

Submission Deadline 9. Examination, A66 Transpennine route

TR00162

IP number

Dr Mary Clare Martin, on behalf of the residents of [REDACTED]

This submission responds to some of the points made by National Highways in their "Closing Statement" and also reiterates previously raised concerns about the impact of the proposed dual carriageway on the elderly, vulnerable residents of [REDACTED].

Issues regarding likely impact of the dual carriageway on elderly people

Pages 56-58 of the NH Closing statement, under the heading "Inequalities" address some of the concerns I raised about the impact of the building of the dual carriageway near to the house of my parents at Low Broomrigg. Thanks for acknowledging our family's (not just my own) concerns.

I do not recognise some of the statements I am alleged to have made, but rather than rebutting each point one by one, I will reiterate the concerns of my family (about 20 of whom registered as IPs) from a lay person's perspective.

It is not surprising that we are concerned about the potentially deleterious impact of having new roads built near a house, in an open field, with nothing to shut out the noise of construction works outside. There is only a wire fence, in places 15 feet from the house, separating the house from the nearby field. Even if the estimated final distance of the nearest access road from the house is 50 metres, it is more than likely that the actual business of construction will come nearer, though we would appreciate more information about how close the works are likely to be. Moreover, anyone who has stood in that field would see how noise will carry. The timetable in the ES also indicates that the works will be continuous, from early in the morning until the evening, and possibly even longer.

For old people in their nineties who are relatively housebound, who now cannot drive, this will be an unbearable situation. It is compounded by the almost certain loss of value of their property, for which no compensation will be available until a year after the works are completed. This means that, should they eventually need to pay more for different kinds of care, they will have lost part of the value of their property through no fault of their own. It is only 2 years since the intention to depart from the original plans of building the dual carriageway right next to the current A66 (released in 2020), was communicated to my parents.

We have said repeatedly that the amendment to the DCO of removing the Langrigg Junction is an improvement, which it is. This does not change the fact that a road will still be built near the house of 2 90 year olds, and that it will be unbearably noisy, polluting, will ruin the views, and will make it impossible for them to enjoy their property in extreme old age.

Much has been made of the value of the AONB. Yet, as nearby residents, they will be cut off from walking on the AONB unless they are driven there via the Flitholme underpass, as they will not be allowed to cross the dual carriageway. It should be noted that the AONB is currently only open to the public only one weekend a month, that for many years the army refused any public access to the ranges opposite Low Broomrigg, and presumably this ban could operate again.

I have raised the issue of inequalities under the Human Rights Act 1998 on grounds of age and disability. I am disappointed this has not been taken seriously by National Highways. The Human Rights Act states that people should be allowed to enjoy their property in peace unless it is in the public interest. The grounds for being in the public interest are very slender. The dual carriageway has low BCR, the safety improvements are minimal, and the main advantage is for business by slight reduction of journey time.

The fact that only a small number of households will be affected by the new roads in the Broomrigg/Lanrigg area does not minimise the effect it will have on the individuals who do live there.

We have followed the parish councils in repeatedly arguing for an alternative route, for the dual carriageway to go north of the current A66. Various versions have been proposed, including the Billy Welch line, proposed and favoured by the gypsy community, and Warcop parish council, which we would also support. The petition for a northern route on change.org now has over 1000 signatures. It was overwhelmingly supported by members of Warcop and Musgrave parishes when a survey was conducted in December 2020.

The responses in pp. 56-58 of the closing statement seem to attempt to minimise the effect of the dual carriageway by alleging omissions on my part. For example it is suggested that I failed to suggest an alternative methodology. I am not a surveyor or an engineer but a member of the public balancing a very demanding job, extensive caring responsibilities, who feels obliged to try and protect my parents, despite the consequent impact on other aspects of my life. It is also alleged that I made a case on grounds of damage to mental health, but gave no details of mental health conditions. I am not aware of having been asked for this information.

General Concerns

There are a number of general concerns about the construction of the dual carriageway which have been raised by other agencies. Concerns about flooding have still not been settled with the Environment Agency and concerns about historic monuments with Historic England.

Since the beginning of the planning for the road, National Highways have refused to consider measures for improving safety without dualling. Yet such measures are now part of government policy for RIS3.

I have previously raised the carbon emissions from the scheme, and that they are not compatible with the UK meeting its climate budgets and targets.

I agree with Dr Andrew Boswell in 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 research (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 (ie 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.

As far as s104(6) is concerned, 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. 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 approving of the scheme, which adds new construction and operation emissions, risks breaching the law, and 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."