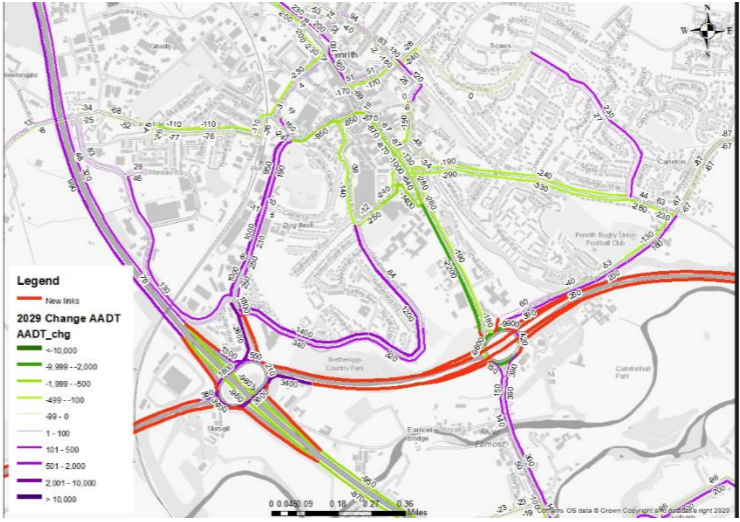




Westmorland and Furness Council

The Council's response to the Applicant's response to Deadline 5 submissions at Deadline 6, for Deadline 7

This document represents a table of responses to the Applicant's response to Deadline 5 submissions at Deadline 6 (REP6-021), to be submitted to Deadline 7. The Council's comments for Deadline 7 are entered in the right-hand column and relate to the matters which the Council considered it relevant to respond to.


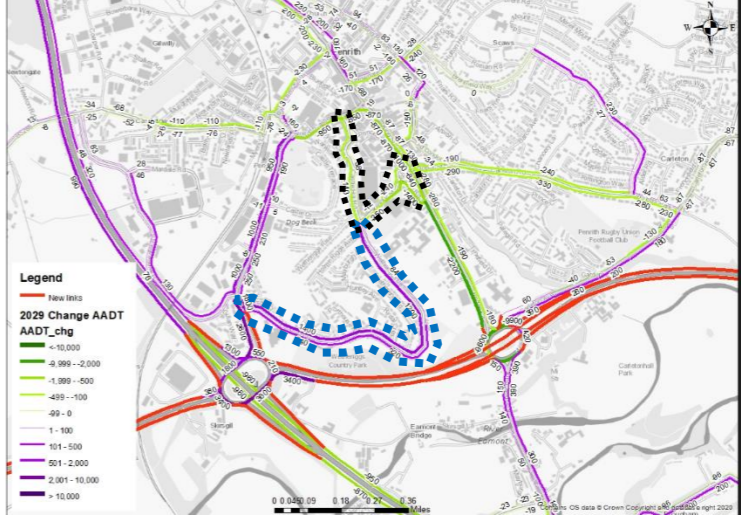
Deadline 5 submission	Topic	Issue Raised	Applicant's Response at Deadline 6	Council's further comments
<p>Cumbria County Council and Eden District Council Deadline 5 Submission – Comments on any further information. Submission s received by Deadline 4 [REP5-034]</p>	<p>Air quality</p>	<p>The Councils' 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 Environmental Management Plan [EMP]. [REP5-036] Principal issues to be addressed with the Environmental Statement</p>	<p>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. 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. 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. 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>	<p>Traffic Routing</p> <p>As the 'flipping' of traffic between Ullswater and Victoria Road is finely balanced, monitoring of impacts would be sensible.</p> <p>This issue is also more likely to be prominent during construction of the proposed Scheme and will need to be appropriately mitigated through the Construction Traffic Management Plan.</p> <p>It is therefore requested that future monitoring (both during construction and operation) of traffic flows through Penrith is undertaken, by ANPR or equivalent means, and appropriate mitigation is provided to reduce the potential impacts of this issue. The Council is in discussion with the Applicant on how to secure this.</p>  <p>There is an opportunity to improve Penrith Town Centre if the capacity improvement at J40 is realised. The latest Vissim results show an improvement in journey times for A66 east to M6 north, in future years with the scheme compared to current conditions, so using the A66 instead of local roads appears logical.</p>
<p>Cumbria County Council and Eden District Council Deadline 5 Submission – Comments on any further information.</p>	<p>Compulsory acquisition</p>	<p>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.</p>	<p>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</p>	<p>The Council remains concerned about the degree of net gain that is to be delivered through the project and continue to seek reassurance from the Applicant on what additional mitigation and compensation can be provided. Should agreement not be reached through the DCO process, then the Council will continue these discussions with the Delivery Integration Partners and with the Applicant through the Designated Funds process.</p>

Deadline 5 submission	Topic	Issue Raised	Applicant's Response at Deadline 6	Council's further comments
Submissions received by Deadline 4 [REP5-034]			engagement with the Councils will be undertaken regarding appropriate measures to enhance biodiversity at detailed design through the second iteration of the LEMP.	
Cumbria County Council and Eden District Council Deadline 5 Submission – Comments on any further information. Submissions received by Deadline 4 [REP5-034]	Draft EMP	The Councils' response to the Applicant's response to the Examining Authority's Written Questions for Deadline 4 – submitted at Deadline 5. EMP 1.1: ES assessments not progressed so significant effects are not mitigated, due to absence of survey and design information.	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.	Substantial progress has been made on the issues raised by the Council at Deadline 5. There are, however, some requests that have not been addressed and dialogue continues between the Council and the Applicant to resolve what is outstanding. Specifically the Council has concerns about the following that are provided in greater detail later in this document, but in summary: <ul style="list-style-type: none"> • Whether a suitable degree of noise mitigation has been provided to the residents of Kirkby Thore or whether incremental or partial elements of barrier could be provided that deliver significant benefits. The Council has provided detailed comment to the Applicant on this matter. • Minor changes to the wording of the EMP that the Council is aware have not been accepted by the Applicant. • Whether red squirrel mitigation measures are adequate, appropriate and deliver the optimum benefit to this species of concern.
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	The Councils' response to the Applicant's response to the Examining Authority's Written Questions for Deadline 4 – submitted at Deadline 5. 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. 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 proposed remediation measures, prior to asset transfer. The Councils go on to explain various considerations and prerequisites in regard to asset transfer.	<u>FDW 1.7</u> The Councils commitment to continue working with the Applicant as the detailed design is developed is noted and welcomed. <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.	The legal side agreement is still being negotiated between the parties in relation to drainage assets and the Council is hopeful that agreement can be reached on all issues prior to the close of the Examination.
Cumbria County Council and Eden District Council Deadline 5 Submission –	People and communities	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.	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.	The Council notes the discussions taking place about the potential sale of Brough Hill Fair site, to which Fair rights would be attached. Whilst there is a current private landowner interest in purchasing the site the situation may change. The Council would like to understand how the site would be managed in the future if there were no purchasers of the site. The Applicant's intention to include management measures to the Secretary of State as required under Article 36 of the DCO is noted. The Council would like to consider these as soon as they are available

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Comments on any further information. Submissions received by Deadline 4 [REP5-034]				
Cumbria County Council and Eden District Council Deadline 5 Submission – Comments on any further information. Submissions received by Deadline 4 [REP5-034]	Traffic and access	<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>TA 1.1: De-trunking arrangements – broadly in agreement with wording of draft DCO subject to condition of assets and side agreement.</p> <p>TA 1.2: Expect Active Travel England to be consulted on 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><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.</p> <p><u>TA 1.2</u> The Applicant notes that Active Travel England will have statutory consultation status on certain planning applications from 1st June 2023. While this status does not cover DCO applications, National Highways is committed to continued engagement with all 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> 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"> • Details of proposed traffic management measures, including phasing plans, route restrictions and speed limits. • Details of planned carriageway and local road closures, including proposed stakeholder and community engagement protocols in advance of closures. • Details of proposed diversion routes, durations of use and proposals for encouraging compliance with designated diversion routes (with consideration for potential noise impacts). • 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. <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</p>	<p><u>TA 1.1 – De-trunking arrangements</u> No further comment.</p> <p><u>TA 1.2 - Active Travel England</u> The Council welcomes this engagement, particularly as the Active Travel Schemes' detailed design has not yet commenced. Active Travel England's technical review and input into that process will provide significant benefits in ensuring that the design is coherent and that interfaces and routes along the SRN and Local Highway network are designed to appropriate standards, including the proposed sections of de-trunked A66 where the current proposals need significant evolution in their design to comply with LTN1/20.</p> <p><u>TA 1.6 - diversion routes</u> The Council welcomes that details listed by the Applicant to be included within the traffic and WCH plans will be developed in consultation with the Council. The Council also welcomes any changes to assessment are reflected in future iterations of the EMP, once the best practice mitigation is confirmed and the detailed construction plans are finalised.</p> <p><u>TA 1.8 - operational models for J40 and Kemplay Bank</u> See response to "Agenda Item 6.1 – Traffic modelling in Penrith" in the following question.</p> <p><u>TA 1.10 - freight study</u> A meeting was held on 08.03.2023 in which the issue of HGV facilities was discussed in the context of the A66. The Applicant and its consultants provided an update on the Nationwide Freight Study, with particular focus on the A66. It was recognised that there was a specific need to meet the future demand of freight along the A66 corridor, and consultation feedback from hauliers was presented which supported this issue. The Councils support the study and will continue discussions with the Applicant to identify appropriate solutions on the A66 corridor. The impact of increased demand of HGV parking expected as a result of the Project is currently unmitigated by the Applicant, and this will result in a worsening of issues caused by indiscriminate HGV parking in Penrith, other settlements, and laybys along the A66. The Councils understand that this issue will not be resolved by the determination of the Examination but support the parallel workstream to deliver an optimal solution. National Highways will need to make a written binding commitment to implementing the recommendations of the freight study.</p>

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			<p>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 1.8</u></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><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>	
Cumbria County Council and Eden District Council Deadline 5 Submission – Post-hearing submissions	CAH2 ISH3 Statement of Common Ground	<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"> • Agenda Item 2.6 Design and Landscape 	<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>	<p><u>Agenda Item 2.6 Design and Landscape</u> The Council's latest position is set out below in the response to the Landscape and visual Draft EMP.</p> <p><u>Agenda Item 3.1 Biodiversity</u> Issues relating to biodiversity are generally agreed, however detailed responses are set out below in reference to the Draft EMP section.</p> <p><u>Agenda Item 6.1 – Private means of access and public rights of way arrangements</u> The Council welcomes confirmation that the PMA and PRow will be delineated or segregated. However, there is still insufficient clarity related to the adopted status of</p>

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including written submissions of oral cases [REP5-035]		<ul style="list-style-type: none"> • Agenda Item 3.1 Biodiversity • Agenda Item 6.1 Traffic and access, De-trunking, Private means of access and public rights of way arrangements, Traffic modelling in Penrith • Agenda Item 8.0 PADSS <p>Agenda Item 9.0 Draft Development Consent Order: Maintenance period for new highways, Article 9(1) and (2); Article 53 (EMP).</p>		<p>the PMA and associated PRoW. The highway status and associated maintenance liability for the council needs to be made clear.</p> <p><u>Agenda Item 6.1 – Traffic modelling in Penrith</u></p> <p>The Council welcomes the additional modelling undertaken, both in microsimulation software VISSIM, and junction signal software LinSig, to help inform the understanding of the potential impacts.</p> <p>Following the review to date, the Council is more confident that the proposed design will cope with the forecasted traffic growth to an acceptable level. The Vissim modelling results show reductions in traffic queuing compared to the without scheme option, and the LinSig shows that the junction can operate with the expected flows in 2044.</p> <p>There are some outstanding issues identified that require resolution both to 1) provide further confidence that the Proposed Scheme operates efficiently and safely for all modes, and 2) to improve the design evolution process of the Proposed Scheme itself so that the signal control at M6 J40 and Kemplay Bank is optimised. We have set out a detailed breakdown of these issues a Technical Note Issued to the Applicant on 18th April 2023 in Appendix A to C. Some of these issues can be addressed during the examination period, for example, providing further information about assumptions used, and other issues are likely to need progressing after the examination closes, where further design input is needed to optimise the future operation of the proposed Scheme.</p> <p>The main issues from this Technical Note were discussed with the Applicant and Arup on 17th April 2023, and it was agreed that the issues in this Technical Note would be reviewed, with commentary to be provided in response to the issues set out in Appendix A-C before the end of the examination so that the Council can record their expectation for further refinements to the design during the Detailed Design process post examination.</p> <p>The Applicant has responded to these issues and we now have a record of the design elements that require development post examination which are contained in two Technical Notes submitted alongside our Covering Letter at Deadline 7:</p> <ol style="list-style-type: none"> 1. A66 Traffic Modelling Review Technical Note - Response from the Applicant 27.04.23; and 2. A66 Traffic Modelling Councils' Review of Applicant Responses Technical Note 04.05.23
Cumbria County Council and Eden District Council Deadline 5 Submission – Principal issues to be addressed with the Environmental Statement [REP5-036]	Air quality Traffic modelling Design, engineering and construction	<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 modelled impact. Concern raised that the AQ verification</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>	<p><u>Traffic Routing</u></p> <p>It is unclear why there are increases in Annual Average Daily Traffic (AADT) along Wetheriggs Lane/Clifford Road which is a residential street that is traffic calmed with cars parked either side of the road (highlighted in dotted blue below). There does not appear to be equivalent reductions on Kilgour Street or Castle Hill Road (highlighted in black dotted line).</p>

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		<p>adjustment factor based on insufficient and/or incorrectly located monitoring sites. 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>Legend</p> <p>New 18183</p> <p>2029 Change AADT</p> <p>AADT_chg</p> <ul style="list-style-type: none"> > 10,000 4,999 - 2,000 1,999 - 500 499 - 100 99 - 0 1 - 100 101 - 500 501 - 2,000 2,001 - 10,000 > 10,000 <p><u>Alternative Precautionary Traffic Screening Criteria</u></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 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.</p> <p>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</p>	 <p>If this is a misrepresentation of traffic flow caused by the limitations of the Strategic Transport Model, then this additional traffic may be more appropriately route via the main roads in Penrith, such as Ullswater Road, Victoria Road, and Castlegate, for which the latter is potentially a future AQMA site. Further explanation is sought on this issue, and any potential impacts this may have on the Air Quality assessment made to date.</p>

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			<p>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 <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 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 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</p>	<p>The Council notes and appreciates the changes that have been made or, where not possible, justified accordingly. The Council, however, has concerns still on the following: Paragraph B1.7.6 – The Council proposes this alternative text which they believe better ensures the delivery of this planting “<i>The PC will take a pro-active approach, where species rich grassland is included as ecological mitigation (i.e. function code EFD) to demonstrate their understanding of this LE, e.g. through the use of advance seeding / test plots that promote best practice in ground preparation and wildflower seeding establishment.</i>”</p>

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			<p>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 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>0102.11</p>	<p>The Council welcomes these amendments.</p>

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			<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 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>0405.17</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> <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⁻)) 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</p>	<p>The Council welcomes this clarification.</p>

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			<p>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 the Environmental Statement [REP5-036]</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 red squirrel elsewhere in the district.</p> <p>The Councils are awaiting confidential species reports.</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> <p>'Grey Squirrel Control'</p> <p>Grey squirrels – 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., 2019¹); 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>	<p>The Council is still concerned that, by the Applicant's own admission, that this mitigation measure is in effect a trial. Therefore, there is the strong possibility that it may not be effective.</p> <p>In the opinion of the Council, following liaison with the Wildlife Trust and the Red Squirrel Group, the most favourable and effective mitigation for red squirrel is to fund mitigation and enhancement outwith the Order Limits on projects that the Council, Wildlife Trust and Red Squirrel Group can support. This mitigation could be funded through the cost saving associated with removing the Animex bridges from the design.</p> <p>For the avoidance of doubt, the Council does not object to the installation of the Animex bridges, but this should only be in parallel with a red squirrel mitigation programme in the wider area of similar value. The Animex bridges that are proposed to be installed upon larger structures could fulfil this trial for a much smaller sum than the stand-alone structures.</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>Cultural Heritage</p>	<p>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 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</p>	<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> <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></p> <p><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</p>	<p>The Council has provided a template for a SSWSI to the Applicant that they would like to be appended to the EMP. This would ensure that eventual SSWSI's that are submitted to the Council for approval would capture the information that would typically be expected to be included.</p> <p>The Council would also request the additional red text to the Outline Heritage Mitigation Strategy Paragraph B3.1.12:</p> <p><i>The Local Authority Curatorial Archaeologists (and Historic England where work within Scheduled Monuments is proposed) will be responsible for the sign off (acting reasonably) of SSWSIs in advance of any excavations or other activities as part of the main works which 'break ground' in the area relating to that SSWSI. The Local Authority Curatorial Archaeologists or Historic England (as appropriate) will be given five days' notice of the intent to submit a SSWSI for approval, and a minimum defined period of 20 working days to review and approve the SSWSI (assuming staged submissions of SSWSIs and that the Local Authority is not being asked to review multiple SSWSI's concurrently that would result in an unreasonable workload). If the</i></p>

¹ 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.

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		<p>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>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>	<p><i>relevant party does not notify a decision whether or not to approve the SSWSI during the defined periods, then it shall be deemed that approval is granted for the proposed SSWSI. The Local Authority Curatorial Archaeologists (and Historic England where relevant) will monitor the archaeological mitigation undertaken pursuant to a SSWSI and review and approve reports produced by the Archaeological Contractor following the completion of archaeological works. The SSWSIs will also identify the museum where the archive will be deposited, in line with the process outlined in this document. Further detail will be added to this document as it is developed through the DCO process. A dispute resolution process will be included to deal with the unlikely event of disagreement between parties in respect of any matter under the Detailed Heritage Mitigation Strategy.</i></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 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 National Highways cannot</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"> • Deadline 1 Submission - 7.3 Issue Specific Hearing 2 (ISH2) Post Hearing Submissions (REP1-009), Post Hearing Submissions • Deadline 2 Submission - 7.9 Applicant's Comments on Local Impact Report - Rev 1 (REP2-018) • Deadline 4 Submission - 7.25 Tree Loss and Compensation Planting Report (REP4-012). <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 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</p>	<p>The Council has received additional text regarding protection of trees outwith the Order limits that National Highways will be including within an updated Environmental Management Plan, that is anticipated at Deadline 7.</p>

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		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.	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.	
Cumbria County Council and Eden District Council Deadline 5 Submission – Principal issues to be addressed with the Environmental Statement [REP5-036]	Noise and vibration	<p>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 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"> • 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. • 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). • The cost-benefit analysis should also be provided, as well as a detailed justification for any design reason the barrier cannot be constructed. <p>This should also be balanced with any justification for not increasing the height of the bund, including consideration of engineered slopes to 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.</p>	<p>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].</p> <p>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 Applicant is seeking to arrange a meeting with the Councils in April to progress matters and look to reach agreement.</p>	The Council and the Applicant have had continued engagement and await further information on an iterative barrier arrangement.

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<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>Noise and vibration</p> <p>Draft EMP</p>	<p>D-NV-03 - 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>D-NV-04 - this action should include a commitment to share 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>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><u>Environmental Management Plan Table 3.2 Register of Environmental Actions and Commitments, ref number D-NV-03</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> <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> <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 Council will review the updated EMP assumed to be submitted by the Applicant at Deadline 7, together with appropriate annexes and reserves its position to comment accordingly.</p>

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			<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 – Updated Principal Areas of Disagreement Summary Statements [REP5-037]</p>	<p>Traffic</p>	<p><u>Junction capacity at M6 J40, Penrith</u> 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> Modelling work still being refined and further technical meeting due to take place.</p> <p><u>Junction capacity at Kemplay Bank, Penrith</u> 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> 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>The Council welcomes the additional modelling undertaken, both in microsimulation software VISSIM, and junction signal software LinSig, to help inform the understanding of the potential impacts.</p> <p>Following the review to date, the Council is more confident that the proposed design will cope with the forecasted traffic growth to an acceptable level. The Vissim modelling results show reductions in traffic queuing compared to the 'without scheme' option, and the LinSig shows that the junction can operate with the expected flows in 2044.</p> <p>There are some outstanding issues identified that require resolution both to 1) provide further confidence that the Proposed Scheme operates efficiently and safely for all modes, and 2) to improve the design evolution process of the Proposed Scheme itself so that the signal control at M6 J40 and Kemplay Bank is optimised. We have set out a detailed breakdown of these issues a Technical Note Issued to the Applicant on 18th April 2023 in Appendix A to C. Some of these issues can be addressed during the examination period, for example, providing further information about assumptions used, and other issues are likely to need progressing after the examination closes, where further design input is needed to optimise the future operation of the proposed Scheme.</p> <p>The main issues from this Technical Note were discussed with the Applicant and Arup on 17th April 2023, and it was agreed that the issues in this Technical Note would be reviewed, with commentary to be provided in response to the issues set out in Appendix A-C before the end of the examination so that the Council can record their expectation for further refinements to the design during the Detailed Design process post examination.</p> <p>The Applicant has responded to these issues and the Council now have a record of the design elements that require development post examination which are contained in two Technical Notes submitted alongside the Council's Covering Letter at Deadline 7:</p> <ol style="list-style-type: none"> 1. A66 Traffic Modelling Review Technical Note - Response from the Applicant 27.04.23; and 2. A66 Traffic Modelling Councils' Review of Applicant Responses Technical Note 04.05.23
<p>Cumbria County Council and Eden</p>	<p>Public open space</p>	<p><u>Wetheriggs Country Park, Penrith</u> Working to develop initial options. Resolution dependent on the Applicant agreeing to implement to recommended</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</p>	<p>In order that the current order limits and proposed design, as it relates to the country park, is acceptable the Council needs to be reassured that the country park /public open space can continue to function and provide an equivalent facility for local residents.</p>

Deadline 5 submission	Topic	Issue Raised	Applicant's Response at Deadline 6	Council's further comments
District Council Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-037]	Walking, cycling and horse-riding	masterplan option for changes to the cycleway route within the DCO boundary.	does not form part of the Applicant's application for development consent and is being progressed outside of this process through the National Highways designated funds programme.	<p>To do this the Applicant needs to ensure that:</p> <ul style="list-style-type: none"> the tree belt between the road and the park to be retained or as far as possible and replacement tree planting provided/ replaced as early as possible. Without this the attractiveness of the location to users is severely damaged; replacement and retention of the tree belt should take into account the impact on residential properties including the sensitive receptor of the adjoining sheltered housing; the existing sports facilities need to be able to continue at similar quality including space around the sports pitches; the noise impact on the park minimised so that its current role as a peaceful oasis between the residential area and the well screened road is not destroyed; the drainage on the lower part of the park is resolved as part of the works as it would be difficult to do at any other time; that sufficient replacement open space land is provided of at least equivalent quality; and that both the capital and ongoing maintenance costs of achieving the alterations to this area will be met by the Applicant. <p>The Council believes that the existing proposal to provide the cycleway along the side of the A66 is not a good solution for its users or for the impact of land take from Wetheriggs Country Park. The potential to bring the Cycleway within the Country Park away from the road should be explored.</p> <p>To achieve this the Council is collaborating with the Applicant to produce the best possible arrangement for the Country Park. The Council and the Applicant are working on a master plan that sets this out and upon which agreement can be reached. This work is well advanced and a preferred option is now being discussed with the relevant parties.</p> <p>The Country Park itself is outside the order limits and many of the changes and the work required to make the land take and design of the A66 acceptable are outside the order limits. However, unless they are carried out the current A66 design proposals in relation to the park are unacceptable to the Council.</p> <p>The actions required to create an acceptable situation go beyond the DCO design itself. During the Examination process the Council would expect to receive a firm assurance through a legal side agreement that the additional proposals related to the park will be delivered where part of the Project Design and, where they are not they will be fully funded by the Applicant. This would make the DCO proposals in this locality acceptable.</p>
Cumbria County Council and Eden District Council Deadline 5 Submission – Updated Principal	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.	The Council continues to discuss the de-trunking proposals with the Applicant and is satisfied with their latest proposal for Walk Mill High to provide a commuted sum for replacement by the Council, given its remaining serviceable life.

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Areas of Disagreement Summary Statements [REP5-037]				
Cumbria County Council and Eden District Council Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-037]	Design, engineering and construction Draft EMP	<p><u>New structures</u> Awaiting detail designs.</p> <p><u>New structures and impact of those upon drainage</u> Expected to be resolved through detailed design discussions and EMP.</p> <p><u>Diversions and construction impacts</u> 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><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.</p> <p><u>Diversions and construction impacts</u> 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"> • 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 • Clarity of temporary traffic management schemes to ensure that the CTMP is built around the customers and stakeholders • Minimising delays to travellers on both trunk and local roads • Meeting the needs of the relevant Local Highway Authorities • Addressing the needs of key local stakeholders • Maintaining adequate access for the emergency services and all affected properties during the construction works. <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>	<p><u>New structures; New structures and impact of those upon drainage</u> The Council awaits the detail design proposals for new structures, further setting out the principles outlined in the Project Design Principles Report [REP3-040].</p> <p><u>Diversions and construction impacts</u> The Council welcomes that details listed by the Applicant to be included within the traffic and WCH plans will be developed in consultation with the Council. The Council also welcomes any changes to assessment are reflected in future iterations of the EMP, once the best practice mitigation is confirmed and the detailed construction plans are finalised.</p> <p><u>Soil Storage and noise nuisance</u> The Council awaits the updates to the EMP at Deadline 7 that they hope will address their concerns with regard to the control of noise during construction.</p>
Cumbria County Council and Eden District Council Deadline 5 Submission	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	The Council remains concerned until they have seen and are satisfied with the final freight study and have received assurances from the Applicant that the study recommendations will be implemented in conjunction with the construction of the A66 dualling.

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– Updated Principal Areas of Disagreement Summary Statements [REP5-037]			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.	The detail of the Protective Provisions within the draft DCO are still to be agreed.
Cumbria County Council and Eden District Council Deadline 5 Submission – Updated Principal Areas of Disagreement Summary Statements [REP5-037]	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 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.	The Council is satisfied that this can be addressed through detailed design
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.	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. 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.	The Council believes, that to ensure safety, non motorised traffic management considerations should inform the design to ensure adequate provision is made for signage and the provision of information. This must include temporary measures to protect non-motorised users on the inside lane of the A66 during AHF activity.

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			<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>	