

The carbon emissions from this scheme are not compatible with the UK meeting its climate budgets and targets.

I agree with Dr Andrew Boswell in his Deadline 8 submission that the A66 scheme creates additional carbon emissions: over 500,000 tonnes of CO₂ from construction, and between 35,000 to 40,000 additional tonnes of CO₂ annually from 2029 to 2037, critical years for the 5th and 6th carbon budgets.

It is also clear from Dr Boswell's evidence that delivery of the revised Net Zero Strategy (NZS) is not secured and the risks to its delivery have not been adequately assessed. The NZS is the Government's mechanism under the Climate Change Act 2008 for meeting the UK budgets. Any additional emissions from a proposed transport scheme are significant enough to "have a material impact on the ability of Government to meet its carbon reduction targets".

At the time of his/her decision, the Secretary of State (SoS) must consider the latest evidence on the revised NZS, the status of any on-going legal challenge to it, any related reports from the Transport Select Committee (eg on the draft NNNPS), the 2023 CCC Progress Report, any updates to the Green Alliance Net Zero Policy Tracker, Professor Marsden's research (as provided by Dr Boswell to the examination) and Dr Boswell's submission.

As the application has an applicable national policy statement (ie the existing NNNPS), section 104 of the Planning Act 2008 ("the 2008 Act") applies to the decision making. The SoS must decide an application in accordance with the relevant NPSs except to the extent s/he is satisfied that to do so would lead to the UK being in breach of its international obligations (s104(4)); be in breach of any statutory duty (s104(5)); be unlawful (s104(6)). With respect to:

(a) s104(4), the scheme would add over 500,000 tonnes CO₂ from construction before 2029, creating a strong risk that the UK will fail to deliver its 2030 National Determined Contribution (NDC) under the Paris agreement. An 8 MtCO₂ shortfall on the NDC has already been noted in the Carbon Budget Delivery Plan para 29 "the A66 scheme makes the possible shortfall worse by more than 0.5MtCO₂. Therefore, the scheme risks the UK being in breach of its international obligations, and the SoS has no legal certainty that consenting the scheme will not lead to the UK being in breach of its international obligations.

(b) s104(5), the statutory duty to deliver the 5th and 6th carbon budgets depends upon the successful delivery of the NZS. Dr Boswell has shown that the delivery of the NZS is far from secure, and the risks to delivery have not been adequately assessed. By adding new construction and operation emissions, the scheme risks the UK being in breach of a statutory duty. The SoS cannot have any legal certainty that consenting the scheme will not lead to him/her being in breach of a statutory duty.

(c) s104(6), the legal requirement to deliver the 5th and 6th carbon budgets under the Climate Change Act 2008 depend upon the successful delivery of the NZS. Dr Boswell's evidence shows that the delivery of the NZS is far from secure and the risks to delivery have not been adequately assessed. Therefore, consenting the scheme, which would add its construction and operation emissions, risks breaching the law; the SoS cannot have any legal certainty that approving the scheme will not be a breach of the law.

I respectfully request that the ExA record these points in the Examination Report and requests that the SoS considers them in his/her decision making.