

Transport Action Network has previously raised the carbon emissions from the scheme (in our RR - RR-035 and our WR - REP1-046), and that they are not compatible with the UK meeting its climate budgets and targets. Transport Action Network has been following the examination closely, especially the evidence submitted on climate change and carbon.

Transport Action Network agrees with all the submissions from Dr Andrew Boswell, especially his Deadline 8 submission that it is clear from the ES, and is not disputed, that A66 scheme creates additional carbon emissions: over 500,000 tonnes of CO₂ from construction, and of the order of 35,000-40,000 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 on the revised Net Zero Strategy (NZS) that there is no evidence that delivery of this critical climate policy under the Climate Change Act 2008 is secured. In fact, the evidence strongly supports the opposite case that the NZS is unlikely to be delivered successfully, and, in any case, the risks to delivery have not been adequately assessed.

At the time of his/her decision, the Secretary of State should 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 Reverse Gear report (as provided by Dr Boswell to the examination) and Dr Boswell's submission.

I especially highlight that in the extreme state of uncertainty about delivery of the NZS, 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".

As the application has an applicable national policy statement (i.e. the existing NNNPS), section 104 of the Planning Act 2008 ("the 2008 Act") applies to the decision making. The secretary of State 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)).

As far as s104(4) is concerned, the scheme adds over 500,000 tonnes CO₂ from construction before 2029, and this creates 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 (CBDP) "the A66 scheme makes the possible shortfall worse by over another 0.5MtCO₂. Therefore, the scheme risks the UK being in breach of its international obligations, and the SoS cannot have any legal certainty that approving the scheme will not lead to the UK being in breach of its international obligations.

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