

**TR010034 – A57 Link Roads**  
**SoS Consultation Letter, dated 2<sup>nd</sup> September 2022**

**Comments on Applicant's response of 14<sup>th</sup> September**

Daniel Wimberley, Tuesday 18th October 2022

**Unique Reference at the EiP: 20029775**

***ABBREVIATIONS***

Abbreviations which may be used in this document are as follows:

AQ	Air Quality
BBA	Balfour Beatty Atkins
BCR	Benefit Cost Ratio
CAP	Clean Air Plan
CAZ	Clean Air Zone
CC2020	Community Consultation for the A57 Link Roads scheme run by H.E. from 5 November to 17 December 2020
CCC	Climate Change Committee
DCC	Derbyshire County Council
DfT	Department for Transport
DTP	Decarbonisation Transport Plan
EiP	Examination in Public
ES	Environmental Statement
AV	Electric vehicle
ExA	Examining Authority
HPBC	High Peak Borough Council
HE/NH	Highways England / National Highways
IP	Interested Party
ISH	Issue Specific Hearings
LIR	Local Impact Report
NPS-NN	National Policy Statement - National Networks
PINS	Planning Inspectorate
<b>REC SoS</b>	<b>Recommendation to the SoS and her team</b>
SOCC	Statement of Community Consultation
SoS	Secretary of State
SRN	Strategic Road Network
TAR	Transport Assessment Report
TfGM	Transport for Greater Manchester
TPU	Transpennine upgrade
VfM	Value for Money

# INTRODUCTION

1. Thank you for inviting comments on the applicant's reply to the SoS's consultation letter of September 2nd. My comments concern only the applicant's response to question 3 (Request for an update from the Applicant and Greater Manchester Combined Authority regarding the status of the Greater Manchester Clean Air Plan).
2. They have two elements: a critique of what the applicant has written to you and a postscript. **IMPORTANT NOTE** wherever I make an appeal to the SoS to look specifically at a certain issue with care because it is vital or because it has legal implications, then I insert into the text the marker phrase "**Rec SoS**". Thus these appeals can easily be found, as required. They could be regarded as being the summary of this document.

## **Critique of applicant's response**

3. In response to the applicant's few paragraphs you will see that I write many! I have thought about why this should be so and have come up with two reasons.
4. The first is that this scheme is inherently complex. It has traffic impacts on a wide peri-urban area and yet for almost its entire length it runs across the Green Belt. At one end it leads traffic across a National Park whilst at the other end it takes traffic into a city with systemic air quality issues. There are issues around what it is actually trying to do.
5. The setting is itself a geographical "bowl" and this has an effect on noise, air quality, visual Impact, potential for flooding and more. It acts as a magnifier of all the issues. I need not elaborate further; I am sure you are well aware of this complexity.
6. The second is the approach of the applicant. The applicant's desire to win the process, that is to succeed in landing a DCO, in combination with the above-mentioned complexity of the scheme, leads to an astonishingly complicated trail of confusion, misinformation and suppression of information.
7. As a result I have found that to make clear what is going on and to shed light on the issues raised in the Applicant's reply to the SoS's consultation, I sometimes have had to practice what the French refer to as "reculer pour mieux sauter" – which means freely translated: taking 2 steps back before making forward progress.
8. Hence the many paragraphs in the critique. One example will serve to illustrate what I have just said: the question of what this scheme is. Is it a bypass? Is it a link road? Or is it a TPU? Or is it any and all of the above?
  - a) *As a Bypass* it relieves a small number of houses in Mottram of most traffic nuisances. The applicant made much of the relief afforded by the scheme in this tiny area at consultation stage.
  - b) *As a Link Road* it connects Manchester to the local area the result of this is that most distributor roads in Glossop and Hadfield would experience increased traffic and therefore increased traffic nuisance

- c) *As a TPU* it attracts new traffic into the area from parallel roads to the north and the south and funnels the increased traffic flows across a National Park.
9. The three descriptions/ purposes are in conflict which partly explains the confusion in the mind and in the practice of the applicant. Hence the difficulty of explaining the relevance of this scheme proposal to the Manchester Clean Air Plan, which I do at paragraphs 33-49.

#### **Postscript concerning the conduct of the Applicant**

10. The proposed scheme will undoubtedly have an impact on traffic levels in Manchester, and therefore on the success or otherwise of the CAZ/CAP. Its “Link Roads” title hints at this consequence. The applicant finally admitted that the scheme, if it is built, would bring about an increase of traffic into and out of Manchester from this area (*but only at Deadline 7, see paragraph 44 below*).
11. So this scheme will have a clear effect on the CAP if it is built, and therefore what the Applicant tells and has told you about this scheme is highly relevant and so therefore the credibility of the Applicant is also highly relevant. How much can you trust their assertions?
12. The Postscript advises you to be very careful. It gives you a strong warning, and the evidence that the warning is justified, to adopt a cautious approach to whatever the Applicant says. Because of the necessity to dot the i’s and cross the t’s when making such claims, the Postscript also is somewhat lengthy, for which apologies in advance.

#### **Concluding remark**

13. I hope that what follows is useful to you as you continue to work on appraising this scheme on behalf of the Secretary of State.

## **COMMENTS ON APPLICANT’S RESPONSE TO SoS CONSULTATION LETTER CONCERNING THE MANCHESTER CLEAN AIR ZONE/PLAN**

### **a word of caution**

14. At the outset, may I suggest to you that the Secretary of State (SoS) treats all assertions by this applicant with great caution. The applicant has a track record of omitting or obscuring facts which harm their case and of pointing the reader away from said inconvenient truths.
15. I spell out the evidential base for giving you this warning in the postscript at paragraphs 62 onwards. I am aware that this is an unusual warning which is why I set out this evidence base in some detail.

### ***para. 3.1.4***

### **Present information and missing information**

16. Thus, **the three bullet points listed by the applicant in this paragraph are probably correct.** The CAP (Clean Air Plan) probably does contain the new analysis mentioned in bullet point 1, the commitment to review local policy mentioned in bullet point 2 and the proposal to work with government in bullet point 3.

17. However something is missing. First, there is a **legal duty to achieve compliance** with air pollution limits in the shortest possible time. What does the CAP say about how the measures in the plan will achieve compliance? Is / are this / these goal(s) clearly stated in exact terms? On the assumption that the goal or goals are clearly stated are there any qualifications? Are any steps given to achieve the goal? Or milestones? Or timelines?
18. Then **there is no word about traffic reduction** as a tool to achieve the goals of a Clean Air Plan. I would make two observations about this. The first is that **Transport for Greater Manchester (TfGM) has a 50/50 policy** meaning that by 2040 50% of trips should be made by active travel or public transport. The policy shows a fall in traffic by 2040 of approximately 17%. There is also the DfT decarbonisation strategy target of walking and cycling being 50% of trips within towns and cities to be considered. Are goals in this area really not part of the CAP? And if they are, surely it has a bearing on the possible impacts of this scheme, and whether this scheme works with or against such policy goals.
19. The second is that **it may be** (and in fact I would be surprised if it were not so) **that the CAP goes beyond tailpipe emissions** and considers, either as part of the main goal or as a subsidiary goal all the non-tailpipe-emission nuisances which exist - from particulate pollution to severance to safety issues to intrusion and inhibition of active travel. These nuisances arise whether the vehicles are EV's or not.
20. This is worth a few words of elaboration. This response by the applicant to the SoS's consultation includes in the next paragraph words emphasising the reduction in road traffic emissions which the transition to EV's will bring. This may be true (depending on the uptake, which I will come to below) but **the non-tailpipe-emission nuisances remain even if the entire vehicle fleet is electrified**. I would be surprised if the Manchester transport planners / TfGM say nothing about all of this, particularly as reducing non-tailpipe-emission nuisances is now a central part of all government policies in the field of transport and of the Levelling up White Paper. The detail of this assertion is in my Deadline 12 submission - Government Policy and implications for the Examination in Public (*library ref REP12-037*)- and should figure in the ExA's report.
21. Briefly put, the thrust of all government policy in the field of transport relating to urban areas and of the Levelling Up White Paper is to limit traffic in urban areas and thereby have a better urban environment in every way, a more pleasant and more vibrant town centre with greater footfall, more active and healthier citizens, and less nuisance of all kinds.
22. **You are not being told here anything about the 50/50 policy, traffic reduction, or potential co-benefits of tackling air pollution**. The applicant in saying nothing about these matters is leaving it to the Manchester authorities to tell you, but I would suggest that they should at least have pointed to these matters. By not mentioning them they avoid the problem of saying how the scheme is consistent with these issues. As it is you are left with nothing to go on and will have to fill in the blank slate for yourselves!
23. And so I ask you to check these matters very carefully. **Rec SoS (Recommendation to the SoS and her team)**

### ***Para. 3.1.5***

#### **Link Roads still part of CAZ/CAP**

24. This paragraph in the Applicant's response makes it very clear that this scheme in and of itself, never mind the consequences of the scheme to the west and east of its actual footprint, is part of the CAZ and the CAP and must be appraised as such. But even if this matter of bureaucratic definition was not the case it would remain true that the impacts of this scheme to the west (Manchester) and to the east (Sheffield) are clearly within the scope of your consideration of the overall impacts of the scheme. I put it to you that you have to ask yourselves the following questions (there may be others): **REC SoS**
- a) is the scheme consistent with government policy with regard to its impacts on the conurbation of Manchester? and
  - b) are the impacts of the scheme consistent with the requirements of the Clean Air Plan?
25. On a more legal note, the fact that the SoS has agreed that this scheme, which was included under the ending-in-2024 CAZ is now included under the new revised ending-in-2026 CAP, simply underscores the relevance of these impacts to the SoS's legal duty to weigh up the adverse impact of this scheme against its benefits, a duty under subsection 7 of section 104 of the Planning Act 2008 as repeated in the now-under-review-but-still-in-play NPS-NN paragraph 1.2. (as I am sure you are aware! ☺)

### ***Para. 3.1.6 first paragraph***

#### **Modal choice**

26. On the face of it, this paragraph in the applicant's response is a very odd statement. The applicant is claiming that removing any charging for any vehicle entering the CAZ, will not affect decisions taken by drivers about whether or not to continue driving into Manchester and back out again.
27. The applicant is claiming that modal choice is not influenced by price. My memory tells me that cost very much is part of that decision and is therefore built into the traffic models used by the DfT. It is just possible that I remember this incorrectly, but I do doubt that my memory has failed me on this point.
28. It is however true that in the course of this EiP **the applicant has paid little or no attention to this decision**, namely **the decision by drivers to choose one mode or another**: how it is made and the factors which could influence it - the question of whether to go into and out of Manchester by private vehicle, or by public transport, or by active travel . This lack of attention paid by the applicant to this key decision of modal choice surely works against the policies spelt out in Gear Change, Bus Back Better, the DTP (decarbonisation transport plan) and the Levelling Up White Paper.

29. These policies include:

- a) Encourage the use of public transport particularly in urban areas
- b) Encourage active travel
- c) Reduce traffic in urban areas
- d) Tackle issues of health caused by inactivity
- e) Tackle the net zero climate target

### the purpose of this scheme

30. By way of reducing the importance of these modal choices by motorists, the applicant may say, or the Secretary of State may be tempted to think – ‘ah! this proposal is intended to improve connectivity across the Pennines.’ After all, was the scheme not known, until just before this examination in public, as the TPU?
31. The point about what this scheme really is trying to do is important. Thinking of it as a TPU acts to pull the attention of people such as yourselves, you who are appraising this scheme, away from the urban impact and towards the business of crossing the Pennines. So what is this scheme really? I would point out you that during the examination in public 2 key facts emerged.
32. The first fact is that **a very limited amount of the traffic using this proposed Road would end up crossing the Pennines from Manchester to Sheffield/South Yorkshire**. The TAR (*library ref. APP-185*) has figures which clearly demonstrate this. (*Tables 3.5 and 3.6 on page 29*).
33. More significantly, and following on precisely from the tiny numbers shown in the TAR tables, calculations for the BCR show that the vast majority of the value of time savings are due to local journeys and **the proportion of journey time savings which is due to Transpennine journeys is very small indeed**. This will surely feature in the ExA’s Report.
34. And the second fact concerns the reliability of this route, much touted by the applicant as a key part of the case for construction. This “reliability” was not only shown by my submissions at the enquiry and maybe by others, to be grossly overstated, but should already have been known to the applicant to have been terminally called into question by a series of irrefutable bullet points in the 2015 feasibility study.
35. All this I am sure will be evident from the ExA’s report, but “reliability” has now been called into question even more dramatically by recent events. Three landslips along the A57 Snake Pass caused by two giant storms in a row, have partially or totally closed the pass for over two months this year and the damage done is still at “investigation” stage and the road has still not been restored permanently.
36. These landslip and erosion problems will only increase, as the effects of climate change become ever more pronounced. The same will apply to the A628 as to the A57. Traffic high up across the peat moor summit of the Pennines is being enabled and encouraged by this scheme when the routes are becoming more and more unreliable as the effects of climate

change become ever more pronounced. It is clear that to attempt to justify this proposal as an improvement in “reliability” is in fact a false prospectus for a road which is inherently unreliable.

37. This question of whether this proposed scheme is mainly about improving connectivity between the two cities of Manchester and Sheffield or is mainly a road providing local capacity is a key question when deciding how much importance to give to this matter of the impacts on the CAP and the CAZ. I have already shown above (*paras. 32 & 33*) that this is really a local road, serving local needs. Its journey time savings mostly arise from local journeys.
38. I am allergic to conceptual muddle and I look for an explanation, an explanation as to why this road having been billed as a TPU yet turns out to be a) severely unreliable and b) serves mainly local journeys. One explanation which makes sense of the whole matter is that only if built as a TPU could the road escape the severe constraints which exist when new roads are built in the Green Belt not for local purposes.
39. Whether my explanation above is correct or not, if the true purpose of this scheme is serving local needs then questions have to be answered.
40. Firstly and more generally, **should the Secretary of State be building massive new capacity at great expense for local journeys?** Does this not contradict the DTP? (see above)? This question brings into sharp focus the issue of compliance and the CAP. All current government transport policy apart, arguably, from the RIS, would point towards enhancing public transport for trips into and out of a major conurbation, especially when such transport links already exist.
41. Secondly, there is a fact which only came to light because a number of IP’s at the EiP, including myself, pointed out numerous problems and anomalies in the outputs of the model. I am sure this would have been covered by the ExA in their report (see for example my traffic bar charts at library ref REP5-039 . In response to the pressure on this matter, eventually at deadline 7, the applicant wrote this:
42. *“The traffic flows on the A57 Glossop High Street East and A628 Market Street are higher than the traffic flows on the sections of these roads through the Peak District National Park (PDNP) because of the additional traffic demand generated within the urban areas of Glossop, Hollingworth, Tintwistle and Hadfield. This additional traffic demand is predominantly for journeys to and from destinations to the west, rather than across the PDNP and, therefore, results in significantly high flows on these sections of road compared to the sections of road through the PDNP”*  
REP7-025 page 74
43. The background to this revelation is that I had questioned at Deadline 5 why predicted traffic flows with the scheme in Tintwistle were very much lower than flows in Hollingworth, when the 2 settlements are adjacent, so the drop was inexplicable. It was vital for the applicant to come up with an explanation, as otherwise it looked as if the traffic through Tintwistle had been manipulated downward between Hollingworth and Tintwistle in an unexplained way, with the effect of pushing Tintwistle just below the threshold which

triggers detailed AQ study (flows were 960 more with the scheme, just 40 below the 1000+ increase threshold)

44. So here at last was the explanation. The EiP finds out at Deadline 7, 2/3rds of the way through the EiP, that the scheme would generate a lot of traffic going WESTWARDS, from the easternmost part of the local area. !
45. This astonishing admission, that **the proposed road would, if built, generate a large number of additional trips into and out of Manchester**, in complete denial of all current government transport policy, was made on the 23<sup>rd</sup> March with just two months to the end of the examination. As I said at the top of this section of my comments, the applicant has a track record of withholding information which we all should have.
46. **So the scheme enables and promotes increased commuting into Manchester from Glossopdale and back. This must have an effect on the CAZ and on the CAP's ability to reach its legally compulsory goals** and any other goals it may have in line with current thinking on traffic in urban areas. (*as discussed above at paras. 28 and 29*)

### **Attraction of traffic into this corridor**

47. There is another matter which is relevant, and that is, **what are the impacts of the traffic diverted into the A57/A628 corridor, from the cross-Pennine routes to the north and south**, namely the M62 to the North and the A623/A6 to the South? The EiP was informed by the Applicant that this diversion of traffic onto this corridor would happen, which partly accounted for the predicted increase in traffic in Glossopdale, but I do not recall *the effect of this transfer of traffic* being explained to the EIP. And yet if new traffic is induced across Manchester by this scheme then the effects of that are part of the problematic impacts of the scheme. They must be assessed. I may have missed something here, but I don't think so.
48. If it was addressed it will surely be dealt with in the EXA report.

### **Summary of the consequences of this being principally a local road**

49. To summarise this scheme has a direct and material impact on Manchester's ability to comply with the law. The Secretary of State must therefore satisfy herself : **Rec SoS**
- a) what the traffic predictions within the model actually are concerning increased commuting between the area of the scheme and Manchester, and that they are robust.
  - b) about the effects on key areas of air quality concern and more generally throughout Manchester of whatever increase in traffic is found to be plausibly predicted, including the effects of newly induced traffic from elsewhere.
  - c) that alternative means of commuting into Manchester were assessed as regards the negative impacts of traffic which the DfT is keen to see reduced especially in urban



areas: effects on air quality, on carbon, on health and active travel, and on the general urban environment. <sup>1</sup>

***Para. 3.1.6 second bullet***

**Air quality compliance with special reference to EV's**

50. Compliance with the statutory requirement relating to Air Quality with a deadline of 2026 appears to at least partly depend on the Defra projections for transition to electric vehicles mentioned here. It is not clear how great this dependence is.
51. The Secretary of State must satisfy herself **Rec SoS** and as in all these cases show to the public and all stakeholders, that she has satisfied herself; that the stated transfers to electric vehicles will actually materialize, and what the impact of this on the CAP will be.
- a) that 99% of HDV (heavy duty vehicle, i.e. buses, lorries) and 90% of LDV (light duty vehicle i.e. taxis, vans) will be compliant with the CAZ requirements without the CAZ implementation
  - b) that the announcements by the Government in 2021 revising the plans within EFT v10.1/EFT v 11 on plans to increase the speed of electric vehicle uptake will materialise, or if not at what speed exactly this will take place.
  - c) will the DTP goals be realised? And what will the exact effects of this implementation be?
  - d) what will the combined effect of these measures be if implemented?
52. She must ask herself with regard to each element above: what is the current position? What is the actual conversion rate ? What is the trend? Is government funding required for this transition and if so how much? How certain is this funding, and the funding and action on the other stated policies in the field of transport: bus, rail and active travel?
53. The present political climate and physical pressures are difficult and yet the success of the CAP in reaching its statutory targets is at stake. So what exactly the contribution of these measures and what the exact impact of this scheme would be are critical questions. The scheme cannot be allowed to even threaten to tip Manchester over into non-compliance.
54. I am reminded of the observation that plans and targets are not the same as results. And yet these pledges HAVE to happen, apparently, if the CAP is to achieve its (statutory) goals. Or maybe they do not. We must know.
55. This is all a big ask, and yet statutory compliance partly depends on it. As a matter of personal observation, I do not see the necessary changes taking place around me. From the take up of vehicles in my largely well-off village to the wholesale improvements in bus and train provision to the provision for cycling and walking in a city such as York where I often

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<sup>1</sup> There is currently, according to the TAR, one bus per day from Glossop to Manchester. There is a railway which serves the area well, the question being - is it used to its maximum? Looking at the frequencies quoted in the TAR it appears that the service could be easily enhanced

visit the advances are very very limited. So the questions above which I have suggested must be answered by the Secretary of State are indeed very pertinent.

**Para. 3.1.7**

**The effect of non-charging**

56. This is a repeat of the astonishing assumption that instituting or removing charging will make no difference. I have commented on this above, but there is an additional point to be made about the validity of the model and its outputs. It would appear that the applicant has proceeded, in developing and applying the model, on the basis that the clean air zone and the charging of trips it was going to involve, would make little difference to the "traffic patterns or traffic rerouting".
57. Now the applicant is claiming that the *removal* of charging will make no difference either.
58. The Secretary of State must therefore also satisfy herself **Rec SoS** whether or not this seemingly bizarre assumption is actually valid, whether this assumption is borne out in real life, and what effect the findings have on the reliability of the model and of its outputs. If it turns out that adjustments have to be made then that in turn will lead to adjustments needing to be made on the BCR.

**CLOSING REMARKS**

59. I hope that these comments are useful, it was hard work writing them and it may very well turn out to be hard work for you discerning what value they have and their implications and the resulting work which may have to be done, or which does have to be done.
60. I write entirely out of a desperate desire to see the right decision emerging from this whole process. As you can no doubt gather, I have a very firm view that Glossopdale, the Peak District, our whole region, and the country, deserve better than this.

**POSTSCRIPT - NOTES ON THE CONDUCT OF THE APPLICANT  
FOR THIS DEVELOPMENT**

**Introduction to the Postscript**

61. It is unfortunate that I feel I have to follow the comments which I have made above with a word of warning.
62. It is unfortunate, but necessary. The whole process of consultation, application, EiP, ExA Report, and now this the final stage of evaluation by the Secretary of State and those working directly on her behalf, has the purpose of arriving at a sound decision which is in the best interests of the country, the local region, the local sub-region, and finally the local area of Glossopdale itself.
63. I personally know that I have acted in the spirit of trying to establish the truth of any matter, and of trying to help the decision-maker arrive at a correct view of the issues involved and of all the facts.

64. I have put forward my positions as forcefully as I can, and citing whatever evidence there is to justify my position, but always being honest and open about the caveats there may be around that evidence all those positions. That at least is what I hope to have done. I expect that of myself and of others.
65. **The word of warning is: be very careful when you evaluate what the applicant may say or write. On the evidence of past behaviour, this may not be reliable and it may not be complete.**

## **The approach of the applicant has not been appropriate**

### **How a private developer applicant is likely to behave**

66. To elucidate this issue I invite you to mentally compare the situation at the A57 Link Roads EiP with the situation of a private developer seeking permission to build houses on a greenfield site.
67. Imagine this private developer. The logic of our current competitive economic system will almost certainly induce our imaginary developer to present the benefits of his or her scheme in the most favourable light possible and to downplay any downsides to the greatest extent possible. If this involves suppressing information which harms their case, or bending the truth a wee bit, or trying to wear out the opposition, then so be it. The operating principle is: if you are not asked don't say. If you can get away with something which is to your advantage – then do it. (like premiership footballers – ahem!)
68. The job of any opponents of the scheme is to rigorously question the benefits, and ensure that the negative impacts are brought into the light of day. The job of any enquiry process is to arrive at the truth so far as this is possible. The job of the person(s) conducting this enquiry and of any further decision-maker is to protect the public interest. The approach of key participants to the enquiry stage of this process is adversarial (although some expert witnesses may act as unbiased information-givers).

### **How a government agency applicant is obliged to behave - HE/NH's licence and the Nolan principles**

69. The applicant in the case which is the subject of this representation and which you are assessing now, is a government agency. I believe that different rules apply. In fact they *do* apply, as I will show.
70. This particular agency, formerly Highways England and currently called National Highways, is entirely set up and owned by the government and exists to provide benefit to the public whether it be by maintaining and operating the existing SRN or making proposals to add enhancements to it. The licence spells out the way in which NH should or must behave and the licence is a legally binding document.

71. The licence spells out a general duty to cooperate, and also specifies how consultation is to be carried out. Both of these requirements were broken during the process of consultation and enquiry for this scheme, as the examples below will show.
72. I have copied the relevant paragraphs of the Licence in Appendix 1, highlighting the clauses which are directly applicable to NH and also giving the necessary context.
73. As a government body the applicant is also obliged to follow the Nolan Principles. The Applicant broke Principles 1.3, 1.4, and 1.5, which are headed: Objectivity, Accountability, and Openness, as the examples below will show.

## **6 examples of the applicant's behaviour**

74. To say that the applicant has broken the terms of their legally binding Licence, and the Nolan principles to boot, is a serious matter. I do not like writing such things. However I underline all this as it has a huge bearing on the question of how you have to approach the statements made by this Applicant which I am commenting on. These statements themselves are about a matter of great consequence, of how the scheme relates to the Manchester Clean Air Plan, hence my concern to roll the pitch correctly.
75. For the warning to you to be valid, the claim on which it is based must be substantiated. Has the applicant "played fair"? Has the applicant been "economical with the truth"? Has the applicant misled the enquiry? Has the applicant been helpful, or obstructive?
76. Before listing examples, (beyond those featured above already) I would say to you that this has been a theme running through the EIP, alluded to by many IPs and culminating in a joint open letter from leading IP's to the ExA, sent at Deadline 12 EiP (*Library ref: REP10-017*). This letter complained about the applicant's behaviour with many specific examples, focussing on the very biggest issues: the traffic model, the carbon assessment and the transport appraisal..
77. To make this issue clear to you now, I will simply give you here a few of the examples which have made such an impact of shock, incredulity, and distaste on me that they came straight back to my mind, when I asked my brain to come up with examples.

## **Example 1: The suppression of the cost of the scheme at consultation stage (November 2020)**

78. The clearest example of concealment of information relates to the cost of the scheme. This is vital information for the public at consultation stage. It gives all stakeholders, from statutory consultees and NGO's to members of the general public, a feel for the scale of the proposal.
79. When stakeholders know the cost then the question arises: What else could one use this amount of money on? What other solutions or package of measures could one buy for that sort of sum, maybe at less cost and disruption? So it raises, in a direct and dramatic fashion, the whole question of value for money.
80. These questions are fundamental. And yet at CC2020 this figure was nowhere to be seen on the consultation website. It was not in the key document prepared for the public, namely the consultation brochure.

81. Why not? Why was the public not given this vital piece of information, vital for their understanding of the scheme, vital to enable informed comment?
82. I eventually found the figure for the cost on the CC2020 website buried on page 3 of the FAQs. I say “buried” advisedly. The FAQs were not signposted “from the top” but were halfway down a long subsidiary menu. No member of the public would have seen this figure. It was in point of fact £228 million; a colossal sum for such a short stretch of road, and a figure which certainly would have got members of the public thinking.

### **Example 2: No reasons given for the huge change in the cost of the scheme**

83. The cost of the scheme in November 2020, as given in the aforementioned buried FAQs for CC2020, was £228million. At the application stage, in June 2021, just half a year later, this figure had become £180.6million. This figure is given in the Funding Statement (*EiP library ref: APP-024*) on page 5, paragraph 2.1.1, with not a word of explanation as to how the figure could have changed in this way in just 6 or 7 months. By any reckoning, this is an astonishing drop in price.
84. I followed the EiP pretty closely, was fully engaged writing numerous submissions and answers to questions, etc. I had absolutely no idea that this new figure of £180.6million existed. It is not in Case for the Scheme, nor in the TAR. I only heard of it on the grapevine, inquired recently and was told it was in the Funding Statement. Why would I have looked there when I knew already that the cost was £228million?

### **Summary and observations on applicant’s conduct: examples 1 and 2**

85. **Vital information was withheld from the public at the consultation in November 2020, namely the cost of the scheme**
86. ii) **There was a drop in the stated cost of the scheme over 6 months of £47.4million, a drop of 20.8%. No explanation that I know of was given for this drop.** It is certainly not in the Funding Statement, where it obviously should have been.
87. iii) **The suppression of this key fact and of this explanation breaks Nolan Principles 1.4 Accountability and 1.5 Openness**, the first because scrutiny is avoided, and the second because information was withheld from the public without good cause. (*see Appendix 2 for the full wording*) And note too that in the case of the cost not being properly available at CC2020, **the Cabinet Office guidance on consultation, which is incorporated in the Applicant’s Licence, and which NH therefore has to follow, is not complied with:**  
  
*“C. Consultations should be informative. Give enough information to ensure that those consulted understand the issues and can give informed responses. Include validated impact assessments of the costs and benefits of the options being considered when possible; this might be required where proposals have an impact on business or the voluntary sector.”*  
(*see Appendix 1*) Cabinet Office guidance on consultation, 2018
88. iv) For you the relevance of all this is the question it raises of the applicant’s evident willingness to conceal information. **The implications are clear - you may not be told everything you need to know.**

89. This applicant is perfectly capable, despite the fact that they are a publicly owned, publicly set up and publicly accountable body, of concealing highly relevant information from a public inquiry. More evidence will follow.
90. v) And may I **formally draw to your attention** the obvious point that **the 20% drop in stated cost has an effect on the BCR and the VfM calculations.**
91. vi) **REC SoS Since it has this effect, it will be necessary for you to investigate closely what is going on here. It will be your duty to ask the questions: How could the cost of the project drop so dramatically? Have corners been cut? If so which, and what are the implications? If not then what does this tell us about the original estimate of the cost? How could it be so wrong? What happened here?**
92. vii) I am aware that points v) and vi) above are not *directly* related to the SoS's Consultation letter. However, in remembering this vivid refusal to inform, carried out twice over, and then double-checking in order to make the point, I have kicked the ants' nest! The points at sub paragraph vi) above are, sadly, very important indeed, and as I say, I think that it will be your duty to address them.

### **Example 3: TAR exclusion of traffic data regarding Glossopdale**

93. The TAR is a semi technical document giving background to the scheme, describing the effects of the scheme on transport and the effects of local transport provision actual and future, on the scheme, in the local area and beyond. As it is an assessment of these effects it should describe them accurately as well as all factors which might influence them.
94. The TAR (*library Ref: APP-185*) claims at para. 7.1.4:
- "The full list of changes in 2 way AADT on the local highway network is shown in Table 7.1 along with the percentage change in AADT from the DM option."*
95. This sounds fine, but it isn't true. It is not the full list. In fact **the model's predictions about the increase in traffic on diversionary and other routes running through the residential areas of Glossop are nowhere to be seen** and yet these figures were available to the applicant. The model's predictions about Tintwistle, which again are clearly sensitive and important information, are again nowhere to be seen in the TAR, even though there is a special table and map (paras. 7.1.5 and 7.1.6 refer) showing the flows predicted for the wider area.
96. So not only were traffic flows omitted which were damaging to the applicant's case for the scheme, in that they showed that traffic in local streets would increase as a result of the scheme, but **the TAR gave the reader to understand that all the relevant data had been included in the table, when it had not.**
97. There were further problems downstream from this revelation that these local streets would end up with more traffic and these are covered in the example 5 below.

#### **Example 4: Continued concealment of increased traffic on local distributor roads in the Glossop built-up area**

98. By about half way through the EIP, the IP's had moved the debate on from the exclusion at the EiP of the traffic facts about Glossop itself (*see example 3 above*) and also the effective vanishing of this as an issue at the consultation stage, to traffic increases throughout Glossop becoming a major issue at the EIP.
99. Note that it is true that some of the traffic data was "available" to participants at the EiP. It was, to use the word I used above with respect to the cost of the scheme, "buried" in Appendix 2.1 of the ES. It was mainly the efforts of the CPRE, who have a paid campaigner on transport and who employed a technical consultant, which brought all this to the fore in the examination and made the issue of this increased traffic on minor roads throughout Glossopdale into a Thing. They had the means to read very long background documents, and find the "buried treasure".
100. Subsequently many many words were spoken at ISH's and written in submissions and clarifications about the traffic on these local roads and in particular the effects on the junction between Shaw Lane and the A57 and then along Shaw Lane and Dinting Road.
101. None of this would have emerged without the persistence and hard work of IPs following on from revelations made to us all by CPRE. The applicant's version - the version which the applicant fed to the public at CC2020 - namely that the scheme would reduce local traffic, or would have little or no effect on it would simply have been swallowed by the ExA and hence by yourselves, a view which is plain and simple untrue. For a full account of this deception as it was carried out at CC2020, see my Deadline 1 submission. (*library ref REP1-045*)
102. As evidence that this became the "accepted" view "on the street" here is what Secretary of State Grant Shapps said in a video on our local MP's Facebook page dated November 5<sup>th</sup> 2020:
- "This project will lower congestion through Mottram, Stalybridge and High Peak – and it will help improve air quality too. "*
103. He, along with presumably the thousands of residents consulted about this scheme, believes the applicant's line about what happens to traffic as a result of this scheme, namely that it will reduce traffic throughout the area, a version which has been carefully fed to the public and is plain and simple untrue. (the workings of deception are as usual complicated, see my Deadline 1 submission for the details. (*library ref REP1-045*))
104. The SoS and the local MP, and many deceived local people believing something which is false does not make it true. But all this does raise the question: how could this this happen? And for you, you as servants of the public (I think technically servants of the crown) and working for the Secretary of State, there is a very real problem here: the need to disabuse the SoS of what he has come to believe, as it is false. (there has been a change in the SoS so maybe this problem is lessened!)

105. But your duty is clear - to tell the truth, even if that involves disabusing a SoS of a false narrative about traffic reducing on Glossop's local distributor roads, which her predecessor has been fed. I suppose you could find a different truth, but I think that that cannot be matched with the evidence which has emerged at the EiP enquiry, and which I trust has been correctly reported on by the ExA.

### **Example 5 refusal to produce evidence on the impact of the increased traffic in Glossop to the EIP**

106. It had become clear by about half way through the EiP that there was going to be more and in some cases far more traffic on Glossop's roads if the scheme were to go ahead. However the applicant then retreated to this position: that yes there would be negative impacts caused by the increase in traffic but these impacts would be insignificant - and therefore we i.e. stakeholders and the EIP and the ExA and by extension the Secretary of State need not worry about them.
107. When accused by me of failing to address these issues, not carrying out a proper assessment of these impacts, and not providing proper evidence to the EiP in order to be compliant with subsection 7 of section 104 of the Planning Act 2008 the applicant said that he had done the work. This is what they said:

*National Highways has undertaken a proper assessment of the impacts of the Scheme on pollution, severance, accidents intimidation and bus services. For several of these impacts there are no agreed criteria or thresholds for identifying significant effects and the consequently, the determination of significance is based on professional judgement*

From NH's Deadline 7 submission, entitled "9.70 Comments on Deadline 6 Responses  
REP7-026

108. What would you have done? Yep that's right. I asked on the record for those studies, for that work, to be provided to the enquiry. It never was. The applicant had either not done the work or did not wish to show it to the EiP, presumably as it would then be subject to scrutiny. Or maybe there is another alternative which I have not thought of.

### **Summary and observations on examples 3 4 and 5**

109. i) **The applicant made information about increased traffic on local distributor roads in Glossop hard to find for participants at the EIP, omitting the facts from the TAR, and from the Case for the Scheme also, where you would expect to find them.**
110. ii) **the applicant appeared to take steps to ensure that those reading the TAR would not be aware that this information existed and was missing.** Other more generous interpretations are available, of using the phrase "The full list of changes . . . ", when the list was incomplete and did not include data which was problematic for the applicant, but there is plenty of corroborative evidence to suggest that what I suggest may have happened did indeed happen, that the misleading was deliberate. The principal corroboration is in the very next paragraph, paragraph iii).



111.       iii) in addition, **the applicant concealed this information from the public at CC2020, thus invalidating the public consultation.** The public could not give an informed opinion on any matter as they had not been informed that traffic on local distributor roads would increase across the local network.
112.       iv) **the EIP was hindered and delayed by this obstructive behaviour,** an important matter in the squeezed timeframe which now exists.
113.       v) the deception was so successful that many more of the public made very brief submissions to the enquiry at relevant representation stage in favour of the scheme, than those who objected. However it is plain that's the applicant misled the public and so this imbalance can be set aside as useful evidence.
114.       vi) **the deceived public in paragraph v) includes the local MP's and the former Secretary of State, as I have shown**
115.       vii) as you know, the SoS has a duty under the Planning Act section 104 to weigh in the balance the harmful impacts of the scheme against the benefits and this requirement is repeated in NPS-NN paragraph 1.2 (still applicable even if under review). The harmful impacts were concealed by the applicant. That does not mean they do not exist. **It is your duty to assess these impacts accurately** and according to the applicant's statement made to the EiP a "proper assessment" has been "undertaken" - the work has been done.
116.       viii) **REC SoS May I firmly put it to you that therefore your duty includes obtaining this work carried out by the applicant? How else can you properly assess these impacts?**
117.       ix) The applicant claims that the impacts would be insignificant, while several IPs, based on the predicted increases in traffic flows, say that the impact would be very great and would do serious damage to the urban environment and the people of Glossop in every way. In this respect, the scheme appears to go against all government policy on improving quality of life including health outcomes in urban areas, particularly so in the disadvantaged areas of the North, as stated both in the Decarbonising Transport Plan and the Levelling Up white paper.
118.       x) It is worth repeating here, as it is so relevant to the essential point of how you are to "read" the comments of the Applicant on the SoS's Consultation Letter, that the behaviour of the applicant is completely unacceptable, and is in direct breach both of the licence agreement which governs the way they should operate, (*see Appendix 1*) and of the Nolan Principles. (*see Appendix 2*)

### **Example 6: refusal to issue the technical documents by BBA (and others) to the EiP in a timely fashion**

119.       A shocking saga, delaying the EiP, damaging its good running, hobbling the efforts of CPRE, making far more difficult the (statutory) task of the relevant local authorities and the national park in their preparation of their LIR's, not to mention making the assessment of harms and benefits and VfM of the proposal more difficult for the ExA if not impossible.

120. “The BBA (Balfour Beatty Atkins ) docs were sent to CPRE on Friday 12<sup>th</sup> November 2021 at 17.38 thus leaving one working day before the Preliminary meeting to work on them. We established that NH was not going to submit them themselves at a meeting in December 2021 and so submitted them to the Examination’s next available deadline D2 Jan 14<sup>th</sup> 2022” (*private email from CPRE*)
121. The process of asking for this standard suite of technical documents began in March 2021. Given the importance of NH’s behaviour in concealing them and the implications of this behaviour for you as you appraise what they are telling you in response to the SoS’s letter of consultation, I have reproduced at Appendix 3 an account of this whole sorry saga, being an open letter to the EiP submitted at the last deadline, deadline 12.
122. When you read that letter I hope you can understand why I am taking the trouble to write this Postscript to you, with its warning . I trust that you can see where my motivation springs from. You can almost not believe some of what you are reading.
123. Hopefully again this has been covered in the ExA ‘s report. And once again the applicant’s behaviour is in total breach of the Applicant’s licence and the Nolan principles.

# APPENDIX 1

## EXTRACTS FROM HE/NH LICENCE, APRIL 2015

### EXPLANATORY NOTES

*Italics – DW comments and clarifications*

**Bold = emphasis in the original – must in bold means that it is statutory direction**

Yellow highlight means that it is particularly applicable to HE/NH

Green highlight means top-level elements

### EXTRACT 1 – THE LICENCE ITSELF

“2.1

This document includes both statutory directions and statutory guidance issued by the Secretary of State to the Licence holder, as provided for in section 6 of the Infrastructure Act 2015. **Directions must be complied with by the Licence holder.** In the interests of clarity, in this document the statutory directions are indicated by use of the word “must” (where marked in bold). All other parts of the document should be considered statutory guidance.

AND . . .

3.1

**The Licence holder must**, without prejudice to the Licence holder’s legal duties or other obligations, **comply with or have due regard to (as appropriate) the conditions set out in this document, which constitute statutory directions and guidance issued by the Secretary of State to the Licence holder** as provided for in section 6 of the Infrastructure Act 2015 (*emphasis in the original*)

8.1 (*in section on Enforcement*) **The Licence holder must act within the conditions of this Licence at all times.** (*emphasis in the original*)

### EXTRACT 2 – CONSULTATION

2.2 In this licence ..... **"Consultation" means consultation or engagement proportionate to the circumstances in accordance with government guidance on consultation principles (footnote1)**

footnote1 <https://www.gov.uk/government/publications/consultation-principles-guidance>

issued by the [Cabinet Office](#) ; Published: 17 July 2012; Last updated: 19 March 2018

I copy the key extract of relevance from this guidance below:

“C. Consultations should be informative Give enough information to ensure that those consulted understand the issues and can give informed responses. Include validated impact assessments of the costs and benefits of the options being considered when possible; this might be required where proposals have an impact on business or the voluntary sector.”

Full doc is in /consultation/ in HE behaviour or /process/ in EiP CASE

## EXTRACT 3 – COOPERATION

5.17 In complying with 4.2(f) and its general duty to cooperate under section 5(1) of the Infrastructure Act 2015, the Licence holder should co-operate with other persons or organisations in order to:

- a. Facilitate the movement of traffic and manage its impacts;
- b. Respond to and manage planned and unplanned disruption to the network;
- c. Take account of local needs, priorities and plans in planning for the operation, maintenance and long-term development of the network (including in the preparation of route strategies, as required at 5.13);
- d. Provide reasonable support to local authorities in their planning and the management of their own networks.

5.18 In complying with 5.17, the Licence holder should cooperate with, consult and take reasonable account of the views of:

- a. Local authorities and devolved administrations;
- b. Other transport network operators (including local highway authorities, Network Rail, port and airport operators);
- c. Operational partners (including, but not limited to, the emergency services);
- d. Road users;
- e. Local communities;
- f. Other relevant stakeholders with a significant stake in the long-term development of the network.

5.19 In complying with 5.17 and 5.18, the Licence holder should co-operate with other persons or organisations in a way which is demonstrably:

- a. Open and transparent – involving relevant stakeholders, ensuring that essential information is available to affected and interested parties, and that the processes for engagement and communication are clear;

b. Positive and responsive – seek to build trusting and effective working relationships with key partners and stakeholders, engaging with due efficiency and economy and in a timely manner;

c. Collaborative – working with others to align national and local plans and investments, balance national and local needs and support better end-to-end journeys for road users.

Contd / .....

# APPENDIX 2

## THE NOLAN PRINCIPLES - TEXT <sup>2</sup>

As at December 2021

### **1.1 Selflessness**

Holders of public office should act solely in terms of the public interest.

### **1.2 Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

### **1.3 Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **1.4 Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **1.5 Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **1.6 Honesty**

Holders of public office should be truthful.

### **1.7 Leadership**

Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs. <sup>3</sup>

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<sup>2</sup> <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2>

<sup>3</sup> DW Note: Principle 1.7 was recently revised by the Committee on Standards in Public Life – the body which is the guardian and promoter of the Principles. This is the updated version (November 2021).

## APPLICABILITY OF THE PRINCIPLES

The Seven Principles of Public Life (also known as the Nolan Principles) apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also apply to all those in other sectors delivering public services <sup>4</sup>

Contd / .....

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<sup>4</sup> <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2>

## APPENDIX 3

### TEXT OF IP OPEN LETTER TO THE EIP, AT DEADLINE 12

Open letter to the Examination

From Keith Buchan CTPP, transport adviser to CPRE (*EiP Library ref: REP12-038*)

Dear Panel

I write in this instance as a Chartered transport planner and an individual objector – I objected in the first instance because of the behaviour of NH (then HA) prior to the Examination opening. This is the subject of a formal complaint to NH which is so far unresolved and will be pursued in the additional context of their behaviour once the Examination opened. In my short submission in September 2021 I drew attention to key issues where information from NH was lacking, despite previous requests. These included the failure to use the Uncertainty Log properly, the negative impact of the scheme on TfGM, and the failure to address Government priorities particularly on carbon. It is a sad commentary on NH's behaviour that these are still key issues. Some data has been extracted with great difficulty but some basic requests are still unanswered at this late stage in the DCO. These have only confirmed our view that this scheme has major flaws in its appraisal likely to exaggerate its benefits and underestimate its disbenefits.

My requests to the Examining Panel are relatively simple and twofold. The first that action is taken to ensure that the NH pattern of behaviour, in particular the obstacles placed in the way of technical dialogue and the failure to supply basic information, does not go without consequence. To do so would set a dangerous precedent.

To be clear, this includes avoiding technical examination through repetition of irrelevant material, late supply of relevant material and in some cases no supply at all. To say that some of the statements made at the ISH lacked clarity would be an understatement. How was the rail/road modelling done? The information is not in front of the Examination and was the subject of an email from myself requesting the facts of the case on 6th April. A meeting was requested at the same time. Neither request has been responded to.

Failure to follow guidance, for example on uncertainty (TAG Unit M4 and the Uncertainty Toolkit) and on reviewing the Strategic Outline Case when the Outline Business Case is being prepared, has been subject to excuses about the timing of new guidance and that this scheme somehow escapes its relevance. However, the guidance in the examples above was in place before the submission of NH documents to the Examination. Is the NH argument that this scheme can bypass the new guidance (and new policies on carbon) because it was prepared before it came into effect? This is completely unacceptable and wrong.

In my professional career I have acted for various parties at Public Inquiries. Public examination, and the emphasis on establishing facts through written submission, has largely replaced that adversarial system for this type of scheme. Like many I have welcomed that approach. However it depends on the transparency and good behaviour of the Applicant. If there had been an old style



Public Inquiry, some of these matters would have been flushed out very quickly, there would have been little room in that context for the tactics of obfuscation and non-engagement in the face of strong evidence.

For these reasons I would like the Panel to discuss with the Inspectorate preparing detailed guidance for Applicants, including NH, on the need to engage on technical matters and, importantly, to set out consequences for not doing so.

The second request is related to the first.

In the face of NH's tactics it is virtually impossible for CPRE to prepare a Statement of Common Ground (SoCG) with NH as we always intended. This is largely because there are unresolved matters of fact, some of which are the subject of the latest questions from the Panel. Have NH ruled out any use of some elements of the DfT Uncertainty Toolkit? If so, precisely why? Why did they not review the Strategic Case in light of new legislation, policy and programmes to reduce carbon? Why did they not review the Outline Business Case against the "Golden Thread" of the Strategic Case as DfT and Treasury guidance sets out?

As far as my advice to CPRE is concerned, it is that sufficient information has been extracted from NH to show the damage that will be done to the policies to achieve modal shift by this particular scheme. This is not a general argument against all enlargement of the SRN, it is the specific circumstances of this scheme, and its close relationship with Greater Manchester, and impact on the National Park which lead to that conclusion.

I also consider that the failure to review the Strategic Case is the means by which NH have avoided considering an alternative package which would achieve much of the benefits at Mottram, additional benefits in Hollingsworth and Tintwistle not offered by this scheme, less environmental damage and safety disbenefits, and significant benefits for those not using cars. The idea that only variations on the form of the road scheme need be considered is not what is in the guidance.

This is an area where I had expected engagement from Greater Manchester who have been sent information by CPRE with a request for further communication. However, they have not been actively involved in the Examination and this is surprising. The very late Draft TfGM SoCG with NH is the subject of a separate submission by CPRE. In retrospect, a more formal approach might have been better, with CPRE also seeking an SoCG with TfGM.

However, given my previous comments on the behaviour of NH, and the fact that crucial evidence is still not before the Examination, I would ask the Panel to come to a verdict of case not proven.

There is a lot of written evidence but much of it from the Applicant is repetitive, with much of it still lacking crucial detail, and there are outstanding issues to pursue with TfGM who still appear to be unaware of some of the new data and analysis available. There are also outstanding issues on the NH line of argument that "this didn't apply at the time so "we can ignore it" which surely need to be resolved. It must be wrong to allow £180million of public money to be spent while the proposer tries to avoid scrutiny on a technicality. Their argument is not even correct, much of the guidance is in force and some of it has been so for some time. The carbon emission arguments are still going on without possibility of us preparing an SoCG at this late stage. The lateness has been caused entirely by NH's approach, CPRE for example tried to start a dialogue in March 2021, well over a year ago.

When contact was finally established, technical meetings direct with those undertaking the modelling and forecasting was not permitted by NH, only arranged by them and with them leading. This was not dialogue.

There would be merit in refusing permission on these grounds since the Applicant may well resubmit an application, this time being careful to engage properly with those concerned. They may also reflect on the impact on sustainable travel and have specific proposals to compensate (they do not at present). The initial questions from the Panel would be able to raise these issues early and hopefully allow a full written exchange and SoCGs where needed. The decision would then have greater public confidence and the conduct of the Applicant might be seen to be more in line with the highest professional standards.

# **TR010034 – A57 Link Roads**

**SoS Consultation Letter, dated 2<sup>nd</sup> September 2022**

**Comments on Applicant's response**

Daniel Wimberley, Friday, 14 October 2022

**Unique Reference at the EiP: 20029775**

## ***ABBREVIATIONS***

Abbreviations which may be used in this document are as follows:

BCR	Benefit Cost Ratio
CC2020	Community Consultation for the A57 Link Roads scheme run by H.E. from 5 November to 17 December 2020
CCA	Climate Change Act 2008
CCC	Climate Change Committee
CftS	Case for the Scheme Library ref: APP-182
DCC	Derbyshire County Council
DCO	Development Consent Order
EiP	Examination in Public
ES	Environmental Statement
ExA	Examining Authority
HPBC	High Peak Borough Council
HE/NH	Highways England / National Highways
HEHT	Highways England Hiding Things
IP	Interested Party
ISH	Issue Specific Hearings
LIR	Local Impact Report
NPS-NN	National Policy Statement - National Networks
PINS	Planning Inspectorat
<b>REC SoS</b>	<b>Recommendation to the SoS and her team</b>
SOCC	Statement of Community Consultation
SoS	Secretary of State
SRN	Strategic Road Network

TAR	Transport Assessment Report
VfM	Value for Money

## PREFACE

### Notes on the conduct of the applicant for this development

It is unfortunate that I feel I have to preface the comments which I will make on the applicant's response to the consultation letter issued by the Secretary of State on September the 2nd with a word of warning.

It is unfortunate, but necessary. The whole process of consultation, application, EiP, ExA Report, and now this the final stage of evaluation by the Secretary of State and those working directly on her behalf, has the purpose of arriving at a sound decision which is in the best interests of the country, the local region, the local sub-region, and finally the local area of Glossopdale itself.

I personally know that I have acted in the spirit of trying to establish the truth of any matter, and of trying to help the decision-maker arrive at a correct view of the issues involved and of all the facts.

I have put forward my positions as forcefully as I can, and citing whatever evidence there is to justify my position, but always being honest and open about the caveats there may be around that evidence all those positions. That at least is what I hope to have done. I expect that of myself and of others.

The word of warning is: be very careful when you evaluate what the applicant may say or write. On the evidence of past behaviour, this may not be reliable and it may not be complete. This has been a theme running through the EIP, alluded to by many IPs and culminating in a joint open letter from leading IP's to the ExA, sent at deadline zzz. This letter complained about the applicant behaviour with many specific examples.

To make this issue clear to you now, I will simply give you here a few of the examples which have made the biggest impact of shock, incredulity, and distaste on me and so are the examples which now come to my mind. I shall give 6 examples.

#### **Example 1: The suppression of the cost of the scheme at consultation stage (November 2020)**

The simplest and most obvious example of the harmful behaviour of the Applicant which I am bringing to your attention relates to the cost of the scheme. This is vital information for the public at consultation stage. It gives all stakeholders, from statutory consultees and NGO's to members of the general public, a feel for the scale of the proposed scheme.

In doing so, it automatically raises in (some) people's minds the question: What else could one use this amount of money on? What other solutions or package of measures could one buy for that sort of sum? So it raises, in a direct and dramatic fashion, the whole question of value for money.

And so it should. This is of course a fundamental question, and one which is obviously important in any public consultation. And yet at CC2020 this figure was nowhere to be seen on the consultation website. It was not in the key document prepared for the public, namely the consultation brochure.

Why not? Why was the public not given this vital piece of information, vital for their understanding of the scheme, vital to enable informed comment? Incidentally, failing to promote the public's understanding of the scheme and failing to enable informed comment contradict both the Statement of Community Consultation (SOCC) and the cabinet offices latest guidance on Consultation.

In addition, by withholding this information the applicant broke the terms of the licence governing their actions and broke the Nolan principles.

In fact, I eventually found the figure for the cost on the CC2020 website buried on page 3 of the FAQs. I say "buried" advisedly. The FAQs were not signposted "from the top" but were halfway down a long subsidiary menu. No member of the public would have seen this figure- which was £228 million an astonishing sum for this short stretch of road, and indicative of the many problems which have to be overcome in its construction.

### **Example 2: No reasons given for the huge change in the cost of the scheme**

The cost of the scheme in November 2020, as given in the aforementioned buried FAQs for CC2020, was £228million. At the application stage, in June 2021, just half a year later, this figure had become 180.6 million pounds. This figure is given in the Funding Statement (EiP library ref: APP-024) on page 5, paragraph 2.1.1, with not a word of explanation as to how the figure could have changed in this way in just 6 or 7 months. By any reckoning, this is an astonishing drop in price.

### **Summary and observations on applicants contact examples 1 and 2**

- i) Vital information was withheld from the public at the consultation in November 2020, namely the cost of the scheme
- ii) There was a drop in the stated cost of the scheme over 6 months of £47.4million, a drop of 20.8%. No explanation that I know was given for this drop. It is certainly not in the Funding Statement, where it obviously should have been.
- iii) For you that is the question of the applicant's evident willingness to conceal information and thereby break their licence and the Nolan principles. The implications are clear - you may not be told everything you need to know.

This applicant is perfectly capable, despite the fact that they are a publicly owned, publicly set up and publicly accountable body, but of concealing highly relevant information from a public inquiry.

- iv) May I formally draw to your attention the obvious point that this drop has an effect on the BCR and the VfM calculations.

**v) REC SoS Since it has this effect, it will be necessary for you to investigate closely what is going on here. It will be your duty to ask the questions: How could the cost of the project drop so dramatically? Have corners been cut? If so which, and what are the implications? If not**

**then what does this tell us about the original estimate of the cost? How could it be so wrong? What happened here?**

vi) The point I am making is that if such questions remain about one case of not being open with information and indeed of concealing information then similar questions should be in the back of your mind about the reliability and completeness of what the applicant is saying in his response to the SoS consultation letter. In pursuing this argument I have put to you the points in iv) and v) above, which are valid and which you have to address.

### **Example 3: TAR exclusion of traffic data regarding Glossopdale**

The TAR is a semi technical document keeping background to the scheme describing the effects of the scheme on transport and the effects of local transport provision actual and future, on the scheme, in the local area and beyond. As it is an assessment of these effects it should describe them accurately as well as all factors which might influence them.

The TAR (library Ref: APP-185) claims at para. 7.1.4:

“The full list of changes in 2 way AADT on the local highway network is shown in Table 7.1 along with the percentage change in AADT from the DM option.”

This sounds fine, but it isn't true. It is not the full list. In fact the model's predictions about the diversionary routes in the residential areas of Glossop are nowhere to be seen and yet these figures were available, and indeed the TAR describes additional work carried out in Glossop to improve the model. The model's predictions about Tintwistle, which again are clearly sensitive and important information, are again nowhere to be seen, even though there is a special table and map (paras. 7.1.5 and 7.1.6 refer) showing the flows predicted for the wider area.

So not only were traffic flows omitted which were damaging to the applicant's case for the scheme, in that they showed that traffic in local streets would increase as a result of the scheme, but the TAR gave the reader to understand that all the relevant data had been included in the table, when it had not.

There were further problems downstream from this revelation that these local streets would end up with more traffic and these are covered in the examples below.

### **Example 4: Concealment of increased traffic on local distributor roads in the Glossop built-up area**

By about half way through the EIP, we the IP's had moved the debate on from the concealment of the facts (*see example iii) above*) at the EiP and also the effective vanishing of this as an issue at the consultation stage to traffic increases throughout Glossop becoming a major issue at the EIP.

Note that it is true that some of the traffic data was available. It was to use the word I used above with respect to the cost of the scheme, “buried” in Appendix 2.1 of the ES. It was mainly the efforts of the CPRE, who have a paid campaigner on transport and who employed a technical consultant, which brought all this to the fore in the examination and made the issue of this increased traffic on minor roads throughout Glossop Dale into a Thing.

Subsequently many many words were spoken at ISH's and written in submissions and clarifications about the traffic on these roads and in particular the junction between Shaw Lane and the A57.

None of this would have emerged without the persistence and hard work of IPs following on from revelations made to us all by CPRE. The applicant's version - which the applicant fed to the public at CC2020 - namely that the scheme would reduce local traffic, or would have little or no effect on it would simply have been swallowed by the ExA and hence by yourselves, a view which is plain and simple untrue. *Zz for my very first document re consultation as a source*

As evidence that this became the "accepted" view here is what Secretary of State Grant Shapps said in a video on our local MP's Facebook page:

*"This project will lower congestion through Mottram, Stalybridge and High Peak - and it will help improve air quality too. "*

He believes the applicants line about what happens to traffic as a result of this scheme, a version which is plain and simple untrue. But the SoS and the local MP believing it does not make what is untrue true.

But it does raise the question: how does this happen? And for you, you as servants of the public (I think technically servants of the crown) and working for the Secretary of State, there is a very real problem here: the need to disabuse the SoS of what he has come to believe, as it is false. (there has been a change in the SoS so maybe this problem is lessened!)

But your duty is clear - to tell the truth, even if that involves disabusing a SoS of a false narrative which her predecessor has been fed. I suppose you could find a different truth, but I think that that cannot be matched with the evidence which has emerged at the EiP enquiry, and which I trust has been correctly reported on by the ExA.

### **Example 5 refusal to produce evidence on the impact of the increased traffic in Glossop to the EIP**

It had become clear by about half way though the EiP that there was going to be more and in some cases far more traffic on Glossops roads if the scheme were to go ahead. However the applicant then retreated to this position: that yes there would be negative impacts caused by the increase in traffic but these impacts would be "insignificant" - and therefore we i.e. stakeholders and the EIP and the ExA and by extension the Secretary of State need not worry about them .

When challenged by me (and perhaps by others) as to how they could say this the applicant said that he had done work that demonstrated that this was so. *Zzz A ref would be good!!*

What would you have done?

Yep that's right. I asked on the record for those studies, for that work, to be provided to the enquiry. It never was. The applicant had either not done the work or did not wish to show the EiP as then it would be subject to scrutiny. Or maybe there is another alternative which I have not thought of.

### **Summary and observations on examples 3 4 and 5**

i) The applicant made information about increased traffic on local distributor roads in Glossop hard to find for participants at the EIP, omitting the facts from the TAR, and iirc from the case for the Scheme also, where you would expect to find them.

ii) the applicant appeared to take steps to ensure that those reading the TA are would not be aware that this information existed and was missing. Other more generous interpretations are available, but there is plenty of corroborative evidence to suggest that what I suggest may have happened did indeed happen, that the misleading was deliberate. The principal corroboration is in the very next paragraph, paragraph iii).

iii) In addition, the applicant concealed this information, namely that traffic on local distributor roads would frequently increase, from the public at CC2020, thus invalidating the public consultation. The public could not give an informed opinion on any matter as they had not been informed of these very important effects of the scheme.

iv) the EIP was delayed by this obstructive behaviour, an important matter in the squeezed timeframe which now exists.

v) the deception was so successful that many more of the public made very brief submissions to the enquiry at relevant representation stage in favour of the scheme, than those who objected. However it is plain that's the applicant misled the public and so this imbalance can be set aside as useful evidence.

vi) the public in paragraph v) includes the local MP's and the former Secretary of State, as I have shown

vii) As you know, the SoS has a duty under the Planning Act section 104 to weigh in the balance the harmful impacts of the scheme against the benefits and this requirement is repeated in NPS-NN paragraph 1.2 (still applicable even if under review).

The harmful impacts were concealed by the applicant. That does not mean they do not exist. It is your duty to assess them accurately. This may be very difficult as the applicant refused to justify his assertions that the impacts would be "insignificant" by publishing the work he has done on this.

**REC SoS May I suggest that your duty includes obtaining this work carried out by the applicant?** How else can you possibly assess the applicants claim that the impacts would be insignificant in the face of the view expressed by several IPs that impact would be very great and would do serious damage to the urban environment and people of Glossop in every way. In this respect, the scheme appears to go against, in fact does go against all government policy on improving quality of life including health outcomes in urban areas, as stated both in the Decarbonising Transport Plan and the Levelling Up white paper.

viii) It is worth repeating here, as it is so relevant to the essential point of how you are to "read" the comments of the Applicant on the SoS's Consultation Letter, that the behaviour of the applicant is completely unacceptable, and is in direct breach both of the licence agreement which governs the way they should operate, and of the Nolan Principles.

**Example 6: refusal to issue the technical documents by BBA (and others) to the EiP in a timely fashion**



A shocking saga, delaying the EiP, damaging its good running, hobbling the efforts of CPRE, and making far more difficult the (statutory) task of the relevant local authorities and the national park in their preparation of their LIR's.

Hopefully again this has been covered fully in the ExA 's report. And once again in breach of the Applicant's licence and the Nolan principles.

## THE BAT PARAGRAPHS

Bat surveys are ongoing with an anticipated completion date of October 2022. Once the Applicant has the reporting for these surveys, the licence application will be finalised. The draft version of this licence application has not been submitted to Natural England's Wildlife Team for comment due to the incomplete survey data.

4.1.7 The Applicant can confirm it has shared this update with Natural England and anticipates that Natural England's Wildlife Team will submit a separate response confirming the actions that Natural England has agreed to take with a view to issuing the requisite LONI.

### *My comment*

*The Applicant has failed to do this survey on time. It is not a matter of replacing the submitted 2021 data with 2022 data as in the case of the badger surevys, but of having apparently not completed the survey at all.*

*So the 2022 data, its submission to Natural England, and their issuing or otherwise of the LONI is all after the ExA and therefore immune to scrutiny by third parties.*

*This is not how it should work. ALL aspects of this application for a DCO, whether it is "just" about bats, or "just" about the sudden apparent drop in costs from 228million to 180 million, or even more important matters MUST be iopen to review by the public, otherwise what is the point?*

*Do we live in a democracy, where citizens are partners in their own fate, can influence what happens to them, or do we live in something else?*

*There is another point.*

*NH/HE by behaving in this way, impose time pressure on the SoS and the team at the department. I would point out that exactly the same happened wrt the LIR's. These are part of the statutory framework for ExA's. the SoS and therefore the Planning Inspectors MUST have regard to these. But the Local Authorities and other statutory consultees such as the National Park, who are also charged with preparing LIR's , only had access to the standard set of technical documents in November 2021!!*

*The LIR's had to be with the Inspectors by January 14<sup>th</sup>. Again, I make the point that NH/HE have behaved in an unacceptable way, by effectively obstructing other parties in the consideration of this scheme.*

*This is in direct breach of their licence conditions.*

*Bit on the CAZ – the main thing I wished to comment on, not got to in time.*

*SORRY!*

*I can do it for tomorrow . . .*