

A47 Wansford to Sutton Dualling

Scheme Number: TR010039

Volume 9

9.40 Applicant's Comments on Responses to the Examining Authority's Third Written Questions (ExQ3)

Infrastructure Planning (Examination Procedure) Rules 2010
Rule 8(1)(c)

Planning Act 2008

June 2022

Deadline 9

Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning
(Examination Procedure) Rules 2010**

**A47 Wansford to Sutton
Development Consent Order 202[x]**

**9.40 APPLICANT'S COMMENTS ON RESPONSES TO
THE EXAMINING AUTHORITY'S THIRD WRITTEN
QUESTIONS (ExQ3)**

Rule Number	Rule 8(1)(c)
Planning Inspectorate Scheme Reference	TR010039
Application Document Reference	TR010039/EXAM/9.40
BIM Document Reference	PCF STAGE 4
Author	A47 Wansford to Sutton Project Team, National Highways

Version	Date	Status of Version
Rev 0	June 2022	Deadline 9

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1 INTRODUCTION

- 1.1.1 The Development Consent Order (DCO) application for the A47 Wansford to Sutton Scheme was submitted on 05 July 2021 and accepted for examination on 02 August 2021.
- 1.1.2 The purpose of this document is to set out National Highways' (the Applicant) comments on responses to the Examining Authority's Third Written Questions (ExQ3).

2 HISTORIC ENGLAND (REP8-037)

ExQ2	Question:	Response	Applicant's Comment
3.4.1	<p>Scheduled monument north of A47 (List entry 1006796)</p> <p>In the Minutes of the Meeting held on 15 June 2007 set out in Appendix O of the Scheme Assessment Report 2018 - Appendices Preferred Route Decision in relation to Option 3 [AS-031] in paragraph 7.0 it is stated that Option3 was rejected because "we [the now Applicant] cannot demonstrate a wholly exceptional case for progressing with Option3". Option 3 being a route through the Scheduled Monument.</p> <p>NPSNN paragraph 5.131 indicates that the "wholly exceptional" test applies when there would be "substantial harm", (this test does not apply to less than substantial harm) and it must therefore be assumed that this must have been the judgement in question.</p> <p>Reference IDISa-018-20190723 of the PPG gives guidance on substantial harm and less than substantial harm.</p> <p>(a) Could the Applicant please set out precisely why it considered that Option 3 would lead to "substantial harm". The minutes only state that this decision was based on the "risk that Historic England will object", and the comment at 3.1 of the Applicant's response to Written Representations [REP3-026] of "Bifurcation of the Scheduled</p>	<p>We are aware that Option 3 has not been progressed to a full scheme proposal. Our understanding is therefore based upon the schematic drawing provided in the document referenced (Scheme Assessment Report 2018- Appendices Preferred Route Decision in relation to Option 3) [Examination Reference AS-031). This scenario shows the proposed carriageway passing through the southern part of the scheduled monument and would result in the loss of this part of the monument and reduction in its overall size and area.</p> <p>This would result in the loss of important elements and features that contribute to the overall significance of the asset. In particular, construction of a new double carriageway in this location would result in the total loss of a number of the key burial features that make up the late Neolithic and early bronze age burial cemetery.</p> <p>These features, particularly the barrows and ring ditches are an important part of its designation. They have high archaeological and historic interest and therefore removal of these features would severely compromise the integrity of the cemetery as a whole and diminish the heritage values of the remaining part of the monument.</p> <p>In our view the loss of key features the reduction of the overall designated area, the loss of integrity</p>	<p>The Applicant agrees with Historic England's response has no further comments to make.</p>

ExQ2	Question:	Response	Applicant's Comment
	<p>Monument would result in substantial harm in either eventuality" is assertion as it does not explain why it considers substantial harm would be occasioned. The ExA would particularly appreciate documents dating contemporaneously (2017) with this decision.</p> <p>(b) Could HMBCE please provide its assessment in relation to route Option 3 (ie through the Scheduled Monument) in terms of whether this would result in substantial harm, less than substantial harm (quantifying if necessary), or preserve, providing justification for its conclusion?</p>	<p>and the resulting loss of significance is likely to equate to substantial harm.</p>	

3 ENVIRONMENT AGENCY (REP8-038)

ExQ2	Question:	Response	Applicant's Comment
3.1.2	Carbon emissions To ask the Applicant and Interested Parties to make any representations in respect of the Proposed Development that they consider appropriate and necessary in the light of the Secretary of State's conclusions in relation to carbon emissions as set out in the Decision Letters in respect of the M54/M6 Link Project, the M25 Junction 10/ A3 Wisley Interchange Project and the M25 Junction 28 Improvement Project.	The EA has no view on this currently.	No response required
3.6.5	Time limits for deemed consent In the SoS's decision on the M25 Junction 28 Improvement Project he has extended both the period under which, in the absence of a response, a deemed consent is granted, and the period of consultation pursuant to Requirements. In this dDCO this relates to what would be Articles 16(6) (Temporary alteration, diversion prohibition and restriction of use of streets), 20(11) (Traffic Regulation) and 21(8) (Discharge of water) and Schedule 2, Regulation 18 (Details of Consultation). Could the Applicant, PCC, the EA and Parish Councils please give their responses to the SoS's decision.	Response to article 21(8) (Discharge of water) – This ties in with 21(6) which states 'Nothing in this article overrides the requirement for an environmental permit under regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(b)'. In order to discharge surface water to a watercourse via a headwall, a Flood Risk Activity Permit will therefore be required from the EA. The EA will have 2 months in which to determine a Flood Risk Activity Permit.	The Applicant acknowledges the EA's response and has no further comments to make.

ExQ2	Question:	Response	Applicant's Comment
3.6.6	Potential Requirement regarding Flood Risk Could the Applicant and EA provide their latest positions in respect of the need for an additional requirement relating to flood risk?	As it stands, the EA are not able to answer the question because they are not certain as to what it relates to. To allow the EA to be able to provide you with its latest position in respect of the need for an additional requirement relating to flood risk, please provide clarification as to what information you require.	The Applicant acknowledges the EA's response and would provide any additional information should clarification be provided by the ExA.
3.12.1	Peak rainfall allowances Could the Applicant, EA and PCC please respond to the publication by the EA of updated guidance on peak rainfall allowances in 'Flood risk assessments: climate change allowances' which was published on 10 May 2022 in respect of any implications this may have for the consideration of the Proposed Development.	As the application was validated prior to the updated peak rainfall allowances, the EA would not request that the applicant update the Flood Risk Assessment. With regards to the peak rainfall allowances, this relates mainly to surface water and as such, the Lead Local Flood Authority should advise if this should be updated in line with their guidance.	The Applicant acknowledges the EA's response and has no further comments to make.
3.12.2	Flood Compensation Could the EA please confirm it is content with the volume of 550m3 for compensation works for loss of flood storage as set out in response to Action Point (AP) 12 in the Applicant's Comments on Deadline 4 Submissions [REP5-020]?	The EA can confirm that the Floodplain compensation is acceptable at this stage as was set out and agreed during Stage 3 and included within the Flood Risk Assessment (REP3-014). This volume is based on the available information at the time and will be refined during the detailed design stage, which will use detailed topographical information. As such, the volume of storage required could change as the compensation required will need to be provided on a 'level for level, volume for volume' basis and detailed topographical information is required to provide the exact figures.	The Applicant acknowledges the EA's response and has no further comments to make.

4 PETERBOROUGH CITY COUNCIL (REP8-039)

ExQ2	Question:	Response	Applicant's Comment
3.1.2	Carbon emissions To ask the Applicant and Interested Parties to make any representations in respect of the Proposed Development that they consider appropriate and necessary in the light of the Secretary of State's conclusions in relation to carbon emissions as set out in the Decision Letters in respect of the M54/M6 Link Project, the M25 Junction 10/ A3 Wisley Interchange Project and the M25 Junction 28 Improvement Project.	No further comments to add.	The Applicant has no further response to make.
3.4.2	Thornhaugh Conservation Area Appraisal The version of the Thornhaugh Conservation Area Appraisal – Report and Management Plan provided [REP2-065] is dated October 2018 and is marked "Draft for Consultation". Could PCC confirm whether this has been taken through to adoption and, if so, provide the adopted version and the date of such adoption?	The Thornhaugh Conservation Area Appraisal – Report and Management Plan was adopted in November 2019. Adopted version is attached.	The Applicant has no further response to make.
3.6.5	Time limits for deemed consent In the SoS's decision on the M25 Junction 28 Improvement Project he has extended both the period under which, in the absence of a response, a deemed consent is granted, and the period of consultation pursuant to Requirements. In this dDCO this relates to what would be Articles 16(6) (Temporary alteration, diversion prohibition and restriction of use of streets), 20(11) (Traffic Regulation) and 21(8) (Discharge of water) and Schedule 2, Regulation 18 (Details of Consultation). Could the Applicant, PCC, the EA	PCC agrees with the extended time period.	The Applicant has no further comments to add following on from its response at Deadline 8 in the Applicant's Response to the ExA's Third Written Questions (ExQ3) (REP8-027).

ExQ2	Question:	Response	Applicant's Comment
	and Parish Councils please give their responses to the SoS's decision.		
3.12.1	Peak rainfall allowances Could the Applicant, EA and PCC please respond to the publication by the EA of updated guidance on peak rainfall allowances in 'Flood risk assessments: climate change allowances' which was published on 10 May 2022 in respect of any implications this may have for the consideration of the Proposed Development.	<p>The Proposed Scheme has been designed with a peak rainfall allowance 40% during the 1% annual exceedance event, which was in line with the previous peak rainfall allowances and the Peterborough Flood and Water Management Supplementary Planning Document. The upper end peak rainfall allowance for the 1% annual exceedance event remains at 40% for the Nene Management Catchment and the Proposed Scheme remains in line with the latest allowances.</p> <p>It is the LLFA's view that requiring the latest peak rainfall allowances for the 3.3% annual exceedance event, as published on 10th May 2022, would be difficult to justify given that the Proposed Scheme was compliant with the correct peak rainfall allowances at the time of detailed design.</p>	The Applicant has no further comments to make.

5 CLIMATE EMERGENCY POLICY AND PLANNING (CEPP) – DR ANDREW BOSWELL (REP8-043)

ExQ2	Question:	Response	Applicant's Comment
X	X	<p>Name: Dr Andrew Boswell Position: Independent Scientist & Consultant A47WAN Registration: 20029788 Organisation Climate Emergency Policy and Planning (CEPP) Examination Principle Issues:</p> <ul style="list-style-type: none"> • Climate Change • Scope of Development and Environmental Impact Assessment • Others as indicated in text <p>DfT Consultation 15th June 2022 I am an independent scientist and environmental consultant, working at the intersection of science, policy, and law, particularly relating to ecology and climate change. I work as a consultancy called Climate Emergency Policy and Planning (CEPP). In so far as the facts in this statement are within my knowledge, they are true. In so far as the facts in this statement are not within my direct knowledge, they are true to the best of my knowledge and belief.</p> <p><i>Resume for Dr Boswell submitted.</i></p>	No response required.
	X	<p>This submission responds to ExQ3.1.1 and ExQ3.1.2.</p> <p>In order to respond to 1) the Examiner's EXQ3, and 2) the ExA's Rule 17 letter to me of 26th May 2022, I have provided summary background information on two issues: an overview, but no detail, of my analysis of carbon emissions in the A47WAN Environmental Statement, and an overview of the Net Zero Strategy legal challenge, on which the judgement is expected with the next few months.</p>	No response required.

ExQ2	Question:	Response	Applicant's Comment
	X	<p>I find that the decisions letters on three recent cases (M54-M6 scheme, M25 junction 10, M25 junction 28) can provide no support to the A47WAN application. The A47WAN needs to be assessed on its own merits. I find 10 key errors on the decision letters on carbon emissions which I have given in section 4. These relate to wrong assumptions which were not thoroughly tested by the process before the SoST decision letters. However, where these assumptions are made in the A47WAN Environmental Statement, we are still in the examination process and the evidence against them can be provided, if I am able to.</p> <p>Without support from the three recent decision letters, I find that A47WAN Environmental Statement is inadequate under EIA Regulations 14(2), 20 and EIA Regulations Schedule 4. The SoST cannot be satisfied that the material provided by the applicant is sufficient for him to reach a reasoned conclusion on the significant effects of the proposed development on the environment until all the above points which I have listed are corrected. Without the necessary corrections being made, the application should be refused consent.</p>	Please see the Applicant's response from 3.1.2 below.
X	X	<p>Deadline D8, 14th June 2022</p> <p>1 This is my deadline D8 submissions, and responds to 1) the Examiner's EXQ3, and 2) the ExA's Rule 17 letter to me of 26th May 2022.</p> <p>1.2 Acronyms AST: Appraisal Summary Table NDC: Nationally Determined Contribution NZS: Net Zero Strategy TDP: Transport Decarbonisation Plan</p> <p>1.3 Definitions 2 For scientific precision, I use the following additional definitions:</p>	No response required.

ExQ2	Question:	Response	Applicant's Comment
		<ul style="list-style-type: none"> • Absolute emissions – carbon emissions which are expressed in terms of an absolute quantity of emissions. The value of the absolute emissions, as released into the atmosphere, quantifies the real measure of the impact of greenhouse gases as an environmental factor (or receptor). • Differential emissions – carbon emissions, with an associated value which has been derived by differentiation of absolute emissions. The differentiation is usually performed by the difference between two traffic scenarios, one with a transport intervention and one without. Differential values derived this way do not quantify the real impact of atmospheric greenhouse gases by the transport intervention within its transport system, and therefore do not represent the real global heating impact. 	
X	X	<p>1.4 Overview of submission</p> <p>3 In order to respond to 1) the Examiner's EXQ3, and 2) the ExA's Rule 17 letter to me of 26th May 2022, I need to provide background on two issues:</p> <p>A. An overview of my analysis of carbon emissions in the A47WAN Environmental Statement. This is because my comments on how the recent DCO decisions relate to the A47WAN scheme, require at a minimum for me to say what my key points are, as I refer to these points in my response to ExQ3.1.2. This is provided at section 2 below.</p> <p>B. Provide an overview of the Net Zero Strategy legal challenge, on which the judgement is expected with the next few months, as I also refer to this in my response to ExQ3.1.2. This is provided at section 3 below.</p> <p>C. Section 4 then provides my response to ExQ3.1.2.</p>	No response required.

ExQ2	Question:	Response	Applicant's Comment
3.1.2	<p>Carbon emissions</p> <p>To ask the Applicant and Interested Parties to make any representations in respect of the Proposed Development that they consider appropriate and necessary in the light of the Secretary of State's conclusions in relation to carbon emissions as set out in the Decision Letters in respect of the M54/M6 Link Project, the M25 Junction 10/ A3 Wisley Interchange Project and the M25 Junction 28 Improvement Project.</p>	<p>2 CARBON EMISSIONS IN THE A47WAN ENVIRONMENTAL STATEMENT</p> <p>4 The Rule 17 letter to me of 26th May 2022 restricted my comments to responding to matters outstanding at deadline 8 which for carbon emissions equates to ExQ3.1.1 and ExQ3.1.2. In order for my comments on these questions to be fully understood, it is necessary for me to make some outline comments on the Environmental Statement. I would usually do this with scientific, policy and legal precision, with a full evidence base. In the absence of being able to do so, under the Rule 17 letter, I make some overview comments here, just to provide context for my later comments on ExQ3.1.2</p> <p>5 The A47WAN Environmental Statement is inadequate under EIA Regulations 14(2), 20 and EIA Regulations Schedule 4. Major issues are:</p> <ul style="list-style-type: none"> • no cumulative carbon assessment has been done in breach of the regulations; • the solus⁷ calculation made of the carbon emission impacts of the scheme, and used for the carbon assessment, is the wrong calculation, an underestimate, and not calculated against the real environmental baseline. The whole assessment is wrong as a result; • there is an increase in carbon emissions resulting from the proposed scheme, although it is currently not calculated properly as above. Assessment has been based on an underestimate. It has, therefore, not been demonstrated that the scheme has no • material impact of on the ability of Government to meet its carbon reduction targets (NN NPS 5.18). • no local carbon impacts assessment has been made against 	<p>In the Applicant's Response to the Examining Authority's Third Written Questions (ExQ3) (REP8-027) (section 3.1), the Applicant sets out responses to assist the ExA with regards to the matter of Climate Change. This response shows that the assessment does account for the cumulative effects of GHG emissions, demonstrates that the appropriate geographical scale has been used to quantify GHG emissions, clarifies how the assessment complies with carbon budgets and carbon policies, how the Scheme is assessed against likely significance, and how the assessment complies with EIA regulations.</p> <p>On these matters the Applicant is satisfied with the compliance of the approach taken and has nothing further to comment. With regards to the interested parties' comments on IEMA guidance (Feb 2022), EIA guidance and the NNNPS with regards to comment on local and regional budgets, as described in</p>

ExQ2	Question:	Response	Applicant's Comment
		<p>the best practice recommendations of the IEMA and EIA guidance, and the requirement of NN NPS 4.4;</p> <ul style="list-style-type: none"> there is a general issue of lack of data and algorithmic transparency, relating to both the traffic model and carbon emissions. 	<p>the Applicant's Response to the Examining Authority's Third Written Questions (ExQ3) (REP8-027) (section 3.1), there is no reasonable basis upon which the Applicant can assess the carbon emissions impact of the Scheme at a local or regional level and it is not required to do so by law or pursuant to the NPS NN. In this context the decision of the Secretary of State in relation to the A47 Blofield to North Burlingham project is relevant as, at paragraph 55, the Secretary of State expressly considers the representations submitted by Dr Boswell regarding the IEMA Guidance (2022), other guidance documents, the EIA Regulations and the NNNPS. The Secretary of State agreed with the ExA in that case that there were no adopted local carbon budgets and "the NNNPS sets out only a requirement to consider national carbon budgets, which the Applicant has done."</p> <p>At paragraph 61 of the decision letter the Secretary of State "agrees that assessing a scheme against the national carbon</p>

ExQ2	Question:	Response	Applicant's Comment
			budgets is an acceptable cumulative benchmark for the assessment for EIA purposes with regard to both construction and operation. This is because carbon budgets account for the cumulative emissions from a number of sectors and it is therefore appropriate to consider how the carbon emissions of the Proposed Development compare against this."
X	X	<p>2.1 Provision of further analysis</p> <p><i>Section redacted</i></p> <p>6 I wish to re-emphasise that I suffered the loss of an elapsed three-month period of work between December and March. Whilst I did undertake some work during this period, I was completely unable pragmatically to continue to engage fully in any of my work streams and had to reprioritise the most essential ones. I only started working again in early-mid March, and for full transparency I have placed for the record my work in March and April in the footnote⁸. I acknowledge that I have been most behind on the A47WAN scheme. This is largely a matter of timing, and not being able to submit a written representation and get off to a good start at deadline D29 on February 15th. I also realise in retrospect that it might have been helpful if I had briefly written earlier to inform the ExA of the situation, and I apologise for not having done so.</p> <p>7 If I am permitted to respond to REP2-036, Annex D at deadline D9, then the Applicant has the opportunity to respond at deadline D10 with the additional buffer of a further deadline at DI 1, before the</p>	No response required.

ExQ2	Question:	Response	Applicant's Comment
		<p>examination closes on July 11th. This does not prejudice the applicant: my responses to the boilerplate submissions, similar in form to REP2-036, are already available on a number of the applicant's schemes (for example, the A303 Stonehenge, and the A57 Pennine links road) and would be similar on the A47WAN. The applicant is afforded both forewarning of my arguments and plenty of time to respond to them on the A47WAN scheme.</p> <p>8 By contrast, if I am unable to comment on REP2-036 within the A47WAN examination, I submit that this would:</p> <ul style="list-style-type: none"> • limit the information in the examination library on cumulative carbon emissions^{1°}, which would in turn; • limit what can be said in the examination recommendation report, which would in turn; • limit the extent to which the SoS can be satisfied that the material provided by the applicant is sufficient for him to reach a reasoned conclusion on the significant effects of the proposed development on the environment; and • prejudice me by unnecessarily restricting my ability to take part on the examination. <p>9 Should these matters later go to the Courts, I have made two requests now to be able to submit comments on REP2-036, Annex D. This stands me in good stead as having raised my concerns about the cumulative assessment of the impacts of carbon emissions, and the other matters above, at the A47WAN examination</p>	
3.1.1	<p>Carbon emissions</p> <p>The Applicant is asked to clarify which of the various submissions in relation to carbon emissions it is relying upon.</p>	<p>2.2 ExQ3.1.1</p> <p>10 I note the ExA at ExQ3.1.1 requests clarification from the applicant on their various carbon emissions submissions. This clarification would be helpful, and I would hope to be able to respond to it at deadline D9 including being able to make comments on REP2- 036 as above. This would resolve the concerns above</p>	<p>The submissions are all required as they serve different purposes. All are relied on.</p> <p>The Applicant has set out in ES Chapter 14 – Climate (APP-052) –</p>

ExQ2	Question:	Response	Applicant's Comment
	<p>At present there have been the following (main) submissions:</p> <ul style="list-style-type: none"> • Environmental Statement – Chapter 14 – Climate [APP-052] • The Case for the Scheme [AS-022] • Annex D of the Applicant's Response to the Examining Authority's First Written Questions (ExQ1) [REP2-036] <p>If the Applicant considers that this would be best dealt with by setting out its case on this matter in a single location that is acceptable.</p>	that I am currently prejudiced within this examination.	<p>the information that is required to be provided by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and the NNNPS so as to enable the identification and assessment of likely significant environmental effects for the DCO application.</p> <p>Annex D of the Applicant's Response to the Examining Authority's First Written Questions (EXQ1) (REP2-036) explains how the assessment presented in Chapter 14 meets the legal and policy requirements for the assessment of cumulative effects of greenhouse gases, confirms that the appropriate geographical scale of assessment of greenhouse gas emissions is national (as set out in ES Chapter 14 APP-052)), explains how the assessment complies with various carbon budgets and wider carbon policies, and explains how the assessment undertaken evaluates impacts, considers likely significant effects and complies with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.</p>

ExQ2	Question:	Response	Applicant's Comment
			The Case for the Scheme (AS-022) sets out the need for the proposed scheme and considers its conformity with planning policy and transport plans, including in respect of its effects in terms of climate.
X	X	<p>3 THE LEGAL CLAIM AGAINST THE GOVERNMENT'S NET ZERO STRATEGY (NZS)</p> <p>11 Three separate legal claims were made to the High Court by Friends of the Earth, Client Earth and the Good Law Project, each seeking to challenge the publication on 19 October 2021 of the "Net Zero Strategy: Build Back Greener" by the Secretary of State for Business, Energy and Industrial Strategy, in purported compliance with his duties under sections 13 and 14 of the Climate Change Act 2008.</p> <p>12 At the application for permission to apply for judicial review (CPR 54.11, 54.12), the Honourable Mr Justice Cotter granted permission (on March 1st 2022) to apply for judicial review and observed "the grounds advanced in this claim are arguable, with a realistic prospect of success, and merit investigation at a full hearing". The three cases have been rolled into one hearing which took place on June 8th and June 9th</p> <p>13 The key grounds for challenge relate to whether the existence of the NZS document, and the policies within it, provide the legal security, as required by the Climate Change Act sections 13 and 14, that the Government can meet its carbon reduction targets and carbon budgets. In essence, the claimants maintain that this is not the case. This is because, in part: the impact of the NZS on UK carbon emissions has not been fully quantified within the NZS; the</p>	<p>There are a number of potential outcomes of the full hearing into the three applications for judicial review of the Government's Net Zero Strategy, which may or not then be the subject of an appeal. It is not clear how any of those outcomes would directly impact the determination of the acceptability of the Scheme. In accordance with section 104(3) of the Planning Act 2008, the Secretary of State must determine the application in accordance with the NPS NN, except to the extent that one or more of subsections (4) – (8) applies. The Applicant has addressed this test in Applicant's Response to the Examining Authority's Third Written Questions (ExQ3) (REP8-027) (section 3.1).</p> <p>The Net Zero Strategy was laid before Parliament pursuant to</p>

ExQ2	Question:	Response	Applicant's Comment
		<p>SoST did not think he was required to be confident that the NZS proposals would enable the carbon budgets to be met when he published it; and it was not correct to rely on unquantified policies to make up the known shortfall in reductions for the 6th carbon budget. [This summary is based on the Claimant's combined skeleton argument as published by the Good Law Project on their website].</p> <p>14 The implications for the A47WAN application are that it would be premature for weight to be given to any reliance by the Applicant upon the beliefs that 1) because various national climate change policy documents and targets exist (eg the NZS and the TDP), it is guaranteed that the Government will meet its carbon reduction targets and targets set within them, and consequentially, 2) the scheme will not have a material impact on the ability of the Government to meet its carbon reduction targets. These arguments are developed by below in respect to the recent NSIP DCO decisions discussed in the next section, in response to ExQ3.1.2</p> <p>15 The applicant is currently basing its arguments on beliefs, not quantified evidence from proven policy documents. The beliefs, and assumptions, are laid out in the next section and Appendix A.</p> <p>16 There is no guarantee that the Government can meet its carbon reduction targets and carbon budgets under the Climate Change Act, as contested in the High Court. It is therefore not credible for the applicant to claim that the carbon emissions from the scheme are not "significant" and have no material impacts on meeting Government's carbon reduction targets relating to NN NPS 5.17 and 5.18. If the Government cannot prove that it can meet its carbon targets, then all new carbon emissions, such as those associated with the A47WAN scheme, are significant and material obstacles to meeting the national carbon targets and budgets.</p>	<p>section 14 of the Climate Change Act 2008. It is a report setting out proposals and policies for meeting the carbon budgets for the current and future budgetary periods. It refers to the commitments set out in the Department for Transport publication "Decarbonising Transport: A Better, Greener Britain". As noted in the Applicant's Response to the Examining Authority's Third Written Questions (ExQ3) (REP8-027) (section 3.1), the Climate Change Committee has undertaken an independent analysis of both documents (Agenda Item 5: Climate Change ref 3): "The overall assessment of the independent analysis undertaken was that net zero strategy, including that the transport decarbonisation plan within that, was it was an ambitious and comprehensive strategy that marks a significant step forward for UK climate policy setting a globally leading benchmark to take to COP 26. The Climate Change Committee recognised that further steps will need to follow quickly to implement the policies and</p>

ExQ2	Question:	Response	Applicant's Comment
			proposals mapped out in the net zero strategy if it is to be a success." Applicant's Response to the Examining Authority's Third Written Questions (ExQ3) (REP8-027) (section 3.1), also refers to the publication by the Applicant of "NET ZERO HIGHWAYS Our 2030/2040/2050" in July 2021, which sets out the key role of the Strategic Road Network (SRN) in net zero Britain. The Net Zero Strategy is Government policy and that will remain the case unless and until Government changes it. The planning system could not operate efficiently if decision-making had to be suspended pending the outcome of any applications for judicial review. Further, the merits of each of the three applications for judicial review are not within the scope of the examination into the acceptability of the Scheme.
3.1.2	Carbon emissions To ask the Applicant and Interested Parties to make any representations in respect of the Proposed Development that they consider appropriate and necessary in the light of	4 ExQ3.1.2: DECISION LETTERS ON M54-M6 SCHEME, M25 JUNCTION 10, M25 JUNCTION 28 17 On 21 April 2022, the Secretary of State for Transport (SoST) issued a decision on the M54 to M6 Link Road (decision letter referred to here as M54-M6-DL). Subsequently, two further decision letters were published on the M25 junction 10/A3 Wisley scheme on	The Applicant set out structured written responses to climate matters in the way that the Secretary of State is required to approach the determination of the DCO Application in accordance with section 104 of

ExQ2	Question:	Response	Applicant's Comment
	the Secretary of State's conclusions in relation to carbon emissions as set out in the Decision Letters in respect of the M54/M6 Link Project, the M25 Junction 10/ A3 Wisley Interchange Project and the M25 Junction 28 Improvement Project.	<p>12th May, and the M25 junction 28 scheme on May 16th. At ExQ3, the ExA requested representations on these decisions as they relate to the A47WAN application and examination.</p> <p>18 On carbon emissions, the decision letters make many of the same points in identical, or near identical paragraphs. I dispute many of the points made by the SoST to support his determinations. I make my representations on them in response to ExQ3.1.2 below with reference to the paragraph numbers used in the M54 to M6 Link Road decision letter. I lay the points out in further detail in Appendix A.</p> <p>4.1 Comments on the decision letter on the M54-M6 scheme 19 M54-M6-DL/31 incorrectly relies upon the inevitable success of the NZS (and TDP). As above, given the on-going judicial review, it is premature for weight to be given to any claims based on the notion that the NZS will inevitably succeed in securing the Government's carbon emissions reduction targets (see Appendix A, 6.1).</p> <p>20 Similarly, M54-M6-DL/37 incorrectly relies upon the inevitable success of meeting the UK NDC (which itself depends upon the success of the NZS). Again it is premature for weight to be given to any claims based on the notion that the NDC will inevitably succeed, and the UK will deliver its international obligations (see Appendix A, 6.2).</p> <p>21 Negative weight was given to increasing carbon emissions in the planning balance (M54- M6-DL/54); however, this was "offset" by the assertion that the Government could still meet their carbon reduction targets (ie under NN NPS 5.18). However, as above, it is premature to rely on this assertion (see Appendix A, 6.3).</p> <p>22 The UK Government is a drafter and signatory to the policy</p>	<p>the Planning Act 2008 in the Applicant's Responses to the Examining Authority's Third Written Questions (ExQ3) (REP8-027). In its response in section 3.1, the Applicant reaffirmed the decision-making framework in respect of climate change and explained how that is required to be applied to the Scheme, including in respect of cumulative effects.</p> <p>The Applicant set out structured written responses to climate matters in the way that the Secretary of State is required to approach the determination of the DCO Application in accordance with section 104 of the Planning Act 2008 in Applicant's Response to the Examining Authority's Third Written Questions (ExQ3) (REP8-027) (response to ExQ 3.1.1 and 3.1.2). In its response in section 3.1, the Applicant reaffirmed the decision-making framework in respect of climate change and explained how that is required to be applied to the Scheme, including in respect of cumulative effects.</p>

ExQ2	Question:	Response	Applicant's Comment
		<p>statements associated with each of the recent Intergovernmental Panel on Climate Change (IPCC) 6th Assessment (AR6) reports. M54-M6-DL does not reflect the scientific urgency to deal with climate change, as laid out in this report despite the Government being a signatory to the science summarised in the policy reports (see Appendix A, 6.4).</p> <p>23 M54-M6-DL/32-35 discusses the IEMA guidance. It selectively quotes from it, and does not follow it (see Appendix A, 6.5).</p> <p>24 The applicant has not made a cumulative assessment of GHG emissions for the A47WAN scheme¹¹. (see Appendix A, 6.6).</p> <p>25 The applicant has not followed the DMRB LA 104 on cumulative carbon assessment on the A47WAN¹², and therefore M54-M6-DL/40 cannot be relied upon (see Appendix A, 6.7).</p> <p>26 The applicant relies upon the false "inherently cumulative" notion¹³, and the applicant has not produced a cumulative carbon emissions assessment on the A47WAN scheme¹⁴, and cannot rely upon M54-M6-DL/42-43 (see Appendix A, 6.8).</p> <p>27 The applicant has not provided a cumulative carbon assessment in the A47WAN¹⁵ application. M54-M6-DL/45,47-48 cannot be relied upon within the recommendation for the decision making on the A47WAN scheme (see Appendix A, 6.9).</p> <p>28 The applicant has not provided local and regional carbon assessment in the A47WAN¹⁶ application. M54-M6-DL/46 does not comply with the best practice guidance for EIA and cannot be relied upon (see Appendix A, 6.10).</p>	
	X	5 CONCLUSIONS	<p>The Applicant has:</p> <ul style="list-style-type: none"> provided a legally

ExQ2	Question:	Response	Applicant's Comment
		<p>29 The A47WAN Environmental Statement is inadequate under EIA Regulations 14(2), 20 and EIA Regulations Schedule 4. Major issues are:</p> <ul style="list-style-type: none"> • no cumulative carbon assessment has been done in breach of the regulations; • the solus calculation made of the carbon emission impacts of the scheme, and used for the carbon assessment, is the wrong calculation, an underestimate, and not calculated against the real environmental baseline. The whole assessment is wrong as a result; • there is an increase in carbon emissions resulting from the proposed scheme, although it is currently not calculated properly as above. Assessment has been based on an underestimate. It has, therefore, not been demonstrated that the scheme has no material impact of on the ability of Government to meet its carbon reduction targets (NN NPS 5.18). • no local carbon impacts assessment has been made against the best practice recommendations of the IEMA and EIA guidance, and the requirement of NN NPS 4.4; • there is a general issue of lack of data and algorithmic transparency, relating to both the traffic model and carbon emissions. <p>30 The three recent NSIP DCO road scheme decisions provide no support for the A47WAN scheme for the reasons given in section 4 and Appendix A.</p> <p>31 The SoST cannot be satisfied that the material provided by the applicant is sufficient for him to reach a reasoned conclusion on the significant effects of the proposed development on the environment until all the above are corrected.</p> <p>32 Without the necessary corrections being made, the application</p>	<p>compliant cumulative carbon assessment that complies with the EIA Regulations and the NNNPS</p> <ul style="list-style-type: none"> • correctly followed DMRB LA 114, including using an appropriate baseline demonstrated that it can be concluded that the Scheme is unlikely to have a material impact on the ability of the government to meet the carbon budgets • complied with the advice in the NNNPS in identifying the national level as the appropriate geographic range for the assessment of cumulative carbon emissions.

ExQ2	Question:	Response	Applicant's Comment
		should be refused consent.	
	X	6 APPENDIX A: DECISION LETTER ON M54-M6 SCHEME	Please see the Applicant's response to 3.1.2 above.
	X	APPENDIX B: Climate Change Committee, Advice on reducing the UK's emissions (REP8-044).	No response required. As Appendix B was submitted as a separate Deadline 8 submission, this document is set out in the Applicant's Comments on Deadline 8 Submissions (TR010039/EXAM/9.39).

6 WANSFORD PARISH COUNCIL (REP8-046)

ExQ2	Question:	Response	Applicant's Comment
3.6.5	<p>Time limits for deemed consent</p> <p>In the SoS's decision on the M25 Junction 28 Improvement Project he has extended both the period under which, in the absence of a response, a deemed consent is granted, and the period of consultation pursuant to Requirements. In this dDCO this relates to what would be Articles 16(6) (Temporary alteration, diversion prohibition and restriction of use of streets), 20(11) (Traffic Regulation) and 21(8) (Discharge of water) and Schedule 2, Regulation 18 (Details of Consultation).</p> <p>Could the Applicant, PCC, the EA and Parish Councils please give their responses to the SoS's decision.</p>	<p>In response to the ExA's ExQ3.6.5, Wansford Parish Council would be happy for the time periods given in the current Draft DCO to be extended in line with the Secretary of State's ruling on the M25 Junction 28 Improvement Project. This ruling was no doubt based on issues with a previous project and it would be sensible for the A47 Wansford to Sutton to benefit from this experience.</p>	<p>The Applicant has no further comments to add following on from its response at Deadline 8 in the Applicant's Response to the ExA's Third Written Questions (ExQ3) (REP8-027).</p>

7 SUTTON PARISH COUNCIL (REP8-047)

ExQ2	Question:	Response	Applicant's Comment
3.6.5	<p>Time limits for deemed consent</p> <p>In the SoS's decision on the M25 Junction 28 Improvement Project he has extended both the period under which, in the absence of a response, a deemed consent is granted, and the period of consultation pursuant to Requirements. In this dDCO this relates to what would be Articles 16(6) (Temporary alteration, diversion prohibition and restriction of use of streets), 20(11) (Traffic Regulation) and 21(8) (Discharge of water) and Schedule 2, Regulation 18 (Details of Consultation).</p> <p>Could the Applicant, PCC, the EA and Parish Councils please give their responses to the SoS's decision.</p>	<p>In response to the ExA's ExQ3.6.5, Sutton Parish Council would be happy for the time periods in the current Draft DCO to be extended. In our opinion it is better for all issues to be thoroughly examined and satisfactorily answered. We have waited long enough for this road upgrade however, any extension for whatever reason to get it right is sensible and welcomed.</p>	<p>The Applicant has no further comments to add following on from its response at Deadline 8 in the Applicant's Response to the ExA's Third Written Questions (ExQ3) (REP8-027).</p>