design, engineering and construction Engagement	Concerns over detail/certainty provided on design, acquisition, future land management and lack of meaningful attempt to negotiate terms with landowners and occupiers.	National Highways consider the points raised addressed under Agenda Item 4.1 (pages 11-14) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
including written submissions of oral cases [REP5-052]			<p>submissions of oral case) [Document Reference 7.29, REP5-023].</p> <p>In terms of the Applicant's efforts to incentivise the acquisition of the interests in land that it requires to deliver the Project alongside the development of the detailed design of the Project, please see the Applicant's Summary Statement on Land Acquisition Requirements and Process, which it submitted at this Deadline 6.</p> <p>Reference should also be made to their Deadline 5 Submission – 7.11 Compulsory Acquisition Status of Negotiations Schedule Rev 2 [Document Reference 7.11, REP5-018 for the Clean version and REP5-019 for the Tracked version].</p>
<p>George F White LLP on behalf of Mr Moss</p> <p>Post-hearing submissions including written submissions of oral cases [REP5-052]</p>	<p>Land Socioeconomics</p>	<p>2.3 Farm Impact Assessment</p> <p>Concerns over percentage of total tenancy area to be affected by the Project.</p> <p>Unaware of any substantive review of the impacts having been conducted by the Applicant. Submit that these impacts must be fully considered and accounted for in order to fully understand the costs of the Project and implications for impacted businesses.</p>	<p>The Applicant can confirm that the impact on the Moss's agricultural land holding was assessed and reported in Chapter 13: Population and Human Health of the Environmental Statement (ES) [Document Reference 3.2, APP-056]. The assessment was undertaken in accordance with applicable Design Manual for Roads and Bridges Guidance. Under this guidance the assessment considered the characteristics of the land itself (i.e., farming practices such as arable or pastoral) and any associated infrastructure for the purpose of agricultural production, amongst other parameters such as location and accessibility. The baseline parameters are set out in Appendix 13.2 Agricultural land holding baseline summary (REP3-029). Robust worst-case assumptions were utilised, which resulted in the impact on the Moss's land-holding being concluded as a significant adverse effect (see Table 13-53 of the Chapter 13 of the ES). This</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			<p>inherently took into account any impacts on the agricultural business operations taking place on the land. As such, the Applicant maintains that an appropriate, precautionary assessment of the impacts of the Scheme on the Moss's agricultural land holding has been undertaken, with a worst-case reported. The resulting significant adverse effect, alongside all others reported in the ES, will need to be taken into account by the Secretary of State in determining whether or not to grant the DCO having regard to the requirements of the National Networks National Policy Statement and the overall balancing exercise in respect of considering whether the adverse effects of the Scheme outweigh its benefits</p>
<p>George F White LLP on behalf of Mr Richardson                      Post-hearing submissions including written submissions of oral cases [REP5-053]</p>	<p>Land Design, engineering and construction                      Engagement</p>	<p>Concerns over detail/certainty provided on design, acquisition, future land management and lack of meaningful attempt to negotiate terms with landowners and occupiers.</p>	<p>National Highways consider the points raised addressed under Agenda Item 4.1 (pages 11-14) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].</p> <p>In terms of the Applicant's efforts to incentivise the acquisition of the interests in land that it requires to deliver the Project alongside the development of the detailed design of the Project, please see the Applicant's Summary Statement on Land Acquisition Requirements and Process, which it submitted at this Deadline 6.</p> <p>Reference should also be made to their Deadline 5 Submission – 7.11 Compulsory Acquisition Status of Negotiations Schedule Rev 2 [Document Reference 7.11,</p>

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			REP5-018 for the Clean version and REP5-019 for the Tracked version].
George F White LLP on behalf of Mr Richardson Post-hearing submissions including written submissions of oral cases [REP5-053]	Land	2.3 Book of Reference Errors noted in the Book of Reference. Confirmed Mr Richardson is the freehold owner of plot 09-02-05. Note Mr Richardson should also be recorded as the owner of an area of the old A66 (i.e., the route prior to the current road), comprising part 09-01-07 and part 09-02-03.	The Applicant carried out diligent inquiries when preparing and maintaining the Book of Reference. The Applicant would be content to update the Book of Reference at Deadline 8 to reflect Mr Richardson's assertions of ownership provided it was supplied with sufficient evidence of the basis upon which Mr Richardson asserts title to it.
George F White LLP on behalf of Mr Richardson Post-hearing submissions including written submissions of oral cases [REP5-053]	Rights of Way and access	2.4 Accesses Seek clarification on whether new farm accesses would constitute a PMA with public rights over it, or a public right of way with additional private rights. Maintain position that the dual use of routes for farm traffic and public rights of way is unsafe. Request confirmation that Mr Richardson will not be responsible for any maintenance or management of the proposed underpass to the south of plot 09-02-06.	National Highways consider the points raised regarding rights on accesses, addressed under Agenda Item 6.1 (pages 21-22) of their Deadline 5 Submission – 7.30 Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.30, REP5-024]. Further information on this, in response to Mr Richardson's concerns raised by Ms Horn of George F White LLP at Compulsory Acquisition Hearing 2, can be found under Agenda Item 4.1 (pages 21-22) of the Applicant's Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].
George F White LLP on behalf of the Taylor Family	Land Design, engineering and construction	Concerns over detail/certainty provided on design, acquisition, future land management and lack of meaningful attempt to negotiate terms with landowners and occupiers.	National Highways consider the points raised addressed under Agenda Item 4.1 (pages 11-14) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written



Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
Post-hearing submissions including written submissions of oral cases [REP5-054]	Engagement		<p>submissions of oral case) [Document Reference 7.29, REP5-023].</p> <p>In terms of the Applicant's efforts to incentivise the acquisition of the interests in land that it requires to deliver the Project alongside the development of the detailed design of the Project, please see the Applicant's Summary Statement on Land Acquisition Requirements and Process, which it submitted at this Deadline 6.</p> <p>Reference should also be made to their Deadline 5 Submission – 7.11 Compulsory Acquisition Status of Negotiations Schedule Rev 2 [Document Reference 7.11, REP5-018 for the Clean version and REP5-019 for the Tracked version].</p>
George F White LLP on behalf of the Taylor Family Post-hearing submissions including written submissions of oral cases [REP5-054]	Environmental mitigation Biodiversity	<p>2.3 Ecological Mitigation Areas</p> <p>Queries regarding status of land marked for ecological mitigation; whether areas shown constituted restoration of existing grassland rather than improvements in the form of woodland or wetlands, etc. to offset losses elsewhere.</p> <p>Specific query in relation to plots 04-05-51 and 04-05-56; details requested as to whether this plot has been categorised as an area for EFB or EFD.</p> <p>For EFB areas, confirmation sought as to whether post works, they can remain in agricultural production.</p> <p>For any EFD areas, clarity sought as to what form they will take, and who will manage these areas.</p>	<p>Regarding the general points raised about ecological mitigation areas, National Highways consider these points addressed under Agenda Item 4.1 (pages 12 to 13) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].</p> <p>In addition, reference should also be made to their Deadline Submission – 7.24 Applicant's Response to the Examining Authority's Written Questions [Document Reference 7.24, REP4-011], specifically the response provided to Written Question CA 1.2 (pages 4 to 7 for REP4-011).</p> <p>Plots 04-05-51 and 56 have a landscape integration function (EFB). Subject to the performance of its restoration and its continuing use remaining consistent with its landscape integration function, it may be suitable</p>



Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			for return to agricultural use. However, at this stage in the development of the design the Applicant cannot guarantee that it will be able to return the land in a condition that would meet the current owners reasonable satisfaction and so powers of compulsory acquisition are sought over it.
George F White LLP on behalf of the Taylor Family Post-hearing submissions including written submissions of oral cases [REP5-054]	Land Rights of Way and access	2.4 Plot Query re. Right of Way Proposed access arrangement: <i>"0405-05-42 and part 0405-05-21 allow for footpaths/bridleways and access to the pond and underpass. It would make sense that the access to the pond is allowed for on the line of the existing bridleway straight up to the underpass within the field margin alongside the rationalisation of public footpaths onto the same line. This would ensure the farm traffic and public rights of way are kept separate ensuring safety can be maintained."</i>	National Highways consider the points raised addressed under Agenda Item 4.1 (pages 16-17) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].
George F White LLP on behalf of the Taylor Family Post-hearing submissions including written submissions of oral cases [REP5-054]	Land Rights of Way and access	2.5 Access to Retained Land <i>"In regard to the land to the West of 0405-05-07, it is unclear how access to this area will be achieved following completion of the works as it appears to become landlocked. Please could the Applicant confirm how the necessary accesses will be provided."</i>	The land within plot no 0405-05-07 (as well as 0405-05-03 and 0405-05-02) has been identified for environmental mitigation measures (planting of hedgerows) It is intended that access over these plots will be retained and access provided to the adjacent land in a similar situation as currently provided.
George F White LLP on behalf of the Trustees of the	Land	Concerns over detail/certainty provided on design, acquisition, future land management and lack of	National Highways consider the points raised addressed under Agenda Item 4.1 (pages 11-14) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
Kenneth Thompson Discretionary Will Trust  Post-hearing submissions including written submissions of oral cases [REP5-055]	Design, engineering and construction  Engagement	meaningful attempt to negotiate terms with landowners and occupiers.	(CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023].  In terms of the Applicant's efforts to incentivise the acquisition of the interests in land that it requires to deliver the Project alongside the development of the detailed design of the Project, please see the Applicant's Summary Statement on Land Acquisition Requirements and Process, which it submitted at this Deadline 6.  Reference should also be made to their Deadline 5 Submission – 7.11 Compulsory Acquisition Status of Negotiations Schedule Rev 2 [Document Reference 7.11, REP5-018 for the Clean version and REP5-019 for the Tracked version].
Michael Walton on behalf of Dr A R Leeming  Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-058]	Environmental mitigation  Biodiversity	Woodland planting - Change in location of woodland planting not reflected in position statement or SoCG, Incorrect facts in response relating to plot for woodland planting mitigation.  Marked up Land Plan attached to submission, showing two plots. Requests plot 0102-01-34 be removed from draft CPO and plots 0102-01/14/17/22 existing woodland be retained in these areas where land not required for construction.	Regarding alternative areas proposed for woodland planting, National Highways consider these points addressed in their Deadline 5 submission titled: <i>Issue Specific Hearing 3 (ISH3) Post Hearing Submission – Response to Examining Authority's Request Under Agenda Item 3.2: Environmental Mitigation Area Sizes and Locations</i> [Document Reference 7.31, REP5-027 and REP5-028].  The Applicant can also confirm that a productive meeting was held on 27th March with Dr Leeming to discuss this matter. Discussions are ongoing and the Applicant anticipates being able to reach agreement.
Michael Walton on behalf of Dr A R Leeming	Environmental mitigation  Biodiversity	Query methodology used to assess BNG.	The Defra Metric guidance has been used as a tool to measure the Project's objective to achieve no net loss for biodiversity. Opportunities to maximise biodiversity

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-058]			<p>enhancements have been sought within the footprint of the Project where practicable. However, it is important to note that the tool was not used to influence the area of land included within the Order limits for mitigation and no land has been included within the Environmental Mitigation Maps for the sole purpose of Biodiversity Net Gain. This is set out in further detail in the written response provided to CA2.1 (REP4-011).</p> <p>Regarding the location of the areas identified for environmental mitigation, these have been devised based on professional judgement to ensure in the first instance that the location is appropriate to fulfil its primary purpose of being able to adequately mitigate for an identified potential impact (e.g., required woodland planting to avoid identified severance impacts for bats and birds at a particular location). In addition to this, collaboration with other environmental disciplines and with design engineers was also undertaken to ensure identified areas of environmental mitigation would be practicable, achievable and capable of minimising potential adverse impacts on other receptors, whilst also achieving the primary function of mitigating for an identified environmental impact. Again this has been set out in further detail in the written response provided to CA2.1 (REP4-011).</p> <p>Regarding the proposed planting in relation to response REP5-058, an opportunity mapping exercise was undertaken based on desktop review and field survey to identify opportunities to enhance biodiversity. It is best practice to extend, connect and enhance existing habitats that are already of value to wildlife rather than create new</p>

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			<p>habitats away from existing wildlife value. Although the woodland at Skirsgill was considered of conservation value, the grassland adjacent to it was not considered species-rich so was highlighted as an opportunity to extend the woodland, enhancing the connective corridor and improving resilience through a greater extent of planting, It is also best practice to provided replacement habitat as close to the habitat loss as possible. The additional benefits of this location included buffering the river corridor and providing additional habitat and connections for species known to use the area. Creating new woodlands in fields further away from the scheme and away from existing habitats of wildlife value would delay the use of the new habitats by species having to disperse and not have provided the same benefits of connectivity along the river.</p>
<p><b>Michael Walton on behalf of Dr A R Leeming</b>                      Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-059]</p>	<p>Land Design, engineering and construction                      Proposed change application</p>	<p>Excessive and unnecessary areas of land sought to be compulsorily purchased (suggest land take to be reduced and mitigation planting repositioned). Engineering design to date not adequate to justify need for proposed compulsory acquisition.                      Supportive of principle of the Project.</p>	<p>The issues raised in this submission were considered in detail at Compulsory Acquisition Hearing 2 and Issue Specific Hearing 3. The Applicant's submissions in response are recorded in its respective Post Hearing Submissions (including written submissions of oral case) in documents [REP5-023] and [REP5-024], see in particular pages 28 to 29 of the CAH2 document and pages 12 to 16 of the ISH3 document.                      In addition [REP5-027] provides a detailed consideration of the need for plot 0102-01-34, explains how the location of the plot was decided, considers alternatives and explains how the size of the plot was decided.</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
<p>RK and GF Nicholson</p> <p>Deadline 5 Submission – Other [REP5-066]</p> <p>Deadline 5 Submission – Plan of Sleastonhow Farm [REP5-067]</p>	<p>Land Access</p> <p>Socioeconomics</p> <p>Case for the Project</p> <p>Economics</p>	<p>Reducing land take at Sleastonhow will not reduce the impact on the farming business and will not improve issues of severance or accessibility as the farm will be divided.</p> <p>Access issues have been ignored.</p> <p>No agricultural or business impact assessment has been conducted by NH to establish whether this loss to a private individual is justified by the public gain.</p> <p>NH have not produced the BCR for this section of the Project.</p>	<p>National Highways acknowledge that land will be severed by the scheme. Principle access north and south has been provided via the realigned by Sleastonhow Lane as well as under the back span of the Trout Beck viaduct. Detailed access arrangements including field boundaries and livestock management will be developed as part of the accommodation works to be developed at detailed design.</p> <p>National Highways will continue to engage with the Nicholson's throughout this process to ensure the design develops with regard to their feedback.</p> <p>Regarding an agricultural or business impact assessment, National Highways can confirm that the impact on the Nicholson's agricultural land holding was assessed and reported in Chapter 13: Population and Human Health of the Environmental Statement (ES) [Document Reference 3.2, APP-056]. The assessment was undertaken in accordance with applicable Design Manual for Roads and Bridges (DMRB) Guidance. Under this guidance the assessment considered the characteristics of the land itself (i.e., farming practices such as arable or pastoral) and any associated infrastructure for the purpose of agricultural production, amongst other parameters such as location and accessibility. In undertaking the assessment, the holder of the agricultural interest did not provide any responses to the requests for information from National Highways and, as such, the assessment was carried out on the basis of publicly available information and taking a precautionary approach – the sensitivity of this receptor was classed as high. Robust worst-case assumptions</p>

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			<p>were utilised, which resulted in the impact on the Nicholson's land-holding being concluded as a significant adverse effect (see Table 13-50 of the Chapter 13 of the ES). This inherently took into account any impacts on the agricultural business operations taking place on the land. It is not considered that the outcome of this assessment would be altered as a result of any further information being provided, given the worst-case assumptions applied.</p> <p>As such, National Highways maintains that an appropriate, precautionary assessment of the impacts of the Scheme on the Nicholson's agricultural land holding has been undertaken, with a worst-case reported. The resulting significant adverse effect, alongside all others reported in the ES, will need to be taken into account by the Secretary of State in determining whether or not to grant the DCO having regard to the requirements of the National Networks National Policy Statement and the overall balancing exercise in respect of considering whether the adverse effects of the Scheme outweigh its benefits.</p> <p>Regarding Benefit Cost Ratios for individual Schemes within the Project, National Highways refer to their Deadline 2 Submission – 7.6 Applicant's Response to Written Representations made by Affected Persons at Deadline 1 – Rev 1 [Document Reference 7.6, REP2-015]. On page 76, a response is provided to Written Representations REP1-063, REP1-064 and REP1-065, which outlines the reasons why the BCR for the Project should be considered as a whole, rather than on a scheme-by-scheme basis.</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
<p>RK and GF Nicholson</p> <p>Deadline 5 Submission – Other [REP5-066]</p> <p><b>Deadline 5 Submission – Plan of Sleastonhow Farm [REP5-067]</b></p>	<p>Land Design, engineering and construction</p>	<p>At the most recent ISH in Penrith NH remained unable to confirm the following more than half way through the examination process.:</p> <ol style="list-style-type: none"> <li>1- That the DCO boundary was now fixed and no further change would be sought resulting in more or less land take at Sleastonhow Farm.</li> <li>2- That there would be no further changes to land take sought as permanent as opposed to temporary.</li> <li>3. That there would be no further changes to the proposed mitigation or land sought for mitigation.</li> </ol>	<p>As a matter of procedure the Order limits for the Project were fixed on submission of the application. The Planning Act 2008 regime does provide mechanisms for changes to be considered both during an examination or indeed, after an Order is made. In the former case such changes can only be considered if they are accepted by the Examining Authority. Please see the Planning Inspectorate's Advice Note 16 in relation to the procedure for changes during an examination and the Department for Communities and Local Government's December 2015 guidance (hosted on the Planning Inspectorate's website) '<i>Planning Act 2008: Guidance on Changes to Development Consent Orders</i>' for further information in relation to the applicable procedures in relation to changes.</p> <p>It is not uncommon for applicants for development consent to seek the Examining Authority's acceptance of changes to applications for development consent during the examination.</p>
<p>Town Centre Regeneration Ltd on behalf of Penrith Properties Limited</p> <p>Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-068 and REP5-070]</p>	<p>Land referencing</p>	<p>Response provided to the Applicant's comments at Pages 13 to 15 of Document 7.27, related to diligent referencing.</p>	<p>The Applicant has responded to the points raised in relation to its diligent inquiries as part of the land referencing process in its response to written representations [REP2-015] at pages 25 and 26. The Applicant considers it has met its duty to carry out diligent inquiries and notes that Penrith Properties Limited have suffered no prejudice as a result of the concerns they raise.</p>



Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
<p>Town Centre Regeneration Ltd on behalf of Penrith Properties Limited</p> <p>Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-068 and REP5-070]</p>	<p>Land Design, engineering and construction</p> <p>Walking, cycling and horse-riding</p> <p>Landscape and visual</p> <p>Environmental mitigation</p>	<p>In relation to the proposed road alterations, state there is no compelling case to acquire Penrith Properties Limited's land to accommodate the proposed levels changes or for road widening.</p> <p>State there is no need to acquire Plot 0101-01-20 for the purposes of delivery non motorised user [walking, cycling and horse-riding] facilities.</p> <p>States "<i>there is sufficient land within the National Highways existing ownership to accommodate any necessary landscaping and reprofiling for the delivery of the A66 enhancements.</i>" And therefore no land from plot 0102-01-20 is required for the removal of existing vegetation on the PPL land or to enable additional planting to take place in the context of the Applicant's road safety standards that maintain distance of planting from the proposed road.</p>	<p>In relation to the proposed road alterations, the Applicant considers that it has responded to this point on pages 32 and 33 of its Post Hearing Submissions (including written summary of oral case) for Compulsory Acquisition Hearing 2 [REP5-023].</p> <p>Regarding the requirement for the land for the provision of proposed WCH facilities, landscaping and environmental mitigation, the Applicant considers that the requirement for the land has been addressed in PDL-012, page 403, and REP2-015, pages 25-29. See also its response on pages 32 and 33 of its Post Hearing Submissions (including written summary of oral case) for Compulsory Acquisition Hearing 2 [REP5-023].</p> <p>Further on the WCH provision point, National Highways confirms that it undertook an assessment, as referred to under paragraph 2.2.2 of the Walking, Cycling and Horse-Riding Proposals report (Document Reference 2.4, APP-010). This document highlighted and informed the A66 NTP design proposals for the infrastructure features aimed at improving facilities for walking, cycling and horse riding on the local road network adjacent to the proposed A66 NTP alignment.</p>
<p>Town Centre Regeneration Ltd on behalf of Penrith Properties Limited</p> <p>Deadline 5 Submission – Post-hearing submissions including written</p>	<p>Land Access to retained land</p>	<p>Impacts on retained land at Gillian Park; Penrith Properties Limited "accepts the Applicants confirmation that Plot 0102-01-20 would not be publicly accessible."</p>	<p>Fencing will be provided at the back of the verge, but the exact location will be developed further during detailed design. It is therefore not the intention to provide or allow public access to the embankment.</p>

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submissions of oral cases [REP5-068 and REP5-070]			
Trustees of Winderwath Settled Estates Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-071]	Land Biodiversity	<p>Post Hearing Statement – CAH2</p> <p>The Representors are of the opinion that the Applicant has not made out a compelling case in the public interest to acquire land compulsorily.</p> <p>4. First, in respect of the Applicant's Response to Written Representations (REP2-015) in response to paragraph 90 of the Representors Written Representations (REP1-129, page 17), where the Representors had said that there is no statutory obligation to provide a net biodiversity gain, the Applicant states "however opportunities to maximise biodiversity enhancements have been sought where possible". The Applicant also states in its Responses to the Examining Authorities Written Questions (REP4-011) at the response to question CA1.2 that "one of the project objectives is to seek to achieve no net loss as a minimum and looks to deliver net gains where such opportunities exist" These Responses are ambiguous as to whether or not biodiversity net gain is being sought that adversely effects the land of the Representators and goes beyond the present statutory requirements applicable to the Applicants 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.</p>	<p>To reiterate the response provided to the Written Question CA1.2 (REP4-011), '<i>all of the land identified as being required for environmental mitigation is required for essential environmental mitigation. None of it is required solely for the reason of providing biodiversity net gain and no net loss.</i>' Therefore, to confirm, no land is being acquired for biodiversity net gain. However, the Applicant has also had regard to paragraph 5.23 of the National Policy Statement of National Networks (NPSNN; the relevant policy statement for determining the Application), which states: '<i>The applicant should show how the Project has taken advantage of opportunities to conserve and enhance biodiversity conservation interests</i>' and paragraph 5.33 '<i>Development proposals potentially provide many opportunities for building in beneficial biodiversity or geological features as part of good design. When considering proposals, the Secretary of State should consider whether the applicant has maximised such opportunities in and around developments</i>'. The Applicant has therefore accordingly sought opportunities to maximise biodiversity enhancements within the Project's footprint as part of its mitigation where practicable. For example, by 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 networks. In addition, planting required for landscape integration, visual screening and water attenuation has been designed to</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			<p>maximise biodiversity enhancements as a result of the Project (Project Design Principles, Document Reference 5.11, REP3-040; BNG03). Relating to the enhancement for great crested newts in plot 03-03-04 referred to in Point 8 of the response, this provides another example of where the Project has sought opportunities to enhance biodiversity within the area of land already required for essential mitigation. To confirm relating to plot 03-03-04, no additional land has been acquired for great crested newt enhancements, this area of planting has been sought as part of essential mitigation required to mitigate for habitat loss. Two ponds have been added with adjacent mosaic of grassland scrub habitat at this location in order to further maximise opportunities for the species present at this location.</p>
<p>Trustees of Winderwath Settled Estates Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-071]</p>	<p>Land Legislation and Policy</p>	<p>Post Hearing Statement – CAH2 The Representors are of the opinion that the Applicant has not made out a compelling case in the public interest to acquire land compulsorily. 5. Second, the Applicant's Response to Written Representations (REP2-015) in response to paragraph 15-19 of the Representors Written Representations (REP1-129, page 4), states that the primary policy document on recognition of the best and most versatile agricultural land is the National Policy Statement for National Networks and not the National Planning Policy Framework (NPPF). The former document however replicates at paragraph 5.168 the NPPF wording. The Representors therefore contend that the location and compulsory acquisition of the environmental mitigation</p>	<p>As confirmed in the Legislation and Policy Compliance Statement (APP-242), at page 76, the project accords with paragraph 5.168. Further explanation of how the Project is in compliance with paragraph 5.168 is set out below: Taking into account the economic and other benefits of the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification). The Applicant has taken into account the economic and other benefits of the best and most versatile agricultural land through the stages of project development. For example, at PCF stage 1 the assessment of shortlisted route alignment, were considered against a number of criteria including BMV. This assessment found that the</p>

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		<p>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.</p>	<p>magnitude of effect for loss of BMV is similar if not the same for all of the route options evaluated for the Project. The potential loss of BMV was therefore taken into account but was not a clear differentiating factor between options.</p> <p>In addition, the design development and consideration of alignment options at PCF stage 3 (as reported in the Route Development Report – Appendix 3 of the Project Development Overview Report (APP-244)) took account of the impacts on farming business and agricultural land, through the environmental, social and economic appraisal criteria used to assess the options considered for different schemes. Throughout the consideration of different route options and design development there has been on-going engagement and consultation, with farmers and other parties with an interest in agricultural land, which has taken account of the economic and other benefits of BMV to agricultural businesses.</p> <p>Where significant development of agricultural land is demonstrated to be necessary, applicants should seek to use areas of poorer quality land in preference to that of a higher quality.</p> <p>Through engagement and consultation with agricultural businesses the applicant has sought to use areas of poorer quality land in preference to that of a higher quality and to minimise or mitigate impacts where higher quality land use cannot be avoided. Regard has been had to the issues raised by agricultural businesses at consultation and through engagement and changes were made to the design in response to the issues raised, associated with impact and potential loss of higher quality</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			<p>land, as reported in the Consultation Report (APP-252). Table 3.2 of the Consultation Report sets out on a scheme-by-scheme basis the principal changes made in response to issues raised by landowner, including agricultural businesses. For example, changes were made to access tracks and other elements of the project to ensure that they are located on less productive land to minimise the impact on agricultural businesses.</p> <p>As demonstrated through the reporting of the soils and geology assessment (chapter 9) (APP-052) and the population and human health (chapter 13) (APP-056) of the ES the applicant has identified any effects and has identified the measures to minimise and mitigate impacts, on soil quality. The identification of measures to minimise and mitigate the impact on BMV where temporary possession is required during construction and other measures to mitigate the impact on agricultural businesses, as set out in the ES, are to be secured through a register of commitments set out in the Environmental Management Plan (REP3-004). Measure to manage and minimise impact on soil quality are set out within Annex B9 of the EMP Soil Management Plan (REP3-013).</p> <p>The Applicant's approach to the identification of the land required to mitigate the adverse environmental effect of the Project was considered in detail at CAH2 and ISH and the Applicant refers to its respective summaries and post hearing submissions contained in documents REP5-023, REP5-024 and REP5-027.</p> <p>The Applicant therefore remains of the view that there is a compelling case in the public interest weighing in favour</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			of the authorisation of compulsory acquisition sought in the draft DCO.
Trustees of Winderwath Settled Estates Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-071]	Land Environmental mitigation	<p>Post Hearing Statement – CAH2</p> <p>The Representors are of the opinion that the Applicant has not made out a compelling case in the public interest to acquire land compulsorily.</p> <p>6. Third, if some land of the Estate is required for environmental mitigation, the 18 acres of “Adrian’s Wood”, which the ExA inspected yesterday, which was planted in direct anticipation of the scheme should be used for the purpose. The Representors believe that the environmental mitigation calculations ignore this newly planted woodland which should be accounted for. The Representors believe this would remove the need for any of the proposed environmental mitigation elsewhere on the Estate and particularly the blocks of mitigation planting and management proposed on Whinfell House Farm (plots 03-04-04, 03- 04-12 and 03-04-14). The Representors maintain that including the habitat benefit that has been created by this new planting and substitution of “Adrian’s Wood” would consequently reduce the area of land being sought for acquisition.</p>	<p>Regarding alternative areas proposed for woodland planting, National Highways consider these points addressed in their Deadline 5 submission titled: <i>Issue Specific Hearing 3 (ISH3) Post Hearing Submission – Response to Examining Authority’s Request Under Agenda Item 3.2: Environmental Mitigation Area Sizes and Locations</i> [Document Reference 7.31, REP5-027 and REP5-028].</p> <p>The response covers Plot 03-04-04 but the same justification is relevant for Plots 03-04-12 and 03-04-14.</p>
Trustees of Winderwath Settled Estates Deadline 5 Submission – Post-hearing submissions including written	Land Rights	<p>Post Hearing Statement – CAH2</p> <p>The Representors are of the opinion that the Applicant has not made out a compelling case in the public interest to acquire land compulsorily.</p> <p>7. Fourth, in their Representations REP1-129 (paragraphs 85-88) the Representors stated that permanent acquisition of land for the environmental</p>	<p>The Applicant considers this issue to have been addressed in its post hearing note included on pages 30 and 31 of its Post Hearing Submission (CAH2) (including written submissions of oral case) [Document Reference 7.29, REP5-023].</p>



Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
submissions of oral cases [REP5-071]		mitigation is unnecessary as the Representors will offer rights and enter into restrictive and enforceable positive covenants to plant and manage these areas in an agreed manner. The Applicant is seeking powers to acquire rights in Article 22 of the DCO; these powers can be used, and therefore its requirements can be protected. Rights for these purposes are very common, such as in relation to HS2. To date there have been no proposals from the Applicant on the use of such rights.	
Trustees of Winderwath Settled Estates Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-071]	Land Compensation	<p>Post Hearing Statement – CAH2</p> <p>The Representors are of the opinion that the Applicant has not made out a compelling case in the public interest to acquire land compulsorily.</p> <p>8. Fifth, the Applicant has suggested in their Response to Written Representations (REP2-015, page 10 – paragraph starting “Regarding point 20.....”) that the loss of land for environment mitigation can be addressed by compensation. 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.</p>	The Applicant does not seek to justify its compelling case by relying on the provision of compensation. In relation to the requirement for the land and for the powers sought, please see the responses in the two rows immediately above this one.
Trustees of Winderwath Settled Estates Deadline 5 Submission – Post-hearing submissions	Land Permanent acquisition	<p>Post Hearing Statement – CAH2</p> <p>The Representors are of the opinion that the Applicant has not made out a compelling case in the public interest to acquire land compulsorily.</p> <p>9. Sixth, the DCO documentation still shows the majority of land being permanently acquired. The Representors</p>	The Applicant considers this issue to have been addressed in its post hearing note included on pages 30 and 31 of its Post Hearing Submission (CAH2) (including written submissions of oral case) [Document Reference 7.29, REP5-023].



Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
including written submissions of oral cases [REP5-071]		<p>now know that some areas are only required for temporary purposes such as compounds where unlike the situations set out by the Applicant in their answers to the ExA question CA1.1 (REP4-011) there is no underlying essential environmental mitigation once the temporary use ceases. Examples of this are plots 03-02-01 (majority of the land is required for facilitating the diversion of the major gas main); plot 03-02-18 (compound); plot 03-03-06 (compound and reprofiling); plot 03-03-32 (temporary diversion) and plot 03-02-33 (compound). All these plots are shown on the Environmental Mitigation Maps (APP-041) as "Agricultural seeded grassland with intention for potential return to landowner by agreement". It is not therefore essential mitigation land and as such the Representors object to the extent of the proposed permanent acquisition which should be reduced to a minimum and not be acquired permanently.</p>	
Trustees of Winderwath Settled Estates Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-072]	Environmental mitigation Land Design, engineering and construction	<p>Post Hearing Statement – ISH3</p> <p>"The Representors are supportive of conservation works, woodland planting and environmental management but are against proposals such as the Applicants which only consider a narrow number of issues, are ill conceived and do not properly seek to consider the wider issues or taken into account Affected Parties current environmental management practices and operations on the land."</p> <p>6. Although plot 03-02-01 appears to show a significant area of environmental mitigation the Representators understanding is this area is required temporarily for the diversion of a high pressure gas main and from the</p>	<p>The Applicant considers this issue to have been addressed in its post hearing note included on pages 30 and 31 of its Post Hearing Submission (CAH2) (including written submissions of oral case) [Document Reference 7.29, REP5-023].</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
		<p>Environmental Mitigation Maps (APP-041) is shown as an area with Landscape Element Code LE1.6, which is described as Open Grassland, which at footnote 6 of the maps is described as <i>“agricultural seeded grassland with intention for potential return to landowner by agreement.”</i> If this plot is returned after the temporary use, then the Representors have no issues with the proposals for this plot.</p>	
<p>Trustees of Winderwath Settled Estates                      Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-072]</p>	<p>Environmental mitigation Biodiversity</p>	<p>Post Hearing Statement – ISH3                      “The Representors fundamental issue...is the proposals for Plot 03-04-04 and the associated plots of 03-04-10 and 03-04-14 which are proposed as long-term environmental mitigation...”                      8. First, bio-diversity gain. The Applicant's Response to Written Representations (REP2-015) in response to paragraph 90 of the Representors Written Representations (REP1-129, page 17), where the Representors had said that there is no statutory obligation to provide a net biodiversity gain, the Applicant states <i>“however opportunities to <u>maximise biodiversity enhancements</u> have been sought where possible.”</i>. The Applicant also states in its Responses to the Examining Authorities Written Questions (REP4-011) at the response to question CA1.2 (bottom para of page 4 and top of page 5) the <i>“one of the project objectives is to seek to achieve no net loss as a minimum and <u>looks to deliver net gains</u> where such opportunities exist”</i>. The applicant also stated at ISH3 that the provision of part of plot 03-03-04 was to provide scrubland as an enhancement for</p>	<p>See the response above relating to point 4.</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
		<p>Great Crested Newts and was not replacing a habitat like for like,</p> <p>9. These Responses are ambiguous as to whether or not biodiversity net gain is being sought that adversely affects the land of the Representors and demonstrates that the Applicant is going beyond the present statutory requirements applicable to DCO proposals.</p>	
<p>Trustees of Winderwath Settled Estates Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-072]</p>	<p>Land Design, engineering and construction Environmental mitigation Proposed change application</p>	<p>Post Hearing Statement – ISH3</p> <p>“The Representors fundamental issue...is the proposals for Plot 03-04-04 and the associated plots of 03-04-10 and 03-04-14 which are proposed as long-term environmental mitigation...”</p> <p>10. Second, <b>scheme design and mitigation areas</b>. The <u>public document</u> “A66 Northern Trans-Pennine Project – Proposed Changes Consultation” currently being consulted on by the Applicant indicates an intended reduction in land required for the project through Scheme 03, if the changes are accepted into the DCO application by the ExA. Notably the proposed changes detailed at DC-08 (page 22) under the heading “Reason for the Change” the Applicant states the changes proposed include the potential removal of 1.2km of temporary diversion at the Centre Parcs junction, with the inversion of the mainline alignment resulting in the removal of large earthworks which would “<i>reduce the overall land required for the project</i>”. This must therefore consequently result in a reduction in the loss of habitat and this is acknowledged in the published “Environmental Appendix” that sits alongside the consultation document, where at the bottom paragraph on page 45 it states “... .. <i>the</i></p>	<p>The Applicant submitted a Change Application to the ExA on 24 March 2023, which proposed 24 changes to the DCO application as was originally submitted. It is now with the ExA to make a Procedural Decision on whether to accept and examine the changed application and confirm how it will be examined. If the ExA decide to accept the changed application, the examination will proceed in consideration of the changes proposed.</p> <p>The current design proposals submitted do require the mitigation as outlined and this is the basis for the DCO Order Limits.</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
		<p><i>potential for a slight reduction in effects on biodiversity .....</i>". As the areas of land sought to be compulsorily acquired for environmental mitigation purposes were related and determined by the total area of the Project, it must follow that on an intended reduced land requirement for the Project, there must be a commensurate reduction in the land take for environmental mitigation. If the change proposal is accepted, then an appropriate area must therefore be removed from that proposed to be acquired from the Representors including particularly plots 03-04-04, 03-04-12 and 03-04-14.</p>	
<p>Trustees of Winderwath Settled Estates                      Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-072]</p>	<p>Land Legislation and policy</p>	<p>Post Hearing Statement – ISH3                      “The Representors fundamental issue...is the proposals for Plot 03-04-04 and the associated plots of 03-04-10 and 03-04-14 which are proposed as long-term environmental mitigation...”                      11. Third, the best and most versatile agricultural land. The Applicant's Response to Written Representations (REP2-015) in response to paragraph 15-19 of the Representors Written Representations (REP1-129, page 4), states that the primary policy document on recognition of the best and most versatile agricultural land is the National Policy Statement for National Networks and not the National Planning Policy Framework (NPPF), The former document replicates at paragraph 5.168 the NPPF wording. The Representors therefore contend that the location and compulsory acquisition of the environmental mitigation land at Whinfell House, as stated in their written representations is not in line with either policy, when other lower grade land located in close proximity</p>	<p>Please see the response above relating to point 5 of the REP5-072 submission.</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
		<p>has been offered in substitution. As such there is no compelling reason for compulsory acquisition of plots 03-04-04, 03-04- 12 and 03-04-14.</p> <p>12. The Representors noted the Applicant at ISH3 stated that in earlier consideration of areas for environmental mitigation they had discounted the numerous areas due to the existing land use being “high value agricultural land”. The Applicant has failed to do the same here. As stated previously the areas proposed for mitigation here are predominately on Garde 2 agricultural land. For that reason alone there should be a presumption against use of these areas for mitigation.</p>	
<p>Trustees of Winderwath Settled Estates</p> <p>Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-072]</p>	<p>Safety</p> <p>Impacts on land</p> <p>Socioeconomics</p>	<p>Post Hearing Statement – ISH3</p> <p>“The Representors fundamental issue...is the proposals for Plot 03-04-04 and the associated plots of 03-04-10 and 03-04-14 which are proposed as long-term environmental mitigation...”</p> <p>13. Fourth, road safety and shoot activities. This is an area that the Applicant has consistently failed to consider throughout its decision making.</p> <p>14. The ExA visited site on Tuesday 28* February, and we wish to explain in a little more detail the operation of the shoot in this area and why the location of the proposed mitigation areas has potential road safety issues as well as implications for the estates commercial shoot.</p> <p>15. Attached is a map showing the layout of the shoot in the area of Whinfell House and headed “Shooting Drives — Whinfell House Farm”. The map is annotated to show</p>	<p>National Highways acknowledge the information provided, in respect of the shooting activities at the Estate.</p> <p>National Highways has been engaging with the Winderwath Settled Estates for a number of years in respect of the Project. It has undertaken scheme development in full cognisance of the shooting activities undertaken, including proposals for environmental mitigation in the area.</p> <p>National Highways has set out further information on the process and justification for identifying environmental mitigation areas in their Deadline 5 submission titled: Issue Specific Hearing 3 (ISH3) Post Hearing Submission – Response to Examining Authority’s Request Under Agenda Item 3.2: Environmental Mitigation Area Sizes and Locations [Document Reference 7.31, REP5-027 and REP5-028].</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
		<p>the existing woodlands, release pen, gun standings and direction of drives, which we hope will aid the ExA's understanding of the shoot and thus the negative implications of the proposed mitigation.</p> <p>16. The ExA noted the mature coniferous plantation at Whinfell House Pond that forms plot 03-04-14. This area contains a pheasant release pen where up to 1,200 pheasants are released annually in late July as chicks and reared on before being drawn out by feeding from September onwards to existing substantial areas of woodland on the rising ground to the south (away from the A66 as pointed out to the ExA) where they are fed prior to shoot days of which there are around 10-12 each season, between October and the end of January.</p> <p>17. On a shoot day the birds are driven by a team of beaters back north towards Whinfell House Pond and the pen which has been their rearing home and to which they will naturally migrate. The birds are driven over teams of eight individual guns to be shot and who are lined out, facing the appropriate southern woodland (red lines on plan), on the open ground between the wood been driven and Whinfell House Pond. There are on average two of the four available drives in this area shot on each of those shoot days.</p> <p>18. The layout of the woodlands and ground and the isolation of Whinfell House Pond within surrounding arable land and purposely unconnected to any other woodlands has been established over many years to produce the variety of different pheasant drives in this</p>	<p>As set out in various other submissions by National Highways, the precise nature of environmental mitigation is subject to detailed design and will be consulted on and approved by the Secretary of State as part of the mechanisms contained in the Environmental Management Plan. National Highways, as part of this process, will continue to engage with the Estate with a view to minimising impacts on shooting activities. The information provided is a very helpful part of that process. Nevertheless, National Highways will also continue to engage with the Winderwath Estates during the DCO Examination with a view to providing any comfort it can at this stage that the shooting activities can be maintained insofar as possible.</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
		<p>area without encouraging pheasants towards the A66 — see attached plan.</p> <p>19. In their response to written representations (REP2-015 page 10) and a subsequent explanatory note, which we assume is the note that the Applicant referred to at the CAH2 (copy attached headed “Winderwath Estate — Environmental Mitigation Query”), the Applicant suggests that the proposals for mitigation woodland planting and scrub within the noted plots is to essentially provide for habitat connectivity north and south over the widened road.</p> <p>20. That connectivity already exists with the nature of the woodlands and cover strips on land south of Swinegill. There is already connectivity through three gullies under the existing road and all that is happening is that the road is being widened at that point and existing wildlife crossing will be replicated and enhanced. Nothing that is proposed in the scheme as presented will encourage more wildlife in these area.</p> <p>21. It was acknowledged by the Applicant in their evidence at ISH3 that the widened road here will be more dangerous for wildlife yet the Applicant continues to pursue environmental mitigation planting that will encourage not only wildlife towards the widened A66 but it will also draw pheasants. Unlike the wildlife there is no provision for pheasants to safely cross the road and thus they will pose in the Representors opinion an increased road safety risk as they may try to do so.</p> <p>22. The proposed connectivity will encourage pheasants towards the road for several reasons being: -</p>	



Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
		<ul style="list-style-type: none"> <li>• When pheasants are driven back towards Whinfell House Pond they will naturally move through the new woodland towards Swinegill Plantation and the A66.</li> <li>• If birds are able to be encourage airborne then rather than drop from height into the presently isolated Whinfell House Pond they will again migrate towards the scrub and or Swinegill plantation and the A66.</li> <li>• The connected woodlands and scrub will make it significantly harder to feed and encourage pheasants south up the hill to their normal woodland areas and the shoot drives by providing natural feed opportunities in the wrong place.</li> </ul>	
<p>Trustees of Winderwath Settled Estates</p> <p>Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-072]</p>	<p>Environmental mitigation</p>	<p>Post Hearing Statement – ISH3</p> <p>“The Representors fundamental issue...is the proposals for Plot 03-04-04 and the associated plots of 03-04-10 and 03-04-14 which are proposed as long-term environmental mitigation...”</p> <p>The Representors have put forward a number of alternative areas for mitigation that would avoid the potential safety and shoot management issues described in REP5-072.</p> <p>The Representors state the Applicant “has not provided any sound reasoning why none of these suggested areas should be used in substitution for the proposed mitigation,”</p>	<p>Regarding alternative areas proposed for woodland planting, National Highways consider the consideration of Adrian's Wood addressed in their Deadline 5 submission titled: <i>Issue Specific Hearing 3 (ISH3) Post Hearing Submission – Response to Examining Authority's Request Under Agenda Item 3.2: Environmental Mitigation Area Sizes and Locations</i> [Document Reference 7.31, REP5-027 and REP5-028].</p> <p>The response referred to above covers Plot 03-04-04 but the same justification is relevant for Plots 03-04-10 and 03-04-14.</p> <p>The shoot management issues are responded to above in response to point 13 of REP5-072.</p> <p>The alternatives suggested in REP1-129 do not offer the same connectivity value of the chosen plot, which is primary reason for mitigation planting in this area.</p> <p>Woodland planting would link to sub-optimal habitats for</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			red squirrel such as hedgerows. The wider woodland plot plan includes isolated woodlands away from the point of impact which were not considered suitable to mitigate the impacts of the scheme and would not provide the same opportunities to maximise benefits for biodiversity as the chosen location.
Trustees of Winderwath Settled Estates Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-072]	Land management	<p>Post Hearing Statement – ISH3</p> <p>“The Representors fundamental issue...is the proposals for Plot 03-04-04 and the associated plots of 03-04-10 and 03-04-14 which are proposed as long-term environmental mitigation...”</p> <p>25. Sixth, management plan. Without prejudice to the above the Representors object to the taking of any land where no coherent management plan has been presented that is consistent with the uses of the adjoining land retained by the Estate.</p>	The Environmental Management Plan (an update to which is being submitted at this Deadline 6) sets out the process by which the management requirements for ecological and landscape mitigation will be determined. Measure D-BD-01 in particular sets out the commitment to prepare in detail a Landscape and Ecological Management Plan which is to be in substantial accordance with the outline plan included at Annex B1 of the EMP. This will be reliant on further understanding of site conditions and will be subject to consultation and Secretary of State approval as part of a second iteration EMP.
Trustees of Winderwath Settled Estates Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-072]	Land	<p>Post Hearing Statement – ISH3</p> <p>“The Representors fundamental issue...is the proposals for Plot 03-04-04 and the associated plots of 03-04-10 and 03-04-14 which are proposed as long-term environmental mitigation...”</p> <p>26. Seventh, rights, not acquisition. In their Representations (REP1- 129 para 85-88) the Representors stated that permanent acquisition of land for the environmental mitigation is unnecessary as they will offer rights and enter into restrictive and enforceable positive covenants to plant and manage these areas in an agreed manner. The Applicant is seeking powers to</p>	The Applicant considers this issue to have been addressed in its post hearing note included on pages 30 and 31 of its Post Hearing Submission (CAH2) (including written submissions of oral case) [Document Reference 7.29, REP5-023].

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
		acquire rights in Article 22 of the DCO; these powers can be used. To date there have been no proposals from the Applicant on the use of such rights.	
WHT Salvin MRICS on behalf of Mortham Estates Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-075]	Environmental mitigation Land	<p>Issue Specific Hearing 3 Post Hearing submission considering the Applicant's justification for the compulsory acquisition and woodland planting of Mitigation Plot 08-01-16.</p> <p>Mortham Estates do not consider this requirement to be necessary, justified, nor proportionate.</p> <p>3. The Interested Party's Objection Limited or no account has been made of:-</p> <p>3.2 The Estates' 10 year Woodland Plan (map attached) [REP4-074]</p> <p>3.3 The loss of productive agricultural land and the impact upon the respective farm businesses</p> <p>3.4 The adverse impact of the proposal upon the pheasant shooting and deer stalking/control conducted by the Estate</p> <p>4. Alternative Proposal</p> <p>4.1 Notwithstanding that we cannot identify the woodland loss of 2.58ha in Scheme 8 nor the 4.5ha in Scheme 7 and our belief that if such loss has occurred mitigation should follow the Applicants criteria by locating this within the Scheme concerned (as woodland within Scheme 7 is rarer and of more landscape and environmental value than that in Scheme 8), we offer a site at the entrance of Cockleberry Farm to the south of the Cross Lanes</p>	<p>Regarding the Estates' concerns about impacts upon farm businesses, pheasant shooting and deer stalking/control conducted by the Estate, the Applicant considers these points addressed under Agenda Item 4.1 (pages 33 to 36) of their Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023]. Reference is made within this submission to the Environmental Statement, Chapter 13 Population and Human Health, Table 13-37 of which notes the Mortham Estates' interests as including "several tenanted farms, shoot and other enterprises".</p> <p>As set out in various other submissions by National Highways, the precise nature of environmental mitigation is subject to detailed design and will be consulted on and approved by the Secretary of State as part of the mechanisms contained in the Environmental Management Plan. National Highways, as part of this process, will continue to engage with Mortham Estates with a view to minimising impacts on pheasant shooting and deer stalking/control activities. Nevertheless, National Highways will also continue to engage with the Mortham Estates during the DCO Examination with a view to providing any comfort it can at this stage that the activities can be maintained insofar as possible.</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
		<p>junction amounting to 6.70 ha (compared to the 6.73ha sought)</p> <p>4.2 This is shown by way of illustration on the Estates 10 year Woodland Plan [REP5-074]</p> <p>4.3 A temporary Licence will be granted to the applicant for the planting and establishment to be accomplished with a deciduous/coniferous species mix</p> <p>4.4 The alternative site has adjacent road access, does not adversely impact upon the sporting or deer management, has a better fit within the landscape and does not compromise the setting of St Mary's Church, sterilise identified mineral deposits or impact upon farm businesses (as its current use is an annually sown game crop)</p>	<p>Regarding the justification for woodland planting of Plot 08-01-16, the full justification can be read within Deadline 5 submission titled: Issue Specific Hearing 3 (ISH3) Post Hearing Submission – Response to Examining Authority's Request Under Agenda Item 3.2: Environmental Mitigation Area Sizes and Locations [Document Reference 7.31, REP5-027 and REP5-028]. This document includes further explanation on the limitation of woodland planting at Scheme 07 (Paragraph 8.3.2 and 10.1.1) and the agreement of consultees to place some of the woodland mitigation planting on Scheme 08 (Paragraph 10.2.1).</p> <p>The woodland loss at Scheme 07 amounts to plantation woodland planting that is present due to the A66 road corridor, there are no woodlands of value along the road corridor due to the open nature of the area (Paragraph 8.3.2 and 10.1.1, Document Reference 7.31, REP5-027).</p> <p>Woodland loss at Scheme 08 is of more value and would affect species reliant on this habitat in the vicinity (Paragraph 10.2.1 and 10.2.2, Document Reference 7.31, REP5-027). The alternate location suggested at Cackleberry Farm is much further from the scheme, at 1km south from the nearest point of the scheme, than the proposed mitigation and would not maximise opportunities for biodiversity in the vicinity of the scheme.</p>
WHT Salvin MRICS on behalf of Mortham Estates Deadline 5 Submission – Post-	Land	<p>The need for compulsory acquisition of land.</p> <p>Mr Salvin notes that "<i>The Applicant should identify those areas where only temporary possession is required (such as for services, drainage, access, establishment of mitigation planting) that could be held on temporary</i></p>	<p>The Applicant considers these points addressed under Agenda Item 4.1, on pages 33 to 36 of its Deadline 5 Submission – 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document 7.29, REP5-023].</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
hearing submissions including written submissions of oral cases [REP5-075]		<i>licence and returned to Mortham Estates upon completion to safeguard the historic integrity of the Estate</i> ".	
WHT Salvin MRICS on behalf of Mortham Estates Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-075]	Land Rights of Way and Access	Clarification of the status of Private Means of Access upon completion of the works, including maintenance arrangements for these. Concerns regarding unauthorised access and potential for conflict between users and compromised farm security.	In relation to the status of Private Means of Access upon completion of the works, and the maintenance of these, the Applicant considers these points addressed under Agenda Item 4.1, on page 14 of its Deadline 5 Submission - Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.29, REP5-023] <i>"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."</i> The Applicant also considers that points in relation to Private Means of Access that are shared with Public Rights of Way, have been addressed under Agenda Item 6.1, pages 21 to 22 of its Deadline 5 Submission – 7.30 Issue Specific Hearing 3 (ISH3) Post Hearing

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			Submissions (including written submissions of oral case) [Document Reference 7.30, REP5-024].
<p>WHT Salvin MRICS on behalf of Mortham Estates                      Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-075]</p>	<p>Walking, Cycling and Horse-riding</p>	<p>5.3 Footpath &amp; Cycle Routes                      5.3.1 The Applicant proposes a footway and cycle path (Parcel 08-03-01) to pass to the south of Rokeby Grove and Tack Room Cottage to replace the existing provision to the north, running alongside the A66 westbound carriageway within the Greta Bridge by pass cutting                      5.3.2 No assessment has been made of the impact of this proposal – which was made after the assessment of the scheme was undertaken                      5.3.3 Recent correspondence in the Teesdale Mercury from a cyclist suggests the proposal to reroute is to prevent users crossing the dual carriage way (as they do now) to access the proposed mini roundabout on the C165/A66 junction                      5.3.4 This issue arises as a consequence of the Applicants choice of the Black option for the proposed Barnard Castle location rather than the Estates Blue</p>	<p>The Applicant provided clarification of the factors informing the design of the proposed cyclepath to the south of Rokeby Grove and Tack Room Cottage under Agenda Item 6.1, given on page 22 of its Deadline 5 Submission – 7.30 Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.30, REP5-024].                      Cyclists and walkers from Greta Bridge Bank use existing steps to access the A66 verge and then cross the A66 at grade at the existing Rokeby Junction.                      The project objectives for the Walking, Cycling and Horseriding include re-establishing any WCH routes severed by the proposed works; and where these public rights of way (PRoWs) converge at the upgraded A66 carriageway, then a grade-separated crossing facility is required to cross or divert to the nearest grade separated crossing. In this location, the at grade crossing facility at the existing Rokeby junction will be removed and a diversion of the footpath/cycle path to the proposed Rokeby Junction is preferable as a dedicated underpass or overbridge cannot be accommodated at this existing crossing point.                      It should be noted that removal of the uncontrolled crossing at the existing Rokeby junction and implementation of a foot/cycleway diversion would also apply to the Blue junction option for the same reasons as set out on page 22 of 7.30 Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written</p>



Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			submissions of oral case) [Document Reference 7.30, REP5-024].
WHT Salvin MRICS on behalf of Mortham Estates Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-075]	Landscape and visual	Request for further Photo Montages/Visualisations of the proposed underpass and its relationship to St Marys Church and for the proposed mini roundabout on the proposed Local Access Road at the existing C165/A66 junction.	National Highways considers these points have been addressed under Agenda Item 10 of its Deadline 5 Submission – 7.30 Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.30, REP5-024]. Over pages 27 and 28, the Applicant sets out the reasons it does not consider it appropriate to provide visualisations of the underpass at St Mary's Church and the C165 junction roundabout.
WHT Salvin MRICS on behalf of Mortham Estates Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-075]	Environmental mitigation Cultural Heritage	<p>5.5 Registered Park and Garden Mitigation</p> <p>5.5.1 The Preliminary Environmental Information (PEI) Report on Cultural Heritage assesses the impact of the proposed Black and Blue Options for the Barnard Castle Junction to be “Moderate Adverse” but in the Environmental Assessment (Table 8-22) submitted as part of the DCO process by the Applicant reduces this to “Minor Adverse” without any apparent justification.</p> <p>5.5.2 Reference is made to options for mitigation but it is again unclear what these are and further information is requested from the Applicant.</p>	<p>Preliminary Environmental Information (PEI) Report</p> <p>The Preliminary Environmental Information (PEI) Report on Cultural Heritage represents an assessment of the potential for significant effects in a ‘reasonable worst-case scenario’. The design at Rokeby continued to be refined subsequent to the design freeze assessed by the PEI Report through engagement with stakeholders. The Methodology for assessing significance of effect is laid out in Section 8.4 of the cultural heritage chapter of the ES (APP-051). The application of this methodology in respect of the asset in question (08-0048) is presented in 3.4 Environmental Statement Appendix 8.10 Impact Assessment Table (APP-187).</p> <p>Mitigation</p> <p>The impact on the Registered Park and Garden (RPG) is derived from the introduction of a new element in its setting resulting in perceptible change. The degree to which that change is perceptible from the nearest part of</p>



Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			the RPG, Church Plantation, is modified by the landscaping and planting proposed between The Old Rectory and the point to the east at which the proposed off-line alignment diverges from the current carriageway. The landscaping and planting proposals are shown on the environmental mitigation maps (APP-041) Figure 2.8.6 sheet 3 of 3.
WHT Salvin MRICS on behalf of Mortham Estates Deadline 5 Submission – Mitigation Planting [REP5-074]	Environmental mitigation	Woodland Management Plan – Species Composition Plan submitted in connection with their wider REP5-075 submission.	National Highways acknowledges the plan provided.
WHT Salvin MRICS on behalf of Mortham Estates Deadline 5 Submission – County Durham Minerals and Waste Policies and Allocations Document [REP5-073]	Development of the Project and alternatives	Provided a copy of County Durham Minerals and Waste Policies and Allocations Document Assessment of potential Minerals and Waste sites in County Durham – submitted in response to a call for sites 2021 (September 2021), in connection with their point 3.5 of REP5-075, <i>“Limited or no account has been made of:-...The sterilisation of the identified mineral reserves identified by Breedon Aggregates (submission to DCC Minerals Plan “Call for Sites” attached)”</i> .	The Applicant notes the suggested sterilisation of the identified mineral reserves identified by Breedon Aggregates, and the provision of the ‘submission to DCC Minerals Plan “Call for Sites”’. The document attached is an extract from Durham County Council’s Assessment of potential Minerals and Waste sites in County Durham – submitted in response to a call for sites 2021, a supporting document to the County Durham Minerals and Waste Policies and Allocations Document Draft Plan September 2021 (M&WDPD).  The document identifies the potential mineral reserve as an estimates 20 million tonnes of carboniferous limestone (proposed for extraction over a forty-year period from 2028 to 2068, it concludes that the site at Boldron Cross Lanes should not be allocated. The assessment states that ‘the Council considers that existing permissions for

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>4</sup>	Applicant's Response
			<p>the winning and working carboniferous limestone at Kilmond Wood Quarry, Heights Quarry and at Hulands Quarry in combination with the reserves within the Preferred Area allocated under Policy 58 should be sufficient to ensure a steady supply over the Plan period to 2035. ...Therefore, this site is seeking to meet supply requirements up to 33 years beyond the Plan period'. The assessment also acknowledges the constraint of the proposed upgrade of the A66(T) and new junction at Cross Lanes, affecting the site submission, it identifies that if the site is pursued, the Council would need to consider it in light of the final route alignment for the junction at Boldron Cross Lanes. As such the site is not allocated within the M&amp;WDPD.</p> <p>Durham County Council's Annual Monitoring Report 2021/2022 confirms that submission of the M&amp;WDPD is expected in May 2023, with Examination in Public September 2023 and adoption in June 2024.</p> <p>The land is required for the construction of Scheme 08 Cross Lanes to Rokeby and for landscape integration and nature conservation and biodiversity as illustrated in Figure 2.8.6 of the Environmental Mitigation Maps (Document Reference 2.8, APP-041). The need for the mitigation land (specifically land parcel 08-01-16) is provided in Section 10 Issue Specific Hearing 3 (ISH3) Post Hearing Submission – Response to Examining Authority's Request Under Agenda Item 3.2: Environmental Mitigation Area Sizes and Locations (Document Reference 7.31, REP5-027).</p>

## 5. Applicant's response to Deadline 5 submissions made by other Interested Parties

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>5</sup>	Applicant's Response
Eden Tourism Network Deadline 5 Submission – Eden Tourism Network: A66 Northern Trans Pennine Dualling Project [REP5-042]	Case for the Project Support	<p>Strong support for proposed project. Highlight pre-pandemic contributions of Eden's tourism economy to the economic success of the District from a local employment and health communities perspective.</p> <p>Refer to issues with current single carriageway sections of the A66 which <i>"delay journeys, increase the number of accidents and sustain injuries, all of which in turn can cause very severe disruption to local settlement on the diversion routes."</i></p> <p>Acknowledge <i>"there will be landscape consequences to this project, but recognise these need to be balanced with the economic, safety and social benefits, acknowledging the need to mitigate the impacts of these consequences as much as is possible."</i></p> <p>Support the Applicant's priorities and Project objectives though not commenting on detailed plans for route – believe this is for local communities.</p>	The Applicant acknowledges the support for the Project.
Kirkby Thore Parish Council Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-057]	Landscape and visual	<p>Considers that the Viewpoint A visualisation produced for Deadline 4 [Document reference 7.28, REP4-016] is not an accurate representation of how people perceive the view at this location.</p> <p>Considers that Viewpoint A visualisation produced for Deadline 4 [Document reference 7.28, REP4-016] has not been produced in accordance with Landscape Institute guidance TGN 06/19: Visual Representation of development proposals.</p>	With reference to the Applicant's Deadline 1 submission Issue Specific Hearing 2 (ISH2) Post Hearing Submissions [Document Reference 7.3, REP1-009], Deadline 4 submission 7.28 Viaduct Visualisations Technical note [Document Reference 7.28, REP4-015] and Deadline 5 Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.30, REP5-024], the Applicant was very clear that photomontages for View A and the other 4 locations would not be produced, for the reasons in those submissions, i.e. design development

<sup>5</sup> This section sets out the issues raised in the written submission. This includes either a direct quote or a summary where the quote is too long to be fully copied.

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>5</sup>	Applicant's Response
			<p>and representation, and distance and feasibility of accurate digital representation. With particular reference to National Highways Deadline 5 submission [Document Reference 7.30, REP5-024], it is also highly important not to conflate the purpose of different types of visual representation. Photomontages are meant to be undertaken for a very specific series of situations in a Landscape and Visual impact assessment context – to articulate the efficacy of mitigation; as an aid to assessment judgements in borderline cases of significant versus non-significant effects; and to aid the making of judgements. They are not just to show what a design looks like. It is therefore important not to confuse or undermine the purpose of the LVIA photomontages provided in Environmental Statement Figure 10.9 Viewpoint Photomontages [Document Reference 3.3, APP-110], whose purpose is entirely different to these visualisations. <b>The Applicant was clear on the position in the above submissions and there are also various</b> technical issues set out in REP4-015 with properly and consistently showing panoramic photomontages, particularly for the close proximity views.</p> <p>We set out our responses to specific points made in KTPC's detailed Deadline 5 submission [REP5-057], below.</p> <p>With regard to KTPC's querying of the verified and measured photography undertaken for the baseline work for the viaduct visualisations and with particular reference to atmospheric and weather conditions: We were practically limited to land access and available days for the photography given the deadline set for production. A more relevant point here is that the</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>5</sup>	Applicant's Response
			<p>modest designed height of the viaduct means it sits significantly below the background of the view and the skyline, and the focus of the visualisation is more about showing the viaduct in the foreground, mid ground and its landscape context, which the visualisation clearly does. The photographic approach put forward by KTPC in their Deadline 5 submission [REP5-057] in this respect would also actually reduce the perceptual size of the viaduct compared to that as shown in the visualisation. We would reiterate that the visualisations are not aids to assessment – they are communication of design intent – although they entirely complement and reinforce the assessment judgements in the DCO LVIA (Environmental Statement Chapter 10 Landscape and Visual [Document Reference 3.2, APP-053]), which reported Significant impacts in relation to the receptors represented by the relevant LVIA viewpoints 4.9 and 4.9A.</p> <p>With regard to KTPC's observations in respect of cylindrical projection and lack of re-projection to planar projection, and the lack of 150% scale enlargement: Whilst a 150% scale enlargement of images is stated as beneficial or often preferred in the Landscape Institute Guidance LI TGN 06/19, it is not an exclusive requirement of that TGN and nor is to re-project back to planar projection for large linear schemes, as set out in that guidance. The Applicant would also refer to para 3.8.11 in LI TGN 06/19, which states that 'In addition, there will be situations - for example very close urban contexts or developments of considerable height or width – where scaling at less than 150% may provide more flexibility to fit an image on the page'. Importantly the Applicant must also come back to the point above</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>5</sup>	Applicant's Response
			<p>that the approach have proposed and provided for the viaduct visualisations is not photomontages as the Applicant is showing the design intent, not an aid to assessment, based on the Applicant's understanding of the ExA's requirement at ISH2. Consequently, trying to unpick these visualisations with reference to detailed points in LI TGN 06/19 more relevant to assessment photomontages is of limited helpfulness. To reiterate, the Applicant's process and use of accurate, measured and surveyed photography and camera matched model work using the preliminary massing model of the scheme was to enable the Applicant's illustrator to draw the structures accurately and in proportion in their context, not as an assessment aid, hence why only the first parts of the process in LI TGN 06/19 are used (measured and surveyed photography and accurate placement of camera matched massing model to create verified photowires which the illustrator overlaid his work upon). Therefore, it is not appropriate to draw such comparisons with the detailed points of essentially LVIA oriented photomontage image presentation and projection in LI TGN 06/19, not least because LVIA photomontages are the primary focus of that TGN.</p> <p>With reference to KTPC's point about interpretation in the development roughs for the visualisations and the correction of optical distortion, the Applicant would make the following point: Please refer to the ISH3 transcript [EV-050] and recording [EV-046]. The point made there and amplified in the Applicant's Deadline 5 submission [Document Reference 7.30, REP5-024] relates to the distortion for the close proximity images where cylindrical projection creates an artificial curvature and appearance for the structure. It is</p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>5</sup>	Applicant's Response
			<p>acknowledged this is less so for View A, but that the need for a consistent set of images, quite distinct and entirely separate from the verified photomontages developed for the DCO LVIA, set the approach for this task.</p> <p>With regard to KTPC's in-field checking of the visualisation for View A, and their exercise querying the scale of various aspects of the visualisation the Applicant would make the following points:</p> <p>Based on the dimensions provided for the cab of the telescopic handler in KTPC's Deadline 5 submission, the Applicant has approximately scaled this with reference to the ash tree noted in their submission and in the photograph, they have provided within that. If the telescopic handler is approximately 2.59m in height to cab roof, it appears to be approximately 1/3 of the height of the ash tree which would put the tree height at more like 7.5-8m than 6m on that basis, and therefore somewhat higher than an HGV which is of a typical average height of approximately 4.5m, and 16m length. Please note that in relation to the white lorry shown on the at grade section of road in the right-hand side of the View A visualisation, this is not a full HGV or large 3 axle trailer of that size and it is of smaller length and proportions overall than the HGVs shown in the visualisation, allowing for perspective (as confirmed by the illustrator Mr Carman himself). Consequently, it is not helpful to make a comparison in this matter in the way KTPC have as their assumption here and with reference to their scale comparison to the red HGV in their photograph, is incorrect.</p>



Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>5</sup>	Applicant's Response
<p>Kirkby Thore Parish Council Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-057]</p>	<p>Environmental mitigation Woodland planting</p>	<p>Disagree with principle for planting woodland. Insufficient room for adequate mitigation planting. Provide planting suggestions.</p>	<p>The Applicant has addressed these points in their response at Agenda Item 2.4 (page 10) of their Deadline 5 Submission – 7.30 Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.30, REP5-024]. This response outlines the mitigation design, how it relates to the receiving landscape and the species mix proposed.</p> <p>National Highways considers that there is sufficient room for the mitigation measures outlined in this response.</p>
<p>Kirkby Thore Parish Council Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-057]</p>	<p>Environmental mitigation Landscape and visual</p>	<p>Details on mitigation planting around Kirkby Thore awaited. Provide planting suggestions.</p>	<p>National Highways considers these points addressed under Agenda Item 2.4 (page 10) of their Deadline 5 Submission – 7.30 Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case) [Document Reference 7.30, REP5-024].</p>
<p>Kirkby Thore Parish Council Deadline 5 Submission – Post-hearing submissions including written submissions of oral cases [REP5-057]</p>	<p>National Highway's Change Application Rights of Way and Access</p>	<p>The most recent consultation from NH has proposed changes to the application that would have a negative effect on Rights of Way provision compared with the current application and would result in a reduction in choice of routes out of the village and mean that all remaining routes out would require road walking and crossing the new A66 and the few current off-road sections of RoW near the village would be lost and replaced with fenced off narrow footpaths adjacent to new private means of access tracks. KTPC has objected to these changes.</p> <p>If proposed changes to the DCO are submitted to the Inspectorate, then we would wish to comment further at</p>	<p>Proposed changes DC-10 and DC-12 are no longer being promoted by the Applicant and are not included in the Change Application that was recently submitted to the ExA Based on the feedback from Kirkby Thore Parish Council to the Proposed Changes Consultation <b>it was these Rights of Way that were of particular interest.</b></p>

Deadline 5 submission – Interested Party and name of submission document	Topic	Issue raised <sup>5</sup>	Applicant's Response
		either Deadline 6 or 7 in relation to Rights of Way provision.	
Penrith Ramblers Deadline 5 Submission – Comments on any further information/submissions received by Deadline 4 [REP5-064]	Rights of Way and Access	<p>Comments on National Highways' response to the ExA's Written Questions [Document Reference 7.24, REP4-011], in particular question TA 1.3 and Appendix D.</p> <p>Concerns about inconsistencies in the showing of coincident routes for private access and public non-vehicular ways.</p> <p>Refer to the Draft DCO [Document Reference 5.1, APP-285] and Rights of Way and Access Plans [Document Reference 5.19, APP-343 and Document Reference 5.19, APP-345] to provide context for their submission.</p>	National Highways has noted these concerns which in the main reflect the continuation of matters it has previously addressed and which amount to a difference of opinion on the appropriate approach. While the difference of opinion is noted, the Applicant is content that its approach to showing co-incident public rights of way as either highways in their own right or as comprising part of a wider carriageway, is appropriate and is consistent with established practice. The Applicant doesn't therefore propose to alter its adopted position in this respect.
Penrith Ramblers Deadline 5 Submission – Comments on any further information/submissions received by Deadline 4 [REP5-064]	Rights of Way and Access	<p>Welcome "<i>suggested amendments to the draft DCO pages 97-9 for the start points of paths D*, F, J* and K*</i>".</p> <p>Note that "<i>J* should be described as going southwest, and K* northwest.</i>"</p>	The corrections were made in the Deadline 5 version of the draft DCO [REP5-013], in which K* is described as progressing in a north westerly direction. Comments in relation to J* are noted.

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# Appendix A

Select Link Plots from the A66 Traffic Model. 2044 Inter Peak Figure 5.1 and Figure 5.2 below:

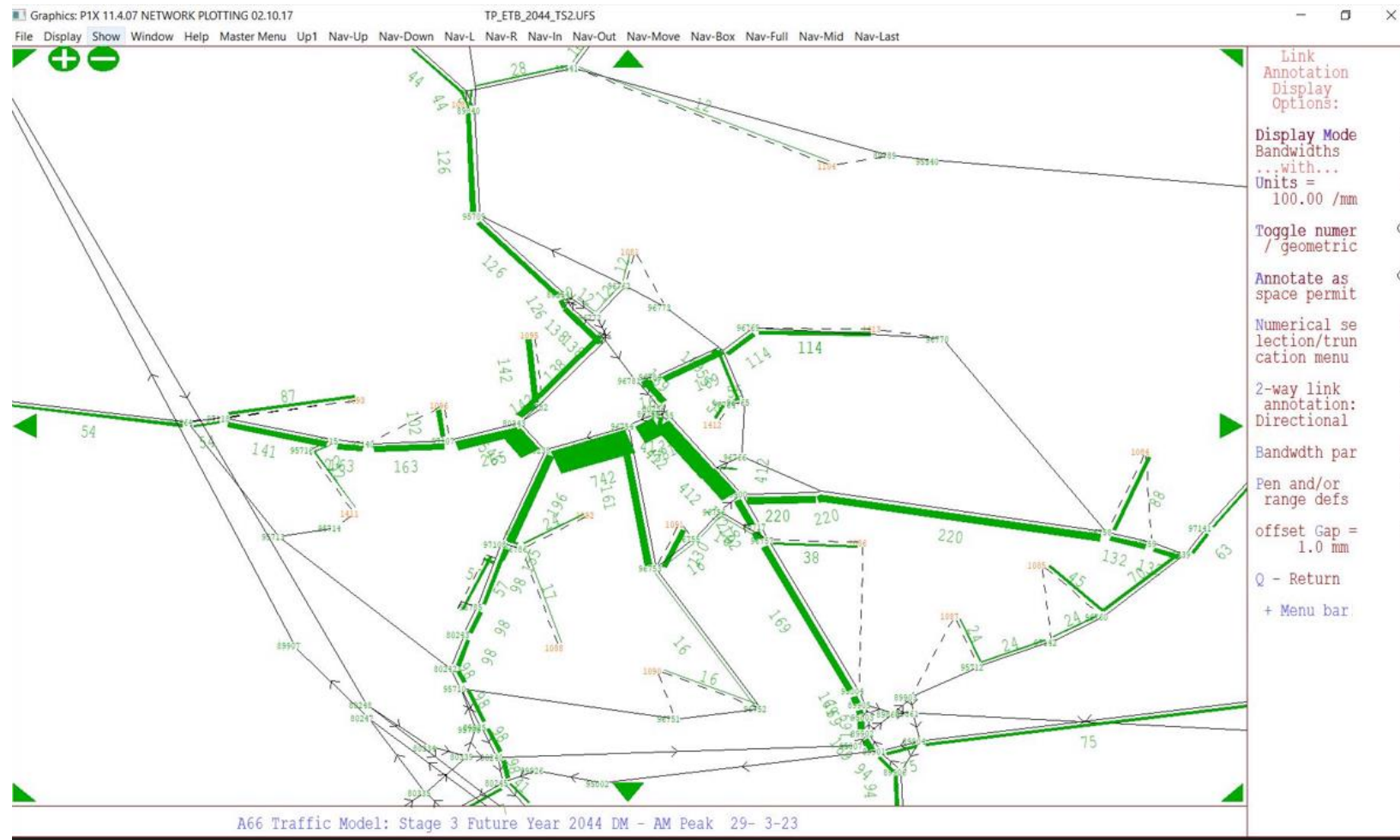


Figure 5-1: 2044 AM Peak Do Minimum Select Link Plot on Castlegate

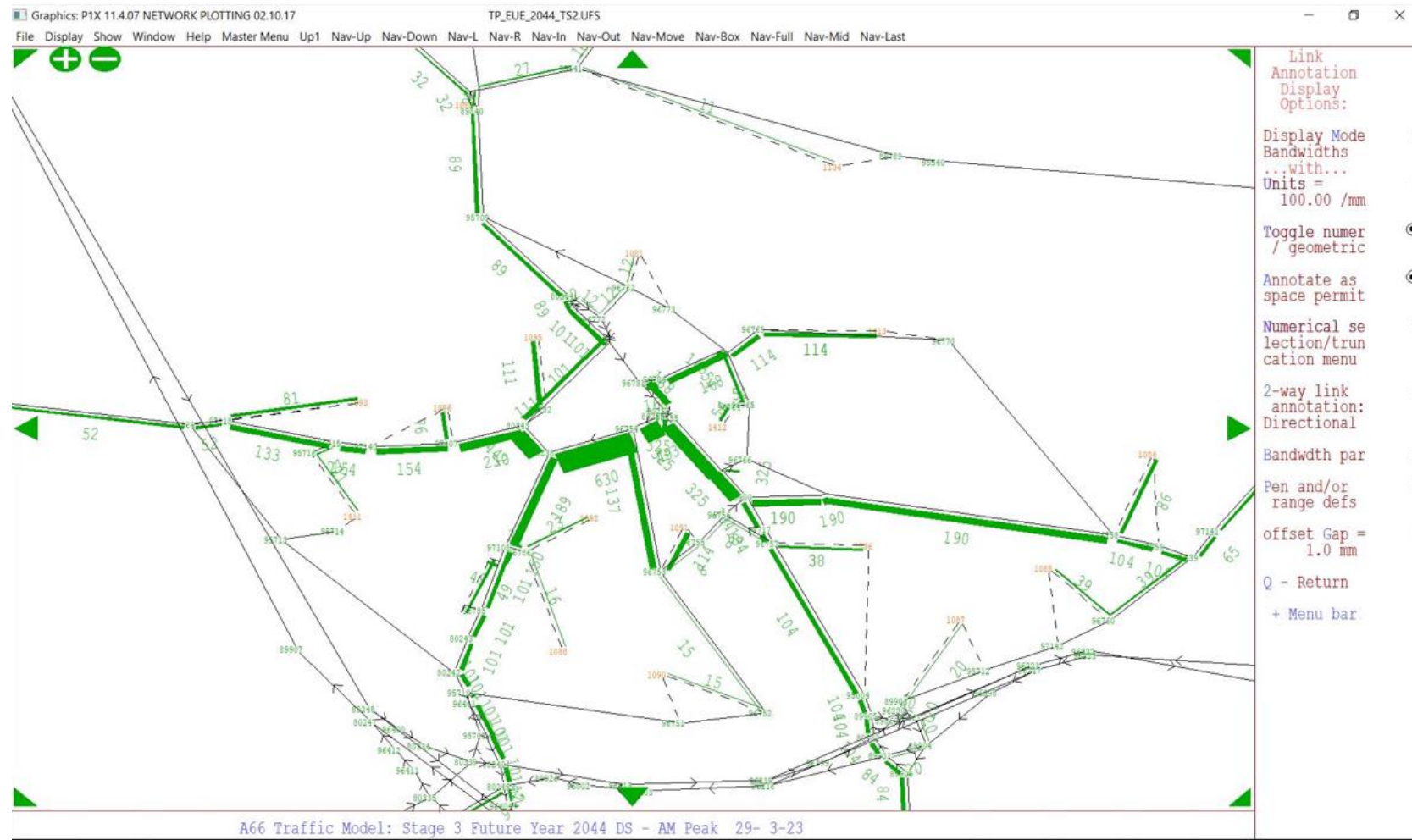


Figure 5-2: 2044 AM Peak Do Something Select Link Plot on Castlegate

### Screenline Data in Penrith – 2044 AADT

	Do Minimum	Do Something	Difference
Brunswick Road West Bound	3,305	3,252	-53
Brunswick Road Eastbound	9,282	8,409	-873
Castlegate Westbound	8,495	7,526	-969
Clifford Road Eastbound	2,935	4,633	+1,698
Clifford Road Westbound	4,331	4,623	+292
A19 Eastbound	23,242	24,416	+1,174
A19 Westbound	18,549	22,845	+4,296
Total Eastbound	35,459	37,458	+1,999
Total Westbound	34,680	38,246	+3,566

### Example Journey Time Data in Penrith – AM Peak 2044 Model (MM:SS) – A66 East of Kemplay Bank to Cromwell Road / A592 Roundabout

Route 1: Leave the A66 at Kemplay Bank Roundabout and turn right onto the A6 and then follow to Castlegate, and to A592 Roundabout.

Route 2: Carry on along the A66 until junction 40 and then use the A592 to A592 Roundabout.

	Route 1	Route 2
Do Minimum	04:59	05:14
Do Something	05:17	04:47