



**Westmorland and Furness Council (W&FC)**  
**The Council's response to the Applicant's response to Deadline 6**  
**Submissions made by Local Authorities for Deadline 8, 16<sup>th</sup> May 2023**

**W&FC response to Applicant's response to Deadline 6 submissions made by Local Authorities – Deadline 8.  
This response relates only to matters raised by W&FC.**

Examination Library Reference	Issues Raised	Applicant's Response	Westmorland and Furness Council response
REP6-033	<p><b>AQ 2.1</b> The Council will seek to align with Natural England on this aspect and awaits the submission of the Applicant's Technical Note at Deadline 6. In the Council review, we intend to set out the expectations for inclusion in the second iteration of the Environmental Management Plan (EMP).</p> <p><b>CA 2.4</b> The Council has been in further discussion with the Applicant with regards to land acquisition at Skirsgill depot. The Applicant has reviewed its proposals and the need for permanent land take and in order to satisfy the Council that its operational land will not be affected by the Project, the parties have agreed to enter into a side agreement to reflect the negotiations to date. The Council will update the ExA as to progress.</p> <p><b>DCO 2.1</b> The Council agrees with the ExA's suggested wording but</p>	<p><b>AQ2.1</b> The Applicant submitted the Technical Note for the Ammonia Assessment to Natural England on the 4 April 2023. Comments have recently been received from Natural England on this note and National Highways will continue to work with Natural England with a view to resolving Natural England's residual concerns (which National Highways understands Natural England will be summarising at this Deadline 7 in its submissions) by the end of the Examination.</p> <p>Notwithstanding Natural England's comments, National Highways remains firmly of the view that the HRA conclusions as reported and justified in the Statement to Inform Appropriate Assessment [Document Reference 3.6, APP-235] are correct.</p> <p><b>CA 2.4</b> Since Deadline 5, the Applicant has held further discussions with the Council with regard to proposed land acquisition and land use at Skirsgill depot. The Applicant has reviewed its proposals and the need for permanent</p>	

Examination Library Reference	Issues Raised	Applicant's Response	Westmorland and Furness Council response
	<p>would also suggest that clarity is needed on how the evidence for 'materially worse or materially new adverse' effects would be provided to them as a consultee and to the Secretary of State as approver. The Council would therefore suggest that the additional italicised text is added to the end of Article 53(4)(a). "would not give rise to any materially new or materially worse adverse environmental effects, having been suitably evidenced, in comparison with those reported in the environmental statement". The Applicant also indicated in its submissions at ISH3 and its post hearing note that it will make it clearer in the EMP that the Council (and other statutory environmental bodies/ relevant authorities) will be consulted when a referral has been made to the Secretary of State in relation to proposed amendments to the second iteration EMP. The revised EMP will be submitted by the Applicant at Deadline 6 and therefore the Council reserves its position to make further comments once it has had the opportunity to review the amendments.</p> <p><b>DCO 2.2</b> The Council welcomes and supports the ExA's revised wording for Article 54 and notes that further</p>	<p>land take and land use at the depot, and in order to satisfy the Council that its operational land will not be affected by the Project, the Applicant has agreed to enter into a side agreement with the Council to reflect the position agreed through negotiations to date. The Applicant will keep the ExA updated as to progress.</p> <p><b>DCO 2.1, DCO 2.2 and DCO 2.3</b> Please see the response at REP6-030 above.</p> <p><b>GM2.1</b> The Applicant accepts the same position.</p> <p><b>FDW 2.1:</b> National Highways continues to work closely in collaboration with the Environment Agency on the outstanding hydraulic modelling issues in relation to Scheme 6. Whilst the parties are working to resolve the issues on this by the end of the Examination, National Highways is aware that the Environment Agency is, at this Deadline 7, proposing draft wording for a control mechanism in respect of flood risk on Scheme 6 should the modelling issues not be resolved by the end of the Examination. National Highways agrees in principle with this approach albeit it has comments on the precise drafting (acknowledging that the Environment Agency is proposing this wording only in draft at this stage). Whilst the Environment Agency's preferred location for this mechanism is</p>	<p><b>DCO 2.3:</b> The Council has worked with the Applicant since Deadline 7 and the classification references for de-trunked sections have been provided.</p> <p><b>FDW 2.1:</b>The Council as LLFA are in agreement with the EA in asking for additional requirements regarding the Warcop hydraulic modelling and flood extents predicted from the concept design proposed. It is essential that the NH has good alignment with the flood protection desired by the LLFA in its DEFRA funded project looking to reduce the risk of flooding to Warcop village.</p>

Examination Library Reference	Issues Raised	Applicant's Response	Westmorland and Furness Council response
	<p>amendments may be suggested at a later stage in the Examination particularly in relation to Trout Beck, Cringle Beck and Moor Beck viaducts (and other structures and/or hardstanding). The Council has made comments on the draft amendments suggested by the ExA in Annex B below and has concerns regarding the following:</p> <ul style="list-style-type: none"> <li>• In paragraph 4 (i) reference to the 'submission' is odd in this context as there has been no requirement to submit anything – there is a suggestion to amend this in Annex B below. Article 53 operates differently in that there is a requirement to submit any changes to the Secretary of State to any amendment to the second iteration of the EMP.</li> <li>• Paragraph 4 (ii) refers to the Summary Report, but there is no linked requirement for the undertaker to follow the consultation and determination provisions (comparison with Article 53 (4) (b)) which are contained in the EMP). Is the EMP to be updated to reflect the changes to Article 54 and be specific regarding consultation with the relevant bodies on any proposed changes?</li> <li>• Paragraph 6 needs to be amended to reflect that it might be</li> </ul>	<p>in the DCO, National Highways considers it can be (and should be) located within the first iteration EMP which would provide for sufficient legal enforceability. National Highways will work with the Environment Agency to agree the wording of this control mechanism that could be implemented should the hydraulic modelling for Scheme 6 not be agreed and will provide an update on this at Deadline 8.</p> <p>However, it is very much National Highways' preferred approach to keep working to resolve the hydraulic modelling issues on Scheme 6 by the end of the Examination and understands that to also be the Environment Agency's preferred outcome. As such, the parties will continue to work hard to resolve this and will provide a further update at Deadline 8.</p> <p><b>TA2.1</b>  Since the meeting on 17 March the Applicant has provided the following information to the Council:</p> <ul style="list-style-type: none"> <li>• 2022 Base AM, PM and IP Vissim models with associated results files, MOVA datasets, PCMOVAVissim connections and VAP files;</li> <li>• 2029 and 2044 forecast AM, PM and IP Vissim models with associated results files, MOVA datasets, PCMOVA-Vissim connections and VAP files;</li> </ul>	<p><b>TA2.1</b>  <b>Traffic Modelling</b> - The current position with regard to Traffic Modelling is highly consistent with the Applicant's Response (in the column left). For the avoidance of doubt, the Council's exact position is recorded in the following documents submitted alongside our Covering Letter response to Deadline 7 (9<sup>th</sup> May):</p> <p>1. A66 Traffic Modelling Review Technical Note - Response from the Applicant 27.04.23</p>

Examination Library Reference	Issues Raised	Applicant's Response	Westmorland and Furness Council response
	<p>the undertaker making the determination, rather than the Secretary of State. The Secretary of State under paragraph 4 (ii) can notify the undertaker that it is content for the undertaker to make the proposed determination. Generally, the Council has concerns that wording in Article 54 has been taken from Article 53 without reference to other approvals/ consultation or other requirements in other documents e.g. the EMP Note Annex B of the Response Suggests Amends to Article 54 not replicated in this document.</p> <p><b>DCO 2.3</b> The Council confirms that until the DCO is made and the detailed design of the local road network is complete the dDCO should indicate the classification number for de-trunked sections to be TBC.</p> <p><b>GM 2.1</b> There are no fundamental disagreements, and the Council is confident that for those matters not resolved we can agree with the Applicant mutually acceptable responses for the final SOCG and PADSS.</p> <p><b>FDW 2.1</b> The Council, in its capacity as the Lead Local Flood Authority (LLFA), awaits the conclusion of the modelling review</p>	<ul style="list-style-type: none"> <li>• A drawing showing the lane diagram for the proposed design of the M6 J40 roundabout;</li> <li>• LinSig models of the proposed design of the M6 J40 roundabout for the 2029 and 2044 Friday IP forecast peak hour;</li> <li>• Transport Forecast Report (TFR); and</li> <li>• Local Model Validation Report (LMVR).</li> </ul> <p>The Council has undertaken a review of this information and has prepared a technical note dated 12 April 2023 on remaining traffic modelling matters which concludes the following points.</p> <ul style="list-style-type: none"> <li>• The Council welcomes the additional modelling undertaken, both in microsimulation software VISSIM, and junction signal software LinSig, to help inform the understanding of the potential impacts.</li> <li>• Following the review to date, the Council is more confident that the proposed design will cope with the forecasted traffic growth to an acceptable level. The Vissim modelling results show reductions in traffic queuing compared to the without scheme option, and the LinSig shows that the junction can operate with the expected flows in 2044.</li> <li>• There are some outstanding issues identified that require resolution both to 1) provide further confidence that the project operates efficiently and safely for all modes, and 2) to improve the design</li> </ul>	<p>2. A66 Traffic Modelling Councils' Review of Applicant Responses Technical Note 04.05.23</p> <p>This position is reflected in Appendix A of the SoCG with National Highways submitted at Deadline 8.</p> <p><b>Skirsgill Depot-</b> The safe design of this access will be agreed and progressed with the Council during Detailed Design.</p> <p><b>Penrith Town Centre Re-routing</b> – As acknowledged by the Applicant, there is “difficulty in modelling such impacts and subsequent uncertainty of the outcome”.</p> <p>Therefore, as the ‘flipping’ of traffic between Ullswater and Victoria Road is finely balanced, monitoring of impacts would be sensible.</p> <p>This issue is also more likely to be prominent during construction of the proposed Scheme and will need to be appropriately mitigated through the Construction Traffic Management Plan.</p> <p>It is therefore requested that future monitoring (both during construction and operation) of traffic flows through Penrith is undertaken, by ANPR or equivalent means, and appropriate mitigation is provided to reduce the</p>

Examination Library Reference	Issues Raised	Applicant's Response	Westmorland and Furness Council response
	<p>by EA and outstanding queries by the Applicant before aligning with EA's position in relation to the Flood Risk Assessment and setting out the LLFA expectations for inclusion in the second iteration of the EMP.</p> <p><b>TA 2.1</b> A meeting took place on 17th March 2023 and further discussions and screen sharing took place in relation to the future operation of traffic at Penrith. With the VISSIM model on screen, it was clear that progress had been made in relation to evidencing that the operation Kemplay Bank would be efficient, and it was clear to see that with the future grade separation, traffic flowed freely through the junction, and signals appeared to work effectively for a 2029 demand scenario. The operation of M6 J40 however, was less clear, with a number of areas still a work in progress.</p> <p>The models were shared on 03.04.2023, and subsequent documentation and Linsig models will be shared for review by the Applicant. The Council will need to review this information to assess the impacts for each of the assessed scenarios. Note that the timeline outlined by the Applicant for agreeing issues around transport modelling around Penrith</p>	<p>evolution process of the Proposed Scheme itself so that the signal control at M6 J40 and Kemplay Bank is optimised.</p> <ul style="list-style-type: none"> <li>• A detailed table is provided, which identifies issues which can be addressed during the examination period, for example, providing further information about assumptions used, and other issues are likely to need progressing after the examination closes, where further design input is needed to optimise the future operation of the Proposed Scheme. National Highways have responded closing out these matters in a schedule which is appended to the SoCG with W&amp;FC which will be submitted at Deadline 8</li> </ul> <p><b>i) Resolved by the End of the Examination and further information to be provided by the Applicant</b></p> <p>On this basis some limited further work will be undertaken before the end of the Examination to support the Council. With regard to the base model, the Applicant has agreed to provide the following data to the councils before the end of examination:</p> <ul style="list-style-type: none"> <li>• Turning count validation; and</li> <li>• Further details of traffic count calculations on which the model is based.</li> </ul> <p>Further to the position above that the Council is more confident that the proposed design will cope with the forecasted traffic growth to an acceptable</p>	<p>potential impacts of this issue.</p>

Examination Library Reference	Issues Raised	Applicant's Response	Westmorland and Furness Council response
	<p>is unlikely to align with that outlined on page 22 of REP5-024 (7.30 Issue Specific Hearing 3 (ISH3) Post Hearing Submissions (including written submissions of oral case)), where it is stated that agreement on modelling issues can be made and closed out by mid-April. The following answers are therefore provided in relation to Traffic Modelling.</p> <p><b>i. Resolved by the end of the Examination.</b></p> <p>The following are likely to be resolved by the end of the examination, although there is a moderate risk that these matters will still not be resolved, as <b>further information is to be provided by the Applicant</b>, and further review and dialogue is needed to discuss the results and implications of the findings. Note, these points are not currently agreed.</p> <ul style="list-style-type: none"> <li>• Baseline VISSIM Microsimulation Model – it is likely that the Council will reach agreement on the validation of the base model and its compliance with relevant guidance documents and best practice. This is required to assess the future scenario but does not enable the Council to understand the impact of the proposed scheme at Penrith.</li> </ul>	<p>level, the Applicant has agreed to provide a LINSIG model that shows the performance of M6 Junction 40 on a Friday during the peak summer month of August in 2044. It should be noted that the design scenario considered so far is for a Friday in 2044 during an average month. The Applicant considers that this additional scenario represents an extreme traffic demand.</p> <p><b>ii. Resolved during the Detailed Design Process</b></p> <p>The Applicant has committed to undertake adjustments to the modelling to aid the detailed design process postexamination to optimise the performance of the design.</p> <p>This principle has been discussed in meetings with the Council who have raised no objection to this approach. The Base model will be revised post-examination following review of latest PCMOVA datasets to ensure VISSIM model accurately reflects observed local conditions.</p> <p>Any changes made to the base models will be carried forward to improve the forecast models. This will be undertaken as part of detail design and will allow optimisation of the detailed junction layout and signal design, including the pedestrian and cycle phases, together with appropriate safety mitigations to protect vulnerable people crossing multiple lanes of traffic.</p>	



Examination Library Reference	Issues Raised	Applicant's Response	Westmorland and Furness Council response
	<p>Future Scenarios of the VISSIM Microsimulation Model – it is likely that the Council will have a better understanding of the operation of traffic flows at both the Kemplay Bank Roundabout and Junction 40 Roundabout. It is also likely that Council will have a greater understanding of whether the proposed highway design and operation of the proposed traffic signals deliver a safe and congestion free environment (or not) in both the 2029 and 2044 Scenarios, and on a summer Friday for these years. If the operational models demonstrate that further scheme development is required to increase capacity, then this is unlikely to be agreed by the end of the examination.</p> <p>ii. <b>Resolved during the detailed design process</b> that will be completed after the end of the Examination; or Given that Detailed Design is expected to take many years to develop, there is clearly the opportunity to resolve a number of issues identified to date. It would be required by the Council for the following to be agreed during that time.</p> <ul style="list-style-type: none"> <li>• The operational performance of the proposed scheme at M6 J40, Kemplay Bank and the importance of Traffic Signals for efficient</li> </ul>	<p><b>Skirsgill Depot traffic</b> is considered within the Forecast Models presented. Further consideration of the safe operation of this access / egress will be made with the Council during detail design.</p> <p><b>The impact of the Project on the Town Centre in Penrith</b> is discussed in two documents:</p> <ul style="list-style-type: none"> <li>• Paragraphs 8.15 to 8.1.10 of the Transport Assessment [Document Reference 3.7, REP2-003] which notes that traffic increases on Clifford Road are forecast due to rerouting of traffic between Junction 40 and central Penrith due to the reduction of the speed on the A66 between the M6 Junction 40 and Kemplay Bank to 50mph, The response to AQ1.1 in Chapter 2 of the Applicant's Response to Deadline 5 Submissions [Document Reference 7.35, REP6-021] states that the reduction on Castlegate is due to the switch of routes for traffic travelling between the A66 (east of Kemplay Bank) to the Cromwell Road / Brunswick Road in Central Penrith. In both cases the difference between the routes between which traffic switches within the model is very marginal. Given the difficulty in modelling such impacts and subsequent uncertainty of the outcome, <p><b>iii. Unresolved fundamental concerns about the potential traffic impact.</b> Given the progress discussed above, the Applicant considers that the risk that the</p> </li></ul>	



Examination Library Reference	Issues Raised	Applicant's Response	Westmorland and Furness Council response
	<p>operation – the design of the signals, the layout of the approach lanes, and the allocation of lanes and slip lane capacity to specific movements will need to be further developed during detailed design. This will need to include the design of pedestrian and cycling phases in signal design, and appropriate safety mitigations to protect vulnerable people crossing multiple lanes of traffic, both within J40, and on the approach arms, including residing on traffic islands as part of the crossings. In addition, as the Detailed Design phase will be over a long period of time, there is the opportunity for the impacts associated with the new Local Plan for Westmorland to be included within future option testing and inform the design as it is developed.</p> <ul style="list-style-type: none"> <li>• Interaction of <b>Skirsgill Depot traffic</b> – traffic entering and exiting Skirsgill Depot will need to weave between lanes to access M6 J40. The weaving will be at a location where westbound drivers will also likely be weaving and slowing down in anticipation of negotiating the junction ahead. This increases the risk of a collision occurring and further design work is required to ensure safe operations at this location.</li> </ul>	<p>future operation of M6 J40 does not deliver on its objectives, and congestion will still exist, particularly on a Friday afternoon during the summer, is low to negligible. This is because:</p> <ul style="list-style-type: none"> <li>• the base model currently validates well to observed journey times;</li> <li>• both the VISSIM model and LINSIG models agree that there is capacity for the junction to accommodate forecast Friday flows in 2044;</li> <li>• Any residual changes that will be made to the modelling during detail design will be made to ensure maximum efficiency of the junction design.</li> </ul> <p><b>TA 2.2:</b> Please see the response at REP6-026 above.</p>	<p><b>TA 2.2:</b> The Applicant's response appears to resolve the issues by making it clear who is responsible for maintenance of each element where a PROW and PMA are shared. However, a cycleway (or equestrian track) is not one of the 4 categories of PROWs (Footpath, Bridleway, Restricted Byway, Byway) recorded on the Definitive Map and Statement.</p> <p>Given the dDCO definitions of a Cycleway (comprised in a highway) and Cycle Track (constituting a highway), the current proposal appears to lead to the situation where a public highway is on a private highway which still appears problematic for both access and maintenance liability (given that a cycleway/track is likely to require a</p>

Examination Library Reference	Issues Raised	Applicant's Response	Westmorland and Furness Council response
	<p>• <b>The Impact within the Town Centre of Penrith</b> – it is likely that the re-assignment of traffic through Penrith as a result of scheme will not be fully understood until the detailed design stage. Currently, local drivers often take circuitous routes to avoid the congestion experienced between M6 J40 and Kemplay Bank, and with the improvement scheme in place, this traffic will re-route through Penrith towards the anticipated less congested future improvement. The scale of this reassignment is not likely to be known as the current transport model does not accurately represent this, and therefore further assessment work is needed, including the impact on the proposed air quality management area in Penrith. Appropriate mitigation will be needed to address significant re-routing within Penrith as a result of the proposed scheme.</p> <p><b>iii. Unresolved fundamental concerns about the potential traffic impact.</b></p> <p>• There is a moderate risk that the future operation of M6 J40 does not deliver on its objectives, and congestion will still exist, particularly on a Friday afternoon during the summer. The risk is that the constraint on the number of</p>		<p>higher standard of surface maintenance than a public footpath or bridleway).</p> <p>Separation of the two entities, as is proposed for the Brougham Castle to Center Parcs section, would resolve this issue.</p> <p>If a PMA and route for walking, cycling and horse-riding must be shared then the Council considers that the default position should be Public Bridleway unless there are specific reasons why this is not possible.</p>

Examination Library Reference	Issues Raised	Applicant's Response	Westmorland and Furness Council response
	<p>lanes on the overbridges (3 lanes each direction), combined with the signal phasing that controls vehicle and pedestrian/cycle flow on the roundabout, is not designed or even capable of operating efficiently with the expected future demand in 2044. Due to the timing of receiving the model files from the Applicant for review by the Council (received on 03.04.2023), the Council is not in a position to comment on the information for Deadline 6</p> <p><b>TA 2.2</b></p> <p>Clarification from the Applicant has been received that the PMA and PRow will be demarcated and access for vehicles will be controlled for only the private landholders (see post-hearing note under item 6.1 of REP5 – 024). However, there is a need for clarity related to the highway status of the PMA and adjacent PRow and the associated maintenance liability. The Council is willing to maintain new PRow including the cycle tracks, cycleways or equestrian tracks defined in the DCO, to an acceptable standard for the nonmotorised users permitted. However, the liability for maintaining the PMA should not fall to the Council. The liability and arrangements for the maintenance</p>		

Examination Library Reference	Issues Raised	Applicant's Response	Westmorland and Furness Council response
	<p>of each element need to be explained. The Council agrees with Durham that there is a risk of private means of access becoming a maintenance burden.</p> <p>Annex B: Suggested Wording of Article 54 of draft DCO.</p> <p>(1) Subject to article 7 (limits of deviation) and the provisions of this article, the authorised development must be designed in detail and carried out so that it is compatible substantially in accordance with—</p> <p>(a) the design principles;</p> <p>(b) the works plans; and</p> <p>(c) the engineering section drawings: plan and profiles and the engineering section drawings: cross sections.</p> <p>(2) Subject to paragraphs (3), (4) and (5), the undertaker may determine to amend the design principles, works plans and/or engineering section drawings: plan and profiles and the engineering section drawings: cross sections, or any part of them.</p> <p>(3) The undertaker may only determine to amend the design principles, works plans and/or engineering section drawings: plan and profiles and the engineering section drawings: cross sections or any part of it them under paragraph (2) if— (a) the undertaker is</p>		

Examination Library Reference	Issues Raised	Applicant's Response	Westmorland and Furness Council response
	<p>satisfied that those amendments—</p> <ul style="list-style-type: none"> <li>(i) are substantially in accordance with the design principles, works plans and/or engineering section drawings: plan and profiles and the engineering section drawings: cross sections that has have been approved by the Secretary of State under paragraph (1);</li> <li>(ii) would not give rise to any materially worse or materially new adverse environmental effects having been suitably evidenced in comparison with those reported in the environmental statement; and</li> <li>(iii) would not undermine the outcomes of the Habitats Regulations Assessment.</li> </ul> <p>(4) The undertaker must not determine to amend the design principles, works plans and/or engineering section drawings: plan and profiles and the engineering section drawings: cross sections (or any part of them it) under paragraph (2) unless—</p> <ul style="list-style-type: none"> <li>(a) the undertaker has sent to the Secretary of State— <ul style="list-style-type: none"> <li>(i) a copy of the proposed amendments submission;</li> <li>(ii) a copy of the summary report; and</li> <li>(iii) a statement of the determination the undertaker proposes to make; and</li> </ul> </li> </ul>		

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

Examination Library Reference	Issues Raised	Applicant's Response	Westmorland and Furness Council response
	<p>(or any part of them it) under paragraph (2), the Secretary of State may direct that—</p> <p>(a) the undertaker must not make the proposed determination; and</p> <p>(b) the proposed determination is instead to be made by the Secretary of State as though it were in response to a request for the Secretary of State's approval of amendments to all or any part of the design principles, works plans and/or engineering section drawings: plan and profiles and the engineering section drawings: cross sections made by the undertaker under paragraph (1).</p> <p>(3) (6) Where amended details are approved by the Secretary of State under paragraph (4), those details are deemed to be substituted for the corresponding design principles, works plans, engineering section drawings: plan and profiles and engineering section drawings: cross sections as the case may be and the undertaker must make those amended details available in electronic form for inspection by members of the public.</p>		



Examination Library Reference	Issues Raised	Applicant's Response	Westmorland and Furness Council response
REP6-034	<p>6.1 Diversion route arrangements The Council wishes to clarify that points of detail were expected from the Applicant at Deadline 5, not from the Council. The Local Impact Report [REP1-019] appendices included the Council's detailed concerns on both temporary and operational diversion routes.</p> <p>De-trunking arrangements The Council continues to work closely with the Applicant to agree principles and details of de-trunking at pace. This topic will be included in side agreements between parties, expected to be signed off by the end of Examination.</p> <p>Private means of access (PMA) and public rights of way (PRoW) arrangements. The clarification of separation between the PMA and PRoW is welcomed. However, there is a need for clarity related to the highway status of the PMA and adjacent PRoW and the associated maintenance liability. The Council is willing to maintain new PRoW including the cycle tracks, cycleways or equestrian tracks defined in the DCO, to an acceptable standard for the nonmotorised users permitted. However, the liability for maintaining the PMA should not fall to the Council.</p>	<p>6.1 Diversion route arrangements The Applicant can confirm, that as per their response provided over pages 30 and 31 of their Deadline 4 Submission [Document Reference 7.24, REP4 -011] Applicant's Responses to the Examining Authority's Written Questions, an updated Statement of Common Ground with Westmorland and Furness Council (formerly Cumbria County Council and Eden District Council) was submitted at Deadline 5 (refer to the Applicant's Deadline 5 Submission – 4.5 Statement of Common Ground Cumbria County Council and Eden District Council – Rev 3 [Document Reference 4.5, REP-005]). This reflects the continued dialogue between National Highways and the Council with regard to diversion route arrangements.</p> <p>The de-trunking proposal is agreed, subject to the Council reviewing the impact of the 22 Change Requests that were submitted to the Examining Authority on 24/03/2023 and accepted on 18/4/2023 (only DC04 is thought to impact de-trunking). Whilst not strictly de-trunking, the opportunity is also being taken to incorporate an agreed interface between the Applicant and the Council on the A592, as this has been a source of confusion for a number of years. Further to this, the Applicant would refer to pages 30 and 31 of their Deadline 6 Submission – 7.35 Applicant's Response to Deadline 5 Submissions</p>	<p><u>6.1 Diversion route arrangements</u> The Council awaits the initial discussion on this matter.</p> <p><u>De-trunking arrangements</u> Subject to the review and entering into the Side Agreement.</p>

Examination Library Reference	Issues Raised	Applicant's Response	Westmorland and Furness Council response
	<p>Traffic Modelling in Penrith With regard to traffic modelling of the operation of M6 Junction 40 and Kemplay Bank, the Council anticipates undertaking a review of the base model and future options in April, although at the time of writing (03.04.2023), we are yet to receive the model information and associated documentation to comment on this issue.</p> <p>9.1 The amendments to the DCO text are welcomed to bring clarity to the definitions of cycle track and cycle ways. The Council will require engagement as to the appropriate designation of different sections of routes throughout the project between these definitions and the accompanying "Equestrian Track" definition. The maintenance liability for these Public Rights of Way needs to be clarified</p>	<p>[Document Reference 7.35, REP6-021]. This outlines further developments of the Construction Traffic Management Plan ("CTMP"), including that <i>"measures agreed through the CTMP will therefore be implemented to limit the diversion of traffic away from the A66 during construction such that the local roads can continue to fulfil their current function."</i></p> <p>The Applicant will continue to engage with Westmorland and Furness Council to resolve issues relating to temporary and operational diversion routes.</p> <p>Regarding responsibilities for Public Rights of Way (PRoWs) and Private Means of Access (PMAs), the Applicant notes the matters raised by the Council and considers that these concerns are addressed by the provisions of the draft DCO. Article 9(2) provides that local highways (which would include PRoWs) are to be maintained by the local highway authority. The Applicant agrees with the Council that they would be obliged to maintain public rights of way to a standard appropriate for their public use. Article 9(4) provides that PMAs would be the responsibility of the persons with the benefit of those rights. Where PRoWs would also be subject to private rights of vehicular access it would be the responsibility of the persons with the benefit of those rights to maintain the means of access to a standard</p>	<p><u>Public Rights of Way (PRoWs) and Private Means of Access (PMAs).</u></p> <p>2.2: The Applicant's response appears to resolve the issues by making it clear who is responsible for maintenance of each element where a PROW and PMA are shared. However, a cycleway (or equestrian track) is not one of the 4 categories of PROWs (Footpath, Bridleway, Restricted Byway, Byway) recorded on the Definitive Map and Statement.</p> <p>Given the DCO definitions of a Cycleway (comprised in a highway) and Cycle Track (constituting a highway), the current proposal appears to lead to the situation where a public highway is on a private highway which still appears problematic for both access and maintenance liability (given that a</p>

Examination Library Reference	Issues Raised	Applicant's Response	Westmorland and Furness Council response
		<p>appropriate to their private use (see Article 9(3)).</p> <p>In circumstances where there are segregated but adjacent PROWs and PMA such that there is clear demarcation between the PROW and the PMA, the Applicant's draft DCO includes provisions that would ensure that the proper extent of the PROW can be properly recorded in the authority's definitive map and statement.</p> <p>The traffic modelling was shared with Westmorland and Furness Council in a series of emails between the 3<sup>rd</sup> and 12<sup>th</sup> of April. Since then, two further meetings have been held between the Applicant and the Council, on the 17<sup>th</sup> and 21<sup>st</sup> of April during which the adequacy of the modelling was discussed and outstanding issues identified. The Applicant has provided further data, and updated documentation on the 25<sup>th</sup> of April, with a view to agreeing that the proposed scheme operates efficiently and safely for all modes, subject to further a number of issues that can be resolved during further modelling and assessment during detail design.</p> <p>9.1 Equestrian tracks, cycle tracks and cycle ways are public rights of way and as such maintenance liability would fall to the local highway authority pursuant to Article 9(2).</p>	<p>cycleway/track is likely to require a higher standard of surface maintenance than a public footpath or bridleway).</p> <p>Separation of the two entities, as is proposed for the Brougham Castle to Center Parcs section, would resolve this issue.</p> <p>If a PMA and route for walking, cycling and horse-riding must be shared then the Council considers that the default position should be Public Bridleway unless there are specific reasons why this is not possible.</p> <p><u>9.1 Equestrian tracks, cycle tracks and cycle ways</u></p> <p>As previous comment under 6.1</p>

