

M3 Junction 9 Improvement

Scheme Number: TR010055

8.11 Applicant Comments on Deadline 2 submissions

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**Infrastructure Planning (Applications: Prescribed Forms and
Procedure) Regulations 2009**

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8.11 Applicant Comments on Deadline 2 Submissions

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1 Introduction

1.1 Introduction

1.1.1 The Applicant has responded where necessary and relevant, to the following items submitted at Deadline 2:

- Historic England – Responses to ExQ1 [**REP2-068**]
- Environment Agency – Responses to ExQ1 [**REP2-065**]
- Natural England – Responses to ExQ1 [**REP2-069**]
- Hampshire County Council – Responses to ExQ1 [**REP2-067**]
- Winchester City Council – Responses to ExQ1 [**REP2-084**]
- South Downs National Park Authority – Responses to ExQ1 [**REP2-072 and REP2-073**]
- Dr Andrew Boswell – Responses to ExQ1 [**REP2-063**]
- Transport Action Network – Responses to ExQ1 [**REP2-081**]
- Thomas Rogers – Responses to comments on RRs [**REP2-080**]

1.1.2 The Applicant has no comments to the information received at Deadline 2 from Rupert Pitt - Responses to ExQ1 (**REP2-070**), as their response appends Winchester Action on Climate Crisis's submission which has been considered within **Section 2.6** in the **Applicant Comments on Written Representations (Document Reference 8.8)** being submitted at Deadline 3.

1.1.3 The Applicant also has no comments on the responses to Examiner's Written Questions (ExQ1) from Southern Gas Networks (**REP2-076**) and Southern Water (**REP2-079**). It is considered that relevant matters have been responded to within **Section 2.1** and **2.5** in the **Applicant Comments on Written Representations (Document Reference 8.8)** being submitted at Deadline 3.

2 Applicant’s comments on information received at Deadline 2

2.1 Applicant’s response to Historic England’s responses to Examiner’s Questions (ExQ1) (REP2-068)

Historic England Responses to Examiner’s Questions	Applicant Response
<p><i>Question 11.1.1 Mitigation “Please confirm that you are satisfied with the contents of the ES - Appendix 6.8: Archaeology and Heritage Outline Mitigation Strategy [APP-096] and the means whereby a programme of archaeological mitigation would be secured by Requirement 9 of the draft DCO [APP-019]. If not, please outline any drafting changes that are sought.”</i></p> <p>Historic England response:</p> <p>Considering the nature and extent of the proposed works, the perceived archeological potential and the results of archaeological evaluation, we confirm we are generally satisfied with the contents of the ES and the wording of Requirement 9 of the draft DCO. We would concur, however, with the Winchester City Archaeologist that certain provisions and contributions associated with interpretation should ideally be secured via a Section 106 Agreement.</p>	<p>The Applicant welcomes confirmation that Historic England is satisfied with the Environmental Statement (ES) (6.1- 6.3, APP-042 – APP-153) and wording of Requirement 9 of the draft Development Consent Order (3.1, Rev 3). The Applicant notes Historic England’s concurrence with the Winchester City Archaeologists request to secure interpretation via a Section 106. The Applicant is committed to delivering interpretation and is keen to continue working proactively with the Winchester City Archaeologist (and the South Downs National Park Authority). The Applicant’s view is that the Archaeology and Heritage Mitigation Strategy to be agreed pursuant to Requirement 9 is a suitable mechanism for securing this commitment.</p>
<p><i>Question 11.1.2 Mitigation “The ES - Appendix 6.8: Archaeology and Heritage Outline Mitigation Strategy [APP096], paragraph 5.1.1, states that: “In order to make the material publicly available the detailed mitigation package will allow for deposition of the archive, either at a local repository with sufficient space or explore the possibility of contributing to a cultural collecting infrastructure fund”. The draft DCO [APP-019] Requirement 9(6) provides that: “On completion of the authorised development, suitable resources and provisions for long term storage of the archaeological archive will be discussed with the City Archaeologist”. Please comment as to whether that drafting is sufficiently precise to enable this provision to be effectively enforced and indicate the means whereby any suitable resources and provision for long-term storage would be arranged and funded.”</i></p> <p>Historic England response:</p> <p>Regarding the storage of the archaeological archive, we would defer to the Winchester City Archaeologist on this matter. We would, again, concur with them that details of the proposed archiving mitigation provision, including resources and funding arrangements for long term storage in an appropriate repository are required and should be secured by a Section 106 legal agreement</p>	<p>The Applicant notes Historic England’s concurrence with the Winchester City Archaeologists request to secure archiving provisions and funding via a Section 106. The Applicant is keen to continue working proactively with the Winchester City Archaeologist but considers that the Archaeology and Heritage Mitigation Strategy to be agreed pursuant to Requirement 9 is a suitable mechanism for securing this commitment. This approach has precedence, for example, in the M20 Junction 10a Development Consent Order 2017 and A30 Chiverton to Carland Cross Development Consent Order 2020.</p>

2.2 Response to Natural England responses to Examiner's Questions (ExQ1) (REP2-069)

Natural England Responses to Examiner's Questions	Applicant Response
<p><i>Q5.1.22 Can Natural England confirm whether it is satisfied with the conclusions of the HRA report and the mitigation and monitoring measures proposed?</i></p> <p>Natural England response:</p> <p>Natural England have welcomed early engagement on this project through our Discretionary Advice Service, and have worked with National Highways and Stantec to progress a number of aspects of the proposals. This has included providing comments on drafts of the Habitats Regulations Assessment (HRA) screening report and appropriate assessment.</p> <p>Natural England are satisfied with most elements of the HRA, including the mitigation measures proposed for both the construction and operational phases of the development. There remain some outstanding concerns as regards the assessment of air quality impacts.</p> <p>Natural England and National Highways are actively engaged in discussions to address outstanding concerns regarding the potential impacts of changes in air quality on designated sites as a result of this scheme. We understand that the developer will undertake further work on this aspect. This may require some updates to the HRA report, for example, should any Likely Significant Effects (LSEs) on the River Itchen Special Area of Conservation (SAC) be identified these will require further consideration within the Appropriate Assessment.</p> <p>Future work due to be undertaken includes additional examination of air quality impacts in combination with other projects, particularly beyond the scheme's opening year, and in combination impacts with other non-road projects. Work is also being undertaken to ensure that all relevant types of airborne pollutants are considered, including acid deposition. Natural England will continue to engage on this issue and will be pleased to review any updates and further documents as these are produced</p> <p>The HRA screening stage identifies a number of potential LSEs on the River Itchen SAC via several pathways including; changes in water quality, hydraulic conditions, or other habitat degradation (both during construction or when the scheme is operational), species disturbance and mortality to white-clawed crayfish, if present, during construction, and disturbance to otter during operation.</p> <p>'Changes to water quality' includes the potential impacts of siltation on the designated species, including salmonids, that are particularly sensitive to siltation when spawning.</p> <p>A number of mitigation measures have been proposed, including the implementation of pollution prevention measures as set out in detail within the drainage strategy report. A multi-stage Sustainable Drainage System (SuDs) will be constructed in a phased manner ahead of any impacts arising from the construction works. Maintenance of these features is considered within the 'Proposed M3J9 Runoff Pollution Assessment Method and Control Measures (Technical Note)', including the periodic removal of built up sediments within the proposed attenuation</p>	<p>As set out in the Habitats Regulations Assessment (7.5, APP-158), the Applicant has been consulting with Natural England on Habitats Regulations Assessment matters for a number of years, which has led to the successful agreement in almost all areas. This includes potential effects to water quality, habitat degradation and disturbance of species. Natural England has accepted the mitigation measures set out in Table 3.2 of the first iteration Environmental Management Plan (fiEMP) (7.3, Rev 3). The second iteration Environmental Management Plan (siEMP) will provide further detail and will be secured through Development Consent Order Requirement.</p> <p>Following its review of Appendix 8.3 (Assessment of Operational Air Quality Impacts on Biodiversity) of the ES (6.3, APP-132) (which was used to inform the Habitats Regulations Assessment (7.5, APP-158)), Natural England provided a number of comments on 8 March 2023. The comments from Natural England are predominantly in relation to the methodology followed within the assessment. Natural England has not challenged the conclusion of Appendix 8.3 (Assessment of Operational Air Quality Impacts on Biodiversity) of the ES (6.3, APP-132).</p> <p>Detailed assessment of air quality effects to biodiversity receptors is a relatively new area, and a number of guidance documents have been released in recent years, including:</p> <ul style="list-style-type: none"> ▪ Design Manual for Roads and Bridges (DMRB) LA105 Air quality (Highways England, 2019) ▪ CIEEM, 2021. Advice on Ecological Assessment of Air Quality Impacts. Chartered Institute of Ecology and Environmental Management, Winchester ▪ Holman <i>et al.</i>, 2020. A guide to the assessment of air quality impacts on designated nature conservation sites – version 1.1. Institute of Air Quality Management, London. ▪ Natural England, 2018. Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations. <p>Whilst the general principles within these guidance documents are similar, there are slight differences in approach. As this is a highways project promoted by National Highways, the approach used in Appendix 8.3 (Assessment of Operational Air Quality Impacts on Biodiversity) of the ES (6.3, APP-132) has followed the approach set out in Design Manual for Roads and Bridges (DMRB) LA105 Air quality (Highways England, 2019). Many of the comments from Natural England would require a divergence from this approach, and use of the methodology set out in <i>Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations</i>.</p> <p>In order to reach a mutually-acceptable solution, the Applicant held a meeting with Natural England on 8 June 2023 to discuss its comments and consider the next steps required to come to an agreed position. Following this meeting the Applicant is currently updating Appendix 8.3</p>

Natural England Responses to Examiner's Questions	Applicant Response
<p>basins. A minimum of 90% capacity within these basins will be maintained at all times in the maintenance cycle. It is noted that the maintenance schedule as detailed is for the lifetime of the network.</p> <p>Two new drainage outfall structures will be installed, and an existing outfall refurbished, partially within the River Itchen SAC. In this area the existing habitat consists of highly modified wooded river banks and in-river habitat at this location, neither of which are identified as qualifying features of the SAC. Based on the conservation objectives for the River Itchen SAC, the information provided in the HRA, and the small scale of the proposed works we concur with the conclusion that there will be no Adverse Effect on Integrity of the River Itchen SAC as a result of habitat degradation during construction and operation. We consider overall this scheme could result in a net benefit to the River Itchen in terms of improved water quality of discharge compared to current baseline.</p> <p>Temporary damming and dewatering of River Itchen around each structure will be required during construction. The temporary damming and dewatering will be localised around the drainage outfall locations, and extend approximately 5-10 meters along the riverbank, and across no more than 50% of the river channel width. In-river working required for installation of drainage outflows will avoid sensitive periods. Construction methods will adhere to guidance issued by the Environment Agency on working methods and timing restrictions in relation to avoiding impacts to fish within the River Itchen. Due to the localised, small scale and temporary nature of the works, provided best practice methods are produced and implemented by suitably experienced contractors, we concur that any potential adverse effect on integrity of the SAC through changes to hydraulic conditions will be mitigated.</p> <p>National Highways has agreed to undertake post-construction monitoring for a period of 5 years to ensure that the drainage features, including the attenuation basins, function correctly as they become fully established. It is welcome that commitment G17 of the Register of Environmental Actions and Commitments within the First Iteration Environmental Management Plan states that appropriate measures shall be implemented to ensure the resilience of the proposed construction mitigation measures during extreme weather events. The above commitments and mitigation measures should be secured within the Draft Consent Order.</p>	<p>(Assessment of Operational Air Quality Impacts on Biodiversity) of the ES (6.3, APP-132) in response to comments received from Natural England, with the updated version due to be submitted to the Examining Authority at Deadline 4.</p> <p>It should be noted that a number of mitigation measures, including the implementation of pollution prevention measures are set out Table 3.2 of the first iteration Environmental Management Plan (fiEMP) (7.3, Rev 3), which is secured by Requirement 3 of the draft Development Consent Order (3.1, Rev 3). Commitment MON2 has been updated to reflect the position as agreed in the Statement of Common Ground between the Applicant and Natural England, that monitoring of relevant drainage features will take place for 5 years post-construction.</p> <p>Requirement 13 of the draft Development Consent Order (3.1, Rev 3) secures mitigation identified within Chapter 13 (Road Drainage and the Water Environment) of the ES (6.1, APP-054).</p>

2.3 Response to Winchester City Council responses to Examiner's Questions (ExQ1) (REP2-084)

Winchester City Council Responses to Examiner's Questions	Applicant Response
<p><i>Q5.1.17 In the RR response from WCC [RR-102] to the application it is stated that additional information is required for some species. Please explain what this information is and if it has been discussed with the Applicant.</i></p> <p>Winchester City Council response:</p>	<p>The Applicant notes the response from Winchester City Council. Details are provided within Section 2 in the Applicant Response to the Local Impact Report (Document Reference 8.9) being submitted at Deadline 3 with respect to this matter.</p>

Winchester City Council Responses to Examiner's Questions	Applicant Response
<p>The requirements have been discussed with the applicant. An updated draft dormice mitigation licence application and phasing plan for planting is expected to be shared with WCC by 15 June. 2023 bird survey results are expected to be shared with WCC in July. The applicant has been asked to confirm whether the badger crossing point will be maintained.</p>	
<p>Q8.1.9 The NPSNN Accordance Table [APP-155] in relation to NPSNN paragraph 4.16, notes that there is potential for cumulative effects on human health during construction with regards to air quality and noise from two 'other developments' (ID 72 and ID 79). Please comment upon the reliability of the assumption made that, in relation to air quality and noise levels, best practice measures would be implemented and, as a result, no cumulative effects are anticipated on human health during construction.</p> <p>Winchester City Council response:</p> <p>This relies on an unquantified "Best Practice" that is understood will be implemented primarily through the environmental management plan (the delivery of which is a requirement of the proposed DCO).</p> <p>However, the first iteration of this plan does not contain the relevant information to comment fully on the validity of such an assumption. We therefore consider we are unable to be satisfied regarding this matter until a more detailed management plan (2nd iteration) is available for consideration.</p>	<p>Chapter 5 (Air Quality) of the Environmental Statement (ES) (6.1, REP2-023) and Chapter 11 (Noise and Vibration) of the Environmental Statement (ES) (6.1, APP-052) outline an overview of potential impacts of the Scheme in relation to air quality, noise and vibration and the resultant mitigation measures proposed. No significant residual effects (effects after mitigation measures have been implemented) relating to construction noise and construction traffic were identified. Additionally, no significant residual effects were identified from construction dust or construction traffic emissions. As Winchester City Council has noted, best practice measures to monitor and manage noise, vibration and air quality are identified within Table 3.2 of the first iteration Environmental Management Plan (fiEMP) (7.3, Rev 3). The second iteration Environmental Management Plan (siEMP) will provide further detail and will include a Noise and Vibration Management Plan (NVMP) to be produced during the detailed design stage, prior to construction commencing. Commitment NV1 in Table 3.2 of the first iteration Environmental Management Plan (fiEMP) (7.3, Rev 3) states that no part of the Scheme will start until this has been subject to stakeholder engagement including Winchester City Council. In addition, a Materials Management Plan (MMP) and Environmental Method Statements will be appended to the second iteration Environmental Management Plan, and these will provide further detail regarding air quality mitigation measures.</p> <p>Requirement 3 of the draft Development Consent Order (3.1, Rev 3) states that 'No part of the authorised development is to commence until an EMP (Second Iteration) for that part, substantially in accordance with the EMP (First Iteration) has been submitted to and approved in writing by the Secretary of State following consultation by the undertaker with the relevant planning authority and local highway authority to the extent that the content of the EMP (Second Iteration) relates to matters relevant to their functions.'</p>
<p>Q9.1.14 Regarding the draft DCO [APP-019] Article 8, please indicate whether there are any outstanding concerns in relation to the proposed limits of deviation or and it is important that supporting mitigation plans (landscape and whether any drafting amendments are sought in relation to Article 8?</p> <p>Winchester City Council response:</p> <p>The 5.0m deviation for work numbers 1j and 1m seems excessive and it is important that supporting mitigation plans (Landscape and ecological for example) also provide sufficient flexibility to mitigate any variation.</p> <p>1j in particular is close to the River Itchen which requires strict ecological control</p> <p>No adverse comments on remaining deviations.</p>	<p>The parameters of the design of the Scheme are clearly defined and described within Chapter 2 (The Scheme and its Surroundings) of the Environmental Statement (ES) (6.1, APP-043), the General Arrangement Plans (2.5, APP-009), the Engineering Plans and Sections (2.6, Rev 1), the works described in Schedule 1 of the draft Development Consent Order (3.1, Rev 3) indicated principally on the Work Plans (2.3, Rev 2) and the maximum area of land anticipated as likely to be required, taking into account the proposed Limits of Deviation (LoD) for the Scheme. These plans provide clearly defined and sufficiently detailed account of the Scheme. Limits of Deviation have been incorporated within the Application Boundary to allow modifications to be made to the Scheme during the detailed design and construction stages. Such flexibility is required, for example, to enable the Principal Contractor to alter their working procedures or make adjustments to the position of certain infrastructure in response (for example) to unforeseen ground conditions. 5.0m in the context of these works is reasonable and proportionate.</p>

Winchester City Council Responses to Examiner's Questions	Applicant Response
	<p>In respect of 1j the same ecological controls will apply irrespective of the flexibility provided by the limits of deviation. In any event the limits of deviation will not permit the siting of the works for 1j to trigger the FRAP consenting process.</p> <p>The Environmental Impact Assessment conclusions regarding likely significant effect as presented within the Environmental Statement (ES) (6.1 – 6.3, APP-042 - APP-153) are based on the Scheme (as detailed in the General Arrangement Plans (2.5, APP-009) and Engineering Plans and Sections (2.6, Rev 1) and have taken into account and assessed the Limits of Deviation as set out in the Work Plans (2.3, Rev 2) and the draft Development Consent Order (3.1, Rev 3) and therefore the assessments have included a realistic worst case scenario, encompassing the full extent of the Limits of Deviation.</p> <p>The extent of vertical and lateral deviations set out in Article 8 of the draft Development Consent Order (3.1, Rev 3) are mirrored by Tables 2.2 and 2.3 of Chapter 2 (The Scheme and its Surroundings) of the Environmental Statement (ES) (6.1, APP-043) and have been determined based on the design, known constraints, construction and buildability factors associated with the Scheme.</p>
<p><i>Q9.1.54 Please comment as to whether any additional Requirements would be necessary to secure required matters including any monitoring and mitigation measures? If so, please provide, for the ExA's consideration, draft Requirements for any such topic areas where there is perceived to be a need for them to be imposed giving reasons for their imposition</i></p> <p>Winchester City Council response:</p> <p>No additional requirements requested. Amendment to Schedule 2, Part 1, Requirement 14 (Noise Mitigation) has been discussed with the applicant. Present wording reads 'following consultation with the relevant planning authority'.</p> <p>A key area for WCC to consider is noise impact on residents (which are largely within the WCC District). The current wording is ambiguous and may result in consultations being sent to the South Downs National Park Authority instead of WCC, denying an assessment on residential impact. The applicant has agreed to explicitly refer to Winchester City Council in this requirement and a revised DCO draft is expected.</p>	<p>The Applicant agrees to amend Requirement 14 of the draft Development Consent Order (3.1, Rev 3) to make it clear that consultation will be with the relevant planning authority and Winchester City Council.</p>
<p><i>Q11.1.1 Please confirm that you are satisfied with the contents of the ES - Appendix 6.8: Archaeology and Heritage Outline Mitigation Strategy [APP-096] and the means whereby a programme of archaeological mitigation would be secured by Requirement 9 of the draft DCO [APP-019]. If not, please outline any drafting changes that are sought. It is considered that Requirement 9 of the draft DCO will satisfactorily secure a programme of archaeological mitigation work excepting that appropriate provisions and contributions for the installation of and ongoing management and maintenance of on-site archaeological interpretation (including digital interpretation elements) should be secured via a Section 106 legal agreement.</i></p> <p>Winchester City Council response:</p>	<p>The Applicant has submitted Appendix 6.8 (Archaeology and Heritage Outline Mitigation Strategy) of the ES (6.3, Rev 1) submitted at Deadline 3 which provides a broad framework for mitigation and enhancement opportunities. These will be further refined in consultation with relevant stakeholders. Subsequently more detail will be set out in the Detailed Archaeology and Mitigation Strategy to be prepared during detailed design.</p> <p>The Applicant provides the following comments in relation to Winchester City Council's specific responses.</p> <ul style="list-style-type: none"> As set out in the Applicant's response to Q11.1.6 in Applicant responses to Written Questions (8.5, REP2-051), the Applicant is committed to exploring mitigation

Winchester City Council Responses to Examiner's Questions	Applicant Response
<p>The contents of the Archaeology and Heritage Outline Mitigation Strategy are not currently considered to be fully satisfactory and should be redrafted to include the following:</p> <ul style="list-style-type: none"> ▪ Details of a proposed programme of outreach and public engagement work (social value) relating to the archaeological mitigation work (pre-construction / construction phase) and information panels / public art / heritage trails (operational phase). This would ensure these mitigation elements are directly linked to and thus secured by Requirement 9 of the draft DCO. ▪ Confirmation that all areas of fill (not just where a site strip is required / overburden is to be removed) will be subject to archaeological mitigation as set out in the A&H OMS. This is due to potential compression effects on any buried heritage assets as well as the resulting inaccessibility of such assets, precluding future opportunities to realise their inherent evidential values. ▪ That the detailed A&H MS and subsequent Written Scheme of Investigation should be drafted in consideration of the final soil management plan and the impacts which would arise from this. ▪ Confirmation that strategies for on-site archaeological interpretation and digital interpretation (operational phase) will be subject to consultation and agreement between relevant parties (including WCC, SDNPA, Highways England and their consultants together with Historic England). ▪ That the detailed A&H Mitigation Strategy and Written Scheme of Investigation will be agreed with the WCC City Archaeologist ahead of submission to the Secretary of State. 	<p>opportunities further during detailed design including those mentioned in Winchester City Council comments. These opportunities are noted in Section 6.8 of Chapter 6 (Cultural Heritage) of the Environmental Statement (ES) (6.1, APP-047), Section 4 of the Appendix 6.8 (Archaeology and Heritage Outline Mitigation Strategy) of the ES (6.3, Rev 1) and Table 3.2 of the first iteration Environmental Management Plan (fiEMP) (7.3, Rev 3). The second iteration Environmental Management Plan (siEMP) will contain the mechanisms by which the Detailed Archaeology and Heritage Mitigation Strategy will be agreed and implemented. This has been made more explicit in the updated Appendix 6.8 (Archaeology and Heritage Outline Mitigation Strategy) of the ES (6.3, Rev 1) submitted at Deadline 3.</p> <ul style="list-style-type: none"> ▪ Areas to be used for fill/deposition, where existing overburden is not to be removed, will be subject to archaeological mitigation (strip, map and excavate) where overburden is not thick enough to avoid compaction impacts and where fill would result in inaccessibility for future investigations of these assets if required. Detailed designs will be cross referenced with areas of archaeological potential and managed in accordance with the Soil Management Plan. Appropriate mitigation will be determined in consultation with stakeholders, principally the Winchester City Council Archaeologist and South Downs National Park Authority as appropriate. This has been included in the updated Appendix 6.8 (Archaeology and Heritage Outline Mitigation Strategy) of the ES (6.3, Rev 1) submitted at Deadline 3. The Applicant confirms that the detailed Archaeology and Heritage Mitigation Strategy and Written Schemes of Investigations (WSIs) for archaeology will take into consideration the Soil Management Plan, which is to be produced and appended to the second iteration Environmental Management Plan (siEMP). This has been included in the updated Appendix 6.8 (Archaeology and Heritage Outline Mitigation Strategy) of the ES (6.3, Rev 1) submitted at Deadline 3. ▪ The Applicant will work collaboratively with all relevant parties (Winchester City Council, South Downs National Park Authority, and, where relevant, Historic England) to discuss and agree on-site interpretation and digital interpretation. ▪ The Applicant notes that mitigation strategies and WSIs should also be subjected to consultation with the Winchester City Archaeologist and South Downs National Park Authority as appropriate prior to their implementation. This is set out in Paragraph 3.1.4 of the Appendix 6.8 (Archaeology and Heritage Outline Mitigation Strategy) of the ES (6.3, Rev 1).
<p><i>Q11.1.2 The ES - Appendix 6.8: Archaeology and Heritage Outline Mitigation Strategy [APP-096], paragraph 5.1.1, states that: "In order to make the material The current drafting is not considered sufficiently precise to enable this provision to be effectively enforced. 4 publicly available the detailed mitigation package will allow for deposition of the archive, either at a local repository with sufficient space or explore the possibility of contributing to a cultural collecting infrastructure fund". The draft DCO [APP-019] Requirement 9(6) provides that: "On completion of the authorised development, suitable resources and provisions for long term storage of the archaeological archive will be discussed with the City Archaeologist". Please comment as to whether that drafting is sufficiently precise to enable this provision to be effectively enforced</i></p>	<p>As set out in the response to Q11.1.2 in Applicant responses to Written Questions (8.5, REP2-051) the Applicant considers that the wording in the Appendix is sufficiently precise to ensure that a commitment to long-term storage of the archaeological archive. It is not possible at this stage to determine costs and capacity required for archiving, but options for long term storage and funding will be included within the Detailed Archaeology and Heritage Mitigation Strategy prepared during the detailed design of the Scheme. The Applicant will seek to include this agreement within Statement of Common Ground with Winchester City Council (7.12.1, REP2-046).</p>

Winchester City Council Responses to Examiner's Questions	Applicant Response
<p><i>and indicate the means whereby any suitable resources and provision for long-term storage would be arranged and funded.</i></p> <p>Winchester City Council response:</p> <p>Should the appropriate local repository (in this instance the Hampshire Cultural Trust is the designated collecting repository) have insufficient capacity to receive the archive, no other relevant archive has been identified. Furthermore it is unclear if any could be due to recognised capacity issues within Museum archives across the south-east region. The possibility of contributing to a cultural collecting infrastructure fund is stated as an alternative. However no details of the anticipated level of any financial contribution, to whom this would be made (the HCT or other body*?) nor details of an appropriate mechanism to secure this have been provided. Accordingly the current drafting is considered to be insufficiently detailed and vague such that is not considered to be enforceable nor provide sufficient certainty that the archive will be housed in a suitable repository and remain publicly accessible following the completion of the post-excavation stages of the archaeological mitigation programme. Further details of the proposed archive mitigation provision, including suitable resources and funding arrangements for longterm storage in an appropriate repository are required. *In terms of a cultural collecting infrastructure fund, sector proposals regarding potential future regional archive stores serving areas without archive capacity are at the discussion stage and are unlikely to be in place to house this archive should the need arise</p>	
<p><i>Q12.1.2 Whilst it is recognised that given the nature of the development there may be a limit on what can be achieved in terms of the aesthetics of certain aspects of the infrastructure, notwithstanding the details provided in the Design and Access Statement [APPThe use of design documents has not been discussed to date however this would be a supported additional requirement. 5 162] which sets out the high level principles that have driven the design of the scheme, has consideration been given the production of a specific 'design code' or 'design approach document' which would establish the approach to delivering the detailed design specifications such as bridges, and fencing and choice of materials which could be secured by a draft DCO requirement?</i></p> <p>Winchester City Council response:</p> <p>The use of design documents has not been discussed to date however this would be a supported additional requirement.</p> <p>There has not been a clear 3D visual of infrastructure such as bridges so it is important that the appearance of the infrastructure as a whole is agreed to prevent multiple designs being used.</p>	<p>As discussed at ISH1, the Applicant is considering the merits and feasibility of producing a 'design approach document'. An update will be provided at Deadline 4.</p>
<p><i>Q12.1.3 The Design and Access Statement [APP-162] paragraph 2.2.4 states that the "aim of the solution proposed has been to balance spoil placement through creation of landform which are sympathetic in profile and form and maximise environmental mitigation within this part of the South Downs National Park". Is it agreed that the design of the Proposed Development has achieved this aim or are there any further design changes and positive design opportunities that are sought?</i></p>	<p>Proposed modifications to landform and topography within the South Downs National Park and specifically the East Winchester Open Downland Landscape Character Area this is shown on Sheets 2 and 7 of Figure 2.3 of Chapter 2 (The Scheme and its Surroundings – Figures (Part 2 of 4)) of the ES (6.2, REP2-029). The design of the Scheme includes placement of roads in cuttings, which have been utilised to minimise visibility of the Scheme from the South Downs National Park. The proposed slope profiles of cuttings have been designed to minimise land take within the South Downs National Park. In these locations earthworks have been planted with soft</p>

Winchester City Council Responses to Examiner's Questions	Applicant Response
<p>Winchester City Council response:</p> <p>The cut and fill required and therefore placement of soil is proving difficult to understand clearly including the quantity leaving site. We believe that the open downland of SDNP would be harmed by raising the levels as the natural line of the topography will be affected. The current topography is that of folds, not cuttings which the proposed road plus raising the ground levels will produce. Further consideration on the levels and ultimate topography is required to ensure the nature of the open downland is not harmed.</p>	<p>landscape elements (woodland and scrubland) to integrate the slopes into the surrounding landscape, and support visual screening of the M3 corridor, which is reflective of the Itchen Valley Sides Landscape Character Area and its characteristic features.</p> <p>Excavated chalk (from construction in other areas of the Scheme) will be placed to positively and specifically enhance the topography to the east of the M3 corridor, between Easton Lane and Long Walk in a locally-sympathetic landform. Here the placement of fill material is demonstrated on Figure 2.7 (Long Sections) of Chapter 2 (The Scheme and its Surroundings – Figures (Part 3 of 4)) of the ES (6.2, APP-063). The depth of fill varies but is generally up to a maximum of 3m. The design solution is to place the material over a sufficient area so that the volume deposited is blended into the landform and is reflective of the existing, variable profiles, with proposed landform profiles varying between 1(vertical) 12(horizontal) to 1(vertical) 40(horizontal).</p> <p>The placement of fill provides the basis for creation of chalk grassland. This will help to integrate the Scheme into the existing open rolling chalk downland landscape. In specific locations, placement has been increased to maximise opportunities for the introduction of false cuttings, thus maximising screening of the existing M3 and the Scheme. In these locations the depth of fill increases up to 8m above the existing ground level.</p> <p>In relation to the landform modifications to the east of the M3 corridor, between Easton Lane and Long Walk, in areas to be returned to agriculture the maximum gradient proposed is 1(v) 15(h). For areas of chalk grassland creation, the maximum gradient is 1(vertical) 12(horizontal). For areas subject to soft landscape planting the maximum gradient proposed is 1(vertical) 2(horizontal).</p>
<p><i>Q14.1.4 Paragraph 1.5 of The Case for the Scheme [APP-154] states the policy context and lists national and local policies that have been used. Please confirm that this list is relevant and complete or highlight potential omissions.</i></p> <p>Winchester City Council response:</p> <p>The Winchester Movement Strategy is mentioned in paragraph 1.5.13. The Winchester Carbon Neutrality Action Plan 2020 – 2023 is excluded from this list. This is covered within WCC's Local Impact Report in further detail.</p>	<p>The Winchester City Council <i>Carbon Neutrality Action Plan</i> is referred to in Paragraph 14.3.1 in Chapter 14 (Climate) of the Environmental Statement (ES) (6.1, Rev 2).</p>
<p><i>Q14.1.8 The Case for the Scheme [APP-154] Appendix A 'Local Policy Assessment' sets out the Applicant's assessment of the scheme in relation to local planning policies. Please indicate whether you are content that the scheme would comply with all other relevant local planning policies, including those relating to climate change resilience and adaptation, contained within the local plan documents for your authority. If not, please explain why.</i></p> <p>Winchester City Council response:</p> <p>Please refer to Local Impact Report for the detailed assessment of Local Policy.</p>	<p>The Applicant has provided a full response the points summarised in the Applicant's Response to the Local Impact Report from Winchester City Council in Section 2 in the Applicant Comments on Local Impact Reports (Document Reference 8.9) submitted at Deadline 3.</p>

Winchester City Council Responses to Examiner's Questions	Applicant Response
<p>To summarise:</p> <ul style="list-style-type: none"> ▪ Proposals are considered to comply with Principle policies (DS1, MTRA4, DM10, DM22) ▪ Proposal does not address climate change and is in conflict with policy DS1 ▪ The proposal is considered to comply with Heritage policies (CP20, DM25, DM29, DM31). However there are 7 areas of clarification concerning Archaeology which prevent compliance with policy DM26 at this stage. ▪ For air quality and noise, as further information is awaited in the second EMP, unable to confirm mitigation is suitable and unable to confirm compliance with DM17, DM19, DM20 at present. ▪ Further information awaited on biodiversity surveys so unable to confirm policies CP15 and CP16 met. ▪ There are areas of clarification required to assess impact on the landscape, compliance with policies DM15 and DM23 cannot yet be confirmed. ▪ Significant concern is raised by the SDNP and WCC is required to assess setting. Compliance with policy CP19 not yet confirmed. ▪ Whilst there remains significant tree loss, provided mitigation is provided there is no objection and the scheme is in compliance with DM24 	

2.4 Response to Hampshire County Council responses to Examiner's Questions (ExQ1) (REP2-067)

Hampshire County Council Responses to Examiner's Questions	Applicant Response
<p><i>Q7.1.43 The Applicant is acquiring land permanently which, following completion, will form part of the local highway network not maintained by the Applicant. Please clarify the future status of such land ownership over which highway will be maintained by the local highway authority and if agreement has been reached on this.</i></p> <p>Hampshire County Council response:</p> <p>The County Council's position on the transfer of landownership is that, as the local highway authority, it is content to accept the transfer of any landownership that is immediately under the highway extent (the highway subsoil) that it will be responsible for as the local highway authority. The County Council does not expect, and would not accept, the transfer of any land from the Applicant that does not form part of the highway subsoil</p>	<p>This matter is not relevant to the determination of the Development Consent Order as it relates to land ownership and not highway authority powers. However, this matter forms part of the ongoing discussions between the Applicant and Hampshire County Council as local highway authority.</p>
<p><i>Q9.1.9 Regarding the draft DCO [APP-019] Article 3, please comment generally on the effect of Article 3 and whether relevant protective provisions have been discussed and agreed? By seeking to disapply section 23 of the Land Drainage Act 1991 Article 3 impacts the County Council's interest as Lead Local Flood Authority.</i></p>	<p>The Applicant has provided a response to this in the Applicant's Response to the Local Impact Report from Hampshire County Council in Section 3 in the Applicant Comments on Local Impact Reports (Document Reference 8.9) submitted at Deadline 3.</p>

Hampshire County Council Responses to Examiner's Questions	Applicant Response
<p>Hampshire County Council response:</p> <p>The County Council considers that s.23 of the Land Drainage Act 1991 should not be disapplied, and instead the County Council consent scheme (that currently operates) should remain in place to govern any interference with watercourses required under the DCO. The consent scheme is proven to be well run and allows suitable lead in times, oversight by the Authority and cost recovery. It is not considered that there is any benefit to disapplying this legislation as the process would need to be replicated in further protective provisions. There are a number of drawbacks in terms of preparing a new process, obtaining appropriate authority to approve proposals, differing methodologies and the additional costs placed on the Authority to vary these systems. At present, the DCO offers no cost recovery for any of these elements.</p> <p>It is considered that the design checks undertaken by the County Council to date and during the DCO process provide sufficient certainty that approval will be granted for consent applications (subject to detailed design and culvert sizings) and that there is little risk to the Applicant's project by using the existing methodology. As further comfort to the Applicant the County Council would be prepared to issue a statement to provide an initial review of the consents needed to act as an 'Approval in Principle' with those elements that require further design identified. Given that the County Council consider that section 23 should not be disapplied, no protective provisions have been identified to date</p>	
<p><i>9.1.17 The EM [APP-020] paragraph 4.43 indicates that certain provisions of the 1991 Act listed in that paragraph will not apply. However, these are designed primarily to regulate the carrying out of street works by utility companies in respect of their apparatus. Please confirm that the Council has no concerns in relation to the disapplication of this aspect of the 1991 Act and that Article 13 does not have any adverse implications for its ability to manage and coordinate activities on the highway.</i></p> <p>Hampshire County Council response:</p> <p>Hampshire County Council run the Hampshire County Permit Scheme pursuant to the Traffic Management Act 2004 and the Traffic Management Permit Scheme (England) Regulations 2007 for all street and highway works taking place on its network. The County Council require that all of the works undertaken by the Applicant on the County Council's network pursuant to the DCO are undertaken in accordance with and pursuant to the terms of the Permit Scheme.</p> <p>To this end the County Council is requesting that the DCO includes at Article 11 provisions that require National Highways to adopt this approach in respect of all project works carried out as street works on the County Council's network.</p> <p><i>(3) Subject to article 11 (4) and article 13 (application of the 1991 Act), the provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).</i></p> <p><i>(4) Any street works carried out on highway that is not special or trunk road shall be carried out in accordance with the permit scheme.</i></p>	<p>The Applicant has provided a response to this in the Applicant's Response to the Local Impact Report from Hampshire County Council in Section 3 in the Applicant Comments on Local Impact Reports (Document Reference 8.9) submitted at Deadline 3.</p>

Hampshire County Council Responses to Examiner's Questions	Applicant Response
<p>Provided this position is accepted then the Permit Scheme will provide the necessary regulatory powers to the County Council for managing and coordinating activities on the County Council's highway. However, if express incorporation of the Permit Scheme is not accepted, the County Council would be concerned about the exclusion of provisions of the New Roads and Street Works Act 1991 in Article 13 The County Council is also seeking a term in Article 11 of the DCO to clarify and confirm that the exclusion of section 58 and schedule 3A of the New Roads and Street Works Act 1991 will not prevent the County Council placing restrictions on the project works after they have been completed.</p> <p><i>(5) Where works executed under the powers of this Order have taken place on highway that is neither special road or a trunk road the exclusions in Article 14(3) of section 58 (restriction on works following substantial road works) and schedule 5 3A (restriction on works following substantial street works) shall not apply to the local highway authority's power to impose restrictions under s.58 and schedule 3A after the works executed under the powers of this Order have been completed.</i></p>	
<p><i>Q9.1.18 The draft DCO [APP-019], Part 3, Article 14 sub-paragraph (3) states where a footpath, cycle track or bridleway is constructed, altered or diverted under this Order it must be maintained by and at the expense of the local highway authority from its completion. Please confirm that this includes those which are adjacent to or contiguous with a trunk road and if there are any other exceptions.</i></p> <p>Hampshire County Council response:</p> <p>The County Council believe that where there will be new, altered or diverted footpath this will be the future maintenance responsibility of the County Council. However, the County Council do not agree to take on the responsibility from completion of the relevant works. Instead, the County Council will require the Applicant to enter into a legal agreement for the works in question, which will be on terms that maintenance responsibility will only pass to the County Council after both completion of the works and a 12-month period of maintenance by the Applicant has expired. The County Council's Local Impact Report refers at paragraphs 7.2 and 10.11 The County Council considers that the transfer of responsibility will include footpath, cycle track or bridleway including those adjacent to or contiguous with the trunk road but would not include any footway that formed part of a trunk road. The cycle track is bounded by fencing along most of its route. Where it is contiguous with the trunk road, as show in General Arrangement Plans sheets 5 and 6, the highway authority would not expect to maintain the fence between the cycle track and the trunk road. The County Council is still in discussion with National Highways regards whether it would accept responsibility for the bridge structure that will carry the right of way as shown on General Arrangement Plans sheet 5. As shown on General Arrangement Plan sheet 6, the proposed Toucan crossing on the A33 Link Road on the southern arm of the National Highways depot will not be transferred to the County Council's ownership as this crosses part of the trunk road network. The cycle track either side will be maintained by the County Council. The County Council does not accept the transfer of responsibility for any subway structure as shown on General Arrangement Plans sheet 5 that carries or accommodates the route of the highway.</p>	<p>The Applicant has provided a response to this in the Applicant's Response to the Local Impact Report from Hampshire County Council in Section 3 in the Applicant Comments on Local Impact Reports (Document Reference 8.9) submitted at Deadline 3.</p>

Hampshire County Council Responses to Examiner's Questions	Applicant Response
<p><i>Q9.1.19 The draft DCO [APP-019], Part 3, Article 14 Sub-paragraph (6) states that in the case of a bridge constructed under this Order to carry a highway over a special road or trunk road, the highway surface above the waterproofing membrane will be maintained by and at the expense of the local highway authority and the structure of the bridge must be maintained by and at the expense of the undertaker unless otherwise agreed in writing with the local highway authority. Please confirm and clarify is 'surface' relates only to the carriageway surfacing and that there is a process of agreeing this with the local highway authority, including the relevant commuted sums. Please confirm how any such commuted sums are secured within the DCO.</i></p> <p>Hampshire County Council response:</p> <p>The County Council confirms that it expects any maintenance responsibility under Article 14 paragraph 6 to be restricted to the surface of the highway and considers that the highway surface will be comprised of the carriageway surfacing only. Any other structures on the bridge including those that maybe physically above the waterproofing (such as vehicle restraint barriers or lighting systems) will be the maintenance responsibility of the Applicant. The County Council is prepared to accept the maintenance responsibility in Article 14(6) subject to the County Council and the Applicant entering into a legal agreement on terms acceptable to the County Council. [Paragraph 10.11 and 10.16 of the County Council's Local Impact Report that comments on the terms of the draft DCO also refers] This agreement would identify the area of the carriageway to be the County Council's responsibility by reference to a description and a plan. The agreement would also include provisions for payment of commuted sums to account for the County Council's future maintenance responsibility. The County Council has provided draft heads of terms for such an agreement and will be looking to agree the same with the Applicant in due course.</p>	<p>The Applicant has provided a response to this in the Applicant's Response to the Local Impact Report from Hampshire County Council in Section 3 of the Applicant Comments on Local Impact Reports (Document Reference 8.9) submitted at Deadline 3.</p>
<p><i>Q9.1.23 Please explain and comment generally upon the implications of and any concerns relating to this article of the draft DCO [APP-019]. (Article 20)</i></p> <p>Hampshire County Council response:</p> <p>The County Council considers that the powers proposed to be granted to National Highways under Article 20 of the draft DCO should not extend beyond the point that the authorised works are open to the public.</p>	<p>Article 20 of the draft Development Consent Order (3.1, Rev 3) allows the undertaker to make traffic regulation orders in relation to roads for which it is not the highway authority. The powers under article 20 are time limited to 12 months (paragraph (3)) or 24 months (paragraph (7)) after the opening of the authorised development for public use, allow the undertaker, in so far as it is necessary or expedient for the purposes of the construction, maintenance or operation of the authorised development.</p> <p>These powers are necessary to allow for a period of maintenance and repair after the authorised works are open to the public. The notification requirements set out in that article are considered by the Applicant to mitigate the impact on the local highway authority.</p>
<p><i>Q9.1.54 Please comment as to whether any additional Requirements would be necessary to secure required matters including any monitoring and mitigation measures? If so, please provide, for the ExA's consideration, draft Requirements for any such topic areas where there is perceived to be a need for them to be imposed giving reasons for their imposition</i></p> <p>Hampshire County Council response:</p> <p>As the County Council will be the maintaining highway authority for any of the development works permitted by the DCO that either take place on the County Council's existing highway</p>	<p>The Applicant has provided a response to this in the Applicant's Response to the Local Impact Report from Hampshire County Council in Section 3 of the Applicant Comments on Local Impact Reports (Document Reference 8.9) submitted at Deadline 3.</p>

Hampshire County Council Responses to Examiner's Questions	Applicant Response
<p>network, on trunk road that is to be de-trunked or are for the construction of new highway to be transferred to the County Council the County Council require the Applicant's submitted detailed design (to be submitted under schedule 2 para 12 of the draft DCO) to be subject to the approval of the County Council (as well as the Secretary of State) where the detailed design relates to any of the above highways. The County Council would seek an addition to the draft requirements set out at schedule 2 paragraph 12 as follows;</p> <p><i>'12(2) In respect of any part of the authorised development that is to take place on either highway that is not trunk road or special road or on highway that will be de-trunked or is for the construction of a bridge that is intended to be the maintenance responsibility of the local highway authority or new highway that is to be transferred to the local highway authority that part of the authorised development is not to commence until the detailed design for that part of the authorised development has been submitted to and approved by the local highway authority such approval not to be unreasonably withheld.'</i></p> <p>The County Council seeks an amendment to paragraph 13 of Schedule 2 concerning mitigation measures to ensure that sufficient technical detail is submitted in the written detail of the surface water drainage system to allow sufficient standard of consideration of the proposal pre commencement. The County Council requires an amendment to paragraph 13 of Schedule 2 as follows;</p> <p><i>13 (1) No part of the authorised development is to commence until written details of the surface water drainage system for that part, in accordance with the flood risk assessment and drainage strategy reflecting the mitigation measures in chapter 13 of the environmental statement and including means of pollution control, have been submitted to and approved in writing by the Secretary of State following consultation with the relevant planning authority, the lead local flood authority and the Environment Agency.</i></p> <p>(2) (2) Written details of the surface water drainage system will include</p> <p>(a) updated infiltration testing to BRE 365 standard</p> <p>(b) updated hydraulic calculations</p> <p>(c) updated drainage layout plans and exceedance flow route plans.</p> <p><i>(3) The drainage system must be constructed and maintained in accordance with the approved details referred to in sub-paragraph (1) unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority, the lead local flood authority and the Environment Agency."</i></p> <p>The County Council's position on the need for the County Council and the Applicant to enter legal agreements to govern any of the authorised development that is intended to come into the maintenance of the County Council as specified in Article 14(1) - (3) and (5) - (7) is set out in paragraph 10.11 of the County Council's Local Impact Report. The County Council in</p>	

Hampshire County Council Responses to Examiner's Questions	Applicant Response
<p>particular would require an amendment to Article 15(4) that concerns detrunking (as set out in paragraph [] of the County Council's Local Impact Report.</p> <p>The County Council would also request that some form of security that the authorised works were undertaken only in accordance with the relevant legal agreement was either secured as part of a section 106 planning obligation agreement or (if this cannot be agreed) is included as a requirement in the DCO. Draft requirement in schedule 2 (and associated definitions) to this end;</p> <p>'Local Highway Legal Agreement' means an agreement between the County Council and Undertaker to govern the performance and transfer of maintenance responsibility of the Local Highway Works [of that part of the authorised development referred to in Article 14(1) - (3) and (5) - (7)] to the County Council]</p> <p>'Local Highway Works' means that part of the authorised development referred to in Article 14(1) - (3) and (5) - (7).</p> <p>No part of Local Highway Works is to commence until a Local Highway Legal Agreement between the local highway authority and the undertaker is completed</p> <p>The Local Highway Works must be constructed and maintained in accordance with the relevant Local Highway Legal Agreement</p>	
<p><i>Q10.1.2 Section 13.4 of ES Chapter 13 [APP-054] explains that although the findings of the initial ground investigation works undertaken to inform the design of the Proposed Development did not cover the entire application site it is considered that they provide sufficient detail to allow a robust assessment of potential impacts at this stage. Please can the EA and HCC (as Lead Local Flood Authority) confirm whether it considers that the works undertaken are sufficient to identify all of the relevant hydrological receptors that may be affected by the Proposed Development.</i></p> <p>Hampshire County Council response:</p> <p>The County Council as Lead Local Flood Authority (LLFA) has reviewed the information in relation to surface water drainage provision. In terms of the ground investigation and potential impacts, within our remit this falls within two different areas.</p> <ol style="list-style-type: none"> 1. Whether there are sufficient infiltration rates and offset to the ground water table for the drainage to function appropriately 2. Whether there are sufficient water treatment measures to ensure water is of a suitable quality prior to leaving the site. <p>For the ground investigations, this has been undertaken with a number of trial holes and groundwater monitoring across the site. Although falling head tests were undertaken rather than BRE365 testing, it is understood that additional testing was being undertaken by the Applicant. This information has not yet been reviewed and the LLFA requests it should be provided as soon as possible during the DCO process to verify that the attenuation and pipe</p>	<p>The Applicant notes Hampshire County Council's response.</p> <p>Requirement 13 of the draft Development Consent Order (3.1, Rev 3) states that no part of the authorised development is to commence until details of the surface water drainage system, reflecting the mitigation measures set out in Chapter 13 (Road Drainage and the Water Environment) of the Environmental Statement (ES) (6.1, APP-054), are approved in consultation with the Lead Local Flood Authority.</p> <p>Further infiltration testing will inform detailed design, with details provided as part of the discharge of Requirement 12 of the draft Development Consent Order (3.1, Rev 3).</p>

Hampshire County Council Responses to Examiner's Questions	Applicant Response
<p>sizes are appropriate to achieve the discharge rates previously identified. This is the most critical of the outstanding information as there are some infiltration features that don't meet the required half drain times expected. These are linked to overland flow routes and sufficient information has been provided to allow assessment of flood risk but if infiltration rates are lower than expected, adjustments to basin sizes would be required which could have a wider impact. A factor of safety has been applied to the falling head tests results, to manage this risk however there is always a risk that infiltration rates could be lower than expected and as such, this information should be provided as soon as possible.</p> <p>Extended groundwater monitoring has been undertaken over a 12 month period at locations close to the proposed infiltration basins. This is considered acceptable and sufficient for design purposes</p> <p>In relation to water quality the LLFA follows the methodology within the Ciria SuDS manual to determine whether sufficient measures are proposed to appropriately treat surface water depending on land use. Given the nature of the development, it is considered appropriate to use the HEWRAT assessment which has been provided.</p> <p>We are not able to provide further narrative assessment of all relevant hydrological receptors but understand that this will be covered by the Environment Agency who have a wider remit in relation to Main Rivers and Groundwater quality.</p> <p>In summary, the only point we believe is outstanding in relation to this question and under our remit as LLFA is infiltration testing in accordance with BRE365 and we understand that this is already underway. Providing this is no worse than the infiltration rates currently used, we would have no further comments in relation to the above points.</p> <p>While the proposals are generally considered acceptable, some detail is yet to be provided and as the design progresses it is expected that revisions will be required. On this basis amendments to Requirement 13 have been proposed to the draft DCO to ensure the suitable assessment of proposals. No significant changes are expected for the drainage design but further detail has been requested in relation to:</p> <ul style="list-style-type: none"> ▪ Exceedance flow plans to demonstrate safe management of exceedance routes. ▪ Updated calculations and drawings reflecting the BRE365 infiltration testing <p>The applicant has stated that this will be submitted at detailed design and that the submitted Requirement 13 would be sufficient to address this point.</p>	
<p><i>Q12.1.2 Whilst it is recognised that given the nature of the development there may be a limit on what can be achieved in terms of the aesthetics of certain aspects of the infrastructure, notwithstanding the details provided in the Design and Access Statement [APP-162] which sets out the high level principles that have driven the design of the scheme, has consideration been given the production of a specific 'design code' or 'design approach document' which would</i></p>	<p>As discussed at ISH1, the Applicant is considering the merits and feasibility of producing a 'design approach document'. An update will be provided at Deadline 4.</p>

Hampshire County Council Responses to Examiner's Questions	Applicant Response
<p><i>establish the approach to delivering the detailed design specifications such as bridges, and fencing and choice of materials which could be secured by a draft DCO requirement?</i></p> <p>Hampshire County Council response:</p> <p>The County Council has published a number of Technical Design Standards Highway construction standard details Hampshire County Council (hants.gov.uk) and Technical Guidance Notes Technical guidance notes Hampshire County Council (hants.gov.uk) to govern new works on the local highway. In addition, the County Council's Commuted Sums policy indicates 11 those materials and design specifications that it will be able to maintain in perpetuity. Commuted sums Hampshire County Council (hants.gov.uk)u</p>	
<p><i>Q16.1.1 Please provide an update on the status of the de-trunking agreement with the local highway authority. Please also confirm that the highway identified as being de-trunked is correct.</i></p> <p>Hampshire County Council response:</p> <p>The County Council and the Applicant are in discussion regards the proposed de-trunking of highway. The County Council still has concerns about the proposed de-trunking, including;</p> <ul style="list-style-type: none"> ▪ The transfer of a bridge structure as part of the de-trunking order that would become the maintenance responsibility of the County Council. This concerns the Irrigation Stream Bridge (Structure_6120) as shown on General Arrangement Plan sheet 4. To accept the proposed transfer of maintenance of this bridge structure the County Council would require the Applicant to enter into a legal agreement that would include terms for payment commuted sums to the County Council. The County Council would require the commuted sum value to cover the full 120 year lifecycle of the bridge structure. It may be that the Applicant would seek to retain ownership of this structure and the local highway authority would then be responsible for the maintenance of the surface only. ▪ The precise areas to be de-trunked are not clear and the proposal to de-trunk highway that will then also be the subject of a stopping up order causes concern as this would result in the transfer of land to the County Council where the County Council will not be highway authority. The County Council considers that where the Applicant wish to stop up any of its network they should do so without first transferring the highway to the County Council pursuant to a de-trunking power. <p>Subject to the above the County Council is in principle accepting of the de-trunking of carriageway provided that;</p> <ul style="list-style-type: none"> ▪ the County Council and the Applicant have entered into a legal agreement before the close of the examination on terms acceptable to the County Council. The agreement would include provisions for inspection and repair of the roads to be detrunked prior to the de-trunking to the County Council's satisfaction, and payment to the County Council of commuted sums for future maintenance. The County Council has provided draft 	<p>These matters are subject to on-going discussion with Hampshire County Council and an update will be provided at Deadline 4.</p> <p>In respect of matters also raised in the LIR a response has been provided in Section 3 in the Applicant comments on Local Impact Report (Document Reference 8.9) submitted at Deadline 3.</p>

Hampshire County Council Responses to Examiner's Questions	Applicant Response
<p>heads of terms for an agreement and will be looking to agree the same with the Applicant in due course; and</p> <ul style="list-style-type: none"> there is an amend to Article 15(4) of the draft DCO to the effect that no de-trunking will take place until the County Council has confirmed in writing that the intended roads for de-trunking that will be the maintenance responsibility of the County Council are in a fit state of repair and condition to the County Council's reasonable satisfaction. The proposed amend to the draft DCO is set out at paragraph 10.18 of County Council's Local Impact Report 	
<p><i>Q16.1.3 Please confirm that the proposals for classification of highways, in particular where they affect the Local Highway Authority, have been consulted upon and agreed. In addition, please confirm that the boundary between the gyratory and adjacent non-trunk roads is correct and agreed (as shown on Sheet 7 of the plans [APP-012]).</i></p> <p>Hampshire County Council response:</p> <p>The County Council is able to confirm that they have been consulted upon and agreed the classifications proposed, with the exception of the classification that relates to the boundary between the gyratory and adjacent non-trunk road. The County Council considers that there will need to be amendment of the relevant classification to reflect an amendment of the proposed boundary.</p>	<p>The Applicant has provided a response to this in the Applicant's Response to the Local Impact Report from Hampshire County Council in Applicant Comments on Local Impact Reports (Document Reference 8.9) submitted at Deadline 3.</p>
<p>Q16.1.33 Please confirm that the proposed sections of highway to be stopped up are all necessary and that the land will be returned to the Applicant. Additionally, please confirm that the local highway authority agrees to the process and the proposals for work on highway where they will be the maintaining authority.</p> <p>Hampshire County Council response:</p> <p>The County Council agrees in principle to the proposed stopping up of its highway network.</p> <p>The County Council is in discussion with the Applicant as to the process and proposals for work on highway for which the County Council is or will become the maintaining authority. In principle this can be agreed subject to;</p> <ul style="list-style-type: none"> the County Council and National Highways entering into a legal agreement before the close of the examination on terms acceptable to the County Council that include provisions for governing the detail and standards of the works and the meeting of standards for the transfer of maintenance responsibility to the County Council after the conclusion of a period of maintenance at National Highways expense. The County Council has submitted required heads of terms for such an agreement to National Highways. the County Council being provided with a form of security either under a section 106 agreement or as a requirement under the Order that the relevant part of the authorised development is not commenced until the necessary legal agreement is in place and the authorised development is carried out in accordance with the terms of the relevant legal 	<p>The Applicant notes that Hampshire County Council agrees in principle to the proposed stopping up. The Applicant is in discussion with Hampshire County Council on the other matters raised including the appropriateness of a S106 agreement or other legal agreement.</p>

Hampshire County Council Responses to Examiner's Questions	Applicant Response
<p>agreement. The County Council's Local Impact Report refers at para 10.11 and the possible draft requirement is submitted in response to the ExA Q 9.1.54 above</p>	

2.5 Response to South Downs National Park Authority responses to Examiner's Questions (ExQ1) (REP2-072)

South Downs National Park Authority Responses to Examiner's Questions	Applicant Response
<p><i>Q4.1.7 The ES Chapter - Chapter 3: Assessment of Alternatives [APP-044] section 3.16 'Design changes following statutory consultation (2021)' paragraph 3.16.4 outlines that the design of the earthworks between Easton Lane and Long Walk was revisited and redesigned in consultation with the SDNP Authority in order to respond to some of the concerns. Please explain further the nature of those concerns, the proposed changes to landform and topography that resulted and whether any further changes are considered to be necessary in this location?</i></p> <p>South Downs National Park Authority response:</p> <p>Following the 2021 Section 42 Consultation, the SDNPA raised two concerns within its objection to the scheme at that time.</p> <p>We were concerned with the references to an area of land to the east of the existing junction referred to as a 'zone of reprofiling earthworks with undulating chalk grass land creating screening of works'. The SDNPA response was that this element appeared to be completely artificial on the high flank of the Downland and would interrupt and truncate views to the higher ground to the east. The SDNPA also questioned whether this was actually a suitable location for surplus spoil and that the proposed screening function of these works would not appear to be beneficial to receptors to the east (in the short or long term) due to their elevation and distance.</p> <p>We were also concerned with the extent of the amended application boundary to take into account three areas for potential excess spoil management. There was a lack of detailed information on the proposed landforms (for example, references Page 2 of 11 Question Reference Examining Authority Question SDNPA Response were made to the spoil being a height of up to 4m), so we raised an objection.</p> <p>We were also concerned because in these areas, the spoil would need to be graded to tie in with existing contours and sufficient room would be required to achieve this effectively (hence why we questioned whether the extent of the application boundary should have been extended further). The proposed red line of the application boundary had straight edges which cut across the existing contours of the Downland and this would not have been conducive to achieving the aim of reprofiling the land with existing contours.</p> <p>By December 2021, National Highways had amended the scheme to remove the three large areas proposed for excess spoil management and reduced the red line of the application boundary accordingly.</p>	<p>The Applicant notes that South Downs National Park Authority's concern regarding areas of spoil and reprofiling was resolved.</p> <p>The Applicant has responded to other concerns outlined by South Downs National Park Authority in Section 2.4 in the Applicants Comments on Written Representations (Document Reference 8.8) submitted at Deadline 3.</p>

South Downs National Park Authority Responses to Examiner's Questions	Applicant Response
<p>Therefore, this element of the SDNPA's objection was resolved. However, the SDNPA still has concerns about the proposal, as set out in Paragraph 3.1.17 of our Written Representation.</p>	
<p><i>Q9.1.14 Regarding the draft DCO [APP-019] Article 8, please indicate whether there are any outstanding concerns in relation to the proposed limits of deviation or whether any drafting amendments are sought in relation to Article 8?</i></p> <p>South Downs National Park Authority response:</p> <p>As set out in paragraphs 6.14 d) and 6.39 of our Local Impact Report, the SDNPA has concerns about the proposed limits of deviation allowing for up to a 5m deviation in relation to the drainage works / attention ponds. The limits of deviation need to be reduced in respect of these works to be reduced in respect of these works.</p>	<p>The Applicant's Response to the South Downs National Park Authority Local Impact Report in Section 4 in the Applicant Comments on Local Impact Reports (Document Reference 8.9) submitted at Deadline 3 addresses this point.</p>
<p><i>Q9.1.54 Please comment as to whether any additional Requirements would be necessary to secure required matters including any monitoring and mitigation measures? If so, please provide, for the ExA's consideration, draft Requirements for any such topic areas where there is perceived to be a need for them to be imposed giving reasons for their imposition</i></p> <p>South Downs National Park Authority response:</p> <p>The SDNPA has highlighted a number of areas where the DCO Requirements should be amended or added to, these are set out in the following paragraphs of our Local Impact Report and Written Representation. Local Impact Report:</p> <ul style="list-style-type: none"> ▪ 6.14 b) ▪ 6.14 e) ▪ 6.14 g) ▪ 6.14 h) ▪ 6.24 c) ▪ 6.24 d) ▪ 6.24 e) ▪ 6.27 a) ▪ 6.34 a) ▪ 6.34 b) ▪ 6.34 d) ▪ 6.38 ▪ 6.45 Written Representation: ▪ 3.1.23 c) 	<p>The Applicant's responses to the South Downs National Park Authority Local Impact Report in Section 4 in the Applicant Comments on Local Impact Reports (Document Reference 8.9) submitted at Deadline 3 addresses points on the Development Consent Order Requirements that South Downs National Park Authority has highlighted.</p>

South Downs National Park Authority Responses to Examiner's Questions	Applicant Response
<ul style="list-style-type: none"> ▪ 3.2.1 b) ▪ 3.2.3 	
<p><i>Q12.1.2 Whilst it is recognised that given the nature of the development there may be a limit on what can be achieved in terms of the aesthetics of certain aspects of the infrastructure, notwithstanding the details provided in the Design and Access Statement [APP-162] which sets out the high level principles that have driven the design of the scheme, has consideration been given the production of a specific 'design code' or 'design approach document' which would establish the approach to delivering the detailed design specifications such as bridges, and fencing and choice of materials which could be secured by a draft DCO requirement?</i></p> <p>South Downs National Park Authority response:</p> <p>Paragraph 6.14 of the SDNPA's Local Impact Report identifies several areas where further design details are requested. These include the design of attenuation features, subways and footpaths. A 'design code' or 'design approach document' would be one way of identifying the degree to which specific design measures are capable of addressing some of the potential adverse impacts of the proposals.</p>	<p>The Applicant's responses to the South Downs National Park Authority Local Impact Report in Section 4 in the Applicant Comments on Local Impact Reports (Document Reference 8.9) submitted at Deadline 3 submitted at Deadline 3 addresses points on additional details being required.</p>
<p><i>Q12.1.22 The ES Chapter 7 Landscape and Visual [APP-048] presents the findings of the assessment of the construction and operation of the proposed development.</i></p> <ul style="list-style-type: none"> ▪ <i>Are you content with the assessment methodology and the recording of baseline information in the Landscape and Visual Impact Assessment (LVIA) and the approach to the LVIA assessment? The SDNPA is content with the assessment methodology and the recording of baseline information in the LVIA but disagrees with the judgments within the LVIA in particular where it finds that landscape effects on the National Park will no longer be significant at Year 15 of operation. The SDNPA does have concerns about the limits of deviation proposed – see response to Q9.1.14 above. Page 7 of 11 Question Reference Examining Authority Question SDNPA Response</i> ▪ <i>Do you have observations on the limits of deviation proposed in the scheme?</i> ▪ <i>Are you content with the detailed mitigation measures in relation to landscape impact and visual effects set out in the REAC Tables of the fiEMP [APP-156] including whether they have been drafted with sufficient precision to ensure enforceability? For example, LV13 in relation to earthworks, LV18 in relation to the creation of chalk grassland and LV20 in respect of ongoing management and maintenance.</i> ▪ <i>Are you satisfied with the presentation of baseline photographs and visualisations prepared for the scheme?</i> ▪ <i>Are you satisfied with the approach adopted by the Applicant in relation to the night-time assessment of lighting on landscape and visual receptors?</i> 	<p>The Applicant's response to the South Downs National Park Authority Written Representation in Section 2.4 in the Applicants Comments on Written Representations (Document Reference 8.8) submitted at Deadline 3 addresses comments referring to insufficient mitigation.</p> <p>With reference to the comments on the measures contained within the Table 3.2 of the first iteration Environmental Management Plan (fiEMP) (7.3, Rev 3), the Applicant has the following comments:</p> <p>LV3 – The Applicant considers the Development Consent Order currently allows for this consultation through Requirement 5 of the draft Development Consent Order (3.1, Rev 3) which states that that '<i>no part of the authorised development is to commence until a written landscaping scheme for that part has been submitted to and approved in writing by the Secretary of State following consultation with the relevant planning authority and the local highway authority</i>'. The written landscape scheme would include production of the Landscape and Ecological Management Plan (LEMP) which would formally be appended to the second iteration of the Environmental Management Plan (siEMP).</p> <p>LV12 – The Applicant will, where possible, reuse excess earth arisings during construction to facilitate landscape mitigation within the Application Boundary where it can be accommodated.</p> <p>LV13 – The Applicant considers that 'where possible' should be retained within this commitment. However, if SDNPA has specific earthwork concerns, the Applicant will consider these further.</p> <p>LV16 – The Applicant's responses to the South Downs National Park Authority Written Representation (REP02-075d) in Section 2.4 in the Applicants Comments on Written</p>

South Downs National Park Authority Responses to Examiner's Questions	Applicant Response
<p> <ul style="list-style-type: none"> What, if any, further mitigation is considered necessary and how should such measures be secured? For example, should the Draft DCO include a specific reference to the OLEMP/LEMP to secure all relevant mitigation referred to in the ES? </p> <p>South Downs National Park Authority response:</p> <p>The SDNPA is not content that the proposed mitigation measures will be sufficient to compensate for the harm to the National Park. As set out in paragraphs 3.1.22 – 3.1.25 of our Written Representation. With regard to the enforceability of the measures set out in the REAC Tables, the SDNPA has the following observations.</p> <ul style="list-style-type: none"> LV3 – to avoid any doubt, there should be specific references to the SDNPA also being consulted on the LEMP. LV12 - the SDNPA considers that this Environmental Action/commitment should be qualified to say 'The reuse of excess earth arisings during construction to facilitate landscape mitigation within the Application Boundary where it can be accommodated without an unacceptable loss of the nature profile. Details of proposed profiles within the South Downs National Park to be agreed with the SDNPA'. LV13 - The SDNPA considers that 'where possible' should be removed from this Environmental Action/commitment. If that is not acceptable it should be revised as follows. 'All earthworks shall have rounded crests and profiles to tie in with local landform and avoid the appearance of engineered solutions. Where this is considered not to be possible the details of proposed profiles within the South Downs National Park to be agreed with the SDNPA'. LV16 - Part of Plot 009-25 lies within the area proposed for the construction compound. <i>It is not clear how advance planting can be undertaken in this area.</i> LV17 - The SDNPA are not convinced that the embankments are suitable in terms of gradients for the creation of chalk grassland. LV19 - Whilst this is welcomed in principle it is hard to see how the attenuation basins can be designed to appear as naturalistic elements as they are not characteristic of the chalk downland. <p>The SDNPA is not satisfied with either the baseline photographs or the visualisations. Both the baseline photographs and the visualisations are presented as panoramas to be printed at A1. Unless the images are viewed printed at the correct size, they will give a distorted impression of the landscape.</p> <ul style="list-style-type: none"> Paragraph 3.1.18 of our Written Representation, sets out the SDNPA's concerns with the visualisations (document APP-069), which are considered to underestimate the effects of the proposals. In particular Planting growth appears optimistic, particularly at Viewpoint 1; In Viewpoint 14, existing trees are shown along the edge of the motorway however these are proposed to be removed; 	<p>Representations (Document Reference 8.8) submitted at Deadline 3 provides further clarification on this matter.</p> <p>LV17 – The Applicant's responses to the South Downs National Park Authority Written Representation (REP02-075e) in Section 2.4 in the Applicants Comments on Written Representations (Document Reference 8.8) submitted at Deadline 3 addresses this point.</p> <p>LV19 –The Applicant's responses to the South Downs National Park Authority Local Impact Report in Section 4 in the Applicant Comments on Local Impact Reports (Document Reference 8.9) and Written Representation (REP02-075d(d)) in Section 2.4 in the Applicants Comments on Written Representations (Document Reference 8.8) address this point.</p> <p>Baseline photographs and visualisations</p> <p>The methodology for production is defined in Appendix 7.1 (Landscape and Visual Methodology) of the ES (6.3, APP-097). This accords with industry standards and best practice and is considered appropriate given the linear nature of the proposed infrastructure.</p> <p>Paragraph 3.1.18 of the South Downs National Park Written Representation</p> <p>The Applicant's responses to the South Downs National Park Authority Written Representation (REP02-075d) in Section 2.4 in the Applicants Comments on Written Representations (Document Reference 8.8) addresses this point.</p> <p>Further mitigation</p> <p>The Applicant's responses to the South Downs National Park Authority Written Representation (REP02-075e) in Section 2.4 in the Applicants Comments on Written Representations (Document Reference 8.8) addresses this point.</p> <p>draft Development Consent Order</p> <p>The Applicant agrees that reference to the production of a Landscape and Ecological Management Plan should be included in the draft Development Consent Order (3.1, Rev 3) and this was provided at Deadline 2.</p>

South Downs National Park Authority Responses to Examiner's Questions	Applicant Response
<ul style="list-style-type: none"> ▪ Structures such as the attenuation ponds are not shown, and ▪ The road, particularly at Viewpoint 14, is not how it will actually look. There are no vehicles, no barriers, no road markings etc. <p>The SDNPA informed the applicant of our concerns with the visualisations. It is noted that one of these concerns has been addressed at Deadline 1 submissions with the production of a new visualisation for VP 14. Whilst the SDNPA reserves the right to comment further on the Deadline 1 submissions (as set out in our covering letter with this submission). The revised image shows that the original visualisation misrepresented the impact of the changes. In addition, there does not appear to have been an accompanying revision of the ES Appendix 7.4 Schedule of Visual Effects. The SDNPA considers that it would be helpful for the night time photographs and visualisations to be presented alongside a daytime image.</p> <p>A summary of the further mitigation measures which the SDNPA considers should be included in the proposals are set out in Paragraph 3.1.27 of our Written Representation and above in the answer to Q12.1.3</p> <p>The Draft DCO should include a specific reference to the OLEMP/LEMP to secure all relevant mitigation referred to in the Environmental Statement.</p>	
<p>Q14.1.7 Q14.1.8 Q14.1.7</p>	<p>Note the Applicant has provided a response to the South Downs National Park Local Impact Report and Written Representation which are cross referred to in their response to the questions listed here.</p> <p>Please see Section 4 in the Applicant Comments on Local Impact Reports (Document Reference 8.9) and Section 2.4 in the Applicants Comments on Written Representations (Document Reference 8.8) submitted at Deadline 3.</p>

2.6 Applicant Response to comments on Relevant Representations (REP2-080)

2.6.1 The **Applicant Responses to Relevant Representations (8.2, REP1-031)** were submitted at Deadline 1.

2.6.2 Responses from Thomas Rogers were received on the Relevant Representations on three items, RR-095a, RR-095b, and RR-095c. These are copied into the table below and responses provided adjacent.

Relevant Rep	Comment from Thomas Rogers on RR-095 Response	Applicant Response
RR-095a	RR-095a: I estimate the R&W Environmental recycling centre has grown over the past ten or so years it has been in operation, rising in land profile during that time from an original hollow lower than the surrounding road levels to the current situation where the recycling centre surface is above the level of spur road and main line of the motorway. Stockpiles, heavy plant and machinery are now easily visible above the vegetation line	The Applicant confirms that the R&W Environmental recycling centre is currently active and occupies all available space, making it unsuitable for a compound, material storage area, or car park. As this land has never been available to be used as a construction compound it was not included in the Applicant's alternatives assessment as set out in Chapter 3 (Assessment of Alternatives) of the Environmental Statement (ES) (6.1, APP-044) .

Relevant Rep	Comment from Thomas Rogers on RR-095 Response	Applicant Response
	<p>and I suggest there could be a limited remaining life for those ‘essential services for soils and water treatment’ simply due to physical capacity issues of that yard.</p> <p>Therefore, I suggest that the R&W Environmental recycling centre as part of the construction compound allocations be properly considered on the basis the ‘essential services’ may well have a short and finite life in that specific location and an opportunity to lower the environmental impact on the surrounding area including the South Downs National Park is seemingly being avoided for commercial reasoning that may be limited in time and scope.</p> <p>I wonder who is the registered landowner of the R&W Environmental recycling centre land parcel?</p> <p>To the Applicant’s second point, I do not see a reason why the proposed construction compound is required to be a single enclosed area. If use of the R&W Environmental recycling centre could reduce the proposed construction compound in the South Downs National Park by say c.50% that would ameliorate the impacts to the east of the junction 9 quite considerably by reducing land take outside the Applicant’s existing estate and reducing haul route movements by keeping construction cabins and lay down areas closer to the main construction site. It appears in the Works Plans (2.3) that the proposed haul road indicated for the current proposed construction compound in the South Downs National Park will join the spur road opposite the existing entrance of the existing R&W Environmental recycling centre, so logistical changes by deploying my suggestion could be minimal, if not beneficial to the scheme.</p> <p>Finally, Sch 4 of the Infrastructure Planning (EIA) Regs 2017 requires a description of the reasonable alternatives studied by the developer – if the R&W Environmental recycling centre has been considered and “deemed not to be a viable option” it ought to have been recorded in the Alternatives chapter of the Environmental Statement submitted with the DCO application, or otherwise be fully assessed and reported in something like an addendum to the Environmental Statement perhaps.</p>	<p>The Work Plans (2.3, Rev 2) indicate that the entrance to the construction compound will be a left turn from the A272, and all vehicles will exit onto the A272 with a left turn to avoid conflicts with other vehicles on the dual carriageway.</p> <p>The proposed haul route will be located off the strategic road network and will run parallel to the M3 on both the east and west sides.</p>
RR-095b	<p>RR-095b: Not including improvements to the ‘<i>Cart and Horses junction</i>’ is a missed opportunity. I suspect it may be by choice of the Applicant not to include improvements to the ‘<i>Cart and Horses junction</i>’ within Order Limits of this draft Development Consent Order. It would be both a more efficient use of taxpayers’ purse and reduce the overall impact on local residents and businesses to have the much needed (and long mooted) improvements on this local road junction included in this draft Development Consent Order – it is after all adjacent to the Applicant’s existing estate. I would like to believe the Secretary of State deciding upon whether to grant development consent, as well as local elected representatives, would be interested in these aspects and National Highways funding/jurisdiction justifications might not be reasonable enough reason for omission given all the issues raised on this point during the consultation events leading up to Development Consent Order application being made. The Highways England: Licence (2015),</p>	<p>The Applicant notes reference to the ‘<i>Cart and Horses junction</i>’. The Applicant has outlined its position with respect to the Cart and Horses junction in response to the Examining Authority’s Written Questions (ExQ1) issued on 25 May 2023 and this is contained within Appendix A of the Applicant’s Response to the Examiner’s Written Questions (8.5, REP2-051).</p>

Relevant Rep	Comment from Thomas Rogers on RR-095 Response	Applicant Response
	<p>https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/431389/strategic-highways-licence.pdf, states in paragraph 5.23 bullet point d. 'Where appropriate, work with others to develop solutions that can provide increased environmental benefits over those that the Licence holder can achieve alone, where this delivers value for money;' which I take to be relevant here.</p> <p>I would like to see this issue revisited during the Examination process, with the aim to have appropriate safety, design and operational improvements included in this draft Development Consent Order before it goes to the Secretary of State for decision.</p>	
RR-095c	<p>RR-95c: Will the Applicant's commitments to manage and monitor the new structures, drainage and pavement surfaces associated with the M3 J9 Improvements be similarly restricted to 25 years from the completion of the scheme? Given the content of the National Highways Environmental Sustainability Strategy, why does the Applicant [REDACTION] determine responsibilities set out in a draft DCO for the engineering aspects of a scheme and those on the soft estate ought to be treated differently in terms of the length of commitment? Why a reduced commitment to the management of the soft estate where essential mitigation will be situated and relied upon in this draft Development Consent Order compared to the Applicant's other business-as-usual commitments</p>	<p>In terms of structures, drainage and pavement surfaces, these will be maintained for however long National Highways owns the asset. Currently there is no defined timeframe.</p> <p>It should be noted that responsibility to manage and maintain soft estate aspects of the Scheme are not restricted to 25 years. While Appendix 7.6 (Outline Landscape and Ecological Management Plan) of the ES (6.3, APP-102) set outs the current management plan for 25 years only, future maintenance, management, and monitoring requirements beyond this timeframe will be the responsibility of National Highways or the relevant highway authority as part of the management of the wider road network.</p> <p>Appendix 7.6 (Outline Landscape and Ecological Management Plan) of the ES (6.3, APP-102) commits that the Principal Contractor would be responsible for monitoring the establishment of new planting and seeding as set out in line with the detailed landscape scheme specification. The subsequent Landscape and Ecology Management Plan (LEMP) will be produced and included in the second iteration Environmental Management Plan (siEMP). The Principal Contractor would also be responsible for replacing planting defects during the contracted 5-year establishment period, and any other management prescriptions that are scheduled to be undertaken during the establishment period.</p> <p>Following the completion of the establishment period the Principal Contractor will produce the third iteration Environmental Management Plan (tiEMP) which would include an update of the Landscape and Ecological Management Plan (LEMP). As noted above, this Landscape and Ecological Management Plan (LEMP) will set out the future maintenance, management, and monitoring requirements which will be the responsibility of National Highways or relevant highway authority as part of the management of the wider road network.</p>

2.7 Response to Dr Andrew Boswell's response to Examiner's Questions (ExQ1s) (REP2-063)

Dr Boswell's Responses to Examiner's Questions	Applicant Response
<p>Q6.1.11: The ExA notes that the Transport Action Network and Dr Andrew Boswell comment that the Proposed Development should be compared against local and regional transport carbon budgets. Please could these parties suggest how such budgets could be identified, taking into</p>	<p>The Applicant has responded to comments on using local and regional carbon budgets in Relevant Representations RR-018e in Applicant Responses to Relevant Representations</p>

Dr Boswell's Responses to Examiner's Questions	Applicant Response
<p><i>account that the Government has not issued any forecasts of cumulative carbon emissions at a scale below the national level.</i></p> <p>Dr Andrew Boswell's response:</p> <p>1. Why use local and regional carbon budgets? This section is provided as background before responding directly to Q 6.1.11. National Highway's modus operandi for the environmental impact assessment (EIA) of the impact of carbon emissions (both construction and operation) from the scheme is to compare a solus** estimate with national carbon budgets.</p> <p>**Solus meaning here the emissions for the scheme in isolation, and not the scheme in cumulation with other foreseeable developments as the EIA Regulations require. The lack of cumulative assessment is just noted here and will be expanded upon in my WR. This method produces figures such as 0.002% for the comparison against national carbon budgets as stated at 14.19.9 of the ES. I submit these reasons why local and regional budgets provide not just helpful, but also essential, contextualisation in addition to the national budget comparison.</p> <p>(1) The best practice guidance from IEMA states that the national carbon budgets are "a starting place" for determining the EIA significance of the impacts of carbon emissions but expressly recommends that further valuable contextualisation can be provided by comparisons with local and regional budgets.</p> <p>(2) The precision of the scientific process of evaluating the significance of the emissions is enhanced by using different sources and scales of benchmark for comparison. Scale is important. Carbon emissions may have a global environmental impact, but their effect is quantified for EIA purposes from their source location, in this case the scheme and its study area. Greater precision results from evaluating the impacts over an area which is at a scale closer to the study area source of the emissions. I have calculated on other schemes that the accuracy of the comparison may be increased typically by around 10,000 to 100,000 times (ie four to five orders of magnitude) when absolute cumulative emissions are compared with a benchmark based the transport sector carbon footprint, or budget, over an area such as a local authority area.</p> <p>(3) This is important because the greater precision gives a much better perspective of how the estimated emissions relate to the significance threshold (for example, the IEMA Guidance significance thresholds). It also provides much greater confidence about the significance assessment made. This is critical as the use of local and regional carbon budgets for contextualisation can change the value of the significance assessment made. This is why local and regional budget comparison is essential in meeting the EIA requirement to assess the significance of environmental impacts of the scheme, and for the decision maker to give consideration to that environmental impact. For example, a scheme identified as "Minor Adverse" by comparison with only a national carbon budget may be found to be "Major Adverse" when contextualisation with local and regional budgets is added to the overall significance assessment and contextualisation process. I will expand on this in my WR.</p>	<p>(8.2, REP1-031) and Written Question 6.1.5 in Applicant responses to Written Questions (8.5, REP2-051).</p> <p>As noted in Paragraphs 14.5.33-35 of Chapter 14 (Climate) of the Environmental Statement (ES) (6.1, Rev 2), the methodology is consistent with the decision-making requirements set out in paragraphs 5.17 and 5.18 of the <i>National Policy Statement for National Networks (NPS NN)</i>, including the requirement that for road projects applicants should provide evidence of the carbon impact of the project and an assessment against the Government's Carbon Budgets.</p> <p>With regards to the revised climate chapter, Cover Letter (8.1, REP1-030) was submitted with Deadline 1 and sets out why the carbon emissions have been amended.</p>

Dr Boswell's Responses to Examiner's Questions	Applicant Response
<p>2. How can such budgets be identified? National Highways has claimed on other schemes that it cannot identify such budgets because the Government has not issued any local or regional carbon budgets. This claim misunderstands the IEMA guidance and its recommendations for local and regional contextualisation. As above, the contextualisation is required to provide greater precision and confidence about the significance assessment made. Contextualisation, in this usage, does not require an exact percentage to be calculated. Rather it is looking for whether the emissions from the scheme align or not more broadly with the local or regional carbon budget. Therefore, exact forecast figures as a formal budget from Government are not required. What is required is a coherent methodology, and figures, which can provide a clear determination of whether emissions align with national climate policies.</p> <p>To produce a meaningful contextualisation, gumption and a little scientific creative thinking are required - not budgets pre-prepared by the Government "on a platter". I now give a number of such methods that produce a "fit for purpose" local or regional carbon budget, in brief outline.</p> <p>3. Comparisons with historic local authority emission figures The Department of Energy Security and Net Zero (DESNZ, formerly BEIS) publish in each June figures for emissions across all sectors for each local authority area in the UK from 2005. The June 2023 release will provide the figures for each year between 2005 and 2021. It is therefore trivial to find the emission trends across the relevant local authority area(s) for all sectors and the transport sector. Several things may then be done with this data to contextualise the emissions from the proposed scheme. An example of a clear method would be to take the local authority transport emissions in 2019, and apply the reductions implied from the national trajectory (which starts at 2019) for transport in the Net Zero Strategy (NZS). I note the trajectory has recently been republished in the Powering Up Britain (PUB) reports on March 31st, and will write about the implications of this in my WR. Applying the national NZS trajectory to the existing current local authority area emissions produces a set of annual data against which the 2027 and 2042 compared.</p> <p>The proportion of the transport emissions of the total may also be calculated for use later, for example at a base year such as 2019, see below.</p> <p>4. Scaling the study area with the NZS transport sector trajectory In this method, the DM emissions from the study area (representing the total transport emissions as modelled in the transport model study area) may be compared with the national emissions to calculate a scaling factor. For example, the study area DM emissions may be calculated as 1/100th of the projected national emissions for a certain year (linear interpolation of figures may be used produce figures for the right year if necessary). Having determined the scaling factor, in this example 1/100th, transport sector carbon budgets may be calculated scaled to the scheme study area for each year based on the NZS trajectory. This provides a baseline with which to compare the scheme emissions. The contextualisation here is providing an answer to the question "how does the scheme perform within its own modelling study area if that area is taken as a fair share of the national NZS target and budget?".</p> <p>5. Tyndall Centre local authority budgets</p>	

Dr Boswell's Responses to Examiner's Questions	Applicant Response
<p>The Tyndall Centre for Climate Change research at the University of Manchester has produced carbon budgets for every local authority in the UK. These are science based carbon budgets based on the UK making a fair contribution to the Paris agreement. More detail will be provided in my WR. These budgets may be used to calculate annual budgets for (1) all sectors in the local economy, and (2) the transport sector. The transport sector can be calculated from the "allsectors" figures by simply applying the transport sector proportion already calculated "for use later" at 3 above. This assumes that this transport share goes forward as a constant whilst meeting national climate targets might require a reduction in the transport proportion of emissions over the local authority area, given that transport is the largest sector of emissions. However, the method provides a clear method to determine to assess the significance of carbon emissions from the schemes against the UK's international obligations under the Paris agreement if assumptions, such as this, are clear and understood. I have provided 3 methods for contextualisation with local and regional carbon budgets to enhance the precision and accuracy of significance assessments, based on an initial comparison against national carbon budgets. There are other possible methods, but these three together will produce a comprehensive, and fit for purpose, contextualisation process.</p> <p>6. Revised Climate Change chapter I finally note that the applicant recently published a update to the ES Climate Change chapter. This made significant changes to the estimates of carbon emissions but did not appear to give any rationalisation of why the changes had been made. It would be helpful for the changes to be explained by the Applicant to the ExA and parties as soon as possible.</p>	

2.8 Response to Transport Action Network's response to Examiner's Questions (ExQ1) (REP2-081)

Transport Action Network's Responses to Examiner's Questions	Applicant Response
<p><i>Q6.1.11: The ExA notes that the Transport Action Network and Dr Andrew Boswell comment that the Proposed Development should be compared against local and regional transport carbon budgets. Please could these parties suggest how such budgets could be identified, taking into account that the Government has not issued any forecasts of cumulative carbon emissions at a scale below the national level.</i></p> <p>Transport Action Network's response:</p> <p>2. How local and regional transport carbon budgets could be identified.</p> <p>2.1 Regional carbon budgets</p> <p>While the Government has not set regional carbon budgets, sub-national transport bodies have done work in this area. In this case, Transport for the South East (TfSE) has determined to reach net-zero by 2050 at the latest¹, aware that some authorities within the South East have more ambitious targets. While not setting a budget as such, TfSE did extensive analysis of regional transport carbon emissions for its Strategic Investment Plan (SIP), adopted in March this year. TfSE's analysis showed that with the full programme of transport infrastructure proposals listed</p>	<p>Please see response in 2.8 above.</p> <p>With regards to the revised Chapter 14 (Climate) of the Environmental Statement (ES) (6.1, Rev 2), the Applicant confirms there is no error in Table 14.7.</p> <p>As stated in paragraph 14.5.30 of Chapter 14 (Climate) of the Environmental Statement (ES) (6.1, Rev 2), the assessment approach takes a conservative approach by excluding the operational phase carbon sequestration from the evaluation of significance (i.e. excluding greenhouse gas (GHG) benefits arising from new habitat creation when comparing the Scheme's greenhouse gas emissions against the UK Carbon Budgets).</p>

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<p>in the SIP they would struggle to decarbonise quickly enough². That programme included this scheme on the M3.</p> <p>There is also no reason why regional carbon budgets from the work of other respectable bodies, such as the Tyndall Centre for Climate Change research at the University of Manchester, cannot be used to give a sense of the impact at a regional level. While its budget for the South East is based on the old Government office regions, the TfSE region does not include Oxfordshire and Buckinghamshire. However, it is straightforward enough to calculate a carbon budget for the TfSE region by combining the relevant local authority budgets. This is perfectly possible and the use of Tyndall is explicitly mentioned in the Institute for Environmental Management Association (IEMA) guidance on assessing the significance of GHG emissions, published in February 2022³. The IEMA guidance also states that national carbon budgets are only "a starting place" for determining the significance of carbon emissions, and explicitly recommends further contextualisation by comparisons with local and regional budgets.</p> <p>2.2 Local carbon budgets</p> <p>While the Government has not set local carbon budgets, the Tyndall Centre for Climate Change research at the University of Manchester has produced carbon budgets for every local authority in the UK. These are evidence based budgets based on each part of the UK making a fair contribution to the Paris Agreement.</p> <p>The carbon budget for energy usage (which includes transport user emissions) in the Winchester City Council area⁴ for the fifth carbon budget (2028-2032) 0.8 MtCO₂ and the 6th carbon budget (2033 - 2037) 0.4 MtCO₂. The Tyndall Centre notes that '<i>The recommended budget is the maximum cumulative CO₂ amount we consider consistent with Winchester's fair contribution to the Paris Agreement.</i>'</p> <p>There is no reason why National Highways could not do a comparison to provide the full context and significance of the scheme which cannot be ascertained by a comparison with UK wide carbon budgets for the whole economy. After all, no other metric is compared in such a way that diminishes its importance and provides little useful context for decision makers.</p> <p>3. Significance of the carbon emissions from the M3 Junction 9 scheme</p> <p>The Applicant issued a revised Climate chapter of its Environmental Statement (REP1-006) on 6 June 2023⁵ which significantly increased the predicted emissions resulting from the scheme's construction and operation (without explaining the reasons for these increases). From the revised Table 14.7 in Chapter 14, the total additional carbon emissions for the fifth carbon budget are given as 17,055 tCO₂ and for the sixth carbon budget the same. Setting aside the fact that these figures are identical, suggesting an error in the table, given that in Table 14.6 the additional emissions are shown as increasing from 2027 to 2042, this represents over 2% of Winchester City Council's area carbon budget (5th carbon budget period) and over 4% of Winchester City Council's area carbon budget (6th carbon budget period), possibly more given the error above.</p>	

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<p>These figures we would suggest are significant and will make it much harder for Winchester to decarbonise quickly enough. We would also question the validity of deducting land use benefits from the emissions totals, certainly for the first 5 - 10 years before any planting has become established, as it takes a while before plants and trees can really sequester carbon in any real quantity. That means that the impact of the scheme will likely be greater in the fifth and sixth carbon budgets than is being portrayed. These are the very carbon budgets during which urgent action is needed.</p> <p>4. Conclusion</p> <p>Setting aside any possible concerns about Do Minimum traffic level projections being higher than are realistic given the traffic constraints in the area and the tendency for projections to overstate background growth, which would underplay the impact of the scheme, these revised figures represent a significant uplift in carbon emissions. When compared to carbon budgets for Winchester City Council's area, these are seen to be significant and not some small fraction of a percentage. Given the carbon budget calculations have been done by a reputable establishment (the Tyndall Centre), we can see no reason why their energy carbon budgets cannot be used to help give greater context. This can only be helpful for decision makers in understanding the true impact of this scheme.</p>	