

A66 Northern Trans-Pennine Project

4.5 Statement of Common Ground Environment Agency (Rev 4)

APFP Regulations 5(2)(q)

Planning Act 2008

**Infrastructure Planning (Applications: Prescribed Forms and
Procedure) Regulations 2009**

Volume 4

16 May 2023

Infrastructure Planning

Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

A66 Northern Trans-Pennine Project Development Consent Order 202X

4.5 STATEMENT OF COMMON GROUND WITH THE ENVIRONMENT AGENCY

Regulation Number:	Regulation 5(2)(q)
Planning Inspectorate Scheme Reference	TR010062
Application Document Reference	4.5
Author:	A66 Northern Trans-Pennine project, Project Team, National Highways

Version	Date	Status of Version
Rev 1	13 June 2022	DCO Application
Rev 2	24 January 2023	Deadline 3 Submission
Rev 3	14 March 2023	Deadline 5 Submission
Rev 4	16 May 2023	Deadline 8 Submission

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1 Introduction

1.1 Purpose of this document

- 1.1.1 This Statement of Common Ground ("SoCG") has been prepared in respect of the proposed A66 Northern Trans-Pennine ("the Application") made by National Highways Limited ("National Highways") to the Secretary of State for Transport ("Secretary of State") for a Development Consent Order ("the Order") under section 37 of the Planning Act 2008 ("PA 2008").
- 1.1.2 This SoCG seeks to summarise and explain the respective parties' positions on issues but does not seek to replicate in full information which is available elsewhere within the Application documents. All Application documents are available on the Planning Inspectorate website.
- 1.1.3 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the parties to it, and where agreement has not been reached. SoCGs are an established means in the planning process of allowing all parties to identify and so focus on specific issues that may need to be addressed during the examination.

1.2 Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared by National Highways as the Applicant. It has been shared with the Environment Agency (EA) for comment prior to the submission of the DCO, at DCO submission, in advance of Deadlines 3, 5 and 8. It is a joint statement by the Applicant and the EA for submission at Deadline 8. A few issues remain under discussion around the with scheme hydraulic modelling and flood compensation for scheme 6, and protective provisions. These issues are detailed in Table 3-2 of this SoCG and a final position will be agreed on these issues with the EA by Deadline 9. A final, signed SoCG will be issued at Deadline 9.
- 1.2.2 The Applicant has set out the detail of the issues raised by the Environment Agency to date and each of the SoCG parties' respective positions. This is intended to assist the Examining Authority in understanding where discussions have reached.
- 1.2.3 National Highways (formerly Highways England) became the Government-owned Strategic Highways Company on 1 April 2015. It is the highway authority in England for the strategic road network and has the necessary powers and duties to operate, manage, maintain and enhance the network. Regulatory powers remain with the Secretary of State.
- 1.2.4 The responsibilities of the EA are outlined on their website at <https://www.gov.uk/government/organisations/environment-agency/about> and are summarised below: -

- managing the risk of flooding from main rivers, reservoirs and the sea.
- regulating major industry and waste.
- treatment of contaminated land.
- water quality and resources.
- fisheries.
- inland river, estuary and harbour navigation; and
- conservation and ecology of the aquatic environment.

1.3 Terminology

1.3.1 In the tables in the Issues section of this SoCG:

- “Agreed” indicates area(s) of agreement between the Applicant and the EA;
- “Under discussion” indicates area(s) of current disagreement between the Applicant and the EA, where resolution remains possible, and where parties continue discussing the issue to determine whether they can reach agreement by the end of the examination
- “Not agreed” indicates a final position for area(s) of disagreement between the Applicant and the EA, where the resolution of divergent positions has not been possible between the parties., and parties agree on this point

1.3.2 It can be assumed that any matters not specifically referred to in the Issues section of this SoCG are not of material interest or relevance to the EA, and therefore have not been the subject of any discussions between the parties.

2 Record of Engagement

2.1.1 A summary of the key meetings and correspondence that has taken place between National Highways and the EA in relation to the Application is outlined in Table 2.1.

Table 2.1 – Record of Engagement

Date	Form of correspondence	Key topics discussed and key outcomes
08.02.2021	Online Meeting	Meeting of the Habitats Regulations Assessment TWG with the EA in attendance. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on the Evidence Plan, scheme overview and the proposed baselines surveys, modelling and assessment to underpin the HRA.
11.02.2021	Online Meeting	Meeting of the Ecological Impact Assessment TWG with the EA in Attendance. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on the Evidence Plan, scheme overview, and the proposed baselines surveys, modelling, and assessment to underpin the EclA.
11.02.2021	Online Meeting	Meeting of the Water TWG with the EA in attendance. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on the Evidence Plan, scheme overview and assessment methodology.
25.02.2021	Online Meeting	Meeting of the Statutory Environmental Bodies Focus Group with the EA in attendance. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on the Evidence Plan, environment surveys, approach to mitigation and environmental designated funds.
02.03.2021	Online Meeting	Meeting of the Water TWG with the EA in attendance. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on works to be completed, watercourse crossings and key SW receptors overview.
02.03.2021	Online Meeting	Meeting of the Water TWG with the EA in attendance. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on works to be completed and key GW receptors overview.
16.03.2021	Online Meeting	Meeting between the EA and the IPT at the regular Ecological Impact Assessment TWG. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on Ornithology Strategy, bats and red squirrels.

Date	Form of correspondence	Key topics discussed and key outcomes
18.03.2021	Online Meeting	Meeting of the Habitats Regulations Assessment TWG with the EA in attendance. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussion on site and proximity to schemes, biodiversity survey strategy and HRA Baseline, baseline surveys strategy and introduction to SAC fluvial geomorphology.
25.03.2021	Online Meeting	Meeting of the Statutory Environmental Bodies Focus Group with the EA in attendance. Meeting included discussions on the Evidence Plan, project updates, Warcop AONB, Trout Beck and approach to statutory consultation and PEI Report.
22.04.2021	Online Meeting	Meeting of the Statutory Environmental Bodies Focus Group with the EA in attendance. Meeting included discussions on programme updates, design updates, the Evidence Plan and sifting matrix.
29.04.2021	Online Meeting	Meeting between the EA and the IPT at the regular Ecological Impact Assessment TWG. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on badger bait marking, otter halt monitoring, MoRPH, and air quality and Affected Road Network (ARN).
06.05.2021	Online Meeting	Meeting of the Water TWG with the EA in attendance (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on progress, flood modelling overview, survey updates, DCO process and designated funds.
06.05.2021	Online Meeting	Meeting of the Water TWG with the EA in attendance. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on GW abstraction, assessment area and attenuation ponds.
27.05.2021	Online Meeting	Meeting of the Statutory Environmental Bodies Focus Group with the EA in attendance. Meeting included discussions on the Evidence Plan and a scheme-by-scheme design walkthrough.
10.06.2021	Online Meeting	Meeting between the EA and the IPT at the regular Ecological Impact Assessment TWG. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on bat surveys (overview of methods).
15.06.2021	Online Meeting	Meeting of the Water TWG with the EA in attendance. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on progress, works to be completed and design options.
15.06.2021	Online Meeting	Meeting of the Water TWG with the EA in attendance. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application

Date	Form of correspondence	Key topics discussed and key outcomes
		Document Number 3.4)). Meeting included discussions on progress, ongoing work and focus points.
24.06.2021	Online Meeting	Meeting of the Statutory Environmental Bodies Focus Group with the EA in attendance. Meeting included discussions on design updates, the approach to mitigation, the environmental designated funds process, the Scoping Report and the Evidence Plan.
08.07.2021	Online Meeting	Meeting of the Habitats Regulations Assessment TWG with the EA in attendance. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussion on proposed route alternatives, site Trout Beck geomorphology modelling, HRA programme and documentation and Sleastonhow restoration.
22.07.2021	Online Meeting	Meeting of the Statutory Environmental Bodies Focus Group with the EA in attendance. Meeting included discussion on environmental designated funds.
10.08.2021	Online Meeting	Meeting between the EA and the IPT at the regular Ecological Impact Assessment TWG. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on ornithology, bats, mammals, terrestrial invertebrates, river corridor survey and macrophytes, aquatic invertebrates, fish surveys, white-clawed surveys and key PEI Report findings.
11.08.2021	Online Meeting	Meeting of the Water TWG with the EA in attendance. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on study area, key findings from the PEI Report, potential impacts, design mitigation and enhancement and potential significant effects.
12.08.2021	Online Meeting	Meeting of the Habitats Regulations Assessment TWG with the EA in attendance. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on updates on surveys, HRA documentation programme, HRA screening summary and scheme details.
26.08.2021	Online Meeting	Meeting of the Statutory Environmental Bodies Focus Group with the EA in attendance. Meeting included discussions on EIA Scoping, PEI Report status and assessment process, statutory consultation, design updates, Appleby to Brough and Rokeby.
02.11.2021	Online Meeting	Meeting of the Water TWG with the EA in attendance. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting includes discussions on PEI Report recap, feedback from statutory consultation and an update on ongoing works.
02.11.2021	Online Meeting	Meeting of the Water TWG with the EA in attendance. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application

Date	Form of correspondence	Key topics discussed and key outcomes
		Document Number 3.4)). Meeting includes discussions on PEI Report recap, feedback from statutory consultation and update on ongoing works.
03.11.2021	Online Meeting	Meeting of the Habitats Regulations Assessment TWG with the EA in attendance. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on survey/assessment updates, response to feedback and requests for specific design elements.
11.11.2021	Online Meeting	Meeting between the EA and the IPT at the regular Ecological Impact Assessment TWG. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on habitats, reptiles, ornithology, bats, mammals, freshwater ecology and feedback following statutory consultation period.
25.11.2021	Online Meeting	Meeting of the Statutory Environmental Bodies Focus Group with the EA in attendance. Meeting included discussions on programme updates, design change updates and statutory consultation updates.
02.12.2021	Online Meeting	Meeting to discuss issues around Warcop with the EA. Meeting included discussions on flood modelling and project updates.
13.01.2022	Online Meeting	Meeting of the Statutory Environmental Bodies Focus Group with the EA in attendance. Meeting included discussions on design change and supplementary consultation, approach to environmental mitigation and response to statutory consultation design change.
26.01.2022	Online Meeting	Meeting between the EA and the IPT at the regular Ecological Impact Assessment TWG. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on surveys, construction mitigation methods, species specific updates, design mitigation and scheme-by-scheme mitigation.
26.01.2022	Online Meeting	Meeting of the Habitats Regulations Assessment TWG with the EA in attendance. (Matters discussed in the Technical Working Groups are included within ES Appendix 1.1: Evidence Plan (Application Document Number 3.4)). Meeting included discussions on survey updates, assessment updates, construction mitigation and methods, design mitigation and introduction / spread of INNS.
10.02.2022	Online Meeting	Meeting of the Statutory Environmental Bodies Focus Group with the EA in attendance. Meeting included discussions on project/programme updates and environmental mitigation approach.
10.03.2022	Online Meeting	Meeting between NE, EA, National Highways and A66 IPT to discuss issues around Warcop. Meeting included discussions on Warcop design.
11.03.2022	Online Meeting	Meeting between CCC, EA, National Highways and the Project Team discussing Water Modelling and joint working.

Date	Form of correspondence	Key topics discussed and key outcomes
		Meeting included discussions on Warcop, culverts, drainage ponds, designated funds and community engagement.
24.03.2022	Online Meeting	Meeting of the Statutory Environmental Bodies Focus Group with the EA in attendance. Meeting included discussions on Trout Beck, Warcop and Moor Beck.
04.04.2022	Online Meeting	Meeting between NE, EA, National Highways, CCC and A66 IPT to discuss issues around Warcop. Meeting included discussions on Warcop design and Trout Beck Crossing design.
26.04.2022	Online Meeting	Meeting between EA and National Highways. Introductory meeting to discuss the content of the SoCG. Agreed to diarise update session after submission of the DCO.
26.04.2022	Email	Email from Environment Agency on UKCP18 – updated rainfall allowances.
20.07.2022	Online Meeting	SoCG discussion to discuss approach to revising the SoCG.
03.08.2022	Online Meeting	Meeting between EA and National Highways to discuss flood mitigation and potential natural flood management (NFM) opportunities at Warcop
17.08.2022	Online Meeting	SoCG update session to review progress, full comments to be issued by 4 September. Issue of standard EA protective provisions also discussed. Area of groundwater survey also highlighted as possible area for further information. EA query on approach to modelling and on timescales for modelling post DCO.
18.08.2022	Online Meeting	Meeting between EA and National Highways to discuss hydraulic modelling and rainfall climate change allowance for the A66 NTP project.
13.09.2022	Online Meeting	Meeting between National Highways and the statutory environmental bodies to discuss the Environmental Management Plan (EMP) process.
28.09.2022	Online Meeting	Meeting between EA and National Highways to discuss the content of the SoCG.
26.10.2022	Online Meeting	Meeting between EA and National Highways to discuss the content of the SoCG.
04.11.2022	Online Meeting	Meeting between EA and National Highways to discuss EA's comments on the Environmental Management Plan (EMP).
23.11.2022	Online Meeting	Meeting between EA and National Highways to discuss the content of the SoCG.
07.12.2022	Online Meeting	Meeting between EA and National Highways to discuss the content of the SoCG.
12.12.2022	Online Meeting	Meeting between EA, the Lead Local Flood Risk Authorities (LLFAs) and National Highways to review outstanding drainage issues along the A66.
04.01.2023	Online Meeting	Meeting between EA and National Highways to discuss the content of the SoCG.
18.01.2023	Online Meeting	Meeting between EA and National Highways to discuss the content of the SoCG.

Date	Form of correspondence	Key topics discussed and key outcomes
20.01.2023	Email	Email from the Environment Agency containing draft of SoCG with Environment Agency's comments on their position on issues considered within the SoCG.
01.02.2023	Online Meeting	Meeting between the Environment Agency and National Highways to discuss the ongoing hydraulic modelling review including estimated timelines for the hydraulic modelling reviews and prioritisation to ensure the most critical schemes are addressed first. Progressive assurance opportunities were discussed with potential for National Highways and the Environment Agency's 3 rd party reviewer to liaise direct. Protective Provisions progress update.
09.02.2023	Online Meeting	Meeting between National Highways and the statutory environmental bodies (SEBs) to discuss ExA's Written Questions.
15.02.2023	Online Meeting	Meeting between the Environment Agency and National Highways to discuss the content of the SoCG.
27.02.2023	Online Meeting	Meeting between Environment Agency and National Highways to discuss the ongoing hydraulic modelling review including progress update on the Environment Agency's review of the hydraulic models and response submitted by National Highways. Potential timelines for received comments from the Environment Agency, National Highways responses and next Environment Agency review (if required). Discussion regarding flood compensation details and further comments on this matter from the Environment Agency. Review of outstanding PADSS issues and plan to resolve them.
01.03.2023	Online Meeting	Meeting between the Environment Agency and National Highways to discuss the content of the SoCG.
06.03.2023	Email	Email from the Environment Agency containing draft of SoCG with Environment Agency's comments on their position on issues considered within the SoCG.
10.03.2023	Email	Email from the Environment Agency containing draft of SoCG with Environment Agency's comments on their position on issues considered within the SoCG.
15.03.2023	Online Meeting	Meeting between the Environment Agency and National Highways to discuss the content of the SoCG.
17.03.2023	Online Meeting	Meeting between the Environment Agency and National Highways to discuss the Stage 5 Design Flood Event.
30.03.2023	Online Meeting	Meeting between the Environment Agency, Natural England and National Highways to discuss the content of the SoCG.
17.04.2023	Online Meeting	Meeting between the Environment Agency and National Highways to discuss hydraulic modelling.
03.05.2023	Online Meeting	Meeting between the Environment Agency and National Highways to discuss the EMP.
09.05.2023	Online Meeting	Meeting between the Environment Agency and National Highways to discuss the EMP.
10.5.2023	Online Meeting	Meeting between the Environment Agency and National Highways to discuss the content of the SoCG.

Date	Form of correspondence	Key topics discussed and key outcomes
12.05.2023	Online Meeting	Meeting between the Environment Agency and National Highways to discuss flood compensation.
15.05.2023	Email	Letter via email from Environment Agency to confirm that they are satisfied that the baseline hydraulic model for Scheme 6 (Appleby to Brough) is fit for purpose.

2.1.2 It is agreed that this is an accurate record of the key meetings and other forms of consultation and engagement undertaken between (1) National Highways and (2) the EA in relation to the issues addressed in this SoCG.

3 Issues

- 3.1.1 Tables 3-1, 3-2 and 3-3 provide details of the issues raised between the parties and the status. Appendix A provides further detail in relation to historical positions set out by either party in discussing these issues where relevant to provide further context to the Examining Authority on the dialogue.
- 3.1.2 It should be noted that the numbering of issues has been retained from the Statement of Common Ground with the Environment Agency (Rev 2) submitted at deadline 3 (Document Reference 4.5, REP3-035).
- 3.1.3 Where possible, related issues have been grouped together with signposting provided, as necessary, to where the full details of the positions for each party can be read.
- 3.1.4 To focus this SoCG on the pertinent issues, issues which were stated as under discussion at the time of DCO submission but are no longer considered to be relevant (as the issues are either addressed in the DCO documents or outstanding issues are now recorded under relevant representations) are contained in Appendix A of the Statement of Common Ground with the Environment Agency (Rev 3) submitted at deadline 5 (Document Reference 4.5, REP5-007) and are not repeated in this document. In addition, detail in relation to historical positions set out by either party in discussing issues where relevant to provide further context to the Examining Authority on the dialogue at deadline 5 are contained in Appendix B of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007) and are not repeated in this document.

Table 3-1: Record of Issues – Agreed Issues

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
3-1.1 PEIR: Ecology and Biodiversity	EA Statutory Consultation Response (Appendix 1, page 7)	We welcome the requirement for a competent, qualified and experienced Ecological / Environmental Clerk of Works (ECoW / EcCoW / EnCoW) during construction that is either an Accredited ECoW by CIEEM or a member of The Association of Environmental Clerks of Works (AECoW).	The Environmental Management Plan (EMP) (Document Reference 2.7, APP-019) confirms at Section 2 that an Ecological Clerk of Works will be required to be appointed by the Principal Contractor.	Agreed

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
3-1.2 Road Drainage and Water Environment	EA Statutory Consultation Response (Appendix 1, page 12)	<p>Warcop is at risk of flooding from both Lowgill Beck and Crooks Beck / Moor Beck (see previous comment regarding consistency of naming) and the EA modelling report and S19 report produced by CCC following Storm Desmond refer to a more extensive flood history than presented in the PIE Report (6 events are referred to since 1968).</p> <p>EA confirmed that they are content that this has been taken into account within the ES.</p>	<p>Comments are noted regarding flood risk related to Lowgill Beck and Crooks Beck / Moor Beck. The impacts of flood risk within these locations have been included within our Flood Model, the result of which are detailed within the Schemes FRA. Further information can be found within Chapter 14 (Road Drainage and Water Environment) of the ES (Document Reference 3.2, APP-057).</p>	Agreed
3-1.6 General	EA Statutory Consultation Response (Appendix 1, page 4)	<p>The report states that “prior to the commencement of the construction works, the EMP will be refined by the contractor, in line with DMRB standard LA 120 (National Highways, 2020)” but it is not clear that the views or concerns of relevant stakeholders / regulators would have any influence over any proposed changes.</p>	<p>Environmental Management Plan (EMP) (Document Reference 2.7, APP-019) will be the subject of further consultation between National Highway’s Delivery Partners and relevant stakeholders/regulators (including the EA) prior to commencement of construction works.</p>	Agreed
3-1.7 PEIR: Ecology and Biodiversity	EA Statutory Consultation Response (Appendix 1, page 5)	<p>While the PEI Report refers to the potential for environmental enhancements associated with the project, there is an apparent absence of any reference to, or approach to the delivery of, environmental net gain.</p> <p>While it is acknowledged that biodiversity net gain is not yet mandatory and will not become mandatory before the submission of the DCO application, it is clear that the provision of a 10% biodiversity net gain is intended to become a requirement for NSIPs as a provision of the Environment Bill when it is passed.</p>	<p>Biodiversity net gain is not currently a requirement within the policy set out in the NPSNN, however, the Project is committed to biodiversity and opportunities have been sought to maximise biodiversity within the footprint of the Project.</p>	Agreed

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
3-1.8 PEIR: Ecology and Biodiversity	EA Statutory Consultation Response (Appendix 1, page 7)	<p>Where records indicate that otters are in the wider area, the potential impacts of a larger barrier to movement and potential for greater road mortality during the operational phase should be fully assessed and mitigated.</p> <p>Where crossings are in use by mobile species such as otter, in addition to the use of mammal ledges, we also encourage that suitable mammal fencing is considered within the design to ensure species are directed towards crossing points, especially where mammal ledges are not able to be fitted.</p>	<p>Environmental Management Plan (EMP) (Document Reference 2.7, APP-019) confirms that no part of the project can start until a Landscape and Ecological Mitigation Plan (LEMP) has been prepared and approved (in consultation with Local Authorities). The LEMP shall be in accordance with the Outline LEMP essay plan set out in the Appendix B1 to the EMP (Document Reference 2.7, APP-021) which confirms the mitigation for otters.</p> <p>Further detail on the Applicant's position is included in Appendix B of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007).</p>	Agreed
3-1.9 Materials Assets and Waste	EA Statutory Consultation Response (Appendix 1, page 8)	<p>Recycled aggregates that are imported from off-site and have not met the end of waste criteria will still be considered to be waste and a suitable waste permit or waste exemption will be required to cover the waste activity. The impacts of the use of materials classed as waste on the environment that are imported from off-site sources will be unknown if they are not considered through the environmental permitting regime.</p>	<p>The Environmental Management Plan (EMP) (Document Reference 2.7, APP-019) and Site Waste Management Plan (SWMP) (Document Reference 2.7, APP-022) acknowledge the need for a registered waste exemption or an environmental permit for reusing / recycling demolition waste.</p> <p>Condition MW-MAW-03 of the EMP provides details regarding the use of re-used or recycled aggregates for the Project.</p>	Agreed
3-1.10 Materials Assets and Waste	EA Statutory Consultation Response (Appendix 1, page 8 – 9)	<p>Evidence of suitability and certainty e.g. testing carried out, contaminants present, remediation strategy, volumes required on site and whether there will be a requirement to re-use soils on site or directly transfer</p>	<p>The Environmental Management Plan (EMP) (Document Reference 2.7, APP-019) and Site Waste Management Plan (SWMP) (Document Reference 2.7, APP-022) acknowledges the need for the appropriate disposal of waste off-site.</p>	Agreed

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
		<p>them to site will be required to demonstrate efficient use of waste arisings.</p> <p>Demolition waste may be reused and recycled for use in the development. Please be aware that any treatment of waste will require either a registered waste exemption or an environmental permit. The impacts of the use of demolition waste on the environment will be unknown if they are not considered through the environmental permitting regime.</p> <p>The removal of excess material from the development would be considered waste and this would need to be transferred to a suitably licensed facility by authorised waste carriers, accompanied by waste transfer notes. Prior to this, any waste produced would also need to be assessed and classified in accordance with the WM3 guidelines.</p> <p>The use of demolition waste on the development could be done under the CL: AIRE code of practice so long as the material is produced from ground-based infrastructure. Any material produced from the demolition of above ground structures would not be included under the CL: AIRE code of practice.</p>	<p>Waste generation during the construction phase of the project will be managed through a detailed SWMP meeting relevant legislative, policy and health and safety requirements. The SWMP will acknowledge the requirements of the CL: AIRE code of practice and the need for the appropriate disposal of waste off-site.</p>	
3-1.11 Road Drainage and Water Environment	EA Statutory Consultation Response (Appendix 1, page 10)	The report summarises the content of the proposed FRA to be submitted with the application, but it should also provide the evidence for the Secretary of State to apply	The application of the sequential test is included within Appendix 14.2 (Existing Flood Risk) of Volume 1 of the ES (Document Reference 3.3, APP-127).	Agreed

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
		the Sequential Test and Exception Test, as appropriate.	The principle of applying these tests is agreed.	
3-1.12 Drainage and Water Environment	EA Statutory Consultation Response (Appendix 1, page 11)	<p>Light Water is a tributary of the River Eamont, not the River Eden and it is not in the River Eden & Tributaries SSSI or River Eden SAC, although it is relevant to the SAC if it has features of SAC interest.</p> <p>The significance of any impact of the development on Light Water will depend on site specific surveys to determine presence or absence of features of SAC interest.</p>	The feedback on the scope and content of the PEIR is welcomed and noted. Extensive surveys of Light Water have been undertaken (River Corridor Survey, macrophyte/LEAFPACS surveys, fish habitat assessment, aquatic macroinvertebrate, electric fishing and riverine eDNA) and are detailed within Chapter 6 (Biodiversity) within Volume 1 of the ES (Document Reference 3.2, APP-049).	Agreed
3-1.13 Draft Construction Method Statement	EA Statutory Consultation Response (Appendix 1, page 14)	Based on the proposed location of the SuDS pond to the east of Carleton Hall and to the north of the River Eamont, we would advise that further consideration be given to possible river erosion issues as the use of any revetment to protect the asset in the future would be undesirable in the SAC river. The CMS also indicates that the “proposed boundary treatment” will cross the floodplain down to the river.	<p>This refers to the SuDS pond to the east of the Cumbria Police Headquarters on the M6 junction 40 to Kemplay Bank scheme. We will continue to work with the EA and other stakeholders in the detailed design to minimise impacts on the SAC river. The Environmental Management Plan (EMP) (Document Reference 2.7, APP-019) confirms at MW-BD-17 that no part of the Project can start until a Method Statement for working in and near Special Areas of Conservation, where applicable, is developed in detail in substantial accordance with the essay plan in Annex C1 of the EMP and has been approved in relation to that part.</p> <p>The Method Statement shall include:</p> <ul style="list-style-type: none"> • Details of the site and key sensitivities associated with it. 	Agreed

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
			<ul style="list-style-type: none"> Construction methodology for all works proposed in, over, adjacent to or in the floodplain of the SAC (and functionally linked habitats). Control measures to be implemented to ensure protection of the SAC. 	
3-1.14 Draft Construction Method Statement	EA Statutory Consultation Response (Appendix 1, page 15)	The new A66 crosses Crooks Beck (shown as Moor Beck) at an oblique angle, but there does not appear to be any culvert or bridge marked on the map (although there is reference to a “highway structure”). The nature of the crossing is therefore unclear. Trout, bullhead, salmon, and eels are known to use this watercourse and water voles may also be present. There is significant habitat upstream of the A66 and connectivity for fish passage, otters and potentially water voles is required to prevent any harm to the aquatic environment as a result of the proposed development.	The Environmental Management Plan (EMP) (Document Reference 2.7, APP-1019) confirms at D-BD-04 that all crossings of Moor Beck are large open span structures, culverts will not be used here. In addition, all new watercourse crossing will be designed to facilitate the free passage of aquatic and riparian species.	Agreed
3-1.3 - 5 Environment and EMP 3-2.9 Legal 3-2.10 - 31 Environment and EMP	EA Relevant Representation (RR-160) EA Written Representation (REP1-024)	The EA requested various clarifications or updates to the Environmental Management Plan (Document Reference 2.7, APP-019) as detailed in Table 3-1 and Appendix B of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007).	National Highways have provided clarification and, where appropriate, updated wording within the draft EMP (Document Reference 2.7 (Rev 2), REP3-004) submitted into the Examination at deadline 3 to address the Environment Agency’s concerns. Further detail on the Applicant’s position is included in Appendix B of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007).	Agreed

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
3-2.36 EMP	<p>EA Relevant Representation (Annex 2, page Rev 1; dated 13/06/2022)</p> <p>EA Written Representation (Annex 1, Table 1, page 17, REP1-024)</p>	<p><u>2.7: Environmental Management Plan Annex B15 Invasive Non-Native Species (APP-035): General</u></p> <p>Issue There is a potential risk of importing aquatic plant species (for SUDS ponds, new ditches etc) from sources that could be contaminated by alien crayfish/crayfish plague. If possible and practicable, an additional section within the INNS management plan should be added to address this.</p> <p>Impact The importation of plant species from sources that could be contaminated by alien crayfish/crayfish plague has the potential to detrimentally impact upon the aquatic environment.</p> <p>Suggested solution Update the INNS management plan to identify and manage this potential risk.</p>	<p>The amendment proposed has been made to the EMP Annex B15 Invasive Non-Native Species Management Plan (Document Reference 2.7, REP3-017), and an updated version was submitted at Deadline 3 of the Examination and published on the A66 project page of the Planning Inspectorate website on 26th January 2023.</p>	Agreed
3-2.37 - 43 EMP	<p>EA Relevant Representation (RR-160)</p> <p>EA Written Representation (REP1-024)</p>	<p>The EA requested various updates to 2.7: Environmental Management Plan Annex C1 Working in and near SAC Method Statement (APP-036) as detailed in Table 3-1 and Appendix B of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007).</p>	<p>National Highways have provided clarification to the EA and submitted an updated draft of Annex C1 Working in and near SAC Method Statement of the EMP (Document Reference 2.7 (Rev 2), REP3-019) into the Examination at deadline 3 addressing the Environment Agency's concerns, which was published on the A66 project page of the Planning Inspectorate website on 26th January 2023</p> <p>Further detail on the Applicant's position is included in Appendix B of the Statement of Common Ground with the Environment</p>	Agreed

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
			Agency (Rev 3) (Document Reference 4.5, REP5-007).	
3-2.44 - 46 EMP	EA Relevant Representation (RR-160) EA Written Representation (REP1-024)	The EA requested updates to 2.7: Environmental Management Plan Annex C2 Working in Watercourses Method Statement (APP-037) as detailed in Table 3-1 and Appendix B of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007).	National Highways have provided clarification to the EA and submitted an updated draft of Annex C2 Working in Watercourses Method Statement (Document Reference 2.7, REP3-021) into the Examination at deadline 3 addressing the Environment Agency's concerns. Further detail on the Applicant's position is included in Appendix B of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007).	Agreed
3-2.48 Climate 3-2.49 Material Assets and Waste 3-2.50 - 53 RDWE	EA Relevant Representation (RR-160) EA Written Representation (REP1-024)	The EA requested updates to Table 2 of 2.9 Mitigation Schedule (APP-042) as detailed in Table 3-1 and Appendix B of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007).	National Highways have provided clarification and, where appropriate, updated the wording within the Mitigation Schedule (Document Reference 2.9, REP3-025) submitted into the Examination at deadline 3 to address the Environment Agency's concerns. Further detail on the Applicant's is included in Appendix B of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007).	Agreed
3-2.55 - 56 Road Drainage and the Water Environment	EA Relevant Representation (RR-160) EA Written Representation (REP1-024)	The EA requested updates to 3.2 Environmental Statement Chapter 14 Road Drainage and the Water Environment (APP-057) as detailed in Table 3-1 and Appendix B of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007).	National Highways have updated the wording within the draft EMP (Document Reference 2.7, REP3-004) and the updated Project Design Principles (Document Reference 5.11, REP3-040) submitted into the Examination at deadline 3 to address the Environment Agency's concerns.	Agreed

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
			Further detail on the Applicant's position is included in Appendix B of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007).	
3-2.73 Book of Reference	EA Relevant Representation (Annex 2, page 26, RR-160) EA Written Representation (Annex 1, Table 1, page 31, REP1-024)	<u>5.7 Book of Reference (APP-290-298): General</u> Issue The book of reference identifies the Environment Agency as having an interest in several pieces of land that National Highways intends to acquire to construct the proposed scheme. Impact The proposed development may have an impact on land we have an interest in. Suggested solution We will continue to review the Book of Reference and DCO documentation to determine how the proposal impact upon our interests and whether we need to provide further comments through the Written Representations stage. At this stage our Relevant Representation should be regarded as an objection to the acquisition of any land in which we have an interest by way of the DCO.	As is stated in the Schedule of Negotiations (Document Reference 5.10, APP-301), the Applicant issued an offer of negotiations letter on the 28 March 2022, inviting Environment Agency to complete and return a form expressing their willingness to discuss the acquisition by National Highways of the interests it requires for the Project by agreement. National Highways will continue to engage with the Environment Agency with a view to securing the necessary land / land interests by voluntary agreement.	Agreed
3-2.74-78 Project Design Principles		The EA requested updates to 5.11 Project Design Principles (APP-302) as detailed in Table 3-1 and Appendix B of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007).	National Highways have provided clarification and, where appropriate, updated wording within the Project Design Principles document (Document Reference 5.11, REP3-040) submitted into the Examination	Agreed

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
<p>3-2.80 Project Design Principles</p> <p>3-2.82-87 Project Design Principles</p> <p>3-2.89 Project Design Principles</p>			<p>at deadline 3 to address the Environment Agency’s concerns.</p> <p>Further detail on the Applicant’s position is included in Appendix B of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007).</p>	
<p>3-2.79 Project Design Principles</p> <p>3-2.81 Project Design Principles</p> <p>3-2.88 Project Design Principles</p> <p>3-2.90 Project Design Principles</p>	<p>EA Relevant Representation (RR-160)</p> <p>EA Written Representation (REP1-024)</p> <p>Additional commentary provided in email dated 06.03.2023 from Environment Agency</p>	<p>The EA requested further updates to 5.11 Project Design Principles (APP-302) at the following points:</p> <ul style="list-style-type: none"> • LI16 - potential for the use of a native species palette that is not local to appropriate catchment • LI17 – attenuation pond locations • 0405.04 – design of bridge over Trout Beck • 06.07 - management of flood risk associated with the new watercourse crossings. <p>Further detail on the Environment Agency’s position is as detailed in Table 3-2 of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007).</p>	<p>National Highways have provided clarification and, where appropriate, updated wording within the Project Design Principles document (Document Reference 5.11, REP6-015) submitted into the Examination at deadline 6 to address the Environment Agency’s concerns.</p> <p>Further detail on the Applicant’s position is as detailed in Table 3-2 of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007).</p>	<p>Agreed</p>
<p>3-2.1 General</p>	<p>EA Statutory Consultation Response (Appendix 1, page 3)</p>	<p>Full survey data may not be available at the time of writing the ES and survey data that become available after the DCO is submitted and early in the acceptance</p>	<p>The mitigation measures proposed in the Environmental Statement (ES) (Document Reference 3.2, APP-049) and the Draft Environmental Management Plan (EMP)</p>	<p>Agreed</p>

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
		<p>period will be submitted to verify the findings of the ES.</p>	<p>(Document Reference 2.7, REP3-004) has been based on up-to-date field survey data where available. National Highways are seeking agreement that the survey data that underpins the ES is robust once the EA has had full sight of the environmental information.</p>	
<p>3-2.2 PEIR: Ecology and Biodiversity</p>	<p>EA Statutory Consultation Response (Appendix 1, page 7 – 8)</p>	<p>Based on the proposed location of the SuDS pond to the east of Carleton Hall and to the north of the River Eamont, we would advise that further consideration be given to possible river erosion issues as the use of any revetment to protect the asset in the future would be undesirable in the SAC river. The proposed SUDs Pond may be at risk from erosion, or the SAC may be at risk should mitigation be required to prevent erosion and protect the asset.</p> <p>Further geomorphological and / or geotechnical assessment is required to confirm that the location of the SUDS pond will not pose a risk to the designated SAC.</p>	<p>This specific SUDS pond has been located outside of the flood zone specifically to ensure that there are no interactions between it and the SAC River. The river in this location is currently heavily armoured and no further mitigation is proposed at this stage.</p>	<p>Agreed</p>
<p>3-2.3 Noise and Vibration</p>	<p>EA Statutory Consultation Response (Appendix 1, page 6, 9 – 10)</p>	<p>Fish are not included in the list of species that could be disturbed by noise and vibration during construction. Significant noise and vibration from activities such as piling can be lethal / damaging to fish or fish eggs / fry.</p> <p>It is proposed that the ES will determine construction vibration as a significant effect when it is determined that a major magnitude (above or equal to 10 mm/s Peak Particle Velocity (PPV)) or moderate</p>	<p>Chapter 6 (Biodiversity) of the ES (Document Reference 3.2, APP-049) includes the following embedded mitigation in the design to minimise impacts on fish and fish eggs/fry during construction:</p> <ul style="list-style-type: none"> • Instream works, or works close to the river banks giving rise to excessive (>13mm/s Particle Peak Velocity) vibration will be undertaken outside of the key fish spawning and incubation period of 1st October to 31st May. 	<p>Agreed</p>

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
		<p>magnitude (above or equal to Significant Observed Adverse Effect Level (SOAEL) and below 10 mm/s PPV) of impact will occur for a duration exceeding:</p> <ul style="list-style-type: none"> - Ten or more days or nights in any 15 consecutive days or nights; or - A total number of days exceeding 40 in any six consecutive months <p>However, in relation to fish eggs / redds, construction vibration of around 13 mm/s PPV is significant, so any exceedance of this level is significant for any piling works close to rivers with fish.</p> <p>The impact of the development on fish eggs / redds may not be assessed correctly based on the criteria identified at 12.2.14 which will result in the potential for death of fish eggs including protected SAC populations. This is likely to be relevant to salmon, trout, lamprey and potentially bullhead.</p>	<ul style="list-style-type: none"> • No compaction, piling (or other activities resulting in Peak Particle Velocities (PPV) of greater than 13mm/s) will be permitted with 5m of watercourses with gravel substrate that support gravel spawning species (salmon, trout, lamprey sp., bullhead) without prior consultation with the Environment Agency and Natural England. • If works giving rise to significant vibration are required adjacent to potential spawning gravels, redd surveys (Lemon and Rummel, 2020) to determine whether spawning has occurred within the zone of impact would be undertaken, and the acceptability of in-channel works agreed with the Environment Agency and Natural England (depending on location). 	
3-2.5 Draft Construction Method Statement	EA Statutory Consultation Response (Appendix 1, page 15)	<p>Lowgill Beck is shown passing through the middle of a construction work area with no reference to how it will be protected. There is potential for pollution or other impacts of a beck with brook lamprey, trout, bullhead & eels with hydraulic continuity to the River Eden SAC.</p> <p>As Lowgill Beck bisects a construction work area, extra precautions are likely to be necessary to prevent pollution/siltation and to prevent harm to otters. Any temporary culverting/bridging for access around the</p>	<p>The current design involves extension/widening of the existing A66 culvert and minor realignment of Woodend Sike and Yosgill Sike to shift the confluence north of the widened culvert. Bullhead, brown trout, eel, river/brook lamprey (ammocete) and river/brook lamprey (transformer) have all been recorded in Lowgill Beck, as have white-clawed crayfish.</p> <p>The Environmental Management Plan (Document Reference 2.7, REP3-004) includes measures to protect watercourses</p>	Agreed

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
		site would need to be passable to fish and any in-river works for placing temporary structures should be outside the salmonid spawning season.	from pollution during construction including measures relating to temporary watercourse crossings and working seasons.	
3-2.6 Updated Rainfall Allowances	Email from Environment Agency - 26/04/2022	It is advised that the peak rainfall allowances, used as part of drainage design were released by the Environment Agency on 9 May 2022. The DCO application will need to comply with guidance applicable at the time of submission.	Sensitivity testing using the latest rainfall climate change allowances has been undertaken for the schemes in Cumbria and reported in the Flood Risk Assessment (Sections 14.2.4, 14.2.5 and 14.2.7, Appendix 14.2, Document Reference 3.4, APP-221), it did not result in any changes to the outline drainage strategy or flood risk assessment. The Applicant has shared the sensitivity testing results for the schemes in Durham and North Yorkshire with the EA on 02.02.2023 as part of the on-going engagement between the parties.	Agreed
3-2.32-35 EMP	EA Relevant Representation (RR-160) EA Written Representation (REP1-024)	The EA requested updates to 2.7: Environmental Management Plan Annex B7 Ground and Surface Water Management (APP-027) as detailed in Table 3-1 and Appendix B of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007).	National Highways have provided clarification and, where appropriate, updated wording within the Annex B7 Ground and Surface Water Management (Document Reference 2.7, REP3-011) submitted into the Examination at deadline 3 to address the Environment Agency's concerns. Further detail on the Applicant's position is included in Appendix B of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007)..	Agreed
3-2.47 EMP	EA Relevant Representation	<u>2.7: Environmental Management Plan Annex D Emergency Procedures (APP-040): General</u>	National Highways have updated wording within the draft EMP (Document Reference 2.7, REP3-004) submitted into the	Agreed

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
	(Annex 2, page 16, RR-160) EA Written Representation (Annex 1, Table 1, page 21, REP1-024)	<p>Issue We note that in Appendix A – Environmental Incident Action Sheets, the triggers determine a de minimis and selective approach to notifying us of environmental incidents using qualitative rather than quantitative criteria.</p> <p>Impact There is a danger that environmental incidents may be reported by third parties, but not by National Highways or their contractors which may lead to erosion of trust and enforcement action.</p> <p>Suggested solution Consider the points made around the wording and setting the levels for reporting at a more open and precautionary level and allow satisfactory and open self-reporting to relevant regulatory authorities. Avoid the use of triggers that require a judgment over the scale of the event, e.g. deciding the “likelihood” of a spillage entering controlled waters or deciding what a “large volume” of silty runoff should be.</p>	Examination at deadline 3 to address the Environment Agency’s concerns.	
3-2.54 Climate change peak rainfall allowances	EA Relevant Representation (Annex 2, page 19, RR-160) EA Written Representation (Annex 1, Table 1, page 24, REP1-024)	<p><u>3.2 Environmental Statement Chapter 2 The Project (APP-045) 3.2: 2.5.30</u></p> <p>Issue We understood that the latest EA guidance in relation to the climate change peak rainfall allowances had not been used, although the latest values have been used in a sensitivity analysis within the Flood Risk Assessment (FRA).</p> <p>Impact The impacts on flood risk associated with the latest climate change allowances for peak rainfall levels are uncertain.</p>	The Project’s drainage design, presented in Appendix 14.2 of the Flood Risk Assessment and Outline Drainage Strategy (Document Reference 3.4, APP-221) was developed based on rainfall climate changes that have since been superseded. Sensitivity testing has been undertaken using the latest climate change allowances to ensure the proposed attenuation systems can accommodate the increased attenuation requirements within the Project Order Limits. This is included in the Climate change	Agreed

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
		<p>Suggested solution Ensure that detailed design is based on updated modelling that takes account of the latest EA climate change guidance for peak rainfall allowances.</p>	<p>section (one section per scheme) of the Flood Risk Assessment and Outline Drainage Strategy (Document Reference 3.4, APP-221). Item D-RDWE-02 of the Environmental Management Plan (Document Reference 2.7, APP-019) includes the following requirement for the development of the detailed design “Where ponds are designed for highway run-off attenuation (as retention ponds), they must have sufficient capacity to retain run-off from all events with an annual exceedance probability of greater than 1%, plus allowance for climate change in line with DMRB CG 501 and Environment Agency guidance.”</p>	
3-2.57 WFD assessment	<p>EA Relevant Representation (Annex 2, page 20, RR-160)</p> <p>EA Written Representation (Annex 1, Table 1, page 25, REP1-024)</p>	<p><u>3.4 Environmental Statement Appendix 14.1 WFD Compliance Assessment (APP-220): 14.1.10.4</u></p> <p>Issue No specific mitigation is identified for the Greta from Sleightholme Beck to Eilder Beck (GB103025072140) or Greta from Gill Beck to River Tees (GB103025072130) water bodies which have been identified in the WFD assessment as being impacted by the scheme.</p> <p>Impact The proposed scheme may have a detrimental impact on WFD water bodies without specific mitigation.</p> <p>Suggested solution Ensure that specific mitigation proposals for the Greta from Sleightholme Beck to Eilder Beck (GB103025072140) and Greta from Gill Beck to River Tees (GB103025072130)</p>	<p>To ensure compliance with WFD objectives and to cause no detriment to the current WFD condition of potentially impacted water bodies, an assessment of the compliances of the detailed design to the WFD will be undertaken prior to the start of that part of the project. Mitigation will be further developed using detailed design and further survey and agreed in accordance with commitment D-RDWE-08 within the Environmental Management Plan (Document Reference 2.7, REP3-004).</p>	Agreed

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
3-2.67 Hydromorphology Assessment	EA Relevant Representation (Annex 2, page 23, RR-160) EA Written Representation (Annex 1, Table 1, page 28, REP1-024)	water bodies are identified and agreed in accordance with EMP D-RDWE-08. <u>3.4 Environmental Statement Appendix 14.4 Hydromorphology Assessment (APP-223): Section 14.4.7</u> Issue Evidence indicates that the Tutta Beck and the Punder Gill have been modified in the past so using these channels as reference conditions to inform the design of a mitigation scheme may not be appropriate. Impact The proposed development may have detrimental impacts on the water environment in the absence of a suitable mitigation scheme. Suggested solution To comply with D-RDWE-08, National Highways should take the opportunity to restore the watercourses to optimal natural conditions rather than copying existing channel dimensions and conditions. The design of the new channel must include an accessible, and active floodplain. Ground condition and local topography may mean that this needs to be a cut inset floodplain.	This is noted by National Highways. National Highways will seek to restore the watercourses to optimal natural conditions where this is practicable and appropriate. The design of the new channel will be developed following the survey and assessment of the detailed design and agreed in accordance with D-RDWE-08 of the Environmental Management Plan (Document Reference 2.7, REP3-004).	Agreed
3-2.68 - 69 Hydrogeological Impact Assessment	EA Relevant Representation (RR-160) EA Written Representation (REP1-024)	The EA requested clarifications or updates to 3.4 Environmental Statement Appendix 14.6 Hydrogeological Impact Assessment (APP-225) as detailed in Table 3-1 and Appendix B of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007).	National Highways have provided clarification to the Environment Agency on these issues to address their concerns. Further detail on the Applicant's position is included in Appendix B of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007)..	Agreed

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
3-2.4 Road Drainage and Water Environment	EA Statutory Consultation Response (Appendix 1, page 12)	<p>Flooding of Kirkby Thore associated with Trout Beck is referenced but based on recent events it is likely that Kirkby Thore can be at risk of flooding from the River Eden and Trout Beck either independently or in combination.</p> <p>We recommend that the hydraulic model being developed to support the FRA and detailed design of the Trout Beck crossing is used to refine the understanding of flood risk in this area.</p>	<p>The PEIR provided preliminary information required for the statutory consultation. Since then, the scheme has been further refined as reported in the ES.</p> <p>The flood model has however considered the impact of flooding assuming the River Eden was full resulting in water backing up within Trout Beck. This is demonstrated within Chapter 14 (Road Drainage and Water Environment) of the ES (Document Reference 3.2, APP-057).</p> <p>The Environment Agency have indicated in their response to ExA's Further Written Questions (REP6-028) submitted at deadline 6 that the hydraulic models used to support this Scheme has yet to be agreed with the EA. However, in so far as it relates to the EA remit, it is accepted that Schemes 4, 5, would not be at an unacceptable risk of fluvial flooding or increase fluvial flood risk elsewhere based on the details submitted to date.</p>	Agreed
3-2.59 Flood Risk Assessment and Outline Drainage Strategy 3-2.60 Flood Risk Assessment and Outline	EA Relevant Representation (RR-160) EA Written Representation (REP1-024)	<p>The EA requested clarifications or updates to 3.4 Environmental Statement Appendix 14.2 Flood Risk Assessment and Outline Drainage Strategy (APP-221) at the following paragraphs or sections:</p> <ul style="list-style-type: none"> • 14.2.2.74 - modelling and / or mitigation for the M6 to Kemplay Bank scheme • 14.2.2.81 - historic flood risk at Eamont Bridge • Annex E - Hydraulic modelling reports – Appleby to Brough 	<p>National Highways have provided clarification to the Environment Agency on these issues to address their concerns.</p> <p>Further detail on the Applicant's position is as detailed in Table 3-2 of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007), and in the case of issue 3-2.65 in Appendix A of this SoCG.</p>	Agreed

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
Drainage Strategy 3-2.65 Flood Risk Assessment and Outline Drainage Strategy		Further detail on the Environment Agency's position is as detailed in Table 3-2 of the Statement of Common Ground with the Environment Agency (Rev 3) (Document Reference 4.5, REP5-007).		
3-2.8 Legal	EA Relevant Representation (Annex 2, page 1, RR-160) and additional comments in EA Written Representation (REP1-024)	<p><u>2.1: Understanding the DCO document (APP-007): 2.5.1</u> Issue For National Highways to depart from the approved Design Principles Document (DPD) requires approval from the Secretary of State after they consult with the relevant local authority. No consultation with other relevant consultees is required. Impact The significance of any environmental impacts of a detailed design that deviates from the approved DPD may be unknown. Suggested solution Further engagement between National Highways and us to identify alternative wording to address this concern.</p> <p>EA additional commentary: We note the applicant's response in PDL-013 and accept that the wording within the DCO makes it clear that the Secretary of State (SoS) must be satisfied that the departure would not give rise to any materially new or materially worse adverse environmental effects when compared to those reported in the Environmental</p>	Article 54 of the draft DCO (Document Deference 5.1), which has been updated and submitted into examination at deadline 7 requires that the scheme must be designed in detail and carried out so that it is compatible with, amongst other things, the Project Design Principles (PDP) (Document Reference 5.11, REP3-040). Article 54(2) provides that the detailed design can depart from this requirement where the Secretary of State approves this, following consultation with the local planning authority and the Environment Agency (on matters relating to their statutory function). However, the Secretary of State must be satisfied that the departure would not give rise to any materially new or materially different environmental effects when compared to those reported in the Environmental Statement. As such, it will be for National Highways (or its contractors) to demonstrate this requirement is met, through the submission of robust evidence. Ultimately, a departure where the environmental effects are not known could not properly be approved by the Secretary of State.	Agreed

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
		<p>Statement. However, if the SoS is only consulting the relevant planning authorities, are they able to advise the SoS on whether there is a materially new or materially worse adverse environmental effect arising from a proposed change in relation to a matter that they may not have technical expertise on, for example fluvial flood risk? We continue to feel that alternative wording within the DCO to allow the SoS to consult the relevant planning authority and statutory environmental bodies would address our concern.</p>		
<p>3-2.70 Draft Development Consent Order</p>	<p>EA Relevant Representation (Annex 2, page 25, RR-160) and additional comments in EA Written Representation (Annex 1, Table 1, page 29, REP1-024)</p>	<p><u>5.1 Draft Development Consent Order: Part 5 Miscellaneous and general (APP-285): detailed design 54 (2)</u> Issue The draft DCO accompanying the application allows for the Secretary of State to approve a detailed design that departs from the approved design principles, works plans and engineering drawings subject to consultation with the relevant planning authority. No consultation with other relevant consultees (i.e., the Environment Agency) is required. Impact The significance of any environmental impacts of a detailed design that deviates from the approved DCO may be unknown. Suggested solution Further engagement between National Highways and us to identify alternative wording to address this concern.</p>	<p>Article 54 of the draft DCO (Document Deference 5.1), which has been updated and submitted into examination at deadline 7 requires that the scheme must be designed in detail and carried out so that it is compatible with, amongst other things, the Project Design Principles (PDP) (Document Reference 5.11, REP3-040). Article 54(2) provides that the detailed design can depart from this requirement where the Secretary of State approves this, following consultation with the local planning authority and the Environment Agency (on matters relating to their statutory function). However, the Secretary of State must be satisfied that the departure would not give rise to any materially new or materially different environmental effects when compared to those reported in the Environmental Statement. As such, it will be for National Highways (or its contractors) to demonstrate</p>	<p>Agreed</p>

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
		<p>EA additional commentary:</p> <p>We note the applicant’s response in PDL-013 and accept that the wording within the DCO makes it clear that the Secretary of State (SoS) must be satisfied that the departure would not give rise to any materially new or materially worse adverse environmental effects when compared to those reported in the Environmental Statement. However, if the SoS is only consulting the relevant planning authorities, are they able to advise the SoS on whether there is a materially new or materially worse adverse environmental effect arising from a proposed change in relation to a matter that they may not have technical expertise on, for example fluvial flood risk? We continue to feel that alternative wording within the DCO to allow the SoS to consult the relevant planning authority and statutory environmental bodies would address our concern.</p>	<p>this requirement is met, through the submission of robust evidence. Ultimately, a departure where the environmental effects are not known could not properly be approved by the Secretary of State.</p>	
<p>3-2.4 Road Drainage and Water Environment</p>	<p>EA Statutory Consultation Response (Appendix 1, page 12)</p>	<p>Flooding of Kirkby Thore associated with Trout Beck is referenced but based on recent events it is likely that Kirkby Thore can be at risk of flooding from the River Eden and Trout Beck either independently or in combination.</p> <p>We recommend that the hydraulic model being developed to support the FRA and detailed design of the Trout Beck crossing is used to refine the understanding of flood risk in this area.</p>	<p>The PEIR provided preliminary information required for the statutory consultation. Since then, the scheme has been further refined as reported in the ES.</p> <p>The flood model has however considered the impact of flooding assuming the River Eden was full resulting in water backing up within Trout Beck. This is demonstrated within Chapter 14 (Road Drainage and Water Environment) of the ES (Document Reference 3.2, APP-057).</p>	<p>Agreed</p>

Table 3-2: Record of Issues – Under Discussion Issues

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
3-2.7 Hydraulic Modelling	Verbal comment at SoCG meeting 20.07.2022 and additional commentary in a letter from EA via email 15.05.2023.	<p>Modelling to be shared and agreed in advance of Examination. Until the modelling is agreed, we cannot effectively advise the Examining Authority on the flood risk impacts of the proposed development and suitability of mitigation.</p> <p>Additional commentary 15.05.2023: The EA have confirmed by letter dated 15 May 2023 that they are satisfied that the baseline models for Scheme 6 are fit for purpose, but continue to work with National Highways on the proposed hydraulic modelling and compensatory storage proposals.</p>	<p>Baseline modelling has been shared with the EA.</p> <p>Comments on baseline modelling were provided by EA late March/early April 2022.</p> <p>In late October/early November 2022 we sent our response to the EA’s comments on the baseline model and sensitivity testing reports.</p> <p>National Highways awaits to hear the result of the EA’s review of the hydraulic modelling.</p> <p>The EA provided comments on their modelling review for schemes 5 and 6 in March 2023, schemes 1,3 and 4 in April 2023 and scheme 2 in May 2023.</p> <p>The EA have identified in their Deadline 6 Submission - Responses to ExA’s Further Written Questions (REP6-028) that <i>“the hydraulic models used to support each of the different Schemes have yet to be agreed with the EA. However, in so far as it relates to the EA remit, it is accepted that Schemes 1, 2, 3, 4, 5, 7, 8 and 9 would not be at an unacceptable risk of fluvial flooding or increase fluvial flood risk elsewhere based on the details submitted to date.”</i></p> <p>The baseline model for scheme 6 has been updated and has been agreed as fit for purpose with the EA.</p> <p>The with scheme hydraulic model for scheme 6 has been updated and is currently undergoing review by the EA.</p>	Under discussion

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
			<p>Discussions are ongoing between National Highways and the Environment Agency on the with scheme hydraulic modelling for scheme 6, and National Highways are of the view that agreement will be reached prior to the close of the examination.</p> <p>National Highways has included its preferred drafting for the control mechanism that could be implemented should the hydraulic modelling for scheme 6 not be agreed in the revised version of the first iteration EMP at Deadline 8, with REAC reference: D-RDWE-15 and D-RDWE-16.</p>	
<p>3-2.58 Flood Risk Assessment and Outline Drainage Strategy</p>	<p>EA Relevant Representation (Annex 2, page 20, RR-160)</p> <p>EA Written Representation (Annex 1, Table 1, page 25, REP1-024) and additional commentary in a letter from EA via email 15.05.2023.</p>	<p><u>3.4 Environmental Statement Appendix 14.2 Flood Risk Assessment and Outline Drainage Strategy (APP-221): General Issue</u> We have reviewed the baseline hydraulic models used to assess flood risk and inform the conclusions of the FRA for each of the schemes but we have not yet accepted them as fit for purpose so we cannot advise on the accuracy of the flood risk conclusions and any associated mitigation proposals that are relevant to our remit.</p> <p>Impact The predicted impacts of the proposed development flood risk and suitability of any mitigation proposals (in so far as they relate to our remit) cannot be verified at this time.</p> <p>Suggested solution National Highways should provide a response to our reviews of their baseline hydraulic models and allow</p>	<p>National Highways considers that this matter was addressed in Issue Specific Hearing 2 and section 3.3 of the Post Hearing Submission document (Document Reference 7.3, REP1-009).</p> <p>Refer to issue 3-2.7 for details on hydraulic modelling review.</p>	<p>Under discussion</p>

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
		<p>us to determine whether they are fit for purpose as soon as possible.</p> <p>Additional commentary 15.05.2023: The EA have confirmed by letter dated 15 May 2023 that they are satisfied that the baseline models for Scheme 6 are fit for purpose, but continue to work with National Highways on the proposed hydraulic modelling and compensatory storage proposals.</p>		
3-2.61 Flood Risk Assessment and Outline Drainage Strategy	<p>EA Relevant Representation (Annex 2, page 21, RR-160)</p> <p>EA Written Representation (Annex 1, Table 1, page 26, REP1-024)</p>	<p><u>3.4 Environmental Statement Appendix 14.2 Flood Risk Assessment and Outline Drainage Strategy (APP-221): 14.2.5.77</u> Issue 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. Impact The suitability of the compensatory flood storage proposals in FZ3b for the Appleby to Brough scheme are unknown. Suggested solution Update the FRA to refer to the necessary details for the scheme for compensatory flood storage in Flood Zone 3b to allow it to be reviewed.</p>	<p>Further details of the flood storage loss, compensation volumes provided, and functionality of the flood compensation has been provided to the EA on 15th February 2023 for their information and review. Comments on the flood compensation report have been received from the EA and National Highways provided an update to the reporting. Further comments have been received from the EA and National Highway are currently working with the EA to address these comments prior to the close of examination.</p>	Under discussion
3-2.62 Flood Risk Assessment and Outline Drainage Strategy	<p>EA Relevant Representation (Annex 2, page 21, RR-160)</p> <p>EA Written Representation (Annex 1, Table 1, page 26, REP1-024)</p>	<p><u>3.4 Environmental Statement Appendix 14.2 Flood Risk Assessment and Outline Drainage Strategy (APP-221): Table 25 (Page A14.2- 85 of 153)</u> Issue 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</p>	<p>The reduction in flood storage areas due to the scheme and the compensatory storage areas are contained within the hydraulic models and 3D alignment design models, so have been taken into account in the assessment and mitigation design but have not been tabulated in the reports. Refer to 3-2.61 for details on flood compensation reporting.</p>	Under discussion

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
		storage and the compensatory storage comes online. Impact The suitability of the compensatory flood storage proposals to mitigate the increased risk of flooding for the Appleby to Brough scheme are unknown. Suggested solution Provide additional information to confirm 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.		
3-2.63 Flood Risk Assessment and Outline Drainage Strategy	EA Relevant Representation (Annex 2, page 22, RR-160) EA Written Representation (Annex 1, Table 1, page 27, REP1-024)	<u>3.4 Environmental Statement Appendix 14.2 Flood Risk Assessment and Outline Drainage Strategy (APP-221): 14.2.5.132 and Plate 4</u> Issue 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? Impact The suitability of the compensatory flood storage proposals to mitigate the increased risk of flooding for the Appleby to Brough scheme are unknown. Suggested solution Provide additional information to confirm how the scheme is designed, whether it is excavated into existing floodplain, how and at what return period / flow magnitude it fills and how it subsequently drains.	The proposed compensatory storage areas are contained within the hydraulic models and 3D alignment design models, and have been taken into account in the assessment and mitigation design, but have not been described in detail in the reports at this stage. Refer to 3-2.61 for details on flood compensation reporting.	Under discussion

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
3-2.64 Flood Risk Assessment and Outline Drainage Strategy	<p>EA Relevant Representation (Annex 2, page 22, RR-160)</p> <p>EA Written Representation (Annex 1, Table 1, page 27, REP1-024)</p>	<p><u>3.4 Environmental Statement Appendix 14.2 Flood Risk Assessment and Outline Drainage Strategy (APP-221): Annex E: Hydraulic modelling reports – Appleby to Brough</u></p> <p>Issue 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>Impact The suitability of the compensatory flood storage proposals to mitigate the increased risk of flooding for the Appleby to Brough scheme are unknown.</p> <p>Suggested solution Provide additional information to address this issue.</p>	<p>The change in flood depth due to the scheme and the compensatory storage areas is contained within the hydraulic models and 3D alignment design models, so has been taken into account in the assessment and mitigation design, but have not been described in detail in the reports at this stage. National Highways will work with the EA to assist with the EA's review of any changes in flood depth. In response to the example, the increased flood depths at Warcop junction the proposed scheme increases ground levels at the junction and therefore prevents an existing flow path which occurs over the A66 in the baseline 1 in 100 events. Without this flow path water backs up immediately upstream of it, increasing water levels approximately 0.3m over a small area approximately 500m². Refer to 3-2.61 for details on flood compensation reporting.</p>	Under discussion
3-2.66 Flood Risk Assessment and Outline Drainage Strategy	<p>EA Relevant Representation (Annex 2, page 23, RR-160)</p> <p>EA Written Representation -</p>	<p><u>3.4 Environmental Statement Appendix 14.2 Flood Risk Assessment and Outline Drainage Strategy (APP-221): Annex E: Hydraulic modelling reports – Appleby to Brough</u></p> <p>Issue No detailed information is provided on the effects of the scheme on Low Gill Beck between the Lowgill Beck crossing</p>	<p>There are three key areas on Low Gill Beck between the Lowgill Beck crossing and Warcop where moderate increases in flood risk can be seen in the Appleby to Brough Hydraulic Modelling report in Annex E of document 3.4 Environmental Statement Appendix 14.2 Flood Risk Assessment and</p>	Under discussion

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
	<p>(Annex 1, Table 1, page 28, REP1-024)</p>	<p>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 <i>“likely these increases are associated with areas of ground level change in the proposed scheme”</i>. 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 proposed earthworks suggests the possibility of increased pass on flows which needs to be investigated.</p> <p>Impact The suitability of the compensatory flood storage proposals to mitigate the increased risk of flooding for the Appleby to Brough scheme are unknown.</p> <p>Suggested solution Provide additional information to address this issue.</p>	<p>Outline Drainage Strategy (Document Reference 3.1, APP-221).</p> <p><u>Location 1 – Eden Valley Railway</u> There are no changes to ground levels occurring at this location as a result of the proposed scheme. Increases in flood risk here are solely from the impact of upstream Locations 2 and 3 discussed below. The model has been updated and shared with the EA. Refer to 3-2.61 for details on flood compensation reporting.</p> <p><u>Location 2 – Flitholme</u> The scheme designs show a tie in point here to an existing bridge. No changes are proposed to this structure and the differences in flood depths at this location are a combination of the impacts upstream at Location 3 and quality of the LiDAR and design model interface at this location. Alteration to this tie-in location within the model will remove any influence of this effect along with the application of more detailed existing and proposed ground models to be used in the next design stage. Any design changes/refinement that affects the hydraulic models will be subjected additional hydraulic modelling as secured in item D-RDWE-02 the Environmental Management Plan (Document Reference 2.7, REP3-004). The model has been updated and shared with the EA. Refer to 3-2.61 for details on flood compensation reporting.</p>	

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
			<p><u>Location 3 - Langrigg</u> A small reduction in the floodplain can be seen at location 3, this is due to the footprint of the proposed balancing pond encroaching on the floodplain. This causes increases in flood depths between 0.01 – 0.1m. The location of this balancing Pond is due to be moved from this location as part of the proposed design changes therefore this impact and its effects downstream may be removed and prevent the need for further mitigation. Ponds will be rationalised and relocated out of the flood plain during the detailed design stage to suit the revised highway alignment submitted to examination at Deadline 7. The post scheme hydraulic models will be amended to reflect this change and presented to the EA for comment in accordance with EMP requirement D-RDWE-02.</p>	
3-2.71 Draft Development Consent Order	EA Relevant Representation (Annex 2, page 25, RR-160) and additional commentary in EA Written Representation (Annex 1, Table 1, page 30, REP1-024)	<p><u>5.1 Draft Development Consent Order (APP-285): Schedule 9 Protective Provisions Part 4 – Environment Agency</u> Issue The Draft DCO has not included protective provisions which are acceptable to the Environment Agency. Impact We are unable to agree to disapply Flood Risk Activity Permit (FRAP) requirements if we are not satisfied that the necessary protective provisions are secured through the DCO. Suggested solution Further engagement between National Highways and us is required to secure a suite of protective</p>	National Highways has been provided with a copy of the current version of the Environment Agency’s protective provisions and have reviewed the proposed protective provisions. The vast majority of the provisions are agreed but there remains a handful of points that require further discussion. National Highways have returned comments to the EA prior to Deadline 7. National Highways are of the view that agreement will be reached on the form of protective provisions prior to the close of the examination.	Under discussion

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
		<p>provisions that we would consider acceptable and allow us to disapply FRAPs.</p> <p>EA additional commentary: We note the applicant’s response in PDL-013 and will continue to work with them to address this issue.</p>		
<p>3-2.72 Consents and Agreements Position Statement</p>	<p>EA Relevant Representation (Annex 2, page 25, RR-160) and additional commentary in EA Written Representation (Annex 1, Table 1, page 30, REP1-024)</p>	<p><u>5.4 Consents and Agreements Position Statement (APP-287): 3.1.3</u></p> <p>Issue Consent to erect structures in, over or under a main river will be subject to National Highways obtaining either a permit under the EPR or, if disapplication and suitable protective provisions are agreed, to consent under the protective provisions but this is not stated.</p> <p>Impact Lack of clarity.</p> <p>Suggested solution Amend the wording as follows:</p> <ul style="list-style-type: none"> • <i>Consent to erect structures in, over or under a main river (subject to National Highways obtaining either a permit under the EPR or, if disapplication and suitable protective provisions are agreed, to consent under the protective provisions)</i> <p>EA additional commentary: We note the applicant’s response in PDL-013 and will continue to work with them to address this issue.</p>	<p>National Highways is seeking the standard suite of disapplication of consent requirements from the Environment Agency as is reflected in article 3 of the draft DCO (Document Reference 5.1, APP-285). National Highways’ approach is as set out in the Consents and Agreements Position Statement (Document Reference 5.4, APP-287) in that it will seek to agree protective provisions with the Environment Agency to enable the Environment Agency to grant its consent to those disapplication’s. National Highways has been provided with a copy of the current version of the Environment Agency’s protective provisions and have reviewed the proposed protective provisions. The vast majority of the provisions are agreed but there remains a handful of points that require further discussion. National Highways have returned comments to the EA prior to Deadline 7. National Highways will continue to liaise with the Environment Agency with a view to agreeing a form of protective provisions for inclusion within the DCO to facilitate the Environment Agency granting its consent to the proposed legislative disapplication’s (see</p>	<p>Under discussion</p>

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status
			article 3 of the draft DCO (Document Reference 5.1, APP-285) and the Consents and Agreements Position Statement (Document Reference 5.4, APP-287). National Highways remains of the view that agreement will be reached on the form of protective provisions prior to the close of the examination.	

Table 3-3: Record of Issues – Not Agreed Issues

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position	Status	Date
N/A	N/A	N/A	N/A	N/A	N/A

Appendix A: Environment Agency and National Highways historical positions

Table A-1: Appendix A - Environment Agency and National Highways historical positions since SoCG issued at deadline 5.

Issue	Document References (if relevant)	Environment Agency Position	National Highways Position
<p>3-2.65 Flood Risk Assessment and Outline Drainage Strategy</p>	<p>EA Relevant Representation (Annex 2, page 22, RR-160)</p> <p>EA Written Representation (Annex 1, Table 1, page 27, REP1-024)</p>	<p><u>3.4 Environmental Statement Appendix 14.2 Flood Risk Assessment and Outline Drainage Strategy (APP-221): Annex E: Hydraulic modelling reports – Appleby to Brough</u></p> <p>Issue There is no schematic provided showing locations where before and after level and flow results have been extracted from the model (also confirming that, where applicable, combined 1D 2D flows have been extracted).</p> <p>Impact The suitability of the compensatory flood storage proposals to mitigate the increased risk of flooding for the Appleby to Brough scheme are unknown.</p> <p>Suggested solution Provide a schematic showing locations where before and after level and flow results have been extracted from the model and confirm that, where applicable, combined 1D 2D flows have been extracted.</p>	<p>National Highways have shared information within the Supplementary Flood Compensation Report with the Environment Agency which demonstrates the locations where before and after level and flow results have been extracted from the model and confirms that, where applicable, combined 1D 2D flows have been extracted.</p>