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Examination Principle Issues	<b>Climate Change</b>

## **DEADLINE D7 SUBMISSION**

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### **1 DEADLINE 7 (D7)**

- 1 I respectfully request to the ExA that further material and submissions from me is deferred until a subsequent deadline.
  
- 2 There are two reasons: I am heavily involved, as Claimant, in a legal case going to the High Court on May 10<sup>th</sup> and 11<sup>th</sup>, and I physically have not the resources to make the submission I intended for Deadline 7 due to overload. I have done considerable analysis on the revised Net Zero Strategy (NZS), see below, but I need to refine the arguments further to make the clearest submissions to the ExA.
  
- 3 I wish to submit further information as:
  - A. Respond to REP5-024 and REP5-030 from the Applicant as previously noted.
  
  - B. Make submissions on the revised Net Zero Strategy (NZS) - overarching title “Powering Up Britain” (PUB)), and the Carbon Budget Delivery Plan (CBDP) within it.

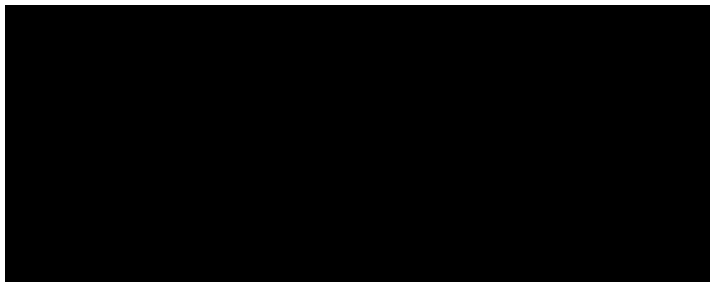
I just provide here a brief summary in overview for assist the ExA and parties. I submit that the Secretary of State must consider the A66 scheme in the context of these new policy documents, and the following issues pertain:

- (i) An error of 130 million tonnes of CO2 for the road transport baseline was reported between the original NZS and the revised documents across the years 2023-2037 (carbon budgets 4CB, 5CB and 6CB).

- (ii) No adequate risk assessment has been done by the Government in the revised NZS of the impact of this error, and also of the revised road transport baseline, and of the policies within the revised NZS for road transport.
- (iii) There has been reports in the press (April 23<sup>rd</sup> 2023) that the revised Net Zero Strategy potentially faces further legal challenge (see Appendix A). Lawyers acting for Friends of the Earth consider that the revised NZS is potentially a “very high risk” strategy. This fits with my own analysis, especially for the road transport sector.
- (iv) Recent SoS decision letters on road schemes have said “*the Secretary of State has no reason to consider that the Proposed Development will hinder delivery of either the TDP or Net Zero Strategy (whether in its current form or any future updated form)*” (Decision letter for A47 Wansford to Sutton Development Consent Order).
- (v) However, I submit that the Government has not properly risk assessed its Net Zero Strategy, nor demonstrated that it has a secure pathway for delivering the UK’s vital carbon budgets and targets. It is therefore not possible for the Secretary of State to credibly take the position quoted above.
- (vi) To the contrary, it is extremely unlikely that any new roads can contribute to UK climate policy and targets as the risks to delivering Net Zero Strategy becoming clearer by the day. I had already submitted this as part of my original submission. The evidence for my submission is now much stronger.

C. Final Principal Areas of Disagreement Summary Statements. I note the D7 deadline for these, and apologise for the delay in my final PADDs. This statement should include the work from A and B above, so it is not possible until I have produced submissions on those points.

I am grateful for the ExA’s considerations of this request.



Dr Andrew Boswell,  
Climate Emergency Policy and Planning, May 9th 2023

**2 APPENDIX A: TIMES REPORT ON POTENTIAL NET ZERO STRATEGY LEGAL  
CHALLENGE – April 23<sup>rd</sup> 2023**

ENVIRONMENT

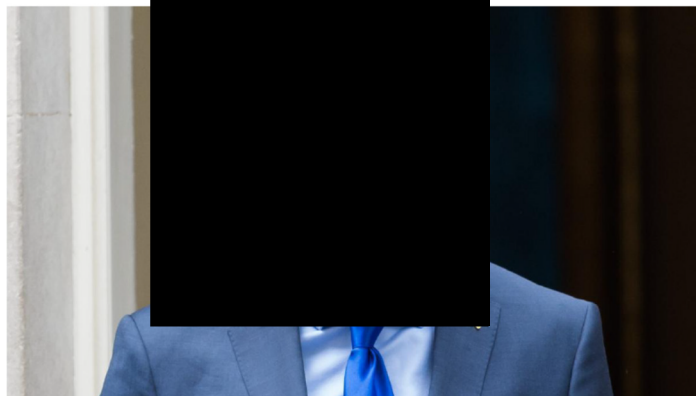
## Friends of the Earth threaten legal challenge to new net zero strategy

Shapps's department may be required to revisit climate plan to ward off court battle

NEW

Adam Vaughan,  
Environment Editor

Sunday April 23 2023,  
9.40pm BST, The Times



Grant Shapps, the energy secretary, could have to go back to the drawing board as climate campaigners highlighted insufficient information on the risk of policies failing to deliver emissions cuts

WIKTOR SZYMANOWICZ/ANADOLU AGENCY/GETTY IMAGES

Ministers may have to rethink their plans for meeting net zero for a second time after green campaigners took the first step towards a legal challenge over inadequate action on climate change.

Grant Shapps, the energy secretary, was forced last month to publish a revised version of the government's flagship [net-zero strategy](#), after the High Court ruled the original was unlawful. The new plan included a mandate to ensure that 28 per cent of car sales were electric by 2025, an extension of grants for heat pumps and a Great British Insulation Scheme.

[Shapps](#) could now have to revisit the plan again. Friends of the Earth, which brought last year's court case along with the Good Law Project and ClientEarth, has given him until this Friday to respond to a pre-action letter. It is the first step towards applying for a judicial review.

The group's focus is the lack of detail on the risk of policies failing to deliver the emissions cuts needed for Britain's legally binding "sixth carbon budget" by 2037, the letter seen by The Times shows.

07/05/2023, 21:26

Friends of the Earth threaten legal challenge to new net zero strategy

The only assessment of risk the government has made public is in its carbon budget delivery plan, published last month. That document showed the government only has “high confidence” in policies covering 40 per cent of the [emissions](#) savings required by 2037.

Katie de Kauwe, a lawyer at Friends of the Earth, said that left a huge uncertainty over the levels of confidence that officials have in the remaining 60 per cent.

“If a strategy is very high risk, surely the public should be entitled to know about that. At the moment there is very little information in there. Obviously a pre-action letter is not a commitment to litigate, it is a first and important step. But if the government’s response is inadequate, I can certainly see us taking them to court again,” she said.



A leaked document indicates that 21 of 44 of the net-zero policies, including on tree-planting and peatland restoration, would be difficult to accomplish

ADAM VAUGHAN/EPA

The legal basis for the challenge is whether or not Shapps met the Climate Change Act’s obligations to prepare policies that will ensure carbon targets are met. Friends of the Earth won in the High Court last year over that duty, after a judge ruled the net-zero strategy provided insufficient detail.

If the group’s demands for more detail on risk are not met, a court hearing is likely to take place this year. The idea that some of the policies may be at risk of delivery is not just speculation. A [leaked document](#) by the Department for Environment, Food and Rural Affairs has shown that 21 of 44 of its net zero policies, including on tree planting and peatland restoration, would be hard to achieve.

Last month’s carbon plan also revealed that the government faces a small shortfall for the 2037 carbon target, of 3 per cent of the emissions savings needed.

07/05/2023, 21:26

Friends of the Earth threaten legal challenge to new net zero strategy

Ministers argued the gap would be filled by technology developments. Graham Stuart, the climate minister, said: “Technology does tend to advance. We are obliged under the [Climate Change] Act to give a very high degree of certainty. We have given ourselves a very small headroom. We just know there are new technologies coming through, and it will be irrational to overcommit in areas.”

Shapps’s department is the [subject of a complaint](#) being reviewed by the Information Commissioner’s Office, brought by The Times, over its past failures to disclose the estimated emission savings of individual measures in the net zero strategy, such as insulating more homes. A ruling is expected by the data watchdog imminently.

The government was contacted for comment.

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April 04 2023, 12.01am BST

Ben Spencer



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Craig Paton



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February 09 2023, 12.01am GMT

Adam Vaughan, Environment Editor