

A66 Northern Trans-Pennine Project

TR010062

7.40 Applicant's Response to Deadline 6 Submissions

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

Deadline 7

09 May 2023

Infrastructure Planning

Planning Act 2008

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

A66 Northern Trans-Pennine Project
Development Consent Order 202x

**7.40 APPLICANT'S RESPONSE TO DEADLINE 6
SUBMISSIONS**

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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 6 of the Examination of the A66 Northern Trans-Pennine Project (the Project).
- 1.1.2. National Highways has reviewed the submissions made at Deadline 6 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.
- 1.1.3. National Highways has reviewed the submissions made in relation to the proposed replacement of the Brough Hill Fair site, made by the Brough Hill Fair Community Association and Messrs Heron. National Highways has responded to these submissions with an update to the Summary Statement on the Brough Hill Fair Replacement Site, which is also submitted at Deadline 7 of the Examination and has not therefore listed those submissions in this document.

1.2. Structure of this document

- 1.2.1. This document is therefore set out as follows.
- Section 2: Applicant's response to Deadline 6 submissions made by Local Authorities.
 - Section 3: Applicant's response to Deadline 6 submissions made by Statutory Environmental Bodies.
 - Section 4: Applicant's response to Deadline 6 submissions made by Affected Persons.
 - Section 5: Applicant's response to Deadline 6 submissions made by other Interested Parties.

2. Applicant's response to Deadline 6 submissions made by Local Authorities

2.1.1. Table 2 sets out the Applicant's response to submissions made by Local Authorities

Table 2. Response to Deadline 6 Submissions made by local authorities.

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
REP6-026	Durham County Council Responses to ExA's Further Written Questions	<p>AQ 2.2 Further discussions have been held with the Applicant on these matters. Further information is to be provided to Durham County Council to further aid discussions. In parallel to the specific issue of the construction phase and The Sills, the Council is also undertaking a general review of the EMT, AQDM and CTMP in relation to broader air quality matters.</p> <p>GM2.1 DCC confirms that the position set out in Table 4-1 and Table 5-1 are correct and highlight outstanding matters which reflect those in the PADS.</p> <p>TA 2.2 Further details are required in respect of what rights of way and private accesses will be the responsibility of National Highways and Durham County Council. Providing a formal bituminous bound surface on a right of way/private access that will fall under the responsibility of Durham County Council to maintain can often raise the expectations of users of Durham's network that this becomes a standard treatment which is not the case in the vast majority on the Council's rights of way. In addition, if future repairs were required the Council would not be in a position to undertake like for</p>	<p>AQ 2.2 A further meeting was held with Durham County Council (DCC) and their consultants on 26 April 2023 to discuss and resolve remaining issues in relation to air quality. This meeting was accompanied by a technical note which provided evidence on likely air quality levels during the construction phase and DCC and their consultants confirmed acceptability of the information provided. DCC have suggested some amendments to the Environmental Management Plan (EMP) to ensure air quality matters are appropriately addressed in accordance with DCC's perspective and these will be included in the updated EMP which will be submitted at Deadline 8 of the Examination.</p> <p>GM2.1 The Applicant confirms agreement to the position set out in the Statement of Commonality.</p> <p>TA2.2 With regard to the surfacing of Public Rights of Way (PROWs) this will be agreed with the Councils during the detailed design taking the requirements of DCO Article 9(2) into account as well as the design and maintenance requirements of the Councils. Regarding responsibilities for PROWs and Private Means of Access (PMA), the Applicant notes the matters raised by the Council and considers that these concerns</p>

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		<p>like repairs given the existing budget pressures without a commuted sum to draw down.</p> <p>Also, having such surfaces could encourage drivers to travel at greater speeds and potentially conflict with other highway users on foot, on bike and on horseback.</p> <p>The Council has no comments to make regarding the construction of any private accesses that will fall under private ownership without having a right of way.</p> <p>Any new access provision parallel to the A66, regardless of whether it is also a private means of access, should be open to all users. The Council considers that the default position should be Public Bridleway status unless there are specific reasons why this is not possible. This should apply regardless of whether there is also a private means of access.</p>	<p>are addressed by the provisions of the draft DCO. Article 9(2) provides that local highways (which would include PROWs) are to be maintained by the local highway authority.</p> <p>The Applicant agrees with the Councils that they would be obliged to maintain public rights of way to a standard appropriate for their public use. Article 9(4) provides that PMA would be the responsibility of the persons with the benefit of those rights. Where PROWs would also be subject to private rights of vehicular access it would be the responsibility of the persons with the benefit of those rights to maintain the means of access to a standard appropriate to their private use (see Article 9(3)).</p> <p>In circumstances where there are segregated but adjacent PROWs and PMA such that there is clear demarcation between the PROW and the PMA, the Applicant's draft DCO includes provisions that would ensure that the proper extent of the PROW can be properly recorded in the authority's definitive map and statement.</p> <p>Article 10(7) requires the Applicant to supply the "surveying authority" (which in practice means the same Council that is also the highway authority for the relevant highway) with "as built" plans together with a statement of the modifications required to the definitive statement. This would show the limits of the highway comprised in the PROW ensuring there is no lack of clarity as to the extent of the PROW and PMA.</p> <p>Article 10(8) enables the surveying authority to update the definitive map and statement with making any further Order under the Wildlife and Countryside Act 1981.</p>

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REP6-025	Durham County Council Responses to ExA's Further Written Questions	<p>General</p> <p>DCC would reiterate that it does not object to the proposed junction at Rokeby; however, given the lesser impact of the "Blue" route, referred to in the Statutory Consultation, in relation to increased traffic on the B6277 The Sills, the strong preference of the Council remains for the "Blue" route. The reasons for this are set out in Appendix 1 of the Council's Relevant Representation to PNS dated 31 August 2022 (Application Document RR-073) and in subsequent documents submitted to the ExA by the Council. DCC considers 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.</p>	<p>The Applicant notes DCC's preference for the "Blue" route as explained in their REP6-025 submission. The Applicant has responded to this point in earlier submissions to the Examination, including Applicant's Response to Relevant Representations (Part 4 of 4) page 5 and 6 [Document Reference 6.5, PDL-013].</p>
REP6-030	North Yorkshire Council Responses to ExA's Further Written Questions	<p>DCO 2.1</p> <p>The Council agrees with the ExA's suggested wording but would also suggest that clarity is needed on how the evidence for 'materially worse or materially adverse' effects would be provided to them as a consultee and to the Secretary of State as approver. The Council would therefore suggest that the additional italicised text is added to the end of Article 53(4)(a): "<i>would not give rise to any materially new or materially worse adverse environmental effects, having been suitably evidenced, in comparison with those reported in the environmental statement</i>".</p> <p>The Applicant also indicated in its submissions at ISH3 and its post hearing note that it will make it clearer in the EMP that the Council (and other statutory environmental bodies/ relevant authorities) will be consulted when a referral has been made to the Secretary of State in relation to proposed amendments to the second iteration EMP. The revised EMP will be submitted by the</p>	<p>DCO 2.1</p> <p>The Applicant refers to its response to written question DCO 2.1, which is contained in submission REP6-020 [Document Reference 7.34, REP6-020]. In summary, the Applicant is adopting the "<i>materially new or materially different</i>" formulation but will be including an interpretative provision in article 2 of the draft DCO that clarifies that such wording would not preclude the lessening of assessed adverse environmental effect or the improvement of a beneficial effect.</p> <p>The Applicant updated the EMP at Deadline 6 [Document Reference 2,7, REP6-003]. However, it was not necessary to update the EMP to provide for notice to be given to the Consultees (as defined in the EMP) of the Applicant submitting an application for the Secretary of State's approval as such provision was already included in paragraph 1.4.34 of that document. The update at Deadline 6 clarified that paragraph 1.4.34 also applied to the third iteration EMP.</p>

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		<p>Applicant at Deadline 6 and therefore the Council reserves its position to make further comments once it has had the opportunity to review the amendments.</p> <p>DCO 2.2</p> <p>The Council welcomes and supports the ExA's revised wording for Article 54 and notes that further amendments may be suggested at a later stage in the Examination particularly in relation to Trout Beck, Cringle Beck and Moor Beck viaducts (and other structures and/or hardstanding). The Council has made comments on the draft amendments suggested by the ExA in Annex B below and has concerns regarding the following:</p> <ul style="list-style-type: none"> • In paragraph 4 (i) reference to the 'submission' is odd in this context as there has been no requirement to submit anything – there is a suggestion to amend this in Annex B below. Article 53 operates differently in that there is a requirement to submit any changes to the Secretary of State to any amendment to the second iteration of the EMP. • Paragraph 4 (ii) refers to the Summary Report, but there is no linked requirement for the undertaker to follow the consultation and determination provisions (comparison with Article 53 (4) (b)) which are contained in the EMP). Is the EMP to be updated to reflect the changes to Article 54 and be specific regarding consultation with the relevant bodies on any proposed changes? • Paragraph 6 needs to be amended to reflect that it might be the undertaker making the determination, rather than the Secretary of State. The Secretary of State under paragraph 4 (ii) can notify the undertaker 	<p>DCO 2.2</p> <p>The Applicant refers to its response to question DCO 2.2 in document REP6-020 [Document Reference 7.34, REP6-020]. In summary, the Applicant considers it to be inappropriate to apply the drafting in article 53 to article 54. Article 53 deals with the EMP which, from the outset, is intended to evolve alongside the Project. In contrast, the matters secured via article 54 are intended to be fixed at the point the Order is made, subject to a minor degree of flexibility supervised by the Secretary of State.</p> <p>DCO 2.3</p> <p>The Applicant respectfully disagrees with the Council's position. It is the long-established practice of the Department of Transport to require classification numbers to be obtained before statutory Orders are made. Paragraph 2.2 of Department of Transport (as it then was) Circular 1/97 states: <i>"Where the classified road is a proposed new highway, or highways, its classification should be obtained before making the s14 Order. Applications for classification should be made to the Department of Transport at the appropriate regional Government Office."</i> While the guidance in the Circular applies to Orders made under section 14 of the Highways Act 1980 its principles are widely applied to highway DCOs and it is National Highway's general approach to seek to resolve the classification of highways affected by its development consent Orders before the Order is made, consistent with that guidance. The detailed design will not elicit information that is any way material to the classification of a road affected by the Order.</p> <p>GM2.1</p> <p>The Applicant confirms the same position.</p>

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		<p>that it is content for the undertaker to make the proposed determination.</p> <p>Generally, the Council has concerns that wording in Article 54 has been taken from Article 53 without reference to other approvals/ consultation or other requirements in other documents e.g. the EMP.</p> <p>DCO 2.3</p> <p>The Council confirms that until the DCO is made and the detailed design of the local road network is complete the dDCO should indicate the classification number for de-trunked sections to be TBC</p> <p>GM2.1</p> <p>There are no fundamental disagreements, and the Council is confident that for those matters not resolved we can agree with the Applicant mutually acceptable responses for the final SOCG and PADSS.</p> <p>TA 2.2</p> <p>Clarification from the Applicant has been received that the PMA and PRow will be demarcated and access for vehicles will be controlled for only the private land-holders (see post-hearing note under item 6.1 of REP5 – 024). However, there is a need for clarity related to the highway status of the PMA and adjacent PRow and the associated maintenance liability. The Council is willing to maintain new PRow including the cycle tracks, cycleways or equestrian tracks defined in the DCO, to an acceptable standard for the non motorised users permitted. However, the liability for maintaining the PMA should not fall to the Council. The liability and arrangements for the maintenance of each element need to be explained. The Council agrees with Durham</p>	<p>TA2.2</p> <p>Please see the Applicant's response to REP6-026 above.</p>

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		that there is a risk of private means of access becoming a maintenance burden.	
REP6-033	Westmorland and Furness Council Responses to ExA's Further Written Question	<p>AQ 2.1 The Council will seek to align with Natural England on this aspect and awaits the submission of the Applicant's Technical Note at Deadline 6. In the Council review, we intend to set out the expectations for inclusion in the second iteration of the Environmental Management Plan (EMP).</p> <p>CA 2.4 The Council has been in further discussion with the Applicant with regards to land acquisition at Skirsgill depot. The Applicant has reviewed its proposals and the need for permanent land take and in order to satisfy the Council that its operational land will not be affected by the Project, the parties have agreed to enter into a side agreement to reflect the negotiations to date. The Council will update the ExA as to progress.</p> <p>DCO 2.1 The Council agrees with the ExA's suggested wording but would also suggest that clarity is needed on how the evidence for 'materially worse or materially new adverse' effects would be provided to them as a consultee and to the Secretary of State as approver. The Council would therefore suggest that the additional italicised text is added to the end of Article 53(4)(a). "would not give rise to any materially new or materially worse adverse environmental effects, having been suitably evidenced, in comparison with those reported in the environmental statement". The Applicant also indicated in its submissions at ISH3 and its post hearing note that it will make it clearer in the EMP that the Council (and other statutory environmental bodies/ relevant authorities) will be consulted when a referral</p>	<p>AQ2.1 The Applicant submitted the Technical Note for the Ammonia Assessment to Natural England on the 4 April 2023. Comments have recently been received from Natural England on this note and National Highways will continue to work with Natural England with a view to resolving Natural England's residual concerns (which National Highways understands Natural England will be summarising at this Deadline 7 in its submissions) by the end of the Examination.</p> <p>Notwithstanding Natural England's comments, National Highways remains firmly of the view that the HRA conclusions as reported and justified in the Statement to Inform Appropriate Assessment [Document Reference 3.6, APP-235] are correct.</p> <p>CA 2.4 Since Deadline 5, the Applicant has held further discussions with the Council with regard to proposed land acquisition and land use at Skirsgill depot. The Applicant has reviewed its proposals and the need for permanent land take and land use at the depot, and in order to satisfy the Council that its operational land will not be affected by the Project, the Applicant has agreed to enter into a side agreement with the Council to reflect the position agreed through negotiations to date. The Applicant will keep the ExA updated as to progress.</p> <p>DCO 2.1, DCO 2.2 and DCO 2.3 Please see the response at REP6-030 above.</p> <p>GM2.1</p>

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		<p>has been made to the Secretary of State in relation to proposed amendments to the second iteration EMP. The revised EMP will be submitted by the Applicant at Deadline 6 and therefore the Council reserves its position to make further comments once it has had the opportunity to review the amendments.</p> <p>DCO 2.2</p> <p>The Council welcomes and supports the ExA's revised wording for Article 54 and notes that further amendments may be suggested at a later stage in the Examination particularly in relation to Trout Beck, Cringle Beck and Moor Beck viaducts (and other structures and/or hardstanding). The Council has made comments on the draft amendments suggested by the ExA in Annex B below and has concerns regarding the following:</p> <ul style="list-style-type: none"> • In paragraph 4 (i) reference to the 'submission' is odd in this context as there has been no requirement to submit anything – there is a suggestion to amend this in Annex B below. Article 53 operates differently in that there is a requirement to submit any changes to the Secretary of State to any amendment to the second iteration of the EMP. • Paragraph 4 (ii) refers to the Summary Report, but there is no linked requirement for the undertaker to follow the consultation and determination provisions (comparison with Article 53 (4) (b)) which are contained in the EMP). Is the EMP to be updated to reflect the changes to Article 54 and be specific regarding consultation with the relevant bodies on any proposed changes? • Paragraph 6 needs to be amended to reflect that it might be the undertaker making the determination, 	<p>The Applicant accepts the same position.</p> <p>FDW 2.1: National Highways continues to work closely in collaboration with the Environment Agency on the outstanding hydraulic modelling issues in relation to Scheme 6. Whilst the parties are working to resolve the issues on this by the end of the Examination, National Highways is aware that the Environment Agency is, at this Deadline 7, proposing draft wording for a control mechanism in respect of flood risk on Scheme 6 should the modelling issues not be resolved by the end of the Examination. National Highways agrees in principle with this approach albeit it has comments on the precise drafting (acknowledging that the Environment Agency is proposing this wording only in draft at this stage).</p> <p>Whilst the Environment Agency's preferred location for this mechanism is in the DCO, National Highways considers it can be (and should be) located within the first iteration EMP which would provide for sufficient legal enforceability.</p> <p>National Highways will work with the Environment Agency to agree the wording of this control mechanism that could be implemented should the hydraulic modelling for Scheme 6 not be agreed and will provide an update on this at Deadline 8.</p> <p>However, it is very much National Highways' preferred approach to keep working to resolve the hydraulic modelling issues on Scheme 6 by the end of the Examination and understands that to also be the Environment Agency's preferred outcome. As such, the parties will continue to work hard to resolve this and will provide a further update at Deadline 8.</p> <p>TA2.1</p>

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		<p>rather than the Secretary of State. The Secretary of State under paragraph 4 (ii) can notify the undertaker that it is content for the undertaker to make the proposed determination.</p> <p>Generally, the Council has concerns that wording in Article 54 has been taken from Article 53 without reference to other approvals/ consultation or other requirements in other documents e.g. the EMP</p> <p>Note Annex B of the Response Suggests Amends to Article 54 not replicated in this document.</p> <p>DCO 2.3 The Council confirms that until the DCO is made and the detailed design of the local road network is complete the dDCO should indicate the classification number for de-trunked sections to be TBC.</p> <p>GM 2.1 There are no fundamental disagreements, and the Council is confident that for those matters not resolved we can agree with the Applicant mutually acceptable responses for the final SOCG and PADSS.</p> <p>FDW 2.1 The Council, in its capacity as the Lead Local Flood Authority (LLFA), awaits the conclusion of the modelling review by EA and outstanding queries by the Applicant before aligning with EA's position in relation to the Flood Risk Assessment and setting out the LLFA expectations for inclusion in the second iteration of the EMP.</p> <p>TA 2.1 A meeting took place on 17th March 2023 and further discussions and screen sharing took place in relation to the future operation of traffic at Penrith. With the VISSIM model on screen, it was clear that progress had been made in relation to evidencing that the operation Kemplay Bank would be efficient, and it was clear to see that with the future grade separation, traffic</p>	<p>Since the meeting on 17 March the Applicant has provided the following information to the Council:</p> <ul style="list-style-type: none"> • 2022 Base AM, PM and IP Vissim models with associated results files, MOVA datasets, PCMOVA-Vissim connections and VAP files; • 2029 and 2044 forecast AM, PM and IP Vissim models with associated results files, MOVA datasets, PCMOVA-Vissim connections and VAP files; • A drawing showing the lane diagram for the proposed design of the M6 J40 roundabout; • LinSig models of the proposed design of the M6 J40 roundabout for the 2029 and 2044 Friday IP forecast peak hour; • Transport Forecast Report (TFR); and • Local Model Validation Report (LMVR). <p>The Council has undertaken a review of this information and has prepared a technical note dated 12 April 2023 on remaining traffic modelling matters which concludes the following points.</p> <ul style="list-style-type: none"> • 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. • 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. • There are some outstanding issues identified that require resolution both to 1) provide further confidence

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		<p>flowed freely through the junction, and signals appeared to work effectively for a 2029 demand scenario. The operation of M6 J40 however, was less clear, with a number of areas still a work in progress.</p> <p>The models were shared on 03.04.2023, and subsequent documentation and Linsig models will be shared for review by the Applicant. The Council will need to review this information to assess the impacts for each of the assessed scenarios. Note that the timeline outlined by the Applicant for agreeing issues around transport modelling around Penrith is unlikely to align with that outlined on page 22 of REP5-024 (7.30 Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case)), where it is stated that agreement on modelling issues can be made and closed out by mid-April. The following answers are therefore provided in relation to Traffic Modelling.</p> <p>i. Resolved by the end of the Examination.</p> <p>The following are likely to be resolved by the end of the examination, although there is a moderate risk that these matters will still not be resolved, as further information is to be provided by the Applicant, and further review and dialogue is needed to discuss the results and implications of the findings. Note, these points are not currently agreed.</p> <ul style="list-style-type: none"> • Baseline VISSIM Microsimulation Model – it is likely that the Council will reach agreement on the validation of the base model and its compliance with relevant guidance documents and best practice. This is required to assess the future scenario but does not enable the Council to understand the impact of the proposed scheme at Penrith. 	<p>that the project 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.</p> <ul style="list-style-type: none"> • A detailed table is provided, which identifies issues which 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. National Highways have responded closing out these matters in a schedule which is appended to the SoCG with W&FC which will be submitted at Deadline 8 <p>i) Resolved by the End of the Examination and further information to be provided by the Applicant</p> <p>On this basis some limited further work will be undertaken before the end of the Examination to support the Council.</p> <p>With regard to the base model, the Applicant has agreed to provide the following data to the councils before the end of examination:</p> <ul style="list-style-type: none"> • Turning count validation; and • Further details of traffic count calculations on which the model is based. <p>Further to the position above that the Council is more confident that the proposed design will cope with the forecasted traffic growth to an acceptable level, the Applicant has agreed to provide a LINSIG model that shows the performance of M6 Junction 40 on a Friday during the peak summer month of August in 2044. It should be noted that the design scenario considered so</p>

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		<ul style="list-style-type: none"> • Future Scenarios of the VISSIM Microsimulation Model – it is likely that the Council will have a better understanding of the operation of traffic flows at both the Kemplay Bank Roundabout and Junction 40 Roundabout. It is also likely that Council will have a greater understanding of whether the proposed highway design and operation of the proposed traffic signals deliver a safe and congestion free environment (or not) in both the 2029 and 2044 Scenarios, and on a summer Friday for these years. If the operational models demonstrate that further scheme development is required to increase capacity, then this is unlikely to be agreed by the end of the examination. ii. Resolved during the detailed design process that will be completed after the end of the Examination; or Given that Detailed Design is expected to take many years to develop, there is clearly the opportunity to resolve a number of issues identified to date. It would be required by the Council for the following to be agreed during that time. • The operational performance of the proposed scheme at M6 J40, Kemplay Bank and the importance of Traffic Signals for efficient operation – the design of the signals, the layout of the approach lanes, and the allocation of lanes and slip lane capacity to specific movements will need to be further developed during detailed design. This will need to include the design of pedestrian and cycling phases in signal design, and appropriate safety mitigations to protect vulnerable people crossing multiple lanes of traffic, both within J40, and on the approach arms, including residing on traffic islands as part of the crossings. In addition, as the Detailed Design phase will be over a long period of 	<p>far is for a Friday in 2044 during an average month. The Applicant considers that this additional scenario represents an extreme traffic demand.</p> <p>ii. Resolved during the Detailed Design Process</p> <p>The Applicant has committed to undertake adjustments to the modelling to aid the detailed design process post-examination to optimise the performance of the design. This principle has been discussed in meetings with the Council who have raised no objection to this approach.</p> <p>The Base model will be revised post-examination following review of latest PCMOVA datasets to ensure VISSIM model accurately reflects observed local conditions.</p> <p>Any changes made to the base models will be carried forward to improve the forecast models. This will be undertaken as part of detail design and will allow optimisation of the detailed junction layout and signal design, including the pedestrian and cycle phases, together with appropriate safety mitigations to protect vulnerable people crossing multiple lanes of traffic.</p> <p>Skirsgill Depot traffic is considered within the Forecast Models presented. Further consideration of the safe operation of this access / egress will be made with the Council during detail design.</p> <p>The impact of the Project on the Town Centre in Penrith is discussed in two documents:</p> <ul style="list-style-type: none"> • Paragraphs 8.15 to 8.1.10 of the Transport Assessment [Document Reference 3.7, REP2-003] which notes that traffic increases on Clifford Road are forecast due to rerouting of traffic between Junction 40 and central Penrith due to the reduction of the speed on the A66 between the M6 Junction 40 and Kemplay

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		<p>time, there is the opportunity for the impacts associated with the new Local Plan for Westmorland to be included within future option testing and inform the design as it is developed.</p> <ul style="list-style-type: none"> • Interaction of Skirsgill Depot traffic – traffic entering and exiting Skirsgill Depot will need to weave between lanes to access M6 J40. The weaving will be at a location where westbound drivers will also likely be weaving and slowing down in anticipation of negotiating the junction ahead. This increases the risk of a collision occurring and further design work is required to ensure safe operations at this location. • The Impact within the Town Centre of Penrith – it is likely that the re-assignment of traffic through Penrith as a result of scheme will not be fully understood until the detailed design stage. Currently, local drivers often take circuitous routes to avoid the congestion experienced between M6 J40 and Kemplay Bank, and with the improvement scheme in place, this traffic will re-route through Penrith towards the anticipated less congested future improvement. The scale of this reassignment is not likely to be known as the current transport model does not accurately represent this, and therefore further assessment work is needed, including the impact on the proposed air quality management area in Penrith. Appropriate mitigation will be needed to address significant re-routing within Penrith as a result of the proposed scheme. <p>iii. Unresolved fundamental concerns about the potential traffic impact.</p> <ul style="list-style-type: none"> • There is a moderate risk that the future operation of M6 J40 does not deliver on its objectives, and congestion will still exist, particularly on a Friday 	<p>Bank to 50mph, The response to AQ1.1 in Chapter 2 of the Applicant's Response to Deadline 5 Submissions [Document Reference 7.35, REP6-021] states that 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.</p> <p>In both cases the difference between the routes between which traffic switches within the model is very marginal. Given the difficulty in modelling such impacts and subsequent uncertainty of the outcome,</p> <p>iii. Unresolved fundamental concerns about the potential traffic impact.</p> <p>Given the progress discussed above, the Applicant considers that the risk that the future operation of M6 J40 does not deliver on its objectives, and congestion will still exist, particularly on a Friday afternoon during the summer, is low to negligible. This is because:</p> <ul style="list-style-type: none"> • the base model currently validates well to observed journey times; • both the VISSIM model and LINSIG models agree that there is capacity for the junction to accommodate forecast Friday flows in 2044; • Any residual changes that will be made to the modelling during detail design will be made to ensure maximum efficiency of the junction design. <p>TA 2.2: Please see the response at REP6-026 above.</p>

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<p>afternoon during the summer. The risk is that the constraint on the number of lanes on the overbridges (3 lanes each direction), combined with the signal phasing that controls vehicle and pedestrian/cycle flow on the roundabout, is not designed or even capable of operating efficiently with the expected future demand in 2044. Due to the timing of receiving the model files from the Applicant for review by the Council (received on 03.04.2023), the Council is not in a position to comment on the information for Deadline 6</p> <p>TA 2.2</p> <p>Clarification from the Applicant has been received that the PMA and PRoW will be demarcated and access for vehicles will be controlled for only the private land-holders (see post-hearing note under item 6.1 of REP5 – 024). However, there is a need for clarity related to the highway status of the PMA and adjacent PRoW and the associated maintenance liability. The Council is willing to maintain new PRoW including the cycle tracks, cycleways or equestrian tracks defined in the DCO, to an acceptable standard for the nonmotorised users permitted. However, the liability for maintaining the PMA should not fall to the Council. The liability and arrangements for the maintenance of each element need to be explained. The Council agrees with Durham that there is a risk of private means of access becoming a maintenance burden.</p> <p>Annex B: Suggested Wording of Article 54 of draft DCO.</p> <p>(1) Subject to article 7 (limits of deviation) and the provisions of this article, the authorised development must be designed in detail and carried out so that it is compatible substantially in accordance with—</p> <p>(a) the design principles;</p>	

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<p>(b) the works plans; and</p> <p>(c) the engineering section drawings: plan and profiles and the engineering section drawings: cross sections.</p> <p>(2) Subject to paragraphs (3), (4) and (5), the undertaker may determine to amend the design principles, works plans and/or engineering section drawings: plan and profiles and the engineering section drawings: cross sections, or any part of it them.</p> <p>(3) The undertaker may only determine to amend the design principles, works plans and/or engineering section drawings: plan and profiles and the engineering section drawings: cross sections or any part of it them under paragraph (2) if— (a) the undertaker is satisfied that those amendments— (i) are substantially in accordance with the design principles, works plans and/or engineering section drawings: plan and profiles and the engineering section drawings: cross sections that has have been approved by the Secretary of State under paragraph (1);</p> <p>(ii) would not give rise to any materially worse or materially new adverse environmental effects having been suitably evidenced in comparison with those reported in the environmental statement; and (iii) would not undermine the outcomes of the Habitats Regulations Assessment.</p> <p>(4) The undertaker must not determine to amend the design principles, works plans and/or engineering section drawings: plan and profiles and the</p>	

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<p>engineering section drawings: cross sections (or any part of them it) under paragraph (2) unless—</p> <p>(a) the undertaker has sent to the Secretary of State—</p> <p>(i) a copy of the proposed amendments submission submission;</p> <p>(ii) a copy of the summary report; and</p> <p>(iii) a statement of the determination the undertaker proposes to make; and</p> <p>(b) either— (i) a period of 14 days has elapsed beginning with the date the Secretary of State received the information referred to in subparagraph (a) without the Secretary of State notifying the undertaker in accordance with subparagraph (ii) below or giving the undertaker a direction in accordance with paragraph (5) below (in relation to which the Secretary of State may notify the undertaker in writing, before the period of 14 days has elapsed, that the Secretary of State requires longer than this period to notify the undertaker in accordance with sub-paragraph (ii) below or to give the undertaker a direction in accordance with paragraph (5) below, specifying the longer period required, in which case that longer period will apply for the purposes of this paragraph); or (ii) the Secretary of State has notified the undertaker in writing that the Secretary of State is content for the undertaker to make the proposed determination.</p> <p>(5) In relation to any determination proposed to be made by the undertaker to amend the design principles, works plans and/or engineering section drawings: plan and profiles and the engineering section drawings: cross sections (or any part of them</p>	

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<p>ii) under paragraph (2), the Secretary of State may direct that—</p> <p>(a) the undertaker must not make the proposed determination; and</p> <p>(b) the proposed determination is instead to be made by the Secretary of State as though it were in response to a request for the Secretary of State's approval of amendments to all or any part of the design principles, works plans and/or engineering section drawings: plan and profiles and the engineering section drawings: cross sections made by the undertaker under paragraph (1).</p> <p>(3) (6) Where amended details are approved by the Secretary of State under paragraph (4), those details are deemed to be substituted for the corresponding design principles, works plans, engineering section drawings: plan and profiles and engineering section drawings: cross sections as the case may be and the undertaker must make those amended details available in electronic form for inspection by members of the public.</p>	
REP6-034	<p>Westmorland and Furness Council</p> <p>Comments on any further information/submissions received by Deadline 5</p>	<p>6.1 Diversion route arrangements The Council wishes to clarify that points of detail were expected from the Applicant at Deadline 5, not from the Council. The Local Impact Report [REP1-019] appendices included the Council's detailed concerns on both temporary and operational diversion routes.</p> <p>De-trunking arrangements The Council continues to work closely with the Applicant to agree principles and details of de-trunking at pace. This topic will be included in side agreements between parties, expected to be signed off by the end of Examination.</p>	<p>6.1 Diversion route arrangements</p> <p>The Applicant can confirm, that as per their response provided over pages 30 and 31 of their Deadline 4 Submission [Document Reference 7.24, REP4 -011] Applicant's Responses to the Examining Authority's Written Questions, an updated Statement of Common Ground with Westmorland and Furness Council (formerly Cumbria County Council and Eden District Council) was submitted at Deadline 5 (refer to the Applicant's Deadline 5 Submission – 4.5 Statement of Common Ground Cumbria County Council and Eden</p>

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<p>Private means of access (PMA) and public rights of way (PRoW) arrangements. The clarification of separation between the PMA and PRoW is welcomed. However, there is a need for clarity related to the highway status of the PMA and adjacent PRoW and the associated maintenance liability. The Council is willing to maintain new PRoW including the cycle tracks, cycleways or equestrian tracks defined in the DCO, to an acceptable standard for the nonmotorised users permitted. However, the liability for maintaining the PMA should not fall to the Council.</p> <p>Traffic Modelling in Penrith With regard to traffic modelling of the operation of M6 Junction 40 and Kemplay Bank, the Council anticipates undertaking a review of the base model and future options in April, although at the time of writing (03.04.2023), we are yet to receive the model information and associated documentation to comment on this issue.</p> <p>9.1 The amendments to the DCO text are welcomed to bring clarity to the definitions of cycle track and cycle ways. The Council will require engagement as to the appropriate designation of different sections of routes throughout the project between these definitions and the accompanying "Equestrian Track" definition. The maintenance liability for these Public Rights of Way needs to be clarified</p>	<p>District Council – Rev 3 [Document Reference 4.5, REP-005]). This reflects the continued dialogue between National Highways and the Council with regard to diversion route arrangements.</p> <p>The de-trunking proposal is agreed, subject to the Council reviewing the impact of the 22 Change Requests that were submitted to the Examining Authority on 24/03/2023 and accepted on 18/4/2023 (only DC04 is thought to impact de-trunking). Whilst not strictly de-trunking, the opportunity is also being taken to incorporate an agreed interface between the Applicant and the Council on the A592, as this has been a source of confusion for a number of years. Further to this, the Applicant would refer to pages 30 and 31 of their Deadline 6 Submission – 7.35 Applicant's Response to Deadline 5 Submissions [Document Reference 7.35, REP6-021]. This outlines further developments of the Construction Traffic Management Plan ("CTMP"), including that <i>"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."</i></p> <p>The Applicant will continue to engage with Westmorland and Furness Council to resolve issues relating to temporary and operational diversion routes.</p> <p>Regarding responsibilities for Public Rights of Way (PRoWs) and Private Means of Access (PMAs), the Applicant notes the matters raised by the Council and considers that these concerns are addressed by the provisions of the draft DCO. Article 9(2) provides that local highways (which would include PRoWs) are to be maintained by the local highway authority. The Applicant agrees with the Council that they would be obliged to</p>

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
			<p>maintain public rights of way to a standard appropriate for their public use. Article 9(4) provides that PMAs would be the responsibility of the persons with the benefit of those rights. Where PRoWs would also be subject to private rights of vehicular access it would be the responsibility of the persons with the benefit of those rights to maintain the means of access to a standard appropriate to their private use (see Article 9(3)).</p> <p>In circumstances where there are segregated but adjacent PROWs and PMA such that there is clear demarcation between the PROW and the PMA, the Applicant's draft DCO includes provisions that would ensure that the proper extent of the PROW can be properly recorded in the authority's definitive map and statement.</p> <p>The traffic modelling was shared with Westmorland and Furness Council in a series of emails between the 3rd and 12th of April. Since then, two further meetings have been held between the Applicant and the Council, on the 17th and 21st of April during which the adequacy of the modelling was discussed and outstanding issues identified. The Applicant has provided further data, and updated documentation on the 25th of April, with a view to agreeing that the proposed scheme operates efficiently and safely for all modes, subject to further a number of issues that can be resolved during further modelling and assessment during detail design.</p> <p>9.1 Equestrian tracks, cycle tracks and cycle ways are public rights of way and as such maintenance liability would fall to the local highway authority pursuant to Article 9(2).</p>

3. Applicant's response to Deadline 6 submissions made by Statutory Environmental Bodies.

3.1. Purpose of this section

3.1.1. Table 3 sets out the Applicant's response to the submissions made by Statutory Environmental Bodies.

Table 3. Responses to Deadline 6 Submissions submitted by Statutory Environmental Bodies.

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
REP6-027	Environment Agency (EA) Responses to ExA's Further Written Questions	REP-027 sets out the Environment Agency's proposed protective provisions for the A66 NTP Project.	The Applicant has reviewed the Environment Agency's proposed protective provisions. The vast majority of the provisions are agreed but there remains a handful of points that require further discussion. The Applicant returned comments to the EA prior to Deadline 7. The Applicant remains of the view that agreement will be reached on the form of protective provisions for the EA prior to the close of the examination.
REP6-028	Environment Agency Responses to ExA's Further Written Questions (FDW 2.1)	In relation to flood risk and the Flood Risk Assessment (FRA) submitted as Appendix 14.2 of the Environmental Statement, the EA Relevant Representations and Written Representations included several questions about compensatory flood storage volumes and the design and operation of compensatory flood storage to manage any potential increase in flood risk off-site. The issues that have yet to be resolved with the EA are listed in Table 1 of the EA submission: 1. Reference is made to 6.4.6 in relation to compensatory storage within Flood Zone 3b, but there is no section 6.4.6 within the FRA. 2. Table 25 gives the total volume of storage provided in each location. There is no information provided on how much storage is lost due to the scheme and the flood magnitude at which both the lost storage and the compensatory storage comes online.	National Highways continues to work closely in collaboration with the Environment Agency on the outstanding hydraulic modelling issues for Scheme 6. As such, the issues reported in REP6-028 have been discussed between the parties and the situation is iteratively evolving. Whilst the parties are working to resolve the issues on this by the end of the Examination, National Highways is aware that the Environment Agency is, at this Deadline 7, proposing draft wording for a control mechanism in respect of flood risk on Scheme 6 should the modelling issues not be resolved by the end of the Examination. National Highways agrees in principle with this approach albeit it has comments on the precise drafting (acknowledging that the Environment Agency is proposing this wording only in draft at this stage). Whilst the Environment Agency's preferred location for this mechanism is in the DCO, National Highways considers it can be (and should be) located within the

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<p>3. It is hard to see from the details provided (including those in the modelling report) how the compensatory storage areas work and how they are designed. Are they excavated into existing floodplain? How and at what return period / flow magnitude do they fill? How do they drain?</p> <p>4. In relation to the figures showing changes in flood depths because of the scheme, it is not always easy to interpret what is causing the changes in depth (changes in peak water level, changes in ground level, changes in flow, cut off flow routes) without also showing the depth grids that have been used to generate these. For example, it is surprising that that the new road embankments at Warcop Junction are not more pronounced within these maps and it is not clear why there are a broad section of increased flood depths passing through the embanked slip road at Warcop Junction (Figure 8-8).</p> <p>5. No detailed information is provided on the effects of the scheme on Low Gill Beck between the Lowgill Beck crossing and Warcop. Figure 8-13 in the modelling report shows increased water levels in a few places along this reach and the summary at the end of this section of the report highlights this and concludes that it is "likely these increases are associated with areas of ground level change in the proposed scheme". For the most part this looks to be the case in Figure 8-13 in which case there needs to be an assessment of lost floodplain storage because of this and compensatory storage provided as required. The fact that the most downstream area of increased depth on Lowgill Beck shown in figure 8-13 appears to be downstream of any</p>	<p>first iteration EMP which would provide for sufficient legal enforceability.</p> <p>National Highways will work with the Environment Agency to agree the wording of this control mechanism that could be implemented should the hydraulic modelling for Scheme 6 not be agreed and will provide an update on this at Deadline 8.</p> <p>However, it is very much National Highways' preferred approach to keep working to resolve the hydraulic modelling issues on Scheme 6 by the end of the Examination and understands that to also be the Environment Agency's preferred outcome. As such, the parties will continue to work hard to resolve this and will provide a further update at Deadline 8.</p>

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<p>proposed earthworks suggests the possibility of increased pass on flows which needs to be investigated.</p>	
REP6-031	Natural England Updated PADSS	<p>Air Quality – the use of LA105. Natural England do not require any further changes on the A66 as an individual project, however further discussions are ongoing between NH and NE to agree a suitably robust air quality assessment methodology.</p> <p>Air Quality methodology used for the A66 project. Natural England have discussed the chosen methodologies with the air quality specialists from National Highways, we are awaiting the promised technical notes to be produced. It is likely that Natural England's concerns will be addressed in these technical notes and therefore during examination.</p> <p>The production of mitigation measures and the draft CEMP are welcomed but provide no assurance that they will be secured and therefore mitigate the impacts to the various designated sites.</p> <p>The proposed mitigation and design principles need to be secured and included in a finalised CEMP to ensure we can agree with the outcomes of the HRA</p>	<p>In regard to the use of DMRB LA105 it is acknowledged that there is ongoing engagement between the Applicant and Natural England on the topic of the air quality assessment methodology and the adequacy of DMRB LA105. The wider use of DMRB LA105 in National Highways projects is outside of the scope of project level discussions.</p> <p>The Applicant has prepared a technical note in relation to ammonia and air quality methodology for the project. Comments have recently been received from Natural England on this note and National Highways will continue to work with Natural England with a view to resolving Natural England's residual concerns (which National Highways understands Natural England will be summarising at this Deadline 7 in its submissions) by the end of the Examination.</p> <p>Notwithstanding Natural England's comments, National Highways remains firmly of the view that the HRA conclusions as reported and justified in the Statement to Inform Appropriate Assessment [Document Reference 3.6, APP-235] are correct..</p>
REP6-029	Natural England Responses to ExA's Further Written Questions	<p>AQ 2.1 – Design Manual for Roads and Bridges (DMRB), LA105 Assessment, The Applicant, Natural England.</p> <p>Natural England have provided comments on the current air quality methodology used by National Highways for the A66 project in both of our representations and kept these comments up to date in our Statement of Common Ground. Please see our updated Principal Areas of</p>	<p>AQ2.1</p> <p>The use of DMRB LA105 it is acknowledged that there is ongoing engagement between the Applicant and Natural England on the topic of Air Quality methodology and the adequacy of DMRB LA105. The wider use of DMRB LA105 in National Highways projects is outside of the scope of project level discussions.</p> <p>We have prepared a technical note in relation to ammonia and air quality methodology for the project.</p>

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<p>Disagreement Summary Statement (PADSS) submission alongside our Deadline 6 response.</p> <p>Natural England continue to work with NH to determine a mutual understanding of the assessment methodology used for the A66 project. Natural England are awaiting the technical note that was discussed with NH consultants on the 9 th of December. On receipt of the technical note, Natural England will review and update the air quality sections of the PADSS table. It is likely that Natural England's concerns will be addressed in these technical notes and therefore during examination.</p>	<p>Comments have recently been received from Natural England on this note and National Highways will continue to work with Natural England with a view to resolving Natural England's residual concerns (which National Highways understands Natural England will be summarising at this Deadline 7 in its submissions) by the end of the Examination.</p>

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4. Applicant's response to Deadline 6 submissions made by Affected Persons

4.1.1. Table 4 sets out the Applicant's response to the submission made by Affected Persons

Table 4. Response to Deadline 6 Submissions submitted by Affected Persons

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
REP6-024	Defence Infrastructure Organisation on behalf of Ministry of Defence	No issues outstanding	No response needed.
REP6-039	Submitted on Behalf of George F White LLP Clients Further to previous representations submitted on behalf of various Clients, provides reply to the Applicant's Post Hearing Submissions provided at Deadline 5, particularly the Applicant's Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submission	<p>2.1 General Commentary</p> <p>2.1.1 We note the Applicant's comments in relation to drainage and the general undertakings that they provide in the Environmental Management Plan (EMP). Our Clients being intimately acquainted with their land and current drainage arrangements have repeatedly requested more specific details in respect of the drainage schemes for their land. This is understandable given the impact that it can have on their livelihood, and their personal experience of previous works to the A66 which have led to long-running drainage problems.</p> <p>2.1.2 Our experience of many similar schemes is that irrespective of general undertakings in the EMP, it is unlikely that the Contractors appointed by the Applicant to construct the road will have the necessary experience with agricultural drainage to design and implement a suitable scheme. This is why we have requested further details, and also that an experienced agricultural drainage firm be engaged to deal with this element of the scheme</p> <p>2.1.3 We note the Applicant's comments in respect of Private Means of Access and Public Rights of Way; but remain unclear which of the proposed routes will be which. This has a substantial impact on our Clients and would ask for clarity on this at the earliest opportunity.</p>	<p>2.1 General Commentary Response to paragraphs 2.1.1 and 2.1.2</p> <p>Regarding comments in relation to drainage and the general undertakings provided in the Environmental Management Plan (EMP), the Applicant would reiterate their response provided in 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], specifically that under Agenda Item 4.1 on page 13. The Register of Environmental Actions and Commitments contains item MW-PH-02, which states that: <i>“Construction mitigation in relation to farm businesses will... Minimise impacts upon field drainage during construction by liaising with farmers, during detailed design and construction planning, to understand the needs of their agricultural practices.”</i> The Applicant will continue to engage with George F White LLP and those they represent to resolve any outstanding issues during detailed design of drainage.</p> <p>Response to paragraphs 2.1.3 and 2.1.4</p> <p>Regarding comments in respect of Private Means of Access (PMA) and Public Rights of Way (PRoW), National Highways acknowledge the responses provided and will continue to engage with landowners and their</p>

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<p>2.1.4 Although the Applicant has provided reasons as to why they do not agree, we maintain that the safety risks associated with combining heavy and/or agricultural traffic and recreational activities on dual use tracks should be avoided wherever possible.</p> <p>2.1.5 In terms of negotiations to date, and the Applicant's Compulsory Acquisition Status of Negotiations Schedule2 , we feel it necessary to make the following points further to our previous representations on the lack of any attempt to negotiate.</p> <ul style="list-style-type: none"> i) The majority of our Clients have now received 'offers' from the Applicant either to purchase the land outright or to enter into an Option Agreement, although there a number who are still waiting to receive offers ii) Although rates per acre have been put forward, we are still unclear as to the precise areas that the Applicant requires making it impossible to properly consider the Offers. We note that this problem has also been raised by other Agents acting for Landowners along the scheme route. iii) The Applicant has to date been unable to provide a draft agreement for the intended Option. Again, without a full understanding of the proposed Agreement and its terms, there is not an offer capable of acceptance. iv) An Option Agreement which may or may not be exercised still leaves Land Owners in-limbo when it comes to planning for the future of their businesses. 	<p>agents to consider these on a case-by-case basis as part of the detailed design process. For further information, refer to Agenda Item 6.1 (pages 21-22) of 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>In response to paragraph 2.1.5, (i), the Applicant confirms that the current position on negotiations between the Applicant and each of the landowners represented by George F White LLP will be set out in an updated version of the Applicant's Compulsory Acquisition Status of Negotiations Schedule submitted at Deadline 8 of the Examination.</p> <p>Paragraph 2.1.5 (ii)</p> <p>All offers that have been made to date have been made based on the preliminary design proposed in the DCO application and are based on the areas identified in the DCO application. The plans that have been provided to the agents include the areas that are required.</p> <p>Paragraph 2.1.5 (iii)</p> <p>National Highways have been engaging in negotiations regarding the purchase of the land and several offers have been made, although in many cases, these have not been accepted to date. The Applicant's usual process is to agree costs with the affected person and then to prepare a draft of the option agreement, which would then be shared through the conveyancing process (as the draft informs the conveyance). National Highways has and will continue to engage with landowners to support their understanding of the process where required.</p>

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<p>2.2 Heron and Henshaw 2.2.1 We have provided submissions for Deadline 6 under separate cover on behalf of the Heron Family and Mr & Mrs Henshaw.</p> <p>2.3 Taylor 2.3.1 As set out at 2.4 of the Post Hearing Submission dated 14th March 2023 submitted on behalf of Messrs Taylor, they are not suggesting that the location of the drainage pond be moved; but rather that the rights of way be consolidated to minimise the impact on them as Land Owners and cost to the scheme.</p> <p>2.4 Carruthers 2.4.1 The Applicant suggests within their post hearing submission that customers visiting Mr Carruthers' café can currently only access it from the eastbound carriageway. This is incorrect; at present cars travelling in either direction can access the café and its car park. We submit that this is a critical point in the context of our request that access to the westbound carriageway be provided via the nearby underpass.</p> <p>2.5 Foster 2.5.1 We note the Applicant's comments and would be grateful for early sight of the accommodation works strategy to understand the proposed arrangements for livestock movements and water. As all parties will appreciate, Mr Foster's primary concern is the welfare of his livestock.</p> <p>2.5.2 Clarity is also required in respect of how landlocked fields and buildings are going to be dealt with.</p>	<p>Paragraph 2.1.5, (iv) The Applicant appreciates that the evolving design process presents a degree of uncertainty for landowners affected by the Project; this is inherent in the way in which highways schemes are necessarily brought forward. It is in an effort to minimise this uncertainty for landowners that the Applicant is offering to acquire land outright in advance under its Acquisition Compensation Premium (ACP) policy.</p> <p>2.2 Heron and Henshaw The Applicant notes the direction provided by George F White and refers to its responses to the Heron Family, which is included in the Update to the Brough Hill Fair Summary Note (submitted at Deadline 7) and the response to Mr and Mrs Henshaw in the table below (within this document).</p> <p>2.3 Taylor As outlined on page 73 of their Deadline 6 Submission – 7.35 Applicant's Response to Deadline 5 Submissions [Document Reference 7.35, REP6-021], the Applicant considers these points 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].</p> <p>2.4 Carruthers Current access from the westbound carriageway to Café Sixty Six is provided via the junction with the B6542, west of Coupland Beck. There is currently no formal provision for direct access to the café from the westbound carriageway of the A66. As such, the Applicant is proposing to maintain the current formal</p>

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<p>2.6 Hobson</p> <p>2.6.1 We note the Applicant's comments in respect of their methodology and best practice in terms of noise and vibration; but would point out that there will still be a considerable impact on the site and Mr Hobson's established Camping & Caravan Site.</p> <p>2.6.2 In respect of the Applicant's note explaining that they would not fund planning work intended to mitigate Mr Hobson's loss without taking a charge over his property; our understanding is that the Applicant's logic for this is that they do not want to pay more compensation than the site is worth. Planning costs are estimated to be in the region of £10,000, and the site is clearly worth substantially more than that. It is therefore the position of Mr Hobson that the proposed charge would be an unnecessary and unreasonable additional burden on his land.</p> <p>2.7 Manners</p> <p>2.7.1 Within our Deadline 5 submission dated 14th March 2014 we include at 2.4.1 a plan showing how the relevant Land Owners north of the A66 have alternative accesses to the A67 negating to the need for the proposed overbridge.</p> <p>2.7.2 As set out at 2.3 of the Deadline 5 submission, we also request that the Applicant provides visualisations in respect of the proposed bridge</p> <p>2.8 Richardson</p> <p>2.8.1 We note the Applicant's comments and would welcome the opportunity to discuss turning arrangements for the proposed slurry store at the earliest opportunity.</p>	<p>arrangements, with westbound travelling potential customers continuing to access the café via the B6542. This is as outlined under Agenda Item 4.1 (page 17) 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>2.5 Foster</p> <p>The Applicant considers the points addressed in their Deadline 6 Submission - 7.35 Applicant's Response to Deadline 5 Submissions [Document Reference 7.35, REP6-021], which in turn refers to Agenda Item 4.1 (pages 17-18) 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]. The Applicant will continue to engage with George F White LLP and Mr Foster and will develop the accommodation works proposals with their input. This will also include consideration of access to fields and buildings, specifically the plots of retained land referenced in George F White LLP's Deadline 5 Submission on behalf of Mr Foster [REP5-048].</p> <p>In relation to Plot 07-01-11, is not intended to remove this existing access track. Landowners with fields to the west of the scheme currently use this access track and any existing access rights associated with other parts of the track (currently in Durham CC ownership) would apply to 07-01-11 so landowners continue to have access.</p> <p>In relation to plots 07-01-21 and 07-01-26, these plots areas cover the verge areas of existing access track to Swinholm Farm. It is not intended to restrict access to</p>

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			<p>these verge areas, nothing that there is an outbuilding in the western verge and field gate in the eastern verge. These plots are required for Environmental Mitigation and potential utility protection/ diversion work..</p> <p>Plot 07-01-71 is a plot of land located to the southeast of Clint Land Bridge owned by Mr. Foster. The Applicant understands Mr Foster uses this plot to access Clint Lane bridge to move his livestock across the bridge. To undertake this movement Mr Foster also traverses plots owned by the Applicant. It is anticipated that any access rights that Mr Foster has on these adjacent plots owned by the Applicant would also be applied to Plot 07-01-71 so he can continue to move his livestock as per the existing arrangements.</p> <p>2.6 Hobson</p> <p>2.6.1 The Applicant considers the points on noise impact at the Camping and Caravan site have been addressed in 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] pages 18 and 19.</p> <p>2.6.2 The Applicant acknowledges the responses provided and can confirm that the land charge is required as part of their policy relating to extra-statutory discretionary advance payments prior to the DCO being made. A number of alternative offers and options have been presented to Mr Hobson and his agent to try to resolve the matter but these have not been accepted to date. The District Valuer will continue to engage with Mr Hobson to discuss his concerns and try to reach an agreement on a way forward.</p>

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
			<p>2.7 Manners</p> <p>Regarding the point that “<i>relevant Land Owners north of the A66 have alternative accesses to the A67 negating to the need for the proposed overbridge</i>”, the Applicant considers this point addressed on page 68 of their Deadline 6 Submission – 6.35 Applicant's Response to Deadline 5 Submissions [Document Reference 6.35, REP6-021], which in turn refers to the response provided 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].</p> <p>Regarding the request for visualisations of the proposed bridge, the Applicant considers this point addressed on page 67 of their Deadline 6 Submission – 6.35 Applicant's Response to Deadline 5 Submissions [Document Reference 6.35, REP6-021].</p> <p>2.8 Richardson</p> <p>The Applicant welcomes the response provided and will continue to engage with George F White LLP and Mr Richardson to discuss arrangements for the proposed slurry store as part of the accommodation works strategy.</p>
REP6-042	<p>George F White LLP on behalf of Mr & Mrs Henshaw</p> <p>Comments on any further information/submissions received by Deadline 5</p>	<p>Land and CA issues regarding the proposals to relocate the temporary roundabout from adjacent to Mainsgil Farm shop.</p> <p>Proposed changes to the location of the roundabout do not take into account the risk to health and safety and impact on their existing business.</p>	<p>The temporary construction compound referenced by Mr and Mrs Henshaw, located at Monks Rest Farm (a property and associated land acquired by National Highways pursuant to a blight claim), with its associated access to and from the existing A66 via Moor Lane (which took the form of a temporary roundabout), is no longer being pursued as a potential opportunity to facilitate construction of the Project.</p>

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		<p>Unnecessary delay to traffic and disruption from two junctions close to each other when compared with a one junction solution.</p> <p>Also, addition AQ, noise and pollution from traffic speeding up at junctions compared with a one junction solution</p> <p>Also concern of progressing part of the scheme out with the DCO – with lack of transparency and any consultation whatsoever on the revised proposals</p>	<p>The Applicant is continuing to develop the temporary construction compound and associated access arrangements included in the DCO application.</p> <p>The Applicant is continuing to engage with Mr and Mrs Henshaw and their agents, most recently meeting them on 24 April 2023.</p>
REP6-043	<p>Town Centre Regeneration Ltd on behalf of Penrith Properties Limited</p> <p>Response on behalf of Penrith Properties to post-hearing submission by the Applicant – specifically in relation to Hearings of 1 March and 2 March 2023 and the Applicant's Response to Relevant Representations Part 3, page 403/404 - Document 6.5, the Applicant's Response to Written Representations made by Affected Persons at Deadline 1 - Rev 1 submitted at Deadline 2 (document 7.6),</p>	<p>Main point is that there is no justification in the information provided to compulsory acquire Plot 0102-01-20 and the information provided to support the acquisition of this plot is either erroneous, mistaken or not provided.</p> <p>The following is a summary undertaken by the Applicant of the issues made (with reference to the titles and page numbering of the original response. made on:</p> <p>Mis-labelled Drawings (page 1 and 2) - longitudinal section to 0102-3 - does not show the profile of Work No 0102-3 and mistitling of works numbers 0102-4 and 0102-1A. Contend there are only de minimus changes in carriage way levels in works packages 1020-3, 0102-1b and 0102-4 and therefore no justification in acquiring the land.</p> <p>Misrepresentation in drawings (page 2) - The cross sectional drawings in document 7.30 appendix G, provided by the Applicant misrepresent the existing ground levels of the order land in these locations and are therefore misleading in demonstrating the works being required in the context of land to the extent of order limits which implies the ground raises beyond the Order Limits or the relative elevated positioning of the</p>	<p>The Applicant has addressed most of these issues in previous responses.</p> <p>The Applicant notes that the labelling is incorrect on one of the Plan and Profile drawings (Sheet 3 of 6 in the Engineering Section Drawings Plan and Profiles for Scheme 0102 [Document Reference 5.17, APP-326] and can confirm that the Works Nos on the aforementioned profile (A592 Northbound to M6 Southbound Diverge) should be 0102-4 and 0102-3. The revised drawing APP-326 has been submitted at Deadline 7 of the Examination.</p> <p>The current preliminary design indicates that land is required beyond the existing highway boundary.</p> <p>The preliminary design submitted as part of the DCO application for the A66 NTP Project was produced based on LIDAR survey which is standard practice for a project of this scale. As part of the detailed design process, more accurate topographical survey data will be used to refine the preliminary design.</p> <p>The Order limits shown in the DCO application reflect the information available at this stage of the design process, making a reasonable allowance (through 'limits</p>

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	<p>Applicant's Responses to the Examining Authority's Written Questions (document 7.240 and the Applicant's Response to Deadline 3 Submissions (Document 7.27);</p>	<p>existing ground level at the Order Limits in relation to the verge land or road surface that are within the National Highways existing ownership.</p> <p>Lack of drawings (page 2-3) The Applicant was asked for cross sectional drawings across 0102-3, 0102-1b and 0102-4 to justify the acquisition of the land in plot 0102-01-20. While the inaccurate drawings for works section 0102-3 and 0102-1b have been provided a cross sectional drawing across Works No 0102-4 has not been provided.</p> <p>The Applicant has requested access to the land for relevant surveys (page 3), which has been granted, but the Applicant has not carried out any surveys to establish whether the identified land is required or whether less land or alternative rights over land may suffice.</p> <p>Document 7.27. In response to the Applicant's comments at Pages 13 to 15 related to diligent referencing (page 3-4)</p> <p>The lack of response to the Land Information Questionnaire and subsequent correspondence and notices should have flagged a greater level of diligent enquiry being required. Other issues raised around diligent referencing.</p> <p>Purpose for which land required (Page 4) Questions the applicant assertions that the need for acquiring the Land as set out in TR010062, Document 6.5 page 403. This response does not give any further explanation setting out the reasoning related to the cited purposes: alterations to the identified road elements (divergent slip road, A592, A66 Circulatory carriageway).</p> <p>Document 7.24. Applicant's response to the Examining Authority (page 4) In written responses to</p>	<p>of deviation') to ensure the Applicant has the ability to construct the proposals.</p> <p>The sections provided were produced in advance of confirmation of the requested sections. As a consequence, the Applicant had to make an assumption on which sections were required and produce these accordingly (in order to meet the Examining Authority's response deadline). It was after this point in time that the Applicant received the request from Town Centre Regeneration Ltd. The Applicant has realised however, that it has produced only two of the three sections requested. As a consequence, the Applicant has now produced the outstanding cross-section (across Work No. 0102-4). The updated drawing is appended to this document at Appendix A (M6 Junction 40 Typical Sections Sheet 1 of 1).. The Applicant believes it has carried out surveys commensurate with this stage of the Project. Additional surveys are being undertaken to provide the additional detail required for the detailed design stage of the Project.</p> <p>The Applicant has nothing further to add in response to the point regarding diligent referencing which it has addressed previously in REP4-015, at pages 25-26 [Document Reference 7.28, REP4-015]. The Applicant's view that Penrith Properties has suffered no prejudice as a result of the contact referencing difficulties it has identified and has clearly been able to engage fully with the examination of the Applicant's proposals, is maintained.</p> <p>The Applicant considers the wording referenced in Document 6.5, PDL-012 [Document Reference 6.5, PDL-012] accurately reflects the works, with each of the features being designed to the relevant standards with</p>

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		<p>the Examining Authority the Applicant presented the cross section at CH9840 which relates to Works 0102-1C as demonstrating the need for acquiring the land. Contrary to the assertion made by the Applicant these works do not adjoin plot 0102-01-20 (which is adjoined by 0102-1B, 0102-3 and 0102-4) and in presenting CH9840 in this context the Applicant is being misleading</p> <p>In relation to the proposed Road alterations (1a-d at pages 4-5) detailed points made on the labelling of drawings and details shown on individual work areas.</p> <p>There is no compelling reason to acquire PPL's land to accommodate the proposed levels changes (page 5) In responses to representations the Applicant makes no specific reference to the land being required for alteration to carriage way widths in these locations.</p> <p>There is no compelling reason to acquire PPL's land for road widening.</p> <p>2. Non-Motorised user facilities (Page 5) The Applicant has confirmed that a 6.5m strip containing the hard standing (1.5 m) Footway (2m) and Cycleway (3m) is required for non-motorised users. As demonstrated in document 7.30 Appendix G the available land within National Highways existing ownership adjoining 0101-01-20 is sufficient to accommodate the non-motorised user facilities without requiring additional land.</p> <p>3. Landscaping and Reprofilng (page 6) If narrowly interpreted to support landscaping and reprofiling for the purpose of the delivery and maintenance of the A66 improvements, there is sufficient land within the National Highways existing ownership to accommodate any necessary landscaping and reprofiling for the delivery of the A66 enhancements.</p>	<p>appropriate consideration of the land required for sight lines and to safely construct the works.</p> <p>The Applicant prepared a number of typical cross sections as part of the submitted DCO application. The cross section at CH9840 was the closest to the Applicant's land. The Applicant has since provided additional sections as described in the response to the issues raised (re lack of drawings, point 3 above) as set out above.</p> <p>Carriageway and verge widening will result in a change to levels. This will result in earthworks to accommodate this change and space to safely construct the earthworks, will be required.</p> <p>In addition to the NMU facilities, the land identified also includes appropriate space to accommodate widening of the carriageway, sight lines around the bend, earthworks to facilitate changes in levels, fencing and working space to safely construct the works.</p> <p>As the Applicant is widening the carriageway, reprofiling and associated landscaping will be required when constructing the earthworks to facilitate the change in levels.</p> <p>The Applicant considers the points under Landscaping and Reprofilng have been addressed in REP2-015 [Document Reference 7.6, REP2-015], REP5-023 [Document Reference 7.29, REP5-023] and REP6-021 [Document Reference 7.35, REP6-021].</p> <p>For the purposes of the DCO application, this land is required permanently to protect the ability of the Applicant to construct the Scheme safely and to the appropriate standards.</p>

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		<p>There is no assessment of the net impact of the removal of the existing planting and reprovion of proposed planting (page 6), that takes into account the period of works and regrowth required in relation to plot 0102-01-20 and therefore no assessment of any net benefit that the proposed changes to plot 0102-01-20 would generate towards environmental mitigation.</p> <p>Adverse impact on retained land (page 7): - In 7.27 page 403 The Applicant seeks to now caveat the proposed land take as not having any significant effect. This statement undermines the absolute statement that no land would be taken in relation to Gillian Park in document 3.2.</p> <p>Alternative proposal (page 7) The Applicant confirms that land identified as pink – permanent land taken - may not be taken but may be subject to a temporary possession or possession by agreement. PPL requests that the Applicant clarify what and why land is required given the lack of supporting evidence demonstrating it is necessary for the scheme and engages with PPL to determine a reasonable approach if the land is so required.</p> <p>For the sake of clarity PPL do not believe the land identifies as plot 0102-10-20 is required to enable the scheme to be delivered or for future maintenance, for the reasons stated however in so far as it is strictly necessary for the scheme PPL would enable access by agreement to the land to carry out identified works on the strict proviso that it is reinstated with an appropriate boundary treatment in its existing location.</p>	<p>3. In response to the point that there is no assessment of impact that considers the removal of the existing planting and reprovion of proposed planting that takes account the period of works and regrowth. In accordance with the DMRB Guidance a proportionate response has been taken for the selection of viewpoints and where representative views have similar effects these have not been replicated. The assessment considers that in year 1 there would be no benefit from mitigation planting while at year 15 a degree of maturity would deliver some of the mitigation benefits. The impact for this receptor would be similar to that experienced from VP1.2 at Wetheriggs Park as described in Document 3.4 Environmental Statement Appendix 10.6 Schedule of Visual Effects [Document Reference 3.4, APP-202]. This is because the proposed works would be similar, potentially removing an existing mature tree belt and replacing it through mitigation planting. However, an effect at this location is not reported in Chapter 10 Landscape and Visual of the Environmental Statement (Document Reference 3.2, APP-053), because of the low sensitivity of the receptors (indoor workers) compared to the high sensitivity of recreational users of the park and therefore there is unlikely to be a significant residual effect.</p> <p>With respect to the landscape effects, these are outlined in Document 3.4 Environmental Statement Appendix 10.5 Schedule of Landscape Effects [Document Reference 3.4, APP-201] where the impacts on Penrith Urban Area are described in Table 11. The significance of effects are similar to the visual effects, being moderate (significant) during construction, slight adverse (not significant) in year one and Neutral (not significant) in year 15.</p>

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			<p>Based on the information currently available the Applicant cannot guarantee that the land can be reinstated and returned, and therefore it remains the proposal to acquire this land permanently as it is required in order to deliver the Project.</p>
<p>REP6-044</p>	<p>Trustees of Winderwath Settled Estate</p> <p>Comments on any further information/submissions received by Deadline 5</p>	<p>Annotated plan from ISH 3 – Agenda Item 3.2 – Mitigation Principles Plot 03-04-04</p>	<p>As explained in the Applicant's Summary Statement on Land Acquisition Requirements and Process submitted at Deadline 6 [Document Reference 7.36, REP6-022], the Applicant's general approach to the proposed acquisition of land for environmental mitigation is set out in detail in its response to the Examining Authority's Written Question CA 1.2 [Document Reference 5.7, REP2-011] and was also explored in detail in Issue Specific Hearing 3 [see post hearing submissions: REP5-024 [Document Reference 7.30, REP5-024] and REP5-027 [Document Reference 7.31, REP5-027].</p> <p>In the context set out in those previous submissions, the Applicant seeks authorisation of compulsory acquisition powers as a 'last resort' and to ensure that the Project can assemble the land that is required to deliver the mitigation that has been assessed as being required to mitigate the environmental effects of the Project.</p> <p>The Applicant acknowledges that alternative areas (i.e. alternatives to those plots of land included within the Order limits) have been proposed by the Winderwath Estate for use by the Applicant to mitigate the environmental effects of the Project and the Applicant will continue to engage with representatives of the Winderwath Estate to explore such alternative proposals whilst the detailed design for the Project is evolving. However, the Applicant's position remains that the land within the Order limits is required for the development of the Project, or is required to facilitate that development.</p>

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			<p>Accordingly, the Applicant's request for powers of compulsory acquisition remains as set out in its application for development consent for the Project.</p> <p>Engagement with the trustees of the Winderwath Settled Estate and their land agent has been ongoing and the Applicant is confident that agreement will be reached shortly on all matters under discussion.</p>
REP6-045	<p>Trustees of Winderwath Settled Estate</p> <p>Comments on any further information/submissions received by Deadline 5</p>	<p>Further submissions of John Richard Lane, James Hare, Alan Moore Bowe and Sarah Crane as the Trustees of the Winderwath 1989 Settlement Trust.</p> <p>The Representors make the following submission in respect of the DCO application made by the Applicant and submission made at Deadline 5. 2. Document 7.31 Issue Specific Hearing 3 (ISH3) Post Hearing Submission – Response to ExA Request under Agenda Item 3.2 Environmental Mitigation Area Sizes and Locations (REP5-027 – Pages 4-8)</p> <p>The Representors wish to make the following points in response to the Applicants submissions in this document as follows:</p> <p><u>Plot 03-02-01:</u></p> <p>In principle the Representors do not have an objection to the works required for the service diversion and the return of the main plot area to agriculture and back into the hand of the Estate.</p> <p>The issues are about the placing of mitigation works on the Light Water Beck running north, where in paragraph 3.1.2 it states that where plot 03-02-01 diverts to the north it supports Salmon. The northern/northwestern spur of this plot is not a watercourse and indeed is</p>	<p>Plot 03-02-01</p> <p>In respect to the presence of salmon and as outlined in Appendix 6.19 Fish [Document Reference 3.4, APP-172] of 3.4 Environmental Statement, Atlantic salmon were not recorded during “physical” electric fishing surveys of Light Water (Survey location: upstream NGR = NY 5503929310, downstream NGR = NY 5513329338) but Atlantic salmon DNA was recorded during riverine eDNA water sampling. European eel, minnow and stone loach only were caught during electric fishing surveys; however brown trout, salmon and three-spined stickleback DNA was returned during eDNA sampling. It was on this basis that Atlantic salmon are presumed present in Light Water. Note the sampling was undertaken downstream of the existing A66, closer to the confluence with the SAC, however no barriers to stop salmon or other species migrating south and upstream of the existing A66 alignment were observed during detailed walk over and the current A66 culvert is considered to be passable by salmon/trout under normal – normal high flow conditions. Habitat located upstream of the A66 was assessed as “shallow glide” and “salmonid mixed juvenile” and could support young salmonids (salmon / trout).</p>

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		<p>shown on the mitigation plans as land to be returned to agriculture. How can it therefore support Salmon?</p> <p>Plot 03-02-06:</p> <p>The Representors would also question the presence of Salmon in the Light Water Beck itself and require the Applicant to provide such evidence. 8. It is actually plot 03-02-06, which covers the Light Water Beck and includes for mitigation works and although the Representors are not as against the use of mitigation along such watercourses, they have raised on numerous occasion with the Applicant as to how those areas would be segregated, where bespoke mitigation is required as against normal agricultural operations on the land adjacent. Effectively there will be fenced strips along these watercourses that will cause all sorts of issue in terms of future maintenance and access to them. To date the Applicant has not given any clear answer on this which is required. 9. There will inevitably be some disturbance to the Light Water Beck by culverting works and the widening of the A66, but the Representors do not believe that the works likely warrant the extent of mitigation proposed to the north.</p> <p>Plot 03-04-04</p> <p>As the ExA will be aware the Representors object and have done since the early public consultations to the provision of such extensive environmental mitigation in this plot and the adjoining plots 03-04-14, 03-04-10 and 03-04-12.</p> <p>Environmental Mitigation and Shoot Management</p> <p>The Representors submitted an extensive explanation for why the areas proposed are not suited for environmental mitigation in their Deadline 5 Submissions</p>	<p>Additionally (as noted in Appendix 6.18 Fish Habitat Assessment and MorPh [Document Reference 3.4, APP-172] of 3.4 Environmental Statement), independently of the Project the Wild Trout Trust undertook a fish habitat and catchment pressure walk over survey of Light Water in 2018. The survey report highlighted significant pressures (significant length of culverted channel and perched pipe culverts, livestock poaching and farm tracks/fords, evidence of dredging, disposal of garden waste and culverts, septic tank overflows/nutrient rich discharges) throughout the length of Light Water. However, the report highlighted the potential value of Light Water downstream of the A66, in terms of juvenile salmonid habitat and potential (degraded) spawning habitat. The report concluded that:</p> <ul style="list-style-type: none"> • Light Water is likely to have been a key lower River Eamont spawning tributary in the past; however, straightening and dredging have rendered habitat severely degraded. • Sections of the watercourse now flow within pipes, below ground, in areas throughout much of its length. Without further investigation, it is hard to ascertain what extent of the dry channels observed were due to the particularly dry conditions and how much was down to alternative land drainage conduits taking the flow. • Light Water only currently appears to be a permanent surface watercourse in middle to lower reaches. The lower perennial section provides good potential invertebrate and salmonid spawning and juvenile habitat but remains degraded by past channel modifications and is further impacted by fine sediment inputs upstream.

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		<p>(REP5-072). That explanation included the serious potential impacts on shoot management and road safety issues associated therewith if the mitigation goes forward as proposed. Nothing in the Applicants post hearing submission alters that view.</p> <p>Paragraph 4.1.1 states the area of woodland planting proposed is to substitute for some 4.48Ha of broad-leaved and coniferous woodland on Scheme 03. To date The Representors have not been directed to the mapping and schedules in the DCO documentation that shows the location of this lost woodland. The Representors require one to be provided. 14.Paragraph 4.1.2 acknowledges that the widened road will cause increased mortality in red squirrels, barn owls and bats, particularly in the vicinity of the two existing woodlands north and south of the A66 to the north of Swinegill Plantation. This is exactly the point the Representors made in their Deadline 5 Submission (REP5-072) about the potential for increased mortality of pheasants for the same reasons. That road safety concern has not been addressed and the proposals would make the situation worse by encouraging pheasants towards the road.</p> <p>Fish at Swinegill</p> <p>Paragraph 4.1.3 again refers to fish being present in the Swinegill. Please can the Applicant provide the evidence of this. 16. Paragraph 4.2.2 mentions the obvious gap in the connectivity from Whinfell Forest to Swinegill and the other isolated woodland in this area and why this area of mitigation was selected. Again, in the Representors Deadline 5 Submission they explained that this was deliberate having been established over many years for the benefit of the shoot in this area, by allowing birds to be drawn out and driven towards the right areas without</p>	<p>Plot 03-02-06</p> <p>In respect to the query on Plot 03-02-06, this relates to a linear drainage ditch running between the A66 and the River Eamont (the Lightwater is further to the west). This area is within the permanent engineering boundary and species-rich grassland and hedgerow has been included as an opportunity to maximise biodiversity enhancement along a riparian corridor (ditch).</p> <p>The Applicant will work with the trustees of the Winderwath Settled Estate and their land agent during the Detailed design stage, as part of the development of accommodation works, to consider opportunities to maintain connectivity between fields/the land.</p> <p>Plot 03-04-04 respect to the mitigation proposed in plot 03-04-04 please refer to the response to REP6-044 above.</p> <p>Shoot Management</p> <p>As part of the engagement with the trustees of the Winderwath Settled Estate the Applicant is confident that an agreement will be reached to resolve concerns and comments made in respect to shooting on the estate and in particular to pheasant mortality. Please refer to the response to REP6-044 above in respect to the Applicant's position on the suggested alternative mitigation measures.</p> <p>Evidence on Fish Being Present in SwineGill. Swine Gill was not surveyed for fish (either physically or using eDNA) as the watercourse is considered unsuitable for fish of conservation value as set out below. Appendix 6.18 Fish Habitat Assessment and MorPh [Document Reference 3.4, APP-171] of 3.4 Environmental Statement states:</p>

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<p>any impact on the current road. That would not happen with the proposed mitigation woodland particularly and has not been taken into account by the Applicant.</p> <p>High value agricultural land</p> <p>Paragraph 4.2.6 mentions in a number of places the discounting of other previously proposed areas of mitigation on Scheme 03 because of the impact on “high value agricultural” and “Grade 2” land. As has been raised numerous times the land in this plot is Grade 2 and as such should be considered in the same way as the previous alternative location and be discounted in line with both the National Policy Statement for National Networks and the National Planning Policy on the use of the best and most versatile agricultural land.</p> <p>Contested issues</p> <p>Size – the area of Adrian’s Wood is not just 2.71 Ha. It amounts to 7.47Ha of woodland as set out on the plans and details in Appendix 2 of the Representors original written representations (REP1 – 129). Therefore, in terms of replacement woodland there is significantly more area than the proposals for plot 03-04-04. In terms of scrub area the Representors have offered alternative areas adjacent to Adrian’s Wood for such use.</p> <p>Riparian habitat - the Applicants response acknowledges that the alternative areas offer the same benefit as the proposed.</p> <p>Red Squirrel - Adrian’s wood does contain 20% Douglas Fir and Spruce (see Written Reps Appendix 2 – REP1 – 129). The Representors would also argue that there is indeed connectivity for red squirrels to the north, via numerous hedges and woodland areas on the north part of the estate and as shown on the plans of estate</p>	<p><i>“The surveyed area of Swine Gill is characterised by slow moving shallow glide with a silt dominated substrate. Upstream of the road, the watercourse appears to have been modified and is a perched ditch on the side of a slope adjacent to an area of standing water / wet woodland to the east.</i></p> <p><i>The watercourse flows through a culvert under the A66 (NGR: NY5826228744) which is considered a barrier to fish migration. Whilst Swine Gill offers a potentially valuable aquatic habitat and is well connected to its floodplain, specifically an area of wet plantation woodland, the watercourse is considered unsuitable for fish of conservation value due to lack of flow and substrate other than sand and silt.</i></p> <p><i>The MoRPh survey of Swine Gill resulted in a river condition class of Fairly Good.”</i></p> <p>The mitigation planting along Swine Gill was not driven by impacts to fish, under essential mitigation Chapter 6 Biodiversity [Document Reference 3.2, APP-049] of the Environmental Statement states:</p> <p><i>“Riparian habitat adjacent to Swine Gill (both upstream and downstream of existing A66) will be improved through woodland planting and management. This will connect and extend areas of existing woodland and mitigate for the loss of riparian habitat associated with the extension of the existing Swine Gill culvert.”</i></p> <p><u>With respect to issues on the use of Best and Most Versatile Land please refer to the response provided in 7.35 Applicants Response to Deadline 5 Submissions [Document Reference 7.35, REP6-021], on pages 82 to 85 of 113.</u></p>

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<p>woodland submitted with the Deadline 5 submission (REP5-027).</p> <p>Reptiles/great crested newts – alternative land could be provided adjacent to Adrian's Wood to allow for adequate pond creation and connectivity for such reptiles, when the Applicants response also acknowledges that these areas are to be receptor site for reptiles for other areas of Scheme 03, unconnected to the proposed mitigation area.</p> <p>Badgers/otters/barn owl/bats – the Applicants response state that similar opportunities are provide by Adrian's Wood subject to the size of habitat. Clearly, as noted above, there is a greater area of woodland habitat and the offer of scrub habitat to more than replicate the areas proposed to the south.</p> <p>Alternative mitigation proposals</p> <p>Noting the main driver from the Applicant's perspective and in an attempt to offer a further compromise solution, attached to this submission and headed "Deadline 6 Submission - Alternative Mitigation Proposals as referenced in Submissions by Trustees of Winderwath Estate - 4-4-23" is a proposed alternative planting and mitigation solution, which the Representors would be prepared to implement through positive and restrictive covenants in a form that allowed the proposals to be implemented whilst not requiring the permanent acquisition of the areas and thus allow the continued use of the areas for sporting purposes.</p> <p>The alternative proposal the Representors believe achieves the Applicants core objective of connectivity between the woodland areas and habitats, replaces the lost woodland areas but also preserves the ability of the estate to properly manage the shoot safely and without</p>	<p>Reference to the discrepancy in the size of Adrian's Wood is acknowledged. The size of Adrian's Wood does not amend the Applicant's assessment in regard to the suitability of it to provide an alternative location to mitigate the project potential impacts on the red squirrel population. As part of the engagement with the trustees of the Winderwath Settled Estate the Applicant is confident that an agreement will be reached to resolve concerns and comments made in respect to alternative mitigation proposals on the estate to the south of the A66. Please refer to the response to REP6-044 above in respect to the Applicant's position on the suggested alternative mitigation measures.</p> <p>Alternative Mitigation Proposals</p> <p>As part of the engagement with the trustees of the Winderwath Settled Estate the Applicant is confident that an agreement will be reached to resolve concerns and comments made in respect to alternative mitigation proposals on the estate. Please refer to the response to REP6-044 above in respect to the Applicant's position on the suggested alternative mitigation measures.</p> <p>With respect to Detailed land and Compulsory Acquisition concerns the Applicant has noted all comments. However, the Applicant confirms that it has been engaging in negotiations with representatives of the Winderwath Estate with the objective of securing the early acquisition of the land needed for the Project, Several offers have been made by the Applicant, although to date none of them have been accepted by the representatives of the Winderwath Estate. The Applicant's usual process is to agree costs with the affected person and then to prepare a draft of the option agreement, which would then be shared through the</p>

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<p>the risk of increasing road safety issues on the A66 at the Swinegill crossing. This is achieved through the creation of scrub headland and hedge planting, creation of part of the scrubland area and relocation of the woodland planting, which then provides connectivity through new and existing mature hedgerows and trees to Whinfell Forest county wildlife site.</p> <p>Document 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submission (including written submissions of oral case) (REP5-23 – Pages 29-31)</p> <p>The Representors note in the penultimate paragraph on page 30 that the Applicant acknowledges in respect of utility diversion and mitigation works in relation to plot 03-02-01 that its approach where the landowner's preference is to retain land is to grant rights and where those can be agreed, then the Applicant would not exercise powers of compulsory acquisition. 24. No mention is made in the Applicants response to the Representors continued assertion that if environmental mitigation is required in plots 03-04-14, 03-04-10 and 03-04-12 then rights should be taken, and the area not compulsorily acquired. The Representors have repeatedly offered to discuss positive and negative covenants that would achieve this aim and facilitate the continued use of the land by the estate for its sporting activities whilst securing the appropriate management for the purpose of environmental mitigation under the scheme. 25.</p> <p>The Representors require early proposals from the Applicant on how rights, as the applicants seeks under Article 22 of the draft DCO or under the Planning Act 2008, can be applied in this case.</p>	<p>conveyancing process (as the draft informs the conveyance). In the case of the acquisition of land from the Winderwath Estate, solicitors have been instructed, and the Applicant notes that significant progress is being made through regular contact with the representatives of the Winderwath Estate, such that the parties are able to enter into the option agreement by the deadline applied to the Acquisition Compensation Premium (ACP) policy.</p> <p>Footpath – FP311004</p> <p>Change DC-04 as accepted by the ExA Procedural Decision PD-014 promotes the segregation of private and public rights of way.</p>

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<p>Document 7.11 Compulsory Acquisition Status of Negotiations Schedule (REP5-018 – Pages 3-4)</p> <p>The Representors would draw the ExA's attention the lack of negotiation and progress on early acquisition of the Representors interests between the return by the Representations of the Applicants offer letter of the 28th March 2022 and now. 28. The ExA are aware of the offer by the Applicant under "project speed" of either early sales or option agreements to Affected Parties if either exchange of contracts or options agreements are signed by 20 th July 2023. 29. Despite negotiations over that time on the quantum of the land acquisition and compensation figures the Applicant has failed to produce any form of draft option agreement until the 27 th March 2023. This was despite a meeting held on the 14th December 2022 between the Representors land agent and senior representatives of the Applicant where draft documentation was promised swiftly. It has taken continued pressure from the Representors since December 2022 to obtain draft documents only a week ago. There appears to have been no thought, planning or preparation by the Applicant for the uptake of the option proposals by Affected Parties.</p> <p>There has been no sense of urgency from the Applicant in progressing the option proposals and one might suggest that the offer was merely a PR exercise to demonstrate to the ExA that efforts had been made to negotiate. 31.</p> <p>There needs to be significant URGENT effort from the Applicant in resolving issues around the option agreements which have been raised by the Representors since the meeting in December 2022 and have not been properly addressed in the draft</p>	

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<p>documents. There is very little time now till 20th July to conclude agreements]</p> <p>Detailed land and CA concerns are set out on the following documents:</p> <ul style="list-style-type: none"> • Document 7.29 Compulsory Acquisition Hearing 2 (CAH2) Post Hearing Submission (including written submissions of oral case) (REP5-23 – Pages 29-31) • Document 7.11 Compulsory Acquisition Status of Negotiations Schedule (REP5-018 – Pages 3-4) <p>Footpath – FP311004</p> <p>The Representors raised their objections to the diversion of this footpath along a proposed private means of access on the Representors land. These concerns were raised in the Representors written representations (REP1 – 129). To date we have had no substantive response from the Applicants to the concerns raised. 34. The Applicants has already proposed the segregation of public and private rights of way to the north of the A66 on Scheme 03 under their proposed DCO changes, but the matter of this footpath remains unresolved and of significant concern to the Representors as already stated. 35. The Representors require an urgent update from the Applicant on this matter.</p>	

5. Applicant's response to Deadline 6 submissions made by other Interested Parties.

5.1.1. Table 5 sets out the Applicant's response to the submission made by other Interested Parties

Table 5. Response to Deadline 6 Submission

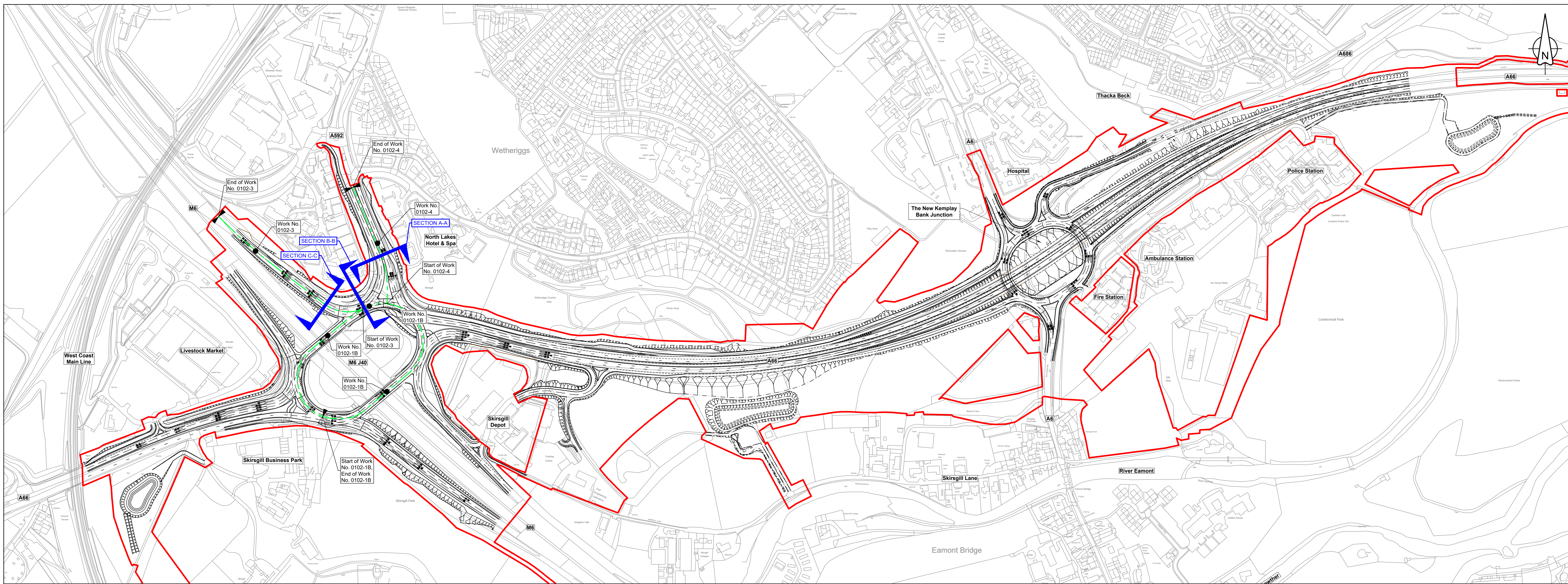
Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
REP6-037	Climate Emergency Policy and Planning (CEPP) Deferral request	Deferral request for submission to deadline 7	Noted.
REP6-038	Lesley Kelly on behalf of Crackenthorpe Parish Council Correspondence regarding concerns about changes to the original plans for the A66 North Trans-Pennine Project	<p>Correspondence regarding concerns about changes to the original plans for the A66 North Trans-Pennine Project</p> <p>Raising concerns with:</p> <ul style="list-style-type: none"> • The amount of time and resource involved in the design change consultation in Feb 2023 – and concern same amount was not put into the Feb 2022 changes – which have a huge impact on people and the countryside. • No consultation in Feb 2022 – just “a flimsy brochure full of incorrect information”. – concern about decision for junction at Powis was based on incorrect information and a strong campaign by 12 local councils (that Crackenthorpe Parish were unaware of). • concern that traffic through and from Appleby will need to pass through Crackenthorpe • number of concerns expressed about junction at Powis in open countryside and not that far from other junctions that are proposed – and concern that Appleby, the largest permanent settlement in the Eden Valley is of no consequence. 	<p>Regarding Ms Kelly's points about the proposed changes consulted on in February 2022, the Applicant considers these addressed in their Procedural Deadline Submission - 6.5 Applicant's Response to Relevant Representations Part 3 of 4 [Document Reference 6.5, PDL-12]. Across pages 445 to 448, the Applicant provides a response to concerns raised by Crackenthorpe Parish Council in their Relevant Representation [RR-026], outlining the public consultation and engagement undertaken throughout the development of the Project.</p> <p>The Applicant acknowledges and welcomes the support of the Parish Council for the Project. Local accessibility and safety remain key priorities for the Applicant, as do the wider Project objectives as set out under Agenda Item 2.0 (pages 5 to 6) of their Deadline 1 Submission - 7.2 Issue Specific Hearing 1 (ISH1) Post Hearing Submissions [Document Reference 7.2, REP1-006]. In respect to the specific concerns relating to local movements to and from Crackenthorpe the introduction of the A66 dual carriageway will significantly reduce traffic on the detrunked section of A66 meaning that access and egress to the local road network will be much improved whilst the reliability of journeys on both</p>

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<ul style="list-style-type: none"> Traffic to and from the industrial estate and local businesses, commuting workers and emergency services all face poor local access support expressed for the de-trunked A66. 	<p>the new A66 and detrunked lengths will also be improved.</p> <p>The junction arrangements are set out in Section 5.4 of the Project Development Overview Report [Document Reference 4.1, APP-244]. It explains why the junction at Appleby was changed (refer to paragraphs 5.4.51 to 5.4.54, and 5.4.85 to 5.4.89) and the issues and requirements of Long Marton junction (paragraphs 5.4.51 to 5.4.54, 5.4.71, and 5.4.81 to 5.4.84). This matter was consulted on in the supplementary consultations in January/February 2022.</p> <p>The Applicant acknowledges and welcomes the support of the residents of Crackenthorpe with regards the plans for repurposing the de-trunked A66 as a safer route for walkers, cyclists, horse-riders and agricultural traffic. The Applicant can confirm that these proposals remain within the DCO application, as outlined in Section 5.4 of the Project Development Overview Report [Document Reference 4.1, APP-244] and shown on Sheets 4 to 7 of the Applicant's Procedural Deadline Submission - Response to ExA's Procedural Decision PD-006 in Rule 6 Letter - General Scheme Outline Plans - Scheme 0405: Temple Sowerby to Appleby [PDL-004].</p>
REP6-046	United Utilities Correspondence from National Highways regarding the proposed change request	<p>Response to correspondence from National Highways regarding the proposed change request (23rd March email)</p> <p>Issue is with DC-05 which proposes changes to the access to a United Utilities facility at Penrith Wastewater Treatment Works (WwTW).</p> <p>United Utilities responded via the National Highways consultation page online on 27th February 2023 raising concerns regarding the changes to the access including:</p>	<p>A meeting was held between the applicant and United Utilities (UU) on 21st April 2023 to discuss the comments raised by UU.</p> <p>At the meeting the applicant described the process to determine and assess alternatives. The provision of a roundabout or traffic signals on the A66 was explained as being discounted on the basis that the volume of traffic generated by the UU site did not warrant such a solution. The access and egress provision in the</p>

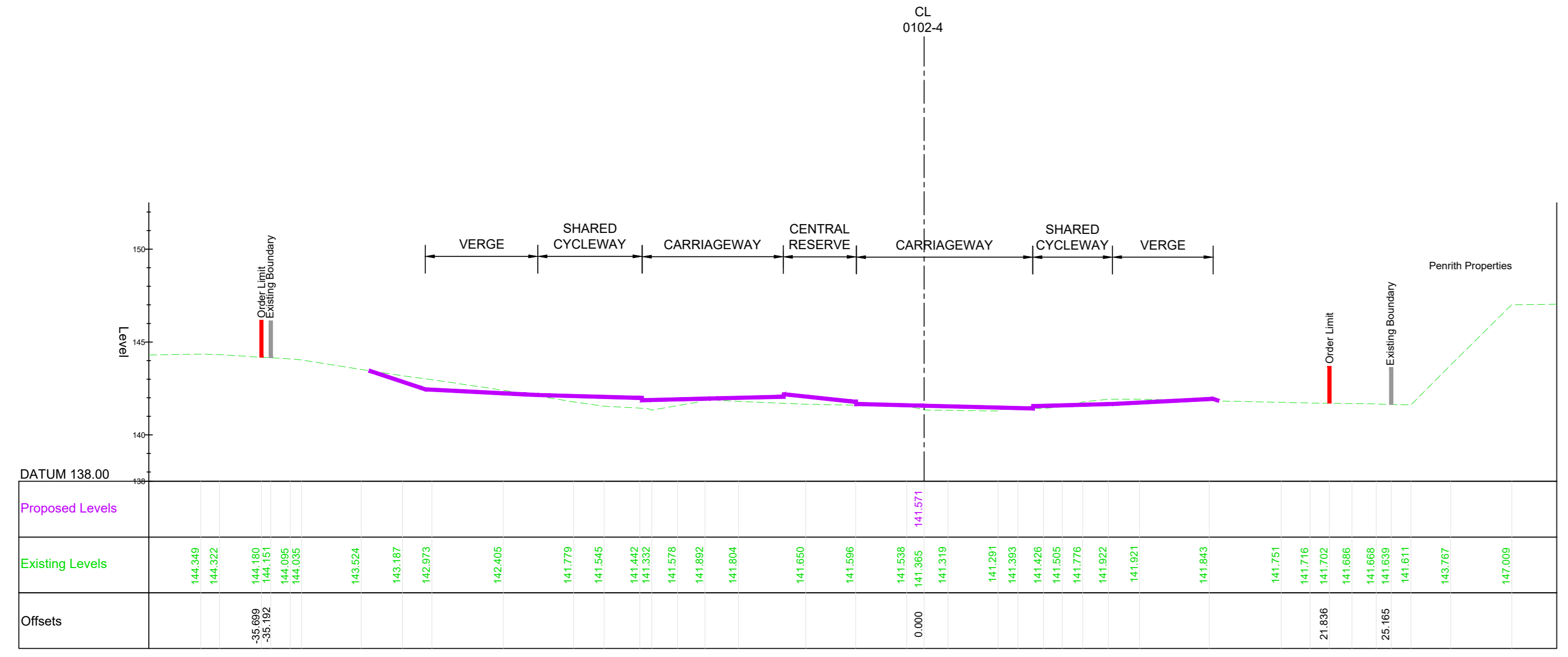
Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<ul style="list-style-type: none"> • little consideration was given to how the changes will impact United Utilities operations at Penrith and the 24 hour operational waste management facility. • United Utilities have since had discussions regarding the changes to the access with National Highways and their representatives. The issues outlined in the consultation response are still outstanding as information from National Highways has yet to be received. United Utilities are awaiting confirmation from National Highways to why alternatives changes to the access are not possible at this stage. This includes the possibility of proposing traffic lights or a roundabout. National Highways are to provide United Utilities with a design and consultation history to why such methods to access our facility have been discounted. In addition, further information was to be provided to how the new access design will accommodate the vehicles required as part of our operations. • On review of recent consultation from National Highways regarding changes they are taking forward as part of application and also from the Deadline 5 Submissions online, United Utilities note that our concerns from our consultation response may not have been submitted to the Planning Inspectorate for consideration. • We would be grateful if the Planning Inspectorate can confirm whether they are in receipt of our concerns made to National Highways. We would also like to use this opportunity to formally outline United Utilities concerns with the proposed changes given the position in the DCO examination process. 	<p>direction of traffic was explained as being consistent with the principles adopted on the rest of the project.</p> <p>The applicant explained how the drawings included in the DCO application documentation (e.g. Document Reference 2.5 General Arrangement Drawings Scheme 03 Penrith to Temple Sowerby APP-012] show how the site would be accessed and how two-way traffic would be managed. Namely, the width of the access is wider (3.5m) as a result of the design change than the initial provision (3.0m) and the access had been tracked (a digital assessment using a 16.5m articulated vehicle) to confirm that all assessed movements were possible.</p> <p>A meeting was held on 4th May 2023 with UU to present the design in a greater level of detail including demonstrating how vehicles could access and egress the UU facility. The meeting clarified comments in respect to design solutions (roundabout and traffic signals) on the A66 dual carriageway, with UU acknowledging that this form of design intervention would not be appropriate. The Applicant will continue to provide further detail and design data to enable UU and its advisors to confirm the adequacy of the access provision.</p> <p>In any event, the Applicant reiterates that protective provisions for the benefit of water undertakers are included in Part 1 of Schedule 9 to the draft DCO, which will provide protection for UU's apparatus and operations in the event of any interface with the Project.</p>

Examination Library Reference	Interested Party and Title of Submission	Issues Raised	Applicant's Response
		<ul style="list-style-type: none">• United Utilities position to the A66 scheme must be reviewed in the light of some significant late changes to the access at Penrith WwTW and we wish to highlight this to the Planning Inspectorate to ensure our concerns put to National Highways are considered as part of the DCO examination process.	

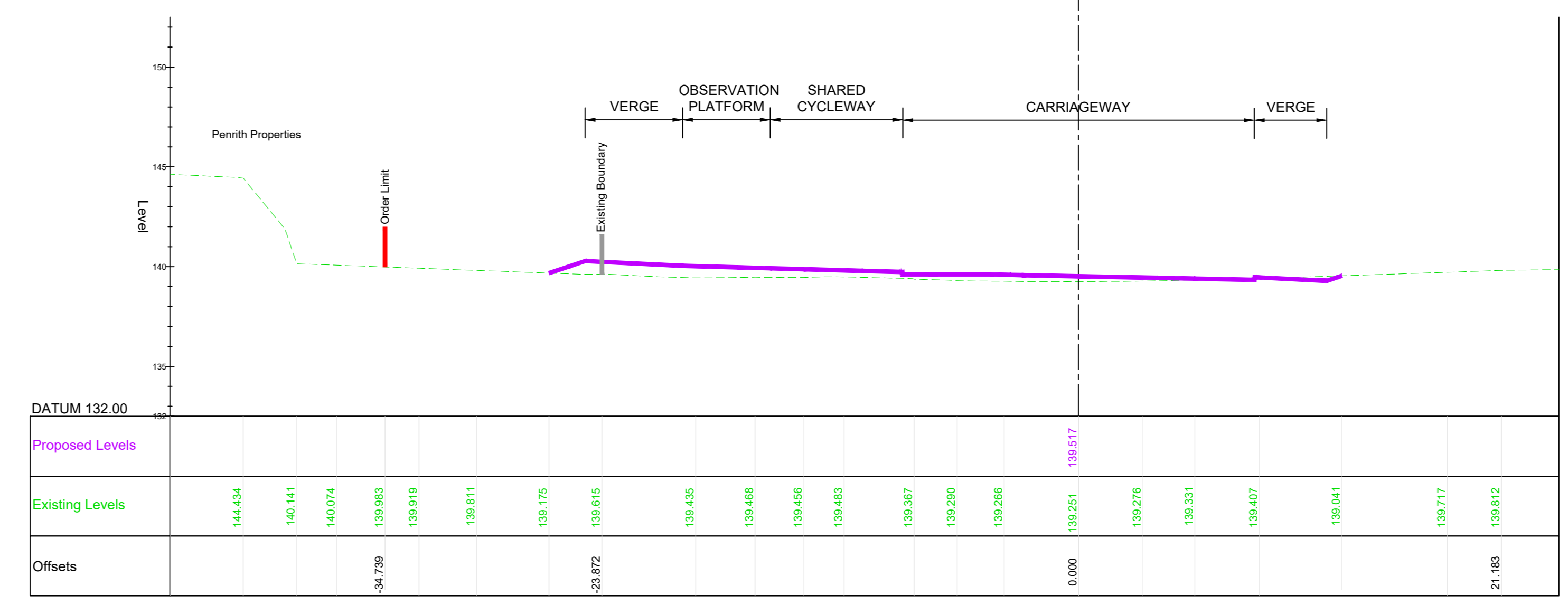
Appendix A



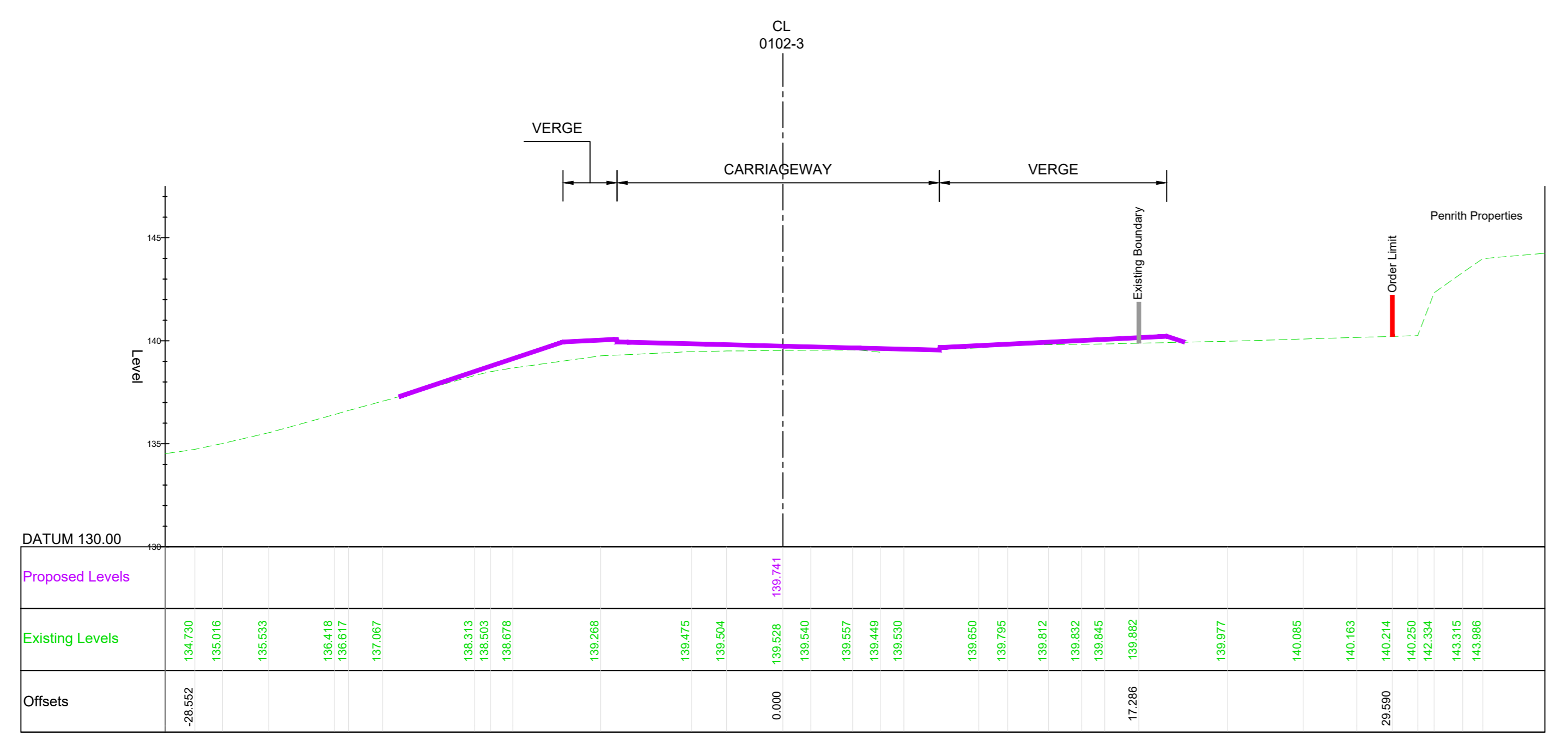
- NOTES**
- ALL DIMENSIONS ARE IN METRES UNLESS NOTED OTHERWISE.
 - THESE ENGINEERING SECTION DRAWINGS SHOULD BE READ IN CONJUNCTION WITH THE KEY PLAN AND ALONGSIDE OTHER PLANS AND DOCUMENTS IN THE DEVELOPMENT CONSENT ORDER APPLICATION. IN PARTICULAR, THE WORKS PLANS AND SCHEDULE 1 (AUTHORISED DEVELOPMENT) TO THE DEVELOPMENT CONSENT ORDER.
 - FOR CHANGE PLEASE REFER TO THE ENGINEERING SECTION DRAWINGS (PLAN AND PROFILES).
 - WORK NO. REFERENCES ARE DETAILED IN THE SCHEDULE 1 (AUTHORISED DEVELOPMENT) TO THE DEVELOPMENT CONSENT ORDER.
 - THE DESIGN SHOWN ON THESE ENGINEERING SECTION DRAWINGS IS ILLUSTRATIVE AND WILL BE SUBJECT TO THE DETAILED DESIGN DEVELOPMENT. ANY CHANGES WILL BE LIMITED TO BEING WITHIN THE ORDER LIMITS AND ANY OTHER CONSTRAINTS INCLUDED IN THE DEVELOPMENT CONSENT ORDER.
- KEY**
- PROPOSED LEVEL
 - EXISTING LEVEL
 - ORDER LIMITS
 - LINEAR WORK CENTERLINE
 - START OF LINEAR WORKS
 - START AND END OF LINEAR WORKS
 - END OF LINEAR WORKS
 - SECTION MARKER WITH REFERENCE



A592 TYPICAL SECTION A-A WORK NO. 0102-4
Scale 1:200



A66 MAINLINE TYPICAL SECTION B-B WORK NO. 0102-1B
Scale 1:200



M6 SOUTHBOUND DIVERGE TYPICAL SECTION C-C WORK NO. 0102-3
Scale 1:200

Revision	Created	Checked	Reviewed	Approved	Authorised
P01	FBLA 07/03/23	FBLA 07/03/23	DKID 07/03/23	SBAG 07/03/23	SBAG 07/03/23
P02	FBLA 10/03/23	FBLA 10/03/23	DKID 10/03/23	SBAG 10/03/23	SBAG 10/03/23
C01	FBLA 09/05/23	FBLA 09/05/23	ASCR 09/05/23	DKID 09/05/23	SBAG 09/05/23

Designer
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10 Furnal Street
London, EC4A 1AB

Client
3 Piccadilly Place
Manchester
M1 3BN

Project Name
A66 Northern Trans-Pennine

Drawing Title
**M6 Junction 40
Typical Sections
Sheet 1 of 1**

Project Ref. No.	Stage	Scale	@ A0
---	PCF3	1:2500	M

Drawing Number	Project	Originator	Volume
HE565627	AMY	ORIG	HAC
S0102	Location	Type	Role
-SK-CH-000011			Number

Suitability	Suitability Description	Revision
A	Approved for Stage Complete	C01